

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0749.01 Duane Gall x4335

HOUSE BILL 12-1237

HOUSE SPONSORSHIP

Williams A.,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE RECORDS KEPT BY THE UNIT OWNERS' ASSOCIATION
102 OF A COMMON INTEREST COMMUNITY.

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 adopts, with some revisions, suggested language from the commission on uniform state laws concerning the records required to be kept by a unit owners' association concerning the finances, board meeting minutes, and other affairs of a common interest community under the "Colorado Common Interest Ownership Act".

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 38-33.3-317 as follows:

4 **38-33.3-317. Association records.** (1) IN ADDITION TO ANY
5 RECORDS SPECIFICALLY DEFINED IN THE ASSOCIATION'S DECLARATION OR
6 BYLAWS OR EXPRESSLY REQUIRED BY SECTION 38-33.3-209.4 (2), THE
7 ASSOCIATION MUST MAINTAIN THE FOLLOWING, ALL OF WHICH SHALL BE
8 DEEMED TO BE THE SOLE RECORDS OF THE ASSOCIATION FOR PURPOSES OF
9 DOCUMENT RETENTION AND PRODUCTION TO OWNERS:

10 (a) DETAILED RECORDS OF RECEIPTS AND EXPENDITURES
11 AFFECTING THE OPERATION AND ADMINISTRATION OF THE ASSOCIATION;

12 (b) MINUTES OF ALL MEETINGS OF ITS UNIT OWNERS AND
13 EXECUTIVE BOARD, A RECORD OF ALL ACTIONS TAKEN BY THE UNIT
14 OWNERS OR EXECUTIVE BOARD WITHOUT A MEETING, AND A RECORD OF
15 ALL ACTIONS TAKEN BY ANY COMMITTEE OF THE EXECUTIVE BOARD;

16 (c) WRITTEN DELIBERATIONS AND THE VOTES CAST BY EXECUTIVE
17 BOARD MEMBERS THAT ARE DIRECTLY RELATED TO AN ACTION TAKEN BY
18 THE BOARD PURSUANT TO SECTION 7-128-202, C.R.S., OR THE
19 ASSOCIATION'S BYLAWS;

20 (d) THE NAMES OF UNIT OWNERS IN A FORM THAT PERMITS
21 PREPARATION OF A LIST OF THE NAMES OF ALL UNIT OWNERS AND THE
22 PHYSICAL MAILING ADDRESSES AT WHICH THE ASSOCIATION
23 COMMUNICATES WITH THEM, SHOWING THE NUMBER OF VOTES EACH UNIT
24 OWNER IS ENTITLED TO VOTE; EXCEPT THAT THIS PARAGRAPH (d) DOES
25 NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE UNIT IS A
26 TIME-SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7);

1 (e) ITS CURRENT DECLARATION, COVENANTS, BYLAWS, ARTICLES
2 OF INCORPORATION, IF IT IS A CORPORATION, OR THE CORRESPONDING
3 ORGANIZATIONAL DOCUMENTS IF IT IS ANOTHER FORM OF ENTITY, RULES
4 AND REGULATIONS, RESPONSIBLE GOVERNANCE POLICIES ADOPTED
5 PURSUANT TO SECTION 38-33.3-209.5, AND OTHER POLICIES ADOPTED BY
6 THE EXECUTIVE BOARD;

7 (f) FINANCIAL STATEMENTS AS DESCRIBED IN SECTION 7-136-106,
8 C.R.S., FOR THE PAST THREE YEARS AND TAX RETURNS OF THE
9 ASSOCIATION FOR THE PAST TEN YEARS, TO THE EXTENT AVAILABLE;

10 (g) A LIST OF THE NAMES AND PHYSICAL MAILING ADDRESSES OF
11 ITS CURRENT EXECUTIVE BOARD MEMBERS AND OFFICERS;

12 (h) ITS MOST RECENT ANNUAL REPORT DELIVERED TO THE
13 SECRETARY OF STATE, IF ANY;

14 (i) FINANCIAL RECORDS SUFFICIENTLY DETAILED TO ENABLE THE
15 ASSOCIATION TO COMPLY WITH SECTION 38-33.3-316 (8) CONCERNING
16 STATEMENTS OF UNPAID ASSESSMENTS;

17 (j) THE ASSOCIATION'S MOST RECENT RESERVE STUDY, IF ANY;

18 (k) CURRENT WRITTEN CONTRACTS TO WHICH THE ASSOCIATION
19 IS A PARTY;

20 (l) RECORDS OF EXECUTIVE BOARD OR COMMITTEE ACTIONS TO
21 APPROVE OR DENY ANY REQUESTS FOR DESIGN OR ARCHITECTURAL
22 APPROVAL FROM UNIT OWNERS;

23 (m) BALLOTS, PROXIES, AND OTHER RECORDS RELATED TO VOTING
24 BY UNIT OWNERS FOR ONE YEAR AFTER THE ELECTION, ACTION, OR VOTE
25 TO WHICH THEY RELATE;

26 (n) RESOLUTIONS ADOPTED BY ITS BOARD OF DIRECTORS RELATING
27 TO THE CHARACTERISTICS, QUALIFICATIONS, RIGHTS, LIMITATIONS, AND

1 OBLIGATIONS OF MEMBERS OR ANY CLASS OR CATEGORY OF MEMBERS;
2 AND

3 (o) ALL WRITTEN COMMUNICATIONS WITHIN THE PAST THREE
4 YEARS TO ALL UNIT OWNERS GENERALLY AS UNIT OWNERS.

