

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

Date

Committee on Judiciary.

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

SB06-089 be amended as follows:

1 Amend printed bill, page 9, strike lines 1 through 12 and substitute the
2 following:

3 "SECTION 7. Repeal. 38-33.3-223, Colorado Revised Statutes,
4 is repealed."

5 Page 14, after line 23, insert the following:

6 "SECTION 12. 38-35.7-102, Colorado Revised Statutes, is
7 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

8 **38-35.7-102. Disclosure - common interest community -**
9 **obligation to pay assessments - requirement for architectural**
10 **approval. (1) EVERY CONTRACT FOR THE PURCHASE AND SALE OF**
11 **RESIDENTIAL REAL PROPERTY IN A COMMON INTEREST COMMUNITY SHALL**
12 **CONTAIN A DISCLOSURE STATEMENT IN BOLD-FACED TYPE THAT IS**
13 **CLEARLY LEGIBLE AND IN SUBSTANTIALLY THE FOLLOWING FORM:**

14 **"THE PROPERTY IS LOCATED WITHIN A**
15 **COMMON INTEREST COMMUNITY AND IS**
16 **SUBJECT TO THE DECLARATION FOR SUCH**
17 **COMMUNITY. THE OWNER OF THE PROPERTY**
18 **WILL BE REQUIRED TO BE A MEMBER OF THE**
19 **OWNER'S ASSOCIATION FOR THE COMMUNITY**
20 **AND WILL BE SUBJECT TO THE BYLAWS AND**
21 **RULES AND REGULATIONS OF THE**

1 ASSOCIATION. THE DECLARATION, BYLAWS,
2 AND RULES AND REGULATIONS WILL IMPOSE
3 FINANCIAL OBLIGATIONS UPON THE OWNER
4 OF THE PROPERTY, INCLUDING AN
5 OBLIGATION TO PAY ASSESSMENTS OF THE
6 ASSOCIATION. IF THE OWNER DOES NOT PAY
7 THESE ASSESSMENTS, THE ASSOCIATION
8 COULD PLACE A LIEN ON THE PROPERTY AND
9 POSSIBLY SELL IT TO PAY THE DEBT. THE
10 DECLARATION, BYLAWS, RULES AND
11 REGULATIONS OF THE COMMUNITY MAY
12 PROHIBIT THE OWNER FROM MAKING
13 CHANGES TO THE PROPERTY WITHOUT AN
14 ARCHITECTURAL REVIEW BY THE
15 ASSOCIATION (OR A COMMITTEE OF THE
16 ASSOCIATION) AND THE APPROVAL OF THE
17 ASSOCIATION. PURCHASERS OF PROPERTY
18 WITHIN THE COMMON INTEREST COMMUNITY
19 SHOULD INVESTIGATE THE FINANCIAL
20 OBLIGATIONS OF MEMBERS OF THE
21 ASSOCIATION. PURCHASERS SHOULD
22 CAREFULLY READ THE DECLARATION FOR
23 THE COMMUNITY AND THE BYLAWS, RULES,
24 AND REGULATIONS OF THE ASSOCIATION."

25 (2) (a) THE OBLIGATION TO PROVIDE THE DISCLOSURE SET FORTH
26 IN SUBSECTION (1) OF THIS SECTION SHALL BE UPON THE SELLER, AND, IN
27 THE EVENT OF THE FAILURE BY THE SELLER TO PROVIDE THE WRITTEN
28 DISCLOSURE DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE
29 PURCHASER SHALL HAVE A CLAIM FOR RELIEF AGAINST THE SELLER FOR
30 ACTUAL DAMAGES DIRECTLY AND PROXIMATELY CAUSED BY SUCH
31 FAILURE PLUS COURT COSTS. IT SHALL BE AN AFFIRMATIVE DEFENSE TO
32 ANY CLAIM FOR DAMAGES BROUGHT UNDER THIS SECTION THAT THE
33 PURCHASER HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE FACTS
34 AND INFORMATION REQUIRED TO BE DISCLOSED.

35 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (2),
36 CONTRACTS FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL
37 PROPERTY PREPARED BY A LICENSED REAL ESTATE BROKER SHALL NOT BE
38 REQUIRED TO CONTAIN THE DISCLOSURE SET FORTH IN SUBSECTION (1) OF
39 THIS SECTION UNTIL THE COLORADO REAL ESTATE COMMISSION HAS



1 PROMULGATED A FORM OF PURCHASE AND SALE CONTRACT, OR
2 ADDENDUM THERETO, THAT CONTAINS SUCH DISCLOSURE, AND, UNTIL
3 SUCH FORM HAS BEEN PROMULGATED, SELLERS REPRESENTED BY A
4 LICENSED REAL ESTATE BROKER SHALL NOT BE LIABLE FOR FAILING TO
5 PROVIDE SUCH DISCLOSURE.

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

8 Renumber succeeding sections accordingly.

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