

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0477.01 Jennifer Berman x3286

HOUSE BILL 13-1134

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HOUSE SPONSORSHIP

Ryden,

SENATE SPONSORSHIP

Carroll,

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House Committees

Business, Labor, Economic, & Workforce Development

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING UNIT OWNERS' ASSOCIATIONS UNDER THE "COLORADO  
102 COMMON INTEREST OWNERSHIP ACT".

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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 HOA information and resource center (center) was created in 2010 to track inquiries and complaints related to unit owners' associations (a/k/a homeowners' associations or HOAs) and report them to the director of the division of real estate (director). The center also serves as a clearinghouse for information concerning the rights and duties of unit

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.*

owners and associations. The center does not have regulatory or investigative power.

**Section 1** of the bill empowers the center to perform certain regulatory and investigative actions, including:

- ! Reporting suspected violations of the "Colorado Common Interest Ownership Act" (act) and rules promulgated under the act;
- ! Assisting with resolving disputes by offering to mediate them or referring them to alternate dispute resolution services; and
- ! If sufficiently petitioned by enough members of an association, appointing an election monitor and conducting the election of the association's directors.

**Section 2** of the bill directs the director to calculate the annual fee paid by associations to support the center's operation on a per-unit basis and provides a formula for the director to use to calculate each association's fee.

**Section 3** of the bill amends the annual registration provisions by:

- ! Adding information that a unit owners' association is required to provide along with its annual registration, including the name of the association, contact information for the association, and the number of units in the association;
- ! Clarifying that if an association fails to register, then its right to pursue legal remedies will be suspended, without prejudice, and its rights will be restored upon validly registering;
- ! Clarifying the means by which an HOA may prove that it has validly registered;
- ! Specifying that a registration is not invalid merely because it contains technical or typographical errors; and
- ! Applying the registration requirements to common interest communities that were established before enactment of the act.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-61-406.5

3 as follows:

4 **12-61-406.5. HOA information and resource center - creation**

5 **- duties - rules - cash fund - repeal.** (1) There is hereby created, within

1 the division of real estate, the HOA information and resource center, the  
2 head of which shall be IS the HOA information officer. The EXECUTIVE  
3 DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES SHALL  
4 APPOINT THE HOA information officer ~~shall be appointed by the~~  
5 ~~executive director of the department of regulatory agencies~~ pursuant to  
6 section 13 of article XII of the state constitution.

7 (2) The HOA information officer shall be familiar with the  
8 "Colorado Common Interest Ownership Act", article 33.3 of title 38,  
9 C.R.S., also referred to in this section as the "act". ~~No~~ THE EXECUTIVE  
10 DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES SHALL NOT  
11 APPOINT AS AN HOA INFORMATION OFFICER A person who is or, within the  
12 immediately preceding ten years, has been licensed by or registered with  
13 the division of real estate or who owns stocks, bonds, or any pecuniary  
14 interest in a corporation subject in whole or in part to regulation by the  
15 division of real estate. ~~shall be appointed as HOA information officer.~~ In  
16 addition, in conducting the search for an appointee, the executive director  
17 of the division of real estate shall place a high premium on candidates  
18 who are balanced, independent, unbiased, and without any current  
19 financial ties to an HOA board or board member or to ~~any~~ A person or  
20 entity that provides HOA management services. After being appointed,  
21 the HOA information officer shall refrain from engaging in any conduct  
22 or relationship that would create a conflict of interest or the appearance  
23 of a conflict of interest.

24 (3) (a) The HOA information officer shall act as a clearing house  
25 for information concerning the basic rights and duties of unit owners,  
26 declarants, and unit owners' associations under the act BY:

27 (I) COMPILING A DATABASE ABOUT REGISTERED ASSOCIATIONS,

1 INCLUDING THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH  
2 ASSOCIATION;

3 (II) COORDINATING AND ASSISTING IN THE PREPARATION OF  
4 EDUCATIONAL AND REFERENCE MATERIALS, INCLUDING MATERIALS TO  
5 ASSIST UNIT OWNERS, BOARDS OF DIRECTORS, BOARD MEMBERS, AND  
6 ASSOCIATION MANAGERS WITH UNDERSTANDING THEIR RIGHTS AND  
7 RESPONSIBILITIES;

8 (III) MONITORING CHANGES IN FEDERAL AND STATE LAWS  
9 RELATING TO COMMON INTEREST COMMUNITIES; AND

10 (IV) PROVIDING INFORMATION, INCLUDING A "FREQUENTLY ASKED  
11 QUESTIONS" RESOURCE, ON THE DIVISION OF REAL ESTATE'S WEB SITE.

