

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 5, 2005
Date

Committee on Local Government.

After consideration on the merits, the Committee recommends the following:

SB05-100 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Strike the Local Government Committee Report, dated March 24, 2005,
2 and substitute the following:

3 "Amend reengrossed bill, page 3, line 6, strike "new" and substitute "**new**
4 SECTION OF A";

5 line 10, strike "POLICY AND ON";

6 strike line 11 and substitute "POLICY AND, ON THAT BASIS, THAT SECTION
7 OF THE COVENANT SHALL BE UNENFORCEABLE.".

8 Page 5, line 9, after "**vehicles**", insert " - **fire prevention**";

9 after line 22, insert the following:

10 "(b) THE DISPLAY BY A UNIT OWNER OF A SERVICE FLAG BEARING
11 A STAR DENOTING THE SERVICE OF THE UNIT OWNER OR A MEMBER OF THE
12 UNIT OWNER'S IMMEDIATE FAMILY IN THE ACTIVE OR RESERVE MILITARY
13 SERVICE OF THE UNITED STATES DURING A TIME OF WAR OR ARMED
14 CONFLICT, ON THE INSIDE OF A WINDOW OR DOOR OF THE UNIT OWNER'S
15 RESIDENCE. THE ASSOCIATION MAY ADOPT REASONABLE RULES
16 REGARDING THE SIZE AND MANNER OF DISPLAY OF SERVICE FLAGS; EXCEPT
17 THAT THE MAXIMUM DIMENSIONS ALLOWED SHALL BE NOT LESS THAN NINE
18 INCHES BY SIXTEEN INCHES.".

19 Reletter succeeding paragraphs accordingly.

1 Page 6, line 12, strike "(b)," and substitute "(c),";
2 line 26, strike "DEPARTMENT," and substitute "DEPARTMENT OR";
3 line 27, strike "C.R.S., OR IS A PEACE OFFICER AS" and substitute
4 "C.R.S.;".

5 Page 7, strike line 1;

6 strike lines 3 and 4 and substitute the following:

7 "DESIGNATION OF THE EMERGENCY SERVICE PROVIDER; AND";

8 strike lines 9 through 23 and substitute the following:

9 (e) THE REMOVAL BY A UNIT OWNER OF TREES, SHRUBS, OR OTHER
10 VEGETATION TO CREATE DEFENSIBLE SPACE AROUND A DWELLING FOR FIRE
11 MITIGATION PURPOSES, SO LONG AS SUCH REMOVAL COMPLIES WITH A
12 WRITTEN DEFENSIBLE SPACE PLAN CREATED FOR THE PROPERTY BY THE
13 COLORADO STATE FOREST SERVICE, AN INDIVIDUAL OR COMPANY
14 CERTIFIED BY A LOCAL GOVERNMENTAL ENTITY TO CREATE SUCH A PLAN,
15 OR THE FIRE CHIEF, FIRE MARSHAL, OR FIRE PROTECTION DISTRICT WITHIN
16 WHOSE JURISDICTION THE UNIT IS LOCATED, AND IS NO MORE EXTENSIVE
17 THAN NECESSARY TO COMPLY WITH SUCH PLAN. THE PLAN SHALL BE
18 REGISTERED WITH THE ASSOCIATION BEFORE THE COMMENCEMENT OF
19 WORK. THE ASSOCIATION MAY REQUIRE CHANGES TO THE PLAN IF THE
20 ASSOCIATION OBTAINS THE CONSENT OF THE PERSON, OFFICIAL, OR
21 AGENCY THAT ORIGINALLY CREATED THE PLAN. THE WORK SHALL
22 COMPLY WITH APPLICABLE ASSOCIATION STANDARDS REGARDING SLASH
23 REMOVAL, STUMP HEIGHT, REVEGETATION, AND CONTRACTOR
24 REGULATIONS.

