

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 12-0749.01 Duane Gall x4335

HOUSE BILL 12-1237

HOUSE SPONSORSHIP

Williams A.,

SENATE SPONSORSHIP

Harvey,

House Committees
Local Government

Senate Committees
Local Government

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.*

SENATE
3rd Reading Unamended
May 4, 2012

SENATE
Amended 2nd Reading
May 3, 2012

HOUSE
3rd Reading Unamended
March 1, 2012

HOUSE
Amended 2nd Reading
February 29, 2012

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) RECORDS OF CLAIMS FOR CONSTRUCTION DEFECTS AND
13 AMOUNTS RECEIVED PURSUANT TO SETTLEMENT OF THOSE CLAIMS;

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

18 (d) WRITTEN COMMUNICATIONS AMONG, AND THE VOTES CAST BY,
19 EXECUTIVE BOARD MEMBERS THAT ARE:

20 (I) DIRECTLY RELATED TO AN ACTION TAKEN BY THE BOARD
21 WITHOUT A MEETING PURSUANT TO SECTION 7-128-202, C.R.S.; OR

22 (II) DIRECTLY RELATED TO AN ACTION TAKEN BY THE BOARD
23 WITHOUT A MEETING PURSUANT TO THE ASSOCIATION'S BYLAWS;

24 (e) THE NAMES OF UNIT OWNERS IN A FORM THAT PERMITS
25 PREPARATION OF A LIST OF THE NAMES OF ALL UNIT OWNERS AND THE
26 PHYSICAL MAILING ADDRESSES AT WHICH THE ASSOCIATION

1 COMMUNICATES WITH THEM, SHOWING THE NUMBER OF VOTES EACH UNIT
2 OWNER IS ENTITLED TO VOTE; EXCEPT THAT THIS PARAGRAPH (e) DOES
3 NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE UNIT IS A
4 TIME-SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7);

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

11 (g) FINANCIAL STATEMENTS AS DESCRIBED IN SECTION 7-136-106,
12 C.R.S., FOR THE PAST THREE YEARS AND TAX RETURNS OF THE
13 ASSOCIATION FOR THE PAST SEVEN YEARS, TO THE EXTENT AVAILABLE;

14 (h) A LIST OF THE NAMES, ELECTRONIC MAIL ADDRESSES, AND
15 PHYSICAL MAILING ADDRESSES OF ITS CURRENT EXECUTIVE BOARD
16 MEMBERS AND OFFICERS;

17 (i) ITS MOST RECENT ANNUAL REPORT DELIVERED TO THE
18 SECRETARY OF STATE, IF ANY;

19 (j) FINANCIAL RECORDS SUFFICIENTLY DETAILED TO ENABLE THE
20 ASSOCIATION TO COMPLY WITH SECTION 38-33.3-316 (8) CONCERNING
21 STATEMENTS OF UNPAID ASSESSMENTS;

22 (k) THE ASSOCIATION'S MOST RECENT RESERVE STUDY, IF ANY;

23 (l) CURRENT WRITTEN CONTRACTS TO WHICH THE ASSOCIATION IS
24 A PARTY AND CONTRACTS FOR WORK PERFORMED FOR THE ASSOCIATION
25 WITHIN THE IMMEDIATELY PRECEDING TWO YEARS;

26 (m) RECORDS OF EXECUTIVE BOARD OR COMMITTEE ACTIONS TO
27 APPROVE OR DENY ANY REQUESTS FOR DESIGN OR ARCHITECTURAL

1 APPROVAL FROM UNIT OWNERS;

2 (n) BALLOTS, PROXIES, AND OTHER RECORDS RELATED TO VOTING
3 BY UNIT OWNERS FOR ONE YEAR AFTER THE ELECTION, ACTION, OR VOTE
4 TO WHICH THEY RELATE;

5 (o) RESOLUTIONS ADOPTED BY ITS BOARD OF DIRECTORS RELATING
6 TO THE CHARACTERISTICS, QUALIFICATIONS, RIGHTS, LIMITATIONS, AND
7 OBLIGATIONS OF MEMBERS OR ANY CLASS OR CATEGORY OF MEMBERS;
8 AND

9 (p) ALL WRITTEN COMMUNICATIONS WITHIN THE PAST THREE
10 YEARS TO ALL UNIT OWNERS GENERALLY AS UNIT OWNERS.