12 (b) The HOA information officer MAY:

13 (I) ~~May~~ Employ one or more assistants ~~up to a maximum of 1.0~~  
14 ~~FTE~~; as may be necessary to carry out his or her duties; ~~and~~

15 (II) REQUEST CERTAIN RECORDS FROM ASSOCIATIONS;

16 (III) RECOMMEND RULE CHANGES CONCERNING THE FILING,  
17 INVESTIGATION, AND RESOLUTION OF COMPLAINTS;

18 (IV) REFER DISPUTES ARISING BETWEEN OR AMONG THE DIVISION,  
19 UNIT OWNERS, BOARDS OF DIRECTORS, BOARD MEMBERS, AND  
20 ASSOCIATION MANAGERS TO ALTERNATIVE DISPUTE RESOLUTION  
21 SERVICES; AND

22 (V) IF NO FORMAL ACTION HAS BEEN TAKEN WITH REGARD TO A  
23 DISPUTE THAT HAS ARISEN BETWEEN OR AMONG UNIT OWNERS, BOARDS OF  
24 DIRECTORS, BOARD MEMBERS, ASSOCIATION MANAGERS, OR OTHER  
25 AFFECTED PARTIES, ASSIST WITH RESOLVING THE DISPUTE BY OFFERING TO  
26 MEDIATE. IN MEDIATING A DISPUTE, THE HOA INFORMATION OFFICER  
27 SHALL ACT AS A NEUTRAL RESOURCE FOR ALL PARTIES INVOLVED AND

1 SHALL NOT PURPORT TO GIVE LEGAL ADVICE TO A PARTY.

2 (c) THE HOA INFORMATION OFFICER SHALL:

3 (I) ~~Shall~~ Track inquiries and complaints and report annually to the  
4 director of the division of real estate regarding the number and types of  
5 inquiries and complaints received;

6 (II) REPORT PROMPTLY TO THE DIRECTOR OF THE DIVISION OF REAL  
7 ESTATE REGARDING SUSPECTED VIOLATIONS OF THE ACT OR RULES  
8 PROMULGATED UNDER THE ACT;

9 (III) ACT AS A LIAISON BETWEEN THE DIVISION, UNIT OWNERS,  
10 BOARDS OF DIRECTORS, BOARD MEMBERS, AND ASSOCIATION MANAGERS;

11 (IV) ASSIST UNIT OWNERS, BOARDS OF DIRECTORS, BOARD  
12 MEMBERS, AND ASSOCIATION MANAGERS WITH UTILIZING THE  
13 PROCEDURES AND PROCESSES AVAILABLE TO THEM TO RESOLVE CONFLICTS  
14 WITHIN THE ASSOCIATION, INCLUDING PROVIDING EXPLANATIONS OF LAWS  
15 AND REGULATIONS GOVERNING COMMON INTEREST COMMUNITIES AND  
16 BOARD INTERPRETATIONS OF THE LAWS AND REGULATIONS. IN PROVIDING  
17 ASSISTANCE OR EXPLANATIONS, THE HOA INFORMATION OFFICER SHALL  
18 ACT AS A NEUTRAL RESOURCE AND SHALL NOT PURPORT TO GIVE LEGAL  
19 ADVICE.

20 (V) WITH REGARD TO HOA ELECTIONS:

21 (A) MONITOR AND REVIEW ASSOCIATIONS' PROCEDURES AND ANY  
22 ELECTION-RELATED DISPUTES THAT ARISE;

23 (B) RECOMMEND ENFORCEMENT ACTION WHEN THE HOA  
24 INFORMATION OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT  
25 ELECTION MISCONDUCT HAS OCCURRED; AND

26 (C) APPOINT AN ELECTION MONITOR AND CONDUCT THE ELECTION  
27 OF DIRECTORS OF AN ASSOCIATION IF FIFTEEN PERCENT OF THE TOTAL

1 VOTING INTERESTS IN THE ASSOCIATION, OR SIX UNIT OWNERS, WHICHEVER  
2 IS GREATER, PETITION THE HOA INFORMATION OFFICER TO DO SO.

3 (4) The operating expenses of the HOA information and resource  
4 center ~~shall be~~ ARE paid from the HOA information and resource center  
5 cash fund, which fund is hereby created in the state treasury. The fund  
6 ~~shall consist~~ CONSISTS of annual registration fees paid by unit owners'  
7 associations and collected by the division of real estate pursuant to  
8 section 38-33.3-401, C.R.S. Interest earned on moneys in the fund ~~shall~~  
9 remain in the fund, and any unexpended and unencumbered moneys in the  
10 fund at the end of any fiscal year ~~shall~~ DO not revert to the general fund  
11 or any other fund. Payments from the fund ~~shall be~~ ARE subject to annual  
12 appropriation.

13 (5) The director of the division of real estate may adopt rules as  
14 necessary to implement this section and section 38-33.3-401, C.R.S. This  
15 subsection (5) ~~shall~~ DOES not ~~be construed to~~ confer additional  
16 rule-making authority upon the director for any other purpose.

