

(m) 38-33.3-317.

SECTION 5. 38-33.3-123 (1), Colorado Revised Statutes, is amended to read:

38-33.3-123. Enforcement - limitation. (1) (a) If any ~~person~~ **subject to** UNIT OWNER FAILS TO TIMELY PAY ASSESSMENTS OR ANY MONEY OR SUMS DUE TO THE ASSOCIATION, THE ASSOCIATION MAY REQUIRE REIMBURSEMENT FOR COLLECTION COSTS AND REASONABLE ATTORNEY FEES AND COSTS INCURRED AS A RESULT OF SUCH FAILURE WITHOUT THE NECESSITY OF COMMENCING A LEGAL PROCEEDING.

(b) ~~FOR ANY FAILURE TO COMPLY WITH the provisions of this article fails to comply with any of its provisions~~ or any provision of the declaration, bylaws, articles, or rules and regulations, OTHER THAN THE PAYMENT OF ASSESSMENTS OR ANY MONEY OR SUMS DUE TO THE ASSOCIATION, THE ASSOCIATION, any ~~person~~ **persons** UNIT OWNERS adversely affected by the failure to comply may ~~require~~ **require** SEEK reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding.

(c) For each claim OR DEFENSE, including but not limited to counterclaims, cross-claims, and third-party claims, AND EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1), in any legal proceeding to enforce OR DEFEND the provisions of this article or of the declaration, bylaws, articles, or rules and regulations, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim.

(d) NOTWITHSTANDING PARAGRAPH (c) OF THIS SUBSECTION (1), IN CONNECTION WITH ANY CLAIM IN WHICH A UNIT OWNER IS ALLEGED TO HAVE VIOLATED A PROVISION OF THIS ARTICLE OR OF THE DECLARATION, BYLAWS, ARTICLES, OR RULES AND REGULATIONS OF THE ASSOCIATION AND IN WHICH THE COURT FINDS THAT THE UNIT OWNER PREVAILED BECAUSE THE UNIT OWNER DID NOT COMMIT THE ALLEGED VIOLATION:

(I) THE COURT SHALL AWARD THE UNIT OWNER REASONABLE ATTORNEY FEES AND COSTS INCURRED IN ASSERTING OR DEFENDING THE CLAIM; AND

(II) THE COURT SHALL NOT AWARD COSTS OR ATTORNEY FEES TO THE ASSOCIATION. IN ADDITION, THE ASSOCIATION SHALL BE PRECLUDED FROM ALLOCATING TO THE UNIT OWNER'S ACCOUNT WITH THE ASSOCIATION ANY OF THE ASSOCIATION'S COSTS OR ATTORNEY FEES INCURRED IN ASSERTING OR DEFENDING THE CLAIM.

(e) A UNIT OWNER SHALL NOT BE DEEMED TO HAVE CONFESSED JUDGMENT TO ATTORNEY FEES OR COLLECTION COSTS.

SECTION 6. 38-33.3-124, Colorado Revised Statutes, is amended to read:

38-33.3-124. Legislative declaration - alternative dispute resolution encouraged. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE COST, COMPLEXITY, AND DELAY INHERENT IN COURT PROCEEDINGS MAKE LITIGATION A PARTICULARLY INEFFICIENT MEANS OF RESOLVING NEIGHBORHOOD DISPUTES. THEREFORE, COMMON INTEREST COMMUNITIES ARE ENCOURAGED TO ADOPT PROTOCOLS THAT MAKE USE OF MEDIATION OR ARBITRATION AS ALTERNATIVES TO, OR PRECONDITIONS UPON, THE FILING OF A COMPLAINT BETWEEN A UNIT OWNER AND ASSOCIATION IN SITUATIONS THAT DO NOT INVOLVE AN IMMINENT THREAT TO THE PEACE, HEALTH, OR SAFETY OF THE COMMUNITY.

~~(1)~~ (2) (a) Any controversy between an association and a unit owner arising out of the provisions of this article may be submitted to mediation by either party to the controversy prior to the commencement of any legal proceeding.

~~(2)~~ (b) The mediation agreement, if one is reached, may be presented to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice.

~~(3)~~ (c) If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief.

(3) THE DECLARATION, BYLAWS, OR RULES OF THE ASSOCIATION MAY SPECIFY SITUATIONS IN WHICH DISPUTES SHALL BE RESOLVED BY BINDING ARBITRATION UNDER THE "UNIFORM ARBITRATION ACT", PART 2 OF ARTICLE 22 OF TITLE 13, C.R.S.

SECTION 7. Part 2 of article 33.3 of title 38, Colorado Revised