25 (f) (I) THE REPLACEMENT BY A UNIT OWNER OF CEDAR SHAKES OR
26 OTHER FLAMMABLE ROOFING MATERIALS WITH NONFLAMMABLE ROOFING
27 MATERIALS FOR FIRE PREVENTION OR FIRE SUPPRESSION PURPOSES.

28 (II) THE DECLARATION OR BYLAWS MAY SPECIFY REASONABLE
29 STANDARDS FOR THE COLOR, APPEARANCE, AND GENERAL TYPE OF
30 NONFLAMMABLE ROOFING MATERIALS THAT ARE USED TO REPLACE
31 FLAMMABLE ROOFING MATERIALS, BUT MAY NOT REQUIRE THE USE OF
32 NONFLAMMABLE MATERIALS THAT EXCEED THE REPLACEMENT COST OF
33 THE FLAMMABLE MATERIALS FOR WHICH THEY ARE BEING SUBSTITUTED.

1 **SECTION 3.** 38-33.3-117 (1), Colorado Revised Statutes, is
2 amended to read:

3 **38-33.3-117. Applicability to preexisting common interest**
4 **communities.** (1) Except as provided in section 38-33.3-119, the
5 following sections shall apply to all common interest communities
6 created within this state before July 1, 1992, with respect to events and
7 circumstances occurring on or after July 1, 1992:

8 (a) 38-33.3-101 and 38-33.3-102;

9 (b) 38-33.3-103, to the extent necessary in construing any of the
10 other sections of this article;

11 (c) 38-33.3-104 to 38-33.3-111;

12 (d) 38-33.3-114;

13 (e) 38-33.3-118;

14 (f) 38-33.3-120;

15 (g) 38-33.3-122 and 38-33.3-123;

16 (g.5) 38-33.3-124;

17 (h) 38-33.3-203 and 38-33.3-217 (1) AND (7);

18 (h.3) 38-33.3-205 (2);

19 (h.5) 38-33.3-209.4 TO 38-33.3-209.7;

20 (h.6) 38-33.3-221.5;

21 (h.7) 38-33.3-223;

22 (h.8) 38-33.3-301;

23 (h.9) 38-33.3-302 (1) (a) to (1) (f), (1) (j) to (1) (m), ~~and~~ (1) (o)
24 to (1) (q), (2), (3), AND (4);

25 (i.3) 38-33.3-303 (4) (b);

1 (i.5) 38-33.3-308 (1), (2.5), AND (4.5);

2 (i.6) 38-33.3-310 (1) AND (2);

3 (i.7) 38-33.3-310.5;

4 (j) 38-33.3-311;

5 (j.6) 38-33.3-315 (7);

6 (k) 38-33.3-316;

7 (l) 38-33.3-317 to 38-33.3-319.

8 **SECTION 4.** 38-33.3-123 (1), Colorado Revised Statutes, is
9 amended to read:

10 **38-33.3-123. Enforcement - limitation.** (1) (a) If any person
11 subject to the provisions of this article fails to comply with any of its
12 provisions or any provision of the declaration, bylaws, articles, or rules
13 and regulations, any person or class of persons adversely affected by the
14 failure to comply may ~~require~~ SEEK reimbursement for collection costs
15 and reasonable attorney fees and costs incurred as a result of such failure
16 to comply. ~~without the necessity of commencing a legal proceeding.~~
17 NOTWITHSTANDING ANY PROVISION OF THE DECLARATION, BYLAWS,
18 ARTICLES, OR RULES AND REGULATIONS TO THE CONTRARY, A UNIT OWNER
19 SHALL NOT BE DEEMED TO HAVE CONFESSED JUDGMENT TO ATTORNEY
20 FEES OR COLLECTION COSTS.