11 (2) (a) SUBJECT TO SUBSECTIONS (3), (3.5), AND (4) OF THIS
12 SECTION, ALL RECORDS MAINTAINED BY THE ASSOCIATION MUST BE
13 AVAILABLE FOR EXAMINATION AND COPYING BY A UNIT OWNER OR THE
14 OWNER'S AUTHORIZED AGENT. THE ASSOCIATION MAY REQUIRE UNIT
15 OWNERS TO SUBMIT A WRITTEN REQUEST, DESCRIBING WITH REASONABLE
16 PARTICULARITY THE RECORDS SOUGHT, AT LEAST TEN DAYS PRIOR TO
17 INSPECTION OR PRODUCTION OF THE DOCUMENTS, AND MAY LIMIT
18 EXAMINATION AND COPYING TIMES TO NORMAL BUSINESS HOURS OR THE
19 NEXT REGULARLY SCHEDULED EXECUTIVE BOARD MEETING IF THE
20 MEETING OCCURS WITHIN THIRTY DAYS AFTER THE REQUEST.
21 NOTWITHSTANDING ANY PROVISION OF THE DECLARATION, BYLAWS,
22 ARTICLES, OR RULES AND REGULATIONS OF THE ASSOCIATION TO THE
23 CONTRARY, THE ASSOCIATION MAY NOT CONDITION THE PRODUCTION OF
24 RECORDS UPON THE STATEMENT OF A PROPER PURPOSE.

25 (b) (I) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION
26 (2), A MEMBERSHIP LIST OR ANY PART THEREOF MAY NOT BE OBTAINED OR
27 USED BY ANY PERSON FOR ANY PURPOSE UNRELATED TO A UNIT OWNER'S

1 INTEREST AS A UNIT OWNER WITHOUT CONSENT OF THE EXECUTIVE BOARD.

2 (II) WITHOUT LIMITING THE GENERALITY OF SUBPARAGRAPH (I) OF
3 THIS PARAGRAPH (b), WITHOUT THE CONSENT OF THE EXECUTIVE BOARD,
4 A MEMBERSHIP LIST OR ANY PART THEREOF MAY NOT BE:


5 (A) USED TO SOLICIT MONEY OR PROPERTY UNLESS SUCH MONEY
6 OR PROPERTY WILL BE USED SOLELY TO SOLICIT THE VOTES OF THE UNIT
7 OWNERS IN AN ELECTION TO BE HELD BY THE ASSOCIATION;

8 (B) USED FOR ANY COMMERCIAL PURPOSE; OR

9 (C) SOLD TO OR PURCHASED BY ANY PERSON.

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

13 (a) ARCHITECTURAL DRAWINGS, PLANS, AND DESIGNS, UNLESS
14 RELEASED UPON THE WRITTEN CONSENT OF THE LEGAL OWNER OF THE
15 DRAWINGS, PLANS, OR DESIGNS;

16 
17 (b) CONTRACTS, LEASES, BIDS, OR RECORDS RELATED TO ==
18 TRANSACTIONS TO PURCHASE OR PROVIDE GOODS OR SERVICES THAT ARE
19 CURRENTLY IN OR UNDER NEGOTIATION;

20 ==
21 (c) COMMUNICATIONS WITH LEGAL COUNSEL THAT ARE
22 OTHERWISE PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE OR THE
23 ATTORNEY WORK PRODUCT DOCTRINE;

24 (d) DISCLOSURE OF INFORMATION IN VIOLATION OF LAW;

25 (e) RECORDS OF AN EXECUTIVE SESSION OF AN EXECUTIVE BOARD;

26 ==

27 (f) INDIVIDUAL UNITS OTHER THAN THOSE OF THE REQUESTING

1 OWNER; OR

2 (g) THE NAMES AND PHYSICAL MAILING ADDRESSES OF UNIT
3 OWNERS IF THE UNIT IS A TIME-SHARE UNIT, AS DEFINED IN SECTION
4 38-33-110 (7), C.R.S.

5 (3.5) RECORDS MAINTAINED BY AN ASSOCIATION ARE NOT SUBJECT
6 TO INSPECTION AND COPYING, AND MUST BE WITHHELD, TO THE EXTENT
7 THAT THEY ARE OR CONCERN:

8 (a) PERSONNEL, SALARY, OR MEDICAL RECORDS RELATING TO
9 SPECIFIC INDIVIDUALS; OR

10 (b) PERSONAL IDENTIFICATION AND ACCOUNT INFORMATION OF
11 MEMBERS, INCLUDING BANK ACCOUNT INFORMATION, TELEPHONE
12 NUMBERS, ELECTRONIC MAIL ADDRESSES, DRIVER'S LICENSE NUMBERS,
13 AND SOCIAL SECURITY NUMBERS.

14 (4) THE ASSOCIATION MAY IMPOSE A REASONABLE CHARGE, WHICH
15 MAY BE COLLECTED IN ADVANCE AND MAY COVER THE COSTS OF LABOR
16 AND MATERIAL, FOR COPIES OF ASSOCIATION RECORDS. THE CHARGE MAY
17 NOT EXCEED THE ESTIMATED COST OF PRODUCTION AND REPRODUCTION
18 OF THE RECORDS.

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

23 (6) AN ASSOCIATION IS NOT OBLIGATED TO COMPILE OR
24 SYNTHESIZE INFORMATION.

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

27 **SECTION 2.** In Colorado Revised Statutes, 38-35.7-102, **amend**

1 (2) (b) as follows:

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

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