

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0656.01 Duane Gall x4335

HOUSE BILL 16-1217

HOUSE SPONSORSHIP

Ryden, Lontine, Pettersen, Primavera, Williams

SENATE SPONSORSHIP

Carroll,

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE IMPLEMENTATION OF CERTAIN RECOMMENDATIONS
102 SET FORTH IN THE 2013 STUDY OF COMPARABLE HOA
103 INFORMATION AND RESOURCE CENTERS PREPARED BY THE
104 COLORADO DIVISION OF REAL ESTATE PURSUANT TO HOUSE
105 BILL 13-1134.

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>.)

Under House Bill 13-1134, enacted in 2013, the director of the division of real estate (director) conducted a study of the functions and

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.

duties of other states' homeowners' association (HOA) offices. The director developed a report of the resulting study entitled the 2013 Study of Comparable HOA Information and Resource Centers (report). The bill implements the following recommendations included in the report:

- ! Replace the per-HOA fee paid by HOAs to fund the HOA information and resource center (center) with a per-unit fee, to be calculated by the director;
- ! Require the HOA information officer (officer), who is the head of the center, to develop, maintain, and publish a statewide election monitoring referral list consisting of independent contractors who can monitor HOA elections; and
- ! Require the officer to develop, maintain, and publish a statewide referral list containing the names and contact information for independent contractors who provide mediation or arbitration services on HOA matters.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-111.5, **amend**
3 (2) (a) as follows:

4 **12-61-111.5. Fee adjustments - rules - definitions.**

5 (2) (a) (I) The division shall propose, as part of its annual budget request,
6 an adjustment in the amount of each fee that it is authorized by law to
7 collect under parts 1, 3, 4, 7, and 10 of this article. The budget request
8 and the adjusted fees for the division ~~shall~~ **MUST** reflect direct and indirect
9 costs.

10 (II) The costs of the HOA information and resource center,
11 created in section 12-61-406.5, ~~shall be~~ **ARE** paid from the HOA
12 information and resource center cash fund created in section 12-61-406.5

13 (4). The division of real estate shall estimate the direct and indirect costs
14 of operating the HOA information and resource center. ~~and~~ **THE**
15 **DIRECTOR OF THE DIVISION OF REAL ESTATE** shall establish the amount of
16 ~~the~~ **AN ASSOCIATION'S** annual registration fee to be collected under section

1 38-33.3-401, C.R.S., ~~The amount of the~~ BY ESTABLISHING BY RULE ONE
2 OF THE FOLLOWING FEE STRUCTURES:

3 (A) A SINGLE PER-UNIT ANNUAL registration fee;

4 (B) A TIERED PER-UNIT ANNUAL REGISTRATION FEE; OR

5 (C) A SINGLE PER-ASSOCIATION ANNUAL REGISTRATION FEE.

6 (III) REGARDLESS OF WHICH FEE STRUCTURE THE DIRECTOR OF THE
7 DIVISION OF REAL ESTATE ESTABLISHES BY RULE, THE DIRECTOR shall be
8 SET THE ANNUAL REGISTRATION FEE AT AN AMOUNT sufficient to recover
9 such THE HOA INFORMATION AND RESOURCE CENTER'S costs. ~~subject to~~
10 ~~a maximum limit of fifty dollars and~~ THE PER-UNIT ANNUAL
11 REGISTRATION FEE IS subject to adjustment to reflect the actual direct and
12 indirect costs of operating the HOA information and resource center
13 pursuant to ~~the general directive to adjust fees to avoid exceeding the~~
14 ~~statutory limit on uncommitted reserves in administrative agency cash~~
15 ~~funds as set forth in section 24-75-402 (3), C.R.S.~~

16 (IV) AS USED IN THIS PARAGRAPH (a), UNLESS THE CONTEXT
17 OTHERWISE REQUIRES:

18 (A) "ASSOCIATION" HAS THE MEANING SET FORTH IN SECTION
19 38-33.3-103 (3), C.R.S.

20 (B) "UNIT" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103
21 (30), C.R.S.

22 **SECTION 2.** In Colorado Revised Statutes, 12-61-406.5, **add** (3)
23 (d) and (3.5) as follows:

24 **12-61-406.5. HOA information and resource center - creation**
25 **- duties - rules - cash fund - repeal.** (3) (d) (I) THE HOA INFORMATION
26 OFFICER SHALL DEVELOP AND MAINTAIN A STATEWIDE REFERRAL LIST
27 CONSISTING OF THE NAMES OF, AND CONTACT INFORMATION FOR,

1 INDEPENDENT CONTRACTORS QUALIFIED TO PROVIDE HOA ELECTION
2 MONITORING. THE DIRECTOR OF THE DIVISION OF REAL ESTATE SHALL
3 ESTABLISH BY RULE A MINIMUM STANDARD OF EXPERIENCE WITH HOA
4 MATTERS THAT A QUALIFIED ELECTION MONITOR MUST POSSESS TO BE
5 ELIGIBLE FOR INCLUSION ON THE STATEWIDE REFERRAL LIST. THE HOA
6 INFORMATION OFFICER SHALL PUBLISH THE LIST ON THE HOA
7 INFORMATION AND RESOURCE CENTER'S WEBSITE AND PROVIDE A
8 DISCLAIMER ON THE WEBSITE INDICATING THAT, ALTHOUGH THE
9 INDEPENDENT CONTRACTORS INCLUDED ON THE REFERRAL LIST MEET THE
10 MINIMUM STANDARD OF EXPERIENCE WITH HOA-RELATED MATTERS SET
11 FORTH BY THE DIRECTOR OF THE DIVISION OF REAL ESTATE, THE REFERRAL
12 LIST IS NOT AN ENDORSEMENT OF ANY INDEPENDENT CONTRACTOR
13 INCLUDED ON THE LIST.