21 (b) For each claim, including but not limited to counterclaims,
22 cross-claims, and third-party claims, in any legal proceeding to enforce
23 the provisions of this article or of the declaration, bylaws, articles, or
24 rules and regulations: ~~the court shall award to the party prevailing on~~
25 ~~such claim the prevailing party's reasonable collection costs and attorney~~
26 ~~fees and costs incurred in asserting or defending the claim.~~

27 (I) IF THE COURT FINDS A VIOLATION OF THIS ARTICLE OR OF THE
28 DECLARATION, BYLAWS, ARTICLES, OR RULES AND REGULATIONS, THE
29 COURT SHALL AWARD THE PREVAILING PARTY ITS COSTS AND REASONABLE
30 ATTORNEY FEES; AND

31 (II) IF THE COURT DOES NOT FIND A VIOLATION OF THIS SECTION,

1 IT SHALL AWARD COSTS AND REASONABLE ATTORNEY FEES TO THE
2 PREVAILING PARTY ONLY IF THE COURT FINDS THAT THE ACTION WAS
3 FRIVOLOUS, VEXATIOUS, OR GROUNDESS."

4 Renumber succeeding sections accordingly.

5 Page 8, line 27, strike "**Identity**" and substitute "**Public disclosures**
6 **required - identity**".

7 Page 9, line 1, before "THE", insert "(1)";

8 strike lines 14 through 25 and substitute the following:

9 "(2) WITHIN NINETY DAYS AFTER ASSUMING CONTROL FROM THE
10 DECLARANT PURSUANT TO SECTION 38-33.3-303 (5), AND WITHIN NINETY
11 DAYS AFTER THE END OF EACH FISCAL YEAR THEREAFTER, THE
12 ASSOCIATION SHALL MAKE THE FOLLOWING INFORMATION AVAILABLE TO
13 UNIT OWNERS UPON REASONABLE NOTICE IN ACCORDANCE WITH
14 SUBSECTION (3) OF THIS SECTION:

15 (a) THE DATE ON WHICH ITS FISCAL YEAR COMMENCES;

16 (b) ITS OPERATING BUDGET FOR THE CURRENT FISCAL YEAR;

17 (c) A LIST, BY UNIT TYPE, OF THE ASSOCIATION'S CURRENT
18 ASSESSMENTS, INCLUDING BOTH REGULAR AND SPECIAL ASSESSMENTS;

19 (d) ITS ANNUAL FINANCIAL STATEMENTS, INCLUDING ANY
20 AMOUNTS HELD IN RESERVE FOR THE FISCAL YEAR IMMEDIATELY
21 PRECEDING THE CURRENT ANNUAL DISCLOSURE;

22 (e) THE RESULTS OF ANY FINANCIAL AUDIT OR REVIEW FOR THE
23 FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT ANNUAL
24 DISCLOSURE;

25 (f) A LIST OF ALL ASSOCIATION INSURANCE POLICIES, INCLUDING,
26 BUT NOT LIMITED TO, PROPERTY, GENERAL LIABILITY, ASSOCIATION
27 DIRECTOR AND OFFICER PROFESSIONAL LIABILITY, AND FIDELITY POLICIES.
28 SUCH LIST SHALL INCLUDE THE COMPANY NAMES, POLICY LIMITS, POLICY
29 DEDUCTIBLES, ADDITIONAL NAMED INSUREDS, AND EXPIRATION DATES OF
30 THE POLICIES LISTED.

1 (g) ALL THE ASSOCIATION'S BYLAWS, ARTICLES, AND RULES AND
2 REGULATIONS;

3 (h) THE MINUTES OF THE EXECUTIVE BOARD AND MEMBER
4 MEETINGS FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT
5 ANNUAL DISCLOSURE; AND

6 (i) THE ASSOCIATION'S RESPONSIBLE GOVERNANCE POLICIES
7 ADOPTED UNDER SECTION 38-33.3-209.5.