17 (6) This section is repealed, effective September 1, 2020. Prior to  
18 such repeal, the HOA information and resource center and the HOA  
19 information officer's powers and duties under this section shall be  
20 reviewed in accordance with section 24-34-104, C.R.S.

21 **SECTION 2.** In Colorado Revised Statutes, 12-61-111.5, **amend**  
22 (2) (a) (II); and **add** (2) (a) (III) and (2) (a) (IV) as follows:

23 **12-61-111.5. Fee adjustments.** (2) (a) (II) The costs of the HOA  
24 information and resource center, created in section 12-61-406.5, ~~shall be~~  
25 ARE paid from the HOA information and resource center cash fund  
26 created in section 12-61-406.5. The division of real estate shall estimate  
27 the direct and indirect costs of operating the HOA information and

1 resource center. ~~and~~ THE DIRECTOR OF THE DIVISION OF REAL ESTATE shall  
2 establish the amount of ~~the~~ AN ASSOCIATION'S annual registration fee, to  
3 be collected under section 38-33.3-401, C.R.S., ~~The amount of the~~  
4 ~~registration~~ BY DETERMINING A PER-UNIT ANNUAL REGISTRATION fee AND  
5 MULTIPLYING IT BY THE NUMBER OF UNITS IN THE ASSOCIATION. THE  
6 DIRECTOR shall ~~be~~ SET THE PER-UNIT ANNUAL REGISTRATION FEE AT AN  
7 AMOUNT THAT, WHEN MULTIPLIED BY THE NUMBER OF UNITS IN  
8 ASSOCIATIONS REQUIRED TO PAY THE FEE UNDER SECTION 38-33.3-401,  
9 C.R.S., IS sufficient to recover such costs. ~~subject to a maximum limit of~~  
10 ~~fifty dollars and~~ THE PER-UNIT ANNUAL REGISTRATION FEE IS subject to  
11 adjustment to reflect the actual direct and indirect costs of operating the  
12 HOA information and resource center pursuant to the general directive to  
13 adjust fees to avoid exceeding the statutory limit on uncommitted reserves  
14 in administrative agency cash funds, as set forth in section 24-75-401 (3),  
15 C.R.S.

16 (III) TO DETERMINE THE PER-UNIT ANNUAL REGISTRATION FEE  
17 UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE DIVISION OF REAL  
18 ESTATE SHALL:

19 (A) DETERMINE THE TOTAL NUMBER OF UNITS IN ALL  
20 ASSOCIATIONS THAT ARE NOT EXEMPT FROM PAYING THE FEE UNDER  
21 SECTION 38-33.3-401 (2) (b), C.R.S., BASED ON THE INFORMATION  
22 PROVIDED BY ASSOCIATIONS UNDER SECTION 38-33.3-401 (2) (a) (IV),  
23 C.R.S.; AND

24 (B) DIVIDE THE TOTAL AMOUNT OF THE ESTIMATED DIRECT AND  
25 INDIRECT COSTS OF OPERATING THE HOA INFORMATION AND RESOURCE  
26 CENTER BY THE NUMBER CALCULATED IN SUB-SUBPARAGRAPH (A) OF THIS  
27 SUBPARAGRAPH (III).

1 (IV) THE DIVISION OF REAL ESTATE SHALL CALCULATE AN  
2 ASSOCIATION'S ANNUAL REGISTRATION FEE BY MULTIPLYING THE PER-UNIT  
3 ANNUAL REGISTRATION FEE, AS DETERMINED UNDER SUBPARAGRAPH (III)  
4 OF THIS PARAGRAPH (a), BY THE NUMBER OF UNITS IN THE ASSOCIATION.

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 38-33.3-401  
6 as follows:

7 **38-33.3-401. Registration - annual fees.** (1) Every unit owners'  
8 association ~~organized under section 38-33.3-301~~ shall register annually  
9 with the director of the division of real estate, in the form and manner  
10 specified by the director.

11 (2) (a) Except as otherwise provided in paragraph (b) of this  
12 subsection (2), the UNIT OWNERS' ASSOCIATION SHALL SUBMIT WITH ITS  
13 annual registration ~~shall be accompanied by~~ a fee in the amount set by the  
14 director in accordance with section 12-61-111.5, C.R.S., and shall include  
15 the FOLLOWING information, ~~required to be disclosed under section~~  
16 ~~38-33.3-209.4 (1). The information shall be updated within ninety days~~  
17 ~~of~~ AFTER any change: ~~in accordance with section 38-33.3-209.4 (1).~~

18 (I) THE NAME OF THE ASSOCIATION, AS SHOWN IN THE COLORADO  
19 SECRETARY OF STATE'S RECORDS;