5 (2) SUBJECT TO SUBSECTIONS (3) AND (4) OF THIS SECTION, ALL
6 RECORDS MAINTAINED BY THE ASSOCIATION MUST BE AVAILABLE FOR
7 EXAMINATION AND COPYING BY A UNIT OWNER OR THE OWNER'S
8 AUTHORIZED AGENT. THE ASSOCIATION MAY REQUIRE UNIT OWNERS TO
9 SUBMIT A WRITTEN REQUEST, DESCRIBING WITH REASONABLE
10 PARTICULARITY THE RECORDS SOUGHT, AT LEAST TEN DAYS PRIOR TO
11 INSPECTION OR PRODUCTION OF THE DOCUMENTS, AND MAY LIMIT
12 EXAMINATION AND COPYING TIMES TO NORMAL BUSINESS HOURS OR THE
13 NEXT REGULARLY SCHEDULED EXECUTIVE BOARD MEETING IF THE
14 MEETING OCCURS WITHIN THIRTY DAYS AFTER THE REQUEST.
15 NOTWITHSTANDING ANY PROVISION OF THE DECLARATION, BYLAWS,
16 ARTICLES, OR RULES AND REGULATIONS OF THE ASSOCIATION TO THE
17 CONTRARY, THE ASSOCIATION MAY NOT CONDITION THE PRODUCTION OF
18 RECORDS UPON THE STATEMENT OF A PROPER PURPOSE.

19 (3) RECORDS MAINTAINED BY AN ASSOCIATION MAY BE WITHHELD
20 FROM INSPECTION AND COPYING TO THE EXTENT THAT THEY ARE OR
21 CONCERN:

22 (a) PERSONNEL, SALARY, OR MEDICAL RECORDS RELATING TO
23 SPECIFIC INDIVIDUALS;

24 (b) CONTRACTS, LEASES, BIDS, OR RECORDS RELATED TO OTHER
25 SIMILAR COMMERCIAL TRANSACTIONS TO PURCHASE OR PROVIDE GOODS
26 OR SERVICES THAT ARE CURRENTLY IN OR UNDER NEGOTIATION;

27 (c) PENDING, POTENTIAL, OR THREATENED LITIGATION,

1 MEDIATION, OR ARBITRATION;

2 (d) PENDING OR POTENTIAL MATTERS INVOLVING FEDERAL, STATE,
3 OR LOCAL ADMINISTRATIVE OR OTHER FORMAL PROCEEDINGS BEFORE A
4 GOVERNMENTAL TRIBUNAL FOR ENFORCEMENT OF THE DECLARATION,
5 BYLAWS, OR RULES;

6 (e) COMMUNICATIONS WITH LEGAL COUNSEL THAT ARE
7 OTHERWISE PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE OR THE
8 ATTORNEY WORK PRODUCT DOCTRINE;

9 (f) DISCLOSURE OF INFORMATION IN VIOLATION OF LAW;

10 (g) RECORDS OF AN EXECUTIVE SESSION OF AN EXECUTIVE BOARD,
11 INCLUDING RECORDS THAT MAY GIVE RISE TO AN EXECUTIVE SESSION
12 UNDER SECTION 38-33.3-308;

13 (h) INDIVIDUAL UNITS OTHER THAN THOSE OF THE REQUESTING
14 OWNER; OR

15 (i) PERSONAL IDENTIFICATION AND ACCOUNT INFORMATION OF
16 MEMBERS, INCLUDING BANK ACCOUNT INFORMATION, TELEPHONE
17 NUMBERS, ELECTRONIC MAIL ADDRESSES, DRIVER'S LICENSE NUMBERS,
18 AND SOCIAL SECURITY NUMBERS.

19 (4) THE ASSOCIATION MAY IMPOSE A REASONABLE CHARGE, WHICH
20 MAY BE COLLECTED IN ADVANCE AND MAY COVER THE COSTS OF LABOR
21 AND MATERIAL, FOR COPIES OF ASSOCIATION RECORDS. THE CHARGE MAY
22 NOT EXCEED THE ESTIMATED COST OF PRODUCTION AND REPRODUCTION
23 OF THE RECORDS.

24 (5) A RIGHT TO COPY RECORDS UNDER THIS SECTION INCLUDES THE
25 RIGHT TO RECEIVE COPIES BY PHOTOCOPYING OR OTHER MEANS,
26 INCLUDING THE RECEIPT OF COPIES THROUGH AN ELECTRONIC
27 TRANSMISSION IF AVAILABLE, UPON REQUEST BY THE UNIT OWNER.

1 (6) AN ASSOCIATION IS NOT OBLIGATED TO COMPILE OR
2 SYNTHESIZE INFORMATION.

3 (7) ASSOCIATION RECORDS AND THE INFORMATION CONTAINED
4 WITHIN THOSE RECORDS SHALL NOT BE USED FOR COMMERCIAL PURPOSES.

5 **SECTION 2.** In Colorado Revised Statutes, 38-35.7-102, **amend**
6 (2) (b) as follows:

7 **38-35.7-102. Disclosure - common interest community -**
8 **obligation to pay assessments - requirement for architectural**
9 **approval.** (2) (b) Upon request, the seller shall either provide to the
10 buyer or authorize the unit owners' association to provide to the buyer,
11 upon payment of the association's usual fee pursuant to section
12 38-33.3-317 ~~(3)~~ (4), all of the common interest community's governing
13 documents and financial documents, as listed in the most recent available
14 version of the contract to buy and sell real estate promulgated by the real
15 estate commission as of the date of the contract.

16 **SECTION 3. Act subject to petition - effective date.** This act
17 takes effect January 1, 2013; except that, if a referendum petition is filed
18 pursuant to section 1 (3) of article V of the state constitution against this
19 act or an item, section, or part of this act within the ninety-day period
20 after final adjournment of the general assembly, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2012 and, in such case, will take
23 effect on January 1, 2013, or on the date of the official declaration of the
24 vote thereon by the governor, whichever is later.