8 (3) IT IS THE INTENT OF THIS SECTION TO ALLOW THE ASSOCIATION
9 THE WIDEST POSSIBLE LATITUDE IN METHODS AND MEANS OF DISCLOSURE,
10 WHILE REQUIRING THAT THE INFORMATION BE READILY AVAILABLE AT NO
11 COST TO UNIT OWNERS AT THEIR CONVENIENCE. DISCLOSURE SHALL BE
12 ACCOMPLISHED BY ONE OF THE FOLLOWING MEANS: POSTING ON AN
13 INTERNET WEB PAGE WITH ACCOMPANYING NOTICE OF THE WEB ADDRESS
14 VIA FIRST-CLASS MAIL OR E-MAIL; THE MAINTENANCE OF A LITERATURE
15 TABLE OR BINDER AT THE ASSOCIATION'S PRINCIPAL PLACE OF BUSINESS;
16 OR MAIL OR PERSONAL DELIVERY. THE COST OF SUCH DISTRIBUTION SHALL
17 BE ACCOUNTED FOR AS A COMMON EXPENSE LIABILITY.

18 (4) NOTWITHSTANDING SECTION 38-33.3-117 (1) (h.5), THIS
19 SECTION SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE
20 UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).

21 **38-33.3-209.5. Responsible governance policies.** (1) To
22 PROMOTE RESPONSIBLE GOVERNANCE, ASSOCIATIONS SHALL:

23 (a) MAINTAIN ACCOUNTING RECORDS USING GENERALLY ACCEPTED
24 ACCOUNTING PRINCIPLES; AND

25 (b) ADOPT POLICIES, PROCEDURES, AND RULES AND REGULATIONS
26 CONCERNING:

27 (I) COLLECTION OF UNPAID ASSESSMENTS;

28 (II) HANDLING OF CONFLICTS OF INTEREST INVOLVING BOARD
29 MEMBERS;

30 (III) CONDUCT OF MEETINGS, WHICH MAY REFER TO APPLICABLE
31 PROVISIONS OF THE NONPROFIT CODE OR OTHER RECOGNIZED RULES AND
32 PRINCIPLES;

1 (IV) ENFORCEMENT OF COVENANTS AND RULES, INCLUDING
2 NOTICE AND HEARING PROCEDURES AND THE SCHEDULE OF FINES;

3 (V) INSPECTION AND COPYING OF ASSOCIATION RECORDS BY UNIT
4 OWNERS;

5 (VI) INVESTMENT OF RESERVE FUNDS; AND

6 (VII) PROCEDURES FOR THE ADOPTION AND AMENDMENT OF
7 POLICIES, PROCEDURES, AND RULES.

8 **38-33.3-209.6. Executive board member education.** THE BOARD
9 MAY AUTHORIZE, AND ACCOUNT FOR AS A COMMON EXPENSE,
10 REIMBURSEMENT OF BOARD MEMBERS FOR THEIR ACTUAL AND NECESSARY
11 EXPENSES INCURRED IN ATTENDING EDUCATIONAL MEETINGS AND
12 SEMINARS ON RESPONSIBLE GOVERNANCE OF UNIT OWNERS' ASSOCIATIONS.

13 **38-33.3-209.7. Owner education.** THE ASSOCIATION SHALL
14 PROVIDE, OR CAUSE TO BE PROVIDED, EDUCATION TO OWNERS AT NO COST
15 ON AT LEAST AN ANNUAL BASIS AS TO THE GENERAL OPERATIONS OF THE
16 ASSOCIATION AND THE RIGHTS AND RESPONSIBILITIES OF OWNERS, THE
17 ASSOCIATION, AND ITS EXECUTIVE BOARD. THE CRITERIA FOR COMPLIANCE
18 WITH THIS SECTION SHALL BE DETERMINED BY THE EXECUTIVE BOARD.

19 **SECTION 7.** 38-33.3-217 (1), Colorado Revised Statutes, is
20 amended to read:

21 **38-33.3-217. Amendment of declaration.** (1) (a) Except in
22 cases of amendments that may be executed by a declarant under section
23 38-33.3-205 (4) and (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210,
24 or 38-33.3-222, by an association under section 38-33.3-107, 38-33.3-206
25 (4), 38-33.3-208 (2), 38-33.3-212, 38-33.3-213, or 38-33.3-218 (11) and
26 (12), or by the district court for any county that includes all or any
27 portion of a common interest community under subsection (7) of this
28 section, and except as limited by subsection (4) of this section, the
29 declaration, including the plats and maps, may be amended only by THE
30 AFFIRMATIVE vote or agreement of unit owners of units to which more
31 than fifty percent of the votes in the association are allocated or any
32 larger percentage, NOT TO EXCEED SIXTY-SEVEN PERCENT, THAT the
33 declaration specifies. ANY PROVISION IN THE DECLARATION THAT
34 PURPORTS TO SPECIFY A PERCENTAGE LARGER THAN SIXTY-SEVEN PERCENT
35 IS HEREBY DECLARED VOID AS CONTRARY TO PUBLIC POLICY, AND UNTIL

1 AMENDED, SUCH PROVISION SHALL BE DEEMED TO SPECIFY A PERCENTAGE
2 OF SIXTY-SEVEN PERCENT. The declaration may specify a smaller
3 percentage THAN A SIMPLE MAJORITY only if all of the units are restricted
4 exclusively to nonresidential use.

5 (b) IF THE DECLARATION REQUIRES FIRST MORTGAGEES TO
6 APPROVE OR CONSENT TO AMENDMENTS, THE ASSOCIATION SHALL SEND A
7 DATED, WRITTEN NOTICE AND A COPY OF ANY PROPOSED AMENDMENT BY
8 CERTIFIED MAIL TO EACH FIRST MORTGAGEE AT ITS MOST RECENT ADDRESS
9 AS SHOWN ON THE RECORDED DEED OF TRUST OR RECORDED ASSIGNMENT
10 THEREOF. IN ADDITION, THE ASSOCIATION SHALL CAUSE THE DATED
11 NOTICE AND THE PROPOSED AMENDMENT TO BE PRINTED IN FULL AT LEAST
12 TWICE, ON SEPARATE OCCASIONS AT LEAST ONE WEEK APART, IN A
13 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE
14 COMMON INTEREST COMMUNITY IS LOCATED. A FIRST MORTGAGEE THAT
15 DOES NOT DELIVER TO THE ASSOCIATION A NEGATIVE RESPONSE WITHIN
16 SIXTY DAYS AFTER THE DATE OF THE NOTICE SHALL BE DEEMED TO HAVE
17 APPROVED THE PROPOSED AMENDMENT.

18 **SECTION 8.** Part 2 of article 33.3 of title 38, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
20 read:".

21 Renumber succeeding sections accordingly.

22 Page 10, strike lines 19 and 20 and substitute the following:

23 "MAJORITY VOTE AND THE OWNERS OF UNITS REPRESENTING AT LEAST
24 SEVENTY-FIVE PERCENT OF THE ALLOCATED INTERESTS IN THE COMMON
25 INTEREST COMMUNITY WISHING TO WITHDRAW PARTICIPATED IN THE VOTE;
26 AND";

27 line 21, strike "SEVERELY IMPACT" and substitute "SUBSTANTIALLY IMPAIR
28 THE ABILITY OF";

29 strike line 23 and substitute the following:

30 "ASSOCIATION TO:

31 (I) ENFORCE EXISTING COVENANTS;

32 (II) MAINTAIN EXISTING FACILITIES; OR

1 (III) CONTINUE TO EXIST.";

2 after line 27, insert the following:

3 "SECTION 9. Part 2 of article 33.3 of title 38, Colorado Revised
4 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
5 read:".

6 Renumber succeeding sections accordingly.

7 Page 11, line 5, strike "OBJECTION";

8 after line 16, insert the following:

9 "(2) THE ASSOCIATION SHALL USE ITS BEST EFFORTS TO
10 ACCOMMODATE A REQUEST BY THE SELLER FOR DOCUMENTS THAT ARE
11 WITHIN THE ASSOCIATION'S CONTROL, IN ACCORDANCE WITH SECTION
12 38-33.3-317.";

13 line 17, strike "(2)" and substitute "(3)";

14 line 20, strike "TITLE" and substitute "GOVERNING DOCUMENTS";

15 line 23, strike "TITLE" and substitute "GOVERNING DOCUMENTS";

16 after line 26, insert the following:

17 "(4) THE TIME PERIODS SPECIFIED IN THIS SECTION MAY BE
18 ALTERED BY MUTUAL AGREEMENT OF THE PARTIES.