20 (II) THE NAME OF THE ASSOCIATION'S MANAGEMENT COMPANY,  
21 MANAGING AGENT, OR DESIGNATED AGENT, WHICH MAY BE THE  
22 ASSOCIATION'S REGISTERED AGENT, AS SHOWN IN THE COLORADO  
23 SECRETARY OF STATE'S RECORDS, OR ANY OTHER AGENT THAT THE  
24 EXECUTIVE BOARD HAS DESIGNATED FOR PURPOSES OF REGISTRATION  
25 UNDER THIS SECTION;

26 (III) A VALID ADDRESS AND TELEPHONE NUMBER FOR THE  
27 ASSOCIATION OR ITS MANAGEMENT COMPANY, MANAGING AGENT, OR

1 DESIGNATED AGENT; AND

2 (IV) THE NUMBER OF UNITS IN THE ASSOCIATION.

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

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

6 (II) Is not authorized to make assessments and does not have ~~any~~  
7 revenue.

8 (3) A registration ~~shall be~~ IS valid for one year. THE RIGHT OF an  
9 association that fails to register, or whose annual registration has expired,  
10 ~~is ineligible~~ to impose or enforce a lien for assessments under section  
11 38-33.3-316 or to pursue ~~any~~ AN action or employ ~~any~~ AN enforcement  
12 mechanism otherwise available to it under section 38-33.3-123 IS  
13 SUSPENDED until ~~it~~ THE ASSOCIATION is ~~again~~ validly registered pursuant  
14 to this section. A lien for assessments previously filed during a period in  
15 which the association was validly registered or before registration was  
16 required pursuant to this section ~~shall~~ IS not ~~be~~ extinguished by a lapse in  
17 the association's registration, but ~~any~~ A pending enforcement ~~proceedings~~  
18 PROCEEDING related to ~~such~~ THE lien ~~shall be~~ IS suspended, and ~~any~~ AN  
19 applicable time ~~limits~~ LIMIT IS tolled, until the association is ~~again~~ validly  
20 registered pursuant to this section. AN ASSOCIATION'S REGISTRATION IN  
21 COMPLIANCE WITH THIS SECTION REVIVES A PREVIOUSLY SUSPENDED  
22 RIGHT WITHOUT PENALTY TO THE ASSOCIATION.

23 (4) (a) A REGISTRATION IS VALID UPON THE DIVISION OF REAL  
24 ESTATE'S ACCEPTANCE OF THE INFORMATION REQUIRED BY PARAGRAPH (a)  
25 OF SUBSECTION (2) OF THIS SECTION AND THE PAYMENT OF APPLICABLE  
26 FEES.

27 (b) AN ASSOCIATION'S REGISTRATION NUMBER, AND AN

1 ELECTRONIC OR PAPER CONFIRMATION ISSUED BY THE DIVISION OF REAL  
2 ESTATE, ARE PRIMA FACIE EVIDENCE OF VALID REGISTRATION.

3 (c) ~~Administratively~~ THE DIRECTOR OF THE DIVISION OF REAL  
4 ESTATE'S final determinations ~~by the director of the division of real estate~~  
5 concerning the validity or timeliness of registrations under this section are  
6 subject to judicial review pursuant to section 24-4-106 (11), C.R.S.;  
7 EXCEPT THAT THE COURT SHALL NOT FIND A REGISTRATION INVALID BASED  
8 SOLELY ON TECHNICAL OR TYPOGRAPHICAL ERRORS.

9 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-117, **amend**  
10 (1.5) introductory portion, (1.5) (l), and (1.5) (m); and **add** (1.5) (n) as  
11 follows:

12 **38-33.3-117. Applicability to preexisting common interest**  
13 **communities.** (1.5) Except as provided in section 38-33.3-119, the  
14 following sections ~~shall~~ apply to all common interest communities created  
15 within this state before July 1, 1992, with respect to events and  
16 circumstances occurring on or after January 1, 2006:

17 (l) 38-33.3-315 (7); ~~and~~

18 (m) 38-33.3-317; AND

19 (n) 38-33.3-401.

20 **SECTION 5. Act subject to petition - effective date.** (1) Except  
21 as provided in subsection (2) of this section, this act takes effect at 12:01  
22 a.m. on the day following the expiration of the ninety-day period after  
23 final adjournment of the general assembly (August 7, 2013, if  
24 adjournment sine die is on May 8, 2013); except that, if a referendum  
25 petition is filed pursuant to section 1 (3) of article V of the state  
26 constitution against this act or an item, section, or part of this act within  
27 such period, then the act, item, section, or part will not take effect unless

1 approved by the people at the general election to be held in November  
2 2014 and, in such case, will take effect on the date of the official  
3 declaration of the vote thereon by the governor.

4 (2) Section 2 of this act takes effect one year after section  
5 38-33.3-401 (2) (a) (IV), as enacted in section 3 of this act, takes effect.