14 (II) EACH INDEPENDENT CONTRACTOR INCLUDED ON THE HOA
15 ELECTION MONITORING REFERRAL LIST SHALL ANNUALLY REPORT, IN A
16 FORM AND MANNER DETERMINED BY THE HOA INFORMATION OFFICER, ON:

17 (A) THE NUMBER OF REQUESTS TO MONITOR AN HOA ELECTION HE
18 OR SHE RECEIVED WITHIN THE PREVIOUS YEAR;

19 (B) THE NUMBER OF HOA ELECTIONS HE OR SHE MONITORED IN
20 THE PREVIOUS YEAR; AND

21 (C) FOR EACH HOA ELECTION MONITORED, THE TYPE AND SIZE OF
22 HOA INVOLVED.

23 (3.5) (a) THE HOA INFORMATION OFFICER SHALL DEVELOP AND
24 MAINTAIN A STATEWIDE MEDIATION AND ARBITRATION SERVICES
25 REFERRAL LIST CONSISTING OF THE NAMES OF, AND CONTACT
26 INFORMATION FOR, INDEPENDENT CONTRACTORS WHO PROVIDE
27 MEDIATION OR ARBITRATION SERVICES ON MATTERS CONCERNING HOAS.

1 THE DIRECTOR OF THE DIVISION OF REAL ESTATE SHALL ESTABLISH BY
2 RULE A MINIMUM STANDARD OF EXPERIENCE WITH HOA-RELATED
3 MATTERS THAT INDEPENDENT CONTRACTORS MUST POSSESS TO BE
4 ELIGIBLE FOR INCLUSION ON THE STATEWIDE REFERRAL LIST. THE HOA
5 INFORMATION OFFICER SHALL PUBLISH THE LIST ON THE HOA
6 INFORMATION AND RESOURCE CENTER'S WEBSITE AND PROVIDE A
7 DISCLAIMER ON THE WEBSITE INDICATING THAT, ALTHOUGH THE
8 INDEPENDENT CONTRACTORS INCLUDED ON THE REFERRAL LIST MEET THE
9 MINIMUM STANDARD OF EXPERIENCE WITH HOA-RELATED MATTERS SET
10 BY THE DIRECTOR OF THE DIVISION OF REAL ESTATE, THE REFERRAL LIST
11 IS NOT AN ENDORSEMENT OF ANY INDEPENDENT CONTRACTOR INCLUDED
12 ON THE LIST.

13 (b) EACH INDEPENDENT CONTRACTOR INCLUDED ON THE
14 MEDIATION AND ARBITRATION SERVICES REFERRAL LIST SHALL ANNUALLY
15 REPORT, IN A FORM AND MANNER DETERMINED BY THE HOA INFORMATION
16 OFFICER, ON:

17 (I) THE NUMBER OF REQUESTS TO MEDIATE OR ARBITRATE AN
18 HOA MATTER HE OR SHE RECEIVED WITHIN THE PREVIOUS YEAR;

19 (II) THE NUMBER OF HOA-RELATED MEDIATION CASES HE OR SHE
20 OPENED IN THE PREVIOUS YEAR;

21 (III) THE NUMBER OF HOA-RELATED ARBITRATION CASES HE OR
22 SHE OPENED IN THE PREVIOUS YEAR;

23 (IV) THE NUMBER OF HOA-RELATED MEDIATION CASES HE OR SHE
24 CLOSED IN THE PREVIOUS YEAR;

25 (V) THE NUMBER OF HOA-RELATED ARBITRATION CASES HE OR
26 SHE CLOSED IN THE PREVIOUS YEAR;

27 (VI) THE TYPES OF HOA-RELATED ISSUES HE OR SHE MEDIATED IN

1 THE PREVIOUS YEAR;

2 (VII) THE TYPES OF HOA-RELATED ISSUES HE OR SHE ARBITRATED
3 IN THE PREVIOUS YEAR; AND

4 (VIII) FOR EACH HOA-RELATED MEDIATION OR ARBITRATION
5 CASE OPENED IN THE PREVIOUS YEAR, THE TYPE AND SIZE OF HOA
6 INVOLVED IN THE MATTER; EXCEPT THAT THE INDEPENDENT CONTRACTOR
7 SHALL NOT DISCLOSE ANY INFORMATION THAT IS CONFIDENTIAL PURSUANT
8 TO SECTION 13-22-307, C.R.S., UNLESS IT IS BEING DISCLOSED FOR THE
9 PURPOSE AND TO THE EXTENT PERMITTED UNDER SECTION 13-22-307 (5),
10 C.R.S.

11 **SECTION 3. Effective date.** This act takes effect January 1,
12 2017.

13 **SECTION 4. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.