19 (5) NOTWITHSTANDING SECTION 38-33.3-117 (1) (h.7), THIS
20 SECTION SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE
21 UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7)."

22 Page 12, line 27, after "(3)", insert "(a)".

23 Page 13, after line 3, insert the following:

24 "(b) DECISIONS CONCERNING THE APPROVAL OR DENIAL OF A UNIT
25 OWNER'S APPLICATION FOR ARCHITECTURAL OR LANDSCAPING CHANGES
26 SHALL BE MADE IN ACCORDANCE WITH STANDARDS AND PROCEDURES SET
27 FORTH IN THE DECLARATION OR IN DULY ADOPTED RULES AND
28 REGULATIONS OR BYLAWS OF THE ASSOCIATION, AND SHALL NOT BE MADE

1 ARBITRARILY OR CAPRICIOUSLY."

2 Page 14, strike lines 3 through 14 and substitute the following:

3 "(b) (I) THE BOOKS AND RECORDS OF THE ASSOCIATION SHALL BE
4 SUBJECT TO AN AUDIT, USING GENERALLY ACCEPTED AUDITING
5 STANDARDS, OR A REVIEW, USING STATEMENTS ON STANDARDS FOR
6 ACCOUNTING AND REVIEW SERVICES, AT LEAST ONCE EVERY TWO YEARS
7 BY A PERSON SELECTED BY THE EXECUTIVE BOARD. SUCH PERSON NEED
8 NOT BE A CERTIFIED PUBLIC ACCOUNTANT EXCEPT IN THE CASE OF AN
9 AUDIT.

10 (II) AN AUDIT SHALL BE REQUIRED UNDER THIS PARAGRAPH (b)
11 ONLY WHEN BOTH OF THE FOLLOWING CONDITIONS ARE MET:

12 (A) THE ASSOCIATION HAS ANNUAL REVENUES OR EXPENDITURES
13 OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS; AND

14 (B) AN AUDIT IS REQUESTED BY THE OWNERS OF AT LEAST
15 ONE-THIRD OF THE UNITS REPRESENTED BY THE ASSOCIATION.

16 (III) COPIES OF AN AUDIT OR REVIEW UNDER THIS PARAGRAPH (b)
17 SHALL BE MADE AVAILABLE UPON REQUEST TO ANY UNIT OWNER
18 BEGINNING NO LATER THAN THIRTY DAYS AFTER ITS COMPLETION.

19 (IV) NOTWITHSTANDING SECTION 38-33.3-117 (1) (i.3), THIS
20 PARAGRAPH (b) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF
21 THE UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7)."

22 Page 15, line 15, after "(b)", insert "(I)";

23 line 19, after "MEETINGS", insert "OF UNIT OWNERS";

24 after line 23, insert the following:

25 "(II) NOTWITHSTANDING SECTION 38-33.3-117 (1) (i.5), THIS
26 PARAGRAPH (b) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF
27 THE UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7)."

28 Page 16, strike lines 16 through 21 and substitute the following:

29 "(c) NOTWITHSTANDING SECTION 38-33.3-117 (1) (i.5), THIS
30 SUBSECTION (2.5) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF,

1 IF THE UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).

2 (4.5) UPON THE FINAL RESOLUTION OF ANY MATTER FOR WHICH
3 THE BOARD RECEIVED LEGAL ADVICE OR THAT CONCERNED PENDING OR
4 CONTEMPLATED LITIGATION, THE BOARD MAY ELECT TO PRESERVE THE
5 ATTORNEY-CLIENT PRIVILEGE IN ANY APPROPRIATE MANNER, OR IT MAY
6 ELECT TO DISCLOSE SUCH INFORMATION, AS IT DEEMS APPROPRIATE,
7 ABOUT SUCH MATTER IN AN OPEN MEETING."

