

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0898.01 Duane Gall

SENATE BILL 11-253

SENATE SPONSORSHIP

Carroll, Newell

HOUSE SPONSORSHIP

Williams A.,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE REQUIREMENTS FOR**
102 **REGISTRATION OF A UNIT OWNERS' ASSOCIATION UNDER THE**
103 **"COLORADO COMMON INTEREST OWNERSHIP ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislation adopted in 2010 requires unit owners' associations (a/k/a homeowners' associations or HOAs) to register annually with the director of the division of real estate and pay a fee to support the creation and operation of an HOA information and resource center. The bill

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 29, 2011

amends the registration provisions by:

- ! Removing a citation to a specific statute under which most, but not all, HOAs are organized, effectively closing a potential loophole;
- ! Limiting the information that an HOA must provide to a specific list of items, including the official name of the HOA and the name and contact information for the HOA's managing agent;
- ! Clarifying that an HOA that fails to register will have its right to pursue legal remedies suspended, without prejudice, and that upon valid registration it will not have permanently lost its rights or otherwise been penalized for the gap in registration;
- ! Clarifying the means by which an HOA can prove that it is registered;
- ! Specifying that a registration may not be invalidated solely as a result of a technical or typographical error; and
- ! Codifying the effective date of the registration requirement.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 38-33.3-401, Colorado Revised Statutes, is
3 amended to read:

4 **38-33.3-401. Registration - annual fees.** (1) EFFECTIVE
5 JANUARY 1, 2011, every unit owners' association ~~organized under section~~
6 ~~38-33.3-301~~ shall register annually with the director of the division of real
7 estate, in the form and manner specified by the director.

8 (2) (a) Except as otherwise provided in paragraph (b) of this
9 subsection (2), the annual registration shall be accompanied by a fee in
10 the amount set by the director in accordance with section 12-61-111.5,
11 C.R.S., and shall include the FOLLOWING information, ~~required to be~~
12 ~~disclosed under section 38-33.3-209.4 (1).~~ The information shall be
13 updated within ninety days ~~of~~ AFTER any change: ~~in accordance with~~
14 ~~section 38-33.3-209.4 (1).~~

15 (I) THE NAME OF THE ASSOCIATION, AS SHOWN IN THE RECORDS OF

1 THE COLORADO SECRETARY OF STATE;

2 (II) THE NAME OF THE ASSOCIATION'S MANAGEMENT COMPANY,
3 MANAGING AGENT, OR DESIGNATED AGENT, WHICH MAY BE THE
4 ASSOCIATION'S REGISTERED AGENT, AS SHOWN IN THE RECORDS OF THE
5 COLORADO SECRETARY OF STATE, OR ANY OTHER AGENT DESIGNATED BY
6 THE EXECUTIVE BOARD FOR PURPOSES OF REGISTRATION UNDER THIS
7 SECTION; AND

8 (III) A VALID ADDRESS AND TELEPHONE NUMBER FOR THE
9 ASSOCIATION OR ITS MANAGEMENT COMPANY, MANAGING AGENT, OR
10 DESIGNATED AGENT.

11 (b) A unit owners' association ~~shall be~~ IS exempt from the fee, but
12 not FROM the registration requirement, if the association:

13 (I) Has annual revenues of five thousand dollars or less; or

14 (II) Is not authorized to make assessments and does not have any
15 revenue.

16 (3) A registration ~~shall be~~ IS valid for one year. THE RIGHT OF an
17 association that fails to register, or whose annual registration has expired,
18 ~~is ineligible~~ to impose or enforce a lien for assessments under section
19 38-33.3-316 or to pursue any action or employ any enforcement
20 mechanism otherwise available to it under section 38-33.3-123 IS
21 SUSPENDED until ~~it~~ THE ASSOCIATION is ~~again~~ validly registered pursuant
22 to this section. A lien for assessments previously filed during a period in
23 which the association was validly registered or before registration was
24 required pursuant to this section ~~shall~~ IS not ~~be~~ extinguished by a lapse in
25 the association's registration, but any pending enforcement proceedings
26 related to such lien shall be suspended, and any applicable time limits
27 tolled, until the association is again validly registered pursuant to this

1 section. AN ASSOCIATION'S REGISTRATION IN COMPLIANCE WITH THIS
2 SECTION REVIVES ANY PREVIOUSLY SUSPENDED RIGHTS WITHOUT PENALTY
3 TO THE ASSOCIATION.

4 (4) (a) A REGISTRATION IS VALID UPON ACCEPTANCE BY THE
5 DIVISION OF REAL ESTATE OF THE INFORMATION REQUIRED BY PARAGRAPH
6 (a) OF SUBSECTION (2) OF THIS SECTION AND THE PAYMENT OF ANY
7 APPLICABLE FEES.

8 (b) AN ASSOCIATION'S REGISTRATION NUMBER, AND AN
9 ELECTRONIC OR PAPER CONFIRMATION ISSUED BY THE DIVISION OF REAL
10 ESTATE, ARE PRIMA FACIE PROOF OF VALID REGISTRATION.

11 (c) Administratively final determinations by the director of the
12 division of real estate concerning the validity or timeliness of registrations
13 under this section are subject to judicial review pursuant to section
14 24-4-106 (11), C.R.S.; EXCEPT THAT THE COURT SHALL NOT FIND A
15 REGISTRATION INVALID DUE SOLELY TO TECHNICAL OR TYPOGRAPHICAL
16 ERRORS.

17 **SECTION 2.** 38-33.3-117 (1.5) (l) and (1.5) (m), Colorado
18 Revised Statutes, are amended, and the said 38-33.3-117 (1.5) is further
19 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

20 **38-33.3-117. Applicability to preexisting common interest**
21 **communities.** (1.5) Except as provided in section 38-33.3-119, the
22 following sections shall apply to all common interest communities created
23 within this state before July 1, 1992, with respect to events and
24 circumstances occurring on or after January 1, 2006:

25 (l) 38-33.3-315 (7); and

26 (m) 38-33.3-317; AND

27 (n) 38-33.3-401.

1 **SECTION 3. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.