

Colorado Legislative Council Staff
STATE and LOCAL
REVISED FISCAL IMPACT
(replaces fiscal impact dated March 2, 2005)

Drafting Number: LLS 05-0134	Date: April 5, 2005
Prime Sponsor(s): Sen. Hagedorn Rep. Carroll M.	Bill Status: House Local Government
	Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING INCREASED PROTECTION FOR HOMEOWNERS.

Fiscal Impact Summary	FY 2005/2006	FY 2006/2007
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: Sections 1, 2, and 8 - upon signature of the Governor. All remaining sections - January 1, 2006.		
Appropriation Summary for FY 2005/2006: None		
Local Government Impact: May cause some homeowner's associations to incur additional operating and administrative costs, and to increase assessments or fee revenue to recover those costs.		

Summary of Legislation

This revised bill states that any restrictive covenant that prohibits or limits xeriscape, prohibits the use of drought-tolerant vegetative landscapes, or requires cultivated vegetation to consist exclusively or primarily of turf grass shall be void and unenforceable. The bill specifies requirements for the executive board of a homeowners' association to review a request for a landscaping change and to enforce landscaping policies.

The bill revises the Colorado Common Interest Ownership Act by specifying certain prohibitions and requirements for a homeowners' association. Major provisions of the bill include:

- limitations and conditions for the display of the American flag and political signs;
- conditions for the regulation of vehicle parking;
- allowable actions for fire mitigation purposes;
- conditions whereby a court may award costs and reasonable attorney fees to a prevailing party in the event of a violation of the association's bylaws or regulations or if the court finds the action was frivolous, vexatious, or groundless;

- declaration of encouragement for common interest communities to adopt protocols that make use of mediation or arbitration, including binding arbitration, as alternatives to the filing of a complaint between a unit owner and the association;
- requirements for public disclosure of specified information;
- exemptions for time-share units;
- requirements for an association to adopt specified responsible governance policies, and to annually educate homeowners on the general operations of the association and the rights and responsibilities of homeowners;
- requirements to amend an association's declaration;
- requirements for an association to withdraw from a merger or merger agreement;
- requirements for the seller of a unit to provide specified information to the purchaser before the title deadline;
- requirements for an association's records to be subject to audit;
- requirements for open meetings and homeowner participation;
- requirements for votes of homeowners, assessments for common expenses, and maintenance of association records;
- requirements for declaration of conflict of interest on behalf of members of the board of directors;
- the requirement that every contract for the purchase and sale of residential property in a common interest community comply with the requirements for disclosure and contain a prescribed disclosure statement;
- the authority for the purchaser to have a claim for damages and court costs against the seller for not providing disclosure information;
- conditions whereby clean claims for damage to property located in a common interest community must be paid, denied, or settled by an insurer; and
- the authority of the Insurance Commissioner to investigate complaints against an insurer.

State Expenditures

Judicial Department. This bill creates a new civil cause of action for the purchasers or sellers of a unit who are damaged due to the unit owner or the homeowners' association not disclosing required information, including damages and court costs. This bill will create additional cases filed in district or county courts subject to the amount of damages claimed. The department will be able to absorb the costs of up to 50 new district court cases within existing budgetary resources. The costs for any cases above that level will require additional General Fund appropriations.

Regulatory Agencies. The bill authorizes the Division of Insurance to investigate complaints against insurers regarding violation of the provisions governing clean claims. In the event, the division will not be able to absorb any associated costs within existing budgetary resources, additional appropriations may be required.

Local Government Impact

This bill will require homeowner's associations, as local governments, to revise procedures and policies. As a result, associations may incur additional administrative and operating costs, and may be required to recover those costs through increased fee revenue. The amount of any affect on costs or revenues has not been estimated.

State Appropriations

No new state appropriations will be required for FY 2005-06.

Departments Contacted

Judicial

Local Affairs

Regulatory Agencies

Natural Resources