8 Page 17, line 6, after "(b)", insert "(I)";

9 after line 15, insert the following:

10 "(II) NOTWITHSTANDING SECTION 38-33.3-117 (1) (i.6), THIS
11 PARAGRAPH (b) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF
12 THE UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7)."

13 Page 18, after line 18, insert the following:

14 "(f) NOTWITHSTANDING SECTION 38-33.3-117 (1) (i.6),
15 PARAGRAPHS (c), (d), AND (e) OF THIS SUBSECTION (2) SHALL NOT APPLY
16 TO A UNIT, OR THE OWNER THEREOF, IF THE UNIT IS A TIME SHARE UNIT, AS
17 DEFINED IN SECTION 38-33-110 (7)."

18 Page 19, line 17, after "(7)", insert "(a)";

19 after line 26, insert the following:

20 "(b) NOTWITHSTANDING SECTION 38-33.3-117 (1) (j.6), THIS
21 SUBSECTION (7) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF
22 THE UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).

23 **SECTION 17.** The introductory portion to 38-33.3-316 (2) (a),
24 the introductory portion to 38-33.3-316 (2) (b), and 38-33.3-316 (2) (d)
25 and (8), Colorado Revised Statutes, are amended to read:

26 **38-33.3-316. Lien for assessments.** (2) (a) A lien under this
27 section is prior to all other liens and encumbrances on a unit, TO THE
28 EXTENT THAT THERE ARE UNPAID ASSESSMENTS DUE TO THE ASSOCIATION,
29 except:

30 (b) Subject to paragraph (d) of this subsection (2), AND TO THE

1 EXTENT THAT THERE ARE UNPAID ASSESSMENTS DUE TO THE ASSOCIATION,
2 a lien under this section is also prior to the security interests described in
3 subparagraph (II) of paragraph (a) of this subsection (2) to the extent of:

4 (d) The association shall have the statutory lien described in
5 subsection (1) of this section for any assessment levied or fine imposed
6 after June 30, 1992, TO THE EXTENT THAT THERE ARE UNPAID
7 ASSESSMENTS DUE TO THE ASSOCIATION. Such lien shall have the priority
8 described in this subsection (2) if the other lien or encumbrance is created
9 after June 30, 1992.

10 (8) The association shall furnish to a unit owner, ~~or such~~ THE unit
11 owner's designee, AN ESCROW AGENT, A TITLE INSURANCE COMPANY OR
12 TITLE INSURANCE AGENT, or ~~to~~ a holder of a security interest or its
13 designee upon written request, delivered personally or by certified mail,
14 first-class postage prepaid, return receipt, to the association's registered
15 agent, a written statement setting forth the amount of unpaid assessments
16 currently levied against such owner's unit. The statement shall be
17 furnished within fourteen calendar days after receipt of the request and
18 is binding on the association, the executive board, and every unit owner.
19 If no statement is furnished to the ~~unit owner or holder of a security~~
20 ~~interest or his or her designee~~ INQUIRING PARTY, delivered personally or
21 by certified mail, first-class postage prepaid, return receipt requested, ~~to~~
22 ~~the inquiring party~~, then the association shall have no right to assert a lien
23 upon the unit for unpaid assessments which were due as of the date of the
24 request."

25 Renumber succeeding sections accordingly.

26 Page 20, line 10, strike "WITHOUT" and substitute "BY WRITTEN BALLOT
27 OR WRITTEN CONSENT IN LIEU OF";

28 line 15, after "(c)", insert "(I)";

29 after line 18, insert the following:

30 "(II) NOTWITHSTANDING SECTION 38-33.3-117 (1) (I), THIS
31 PARAGRAPH (c) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF
32 THE UNIT IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).";

33 line 26, strike "REASONABLE";

