

HOUSE COMMITTEE OF REFERENCE REPORT

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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 GROUNDLESS."

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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