

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0500.02 Kate Meyer

HOUSE BILL 11-1124

HOUSE SPONSORSHIP

Williams A.,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CONFLICTS OF INTEREST OF MEMBERS OF THE**
102 **EXECUTIVE BOARD OF A UNIT OWNERS' ASSOCIATION.**

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>.)

The bill pertains to conflicts of interest of members of the executive board (executive board) of a unit owners' association (association).

In 2006, the law pertaining to conflicts of interest of executive board members was amended to import and apply conflict of interest

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.

provisions contained in the "Colorado Revised Nonprofit Corporation Act". The bill restores the original executive board conflict of interest provisions, which require an executive board member to disclose a conflict of interest and abstain from voting on an issue from which the member or a member of the member's family would financially benefit. Any action taken by the executive board in violation of these requirements is void.

The bill also prohibits a person from serving concurrently on the board of directors for a metropolitan district and the executive board of an association located within that district. The following are exempt from this provision:

- ! Small cooperatives and small limited expense planned communities; and
- ! Executive board members appointed or elected during a period of declarant control over the association; except that, the number of members so exempted are not permitted to exceed the number of declarant-appointed members allowed to serve during a period of declarant control under current law. This exemption ends upon termination of the period of declarant control.

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

2 **SECTION 1.** 32-1-804.3 (4), Colorado Revised Statutes, is
3 amended to read:

4 **32-1-804.3. Candidates for director - self-nomination and**
5 **acceptance form.** (4) The self-nomination and acceptance form or letter
6 ~~shall state~~ MUST CONTAIN the name of the special district in which the
7 election will be held, the special district director office sought by the
8 candidate, the term of office sought if more than one length of a director's
9 term is to be voted upon at the election, the date of the election, ~~and~~ the
10 full name of the candidate as it is to appear on the ballot, AND WHETHER
11 THE CANDIDATE IS A MEMBER OF AN EXECUTIVE BOARD OF A UNIT
12 OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103, C.R.S.,
13 LOCATED WITHIN THE BOUNDARIES OF THE DIRECTOR DISTRICT FOR WHICH
14 THE CANDIDATE IS RUNNING FOR OFFICE. Unless physically unable, all

1 candidates and witnesses shall sign their own signature and shall print
2 their names, their respective residence addresses, including the street
3 number and name, the city or town, the county, telephone number, and the
4 date of signature on the self-nomination and acceptance form or letter.

5 **SECTION 2.** 38-33.3-209.5 (1) (b) (II), Colorado Revised
6 Statutes, is amended, and the said 38-33.3-209.5 is further amended BY
7 THE ADDITION OF A NEW SUBSECTION, to read:

8 **38-33.3-209.5. Responsible governance policies - due process**
9 **for imposition of fines.** (1) To promote responsible governance,
10 associations shall:

11 (b) Adopt policies, procedures, and rules and regulations
12 concerning:

13 (II) Handling of conflicts of interest involving board members,
14 WHICH POLICIES, PROCEDURES, AND RULES AND REGULATIONS MUST
15 INCLUDE, AT A MINIMUM, THE CRITERIA DESCRIBED IN SUBSECTION (4) OF
16 THIS SECTION;

17 (4) (a) THE POLICIES, PROCEDURES, AND RULES AND REGULATIONS
18 ADOPTED BY AN ASSOCIATION UNDER SUBPARAGRAPH (II) OF PARAGRAPH
19 (b) OF SUBSECTION (1) OF THIS SECTION MUST, AT A MINIMUM:

20 (I) DEFINE OR DESCRIBE THE CIRCUMSTANCES UNDER WHICH A
21 CONFLICT OF INTEREST EXISTS;

22 (II) SET FORTH PROCEDURES TO FOLLOW WHEN A CONFLICT OF
23 INTEREST EXISTS, INCLUDING HOW, AND TO WHOM, THE CONFLICT OF
24 INTEREST MUST BE DISCLOSED AND WHETHER A BOARD MEMBER MUST
25 RECUSE HIMSELF OR HERSELF FROM DISCUSSING OR VOTING ON THE ISSUE;
26 AND

27 (III) PROVIDE FOR THE PERIODIC REVIEW OF THE ASSOCIATION'S

1 CONFLICT OF INTEREST POLICIES, PROCEDURES, AND RULES AND
2 REGULATIONS.

3 (b) THE POLICIES, PROCEDURES, OR RULES AND REGULATIONS
4 ADOPTED UNDER THIS SUBSECTION (4) MUST BE IN ACCORDANCE WITH
5 SECTION 38-33.3-310.5.

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