34 line 27, strike "TWENTY-FIVE CENTS" and substitute "THE ASSOCIATION'S

1 ACTUAL COST".

2 Page 21, line 4, strike "DAYS OR LESS," and substitute "DAYS,".

3 Page 22, strike lines 26 and 27.

4 Page 23, strike lines 1 through 24 and substitute the following:

5 **"38-35.7-102. Disclosure - common interest community -**
6 **requirement for architectural approval.** (1) IN EVERY PURCHASE AND
7 SALE OF RESIDENTIAL REAL PROPERTY IN A COMMON INTEREST
8 COMMUNITY:

9 (a) THE SELLER SHALL CAUSE TO BE FURNISHED TO THE BUYER, AT
10 THE SELLER'S EXPENSE, ALL DOCUMENTS REQUIRED BY SECTION
11 38-33.3-223 AT LEAST TEN DAYS BEFORE CLOSING IN THE CASE OF A SALE
12 BY OWNER OR WITHIN THE TIME LIMITS SET FORTH IN SECTION 38-33.3-223
13 IN THE CASE OF A BROKERED TRANSACTION.

14 (b) (I) THE SELLER SHALL PROVIDE THE BUYER WITH A DISCLOSURE
15 STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE AND IN
16 SUBSTANTIALLY THE FOLLOWING FORM:

17 **"THE BUYER UNDERSTANDS THAT ANY**
18 **CHANGES OR ADDITIONS TO THE PROPERTY**
19 **MAY BE SUBJECT TO ARCHITECTURAL**
20 **REVIEW AND APPROVAL BY THE COMMON**
21 **INTEREST COMMUNITY. THE BUYER**
22 **UNDERSTANDS THAT FAILURE TO SECURE**
23 **SUCH REVIEW AND APPROVAL MAY BE**
24 **DEEMED A VIOLATION OF THE GOVERNING**
25 **DECLARATIONS AND RESULT IN REMEDIAL**
26 **ACTION BEING TAKEN AGAINST THE BUYER BY**
27 **THE COMMON INTEREST COMMUNITY."**

28 (II) IT SHALL BE THE RESPONSIBILITY OF THE SELLER TO OBTAIN
29 FROM THE PURCHASER A SIGNED ACKNOWLEDGMENT OF RECEIPT OF THE
30 INFORMATION AND DISCLOSURE STATEMENT DESCRIBED IN THIS SECTION,
31 WHETHER SUCH ACKNOWLEDGMENT IS INCORPORATED IN THE CONTRACT
32 OF PURCHASE AND SALE OR OTHERWISE, AT THE TIME OF CLOSING AND TO
33 DELIVER SUCH SIGNED ACKNOWLEDGMENT TO THE ASSOCIATION AS SOON
34 AS IS PRACTICABLE THEREAFTER. IN THE".

1 Page 24, after line 1, insert the following:

2 "(2) THIS SECTION SHALL NOT APPLY TO THE SALE OF A UNIT THAT
3 IS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).";

4 strike line 4 and substitute the following:

5 "are amended, and the said 10-4-110.8 is further amended BY THE
6 ADDITION OF A NEW SUBSECTION, to read:";

7 line 16, strike "(a)";

8 after line 20, insert the following:

9 "(5) IN A COMMON INTEREST COMMUNITY, AS DEFINED IN SECTION
10 38-33.3-103 (8), C.R.S., A UNIT OWNER MAY FILE A CLAIM AGAINST THE
11 POLICY OF THE UNIT OWNER'S ASSOCIATION TO THE SAME EXTENT, AND
12 WITH THE SAME EFFECT, AS IF THE UNIT OWNER WERE AN ADDITIONAL
13 NAMED INSURED.

14 **SECTION 21. Effective date - applicability.** (1) Sections 1, 2,
15 and 8 of this act shall take effect upon passage, and the remainder of this
16 act shall take effect January 1, 2006.

17 (2) This act shall apply to acts, occurrences, events, and
18 circumstances arising on or after the applicable effective date of this act."

19 Renumber succeeding section accordingly."

20 Amend House Journal, dated April 1, 2005, page 865, strike lines 16
21 through 56.

22 Strike pages 866 through 869.

23 Page 870, strike lines 1 through 16.

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