

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

Date

Committee on Local Government.

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

SB06-089 be amended as follows:

1 Amend reengrossed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. 38-33.3-106.5 (1) (a), (1) (b), (1) (c), the
4 introductory portion to 38-33.3-106.5 (1) (d), and 38-33.3-106.5 (1) (d)
5 (II), (1) (d) (IV), and (1) (f), Colorado Revised Statutes, are amended, and
6 the said 38-33.3-106.5 is further amended BY THE ADDITION OF A
7 NEW SUBSECTION, to read:

8 **38-33.3-106.5. Prohibitions contrary to public policy -**
9 **patriotic and political expression - emergency vehicles - fire**
10 **prevention - definitions.** (1) Notwithstanding any provision in the
11 declaration, bylaws, or rules and regulations of the association to the
12 contrary, an association shall not prohibit any of the following:

13 (a) The display of the American flag ~~by a unit owner on that A~~
14 ~~unit owner's property, in a window of the unit, owner's residence, or on~~
15 ~~a balcony adjoining the unit owner's property~~ if the American flag is
16 displayed in a manner consistent with the federal flag code, P.L. 94-344;
17 90 stat. 810; 4 U.S.C. SECS. 4 to 10. The association may adopt
18 reasonable rules regarding the placement and manner of display of the
19 American flag. The association rules may regulate the location and size
20 of flags and flagpoles, but shall not prohibit the installation of a flag or
21 flagpole.

22 (b) The display ~~by a unit owner~~ of a service flag bearing a star



1 denoting the service of the OWNER OR OCCUPANT OF THE unit, ~~owner~~ or
2 OF a member of the ~~unit owner's~~ OR OCCUPANT'S immediate family, in the
3 active or reserve military service of the United States during a time of war
4 or armed conflict, on the inside of a window or door of the unit. ~~owner's~~
5 ~~residence~~. The association may adopt reasonable rules regarding the size
6 and manner of display of service flags; except that the maximum
7 dimensions allowed shall be not less than nine inches by sixteen inches.

8 (c) (I) The display of a political sign by THE OWNER OR OCCUPANT
9 OF a unit ~~owner~~ on ~~that unit owner's~~ property WITHIN THE BOUNDARIES OF
10 THE UNIT or in a window of the unit; ~~owner's residence~~; except that:

11 (A) An association may prohibit the display of political signs
12 earlier than forty-five days before the day of an election and later than
13 seven days after an election day; AND

14 (B) An association may regulate the size and number of political
15 signs ~~that may be placed on a unit owner's property if the association's~~
16 ~~regulation is no more restrictive than any applicable city, town, or county~~
17 ~~ordinance that regulates the size and number of political signs on~~
18 ~~residential property. If the city, town, or county in which the property is~~
19 ~~located does not regulate the size and number of political signs on~~
20 residential property IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH (c).

22 (II) The association shall permit at least one political sign per
23 political office or ballot issue that is contested in a pending election. ~~with~~
24 The maximum dimensions of EACH SIGN MAY BE LIMITED TO THE LESSER
25 OF THE FOLLOWING:

26 (A) THE MAXIMUM SIZE ALLOWED BY ANY APPLICABLE CITY,
27 TOWN, OR COUNTY ORDINANCE THAT REGULATES THE SIZE OF POLITICAL
28 SIGNS ON RESIDENTIAL PROPERTY; OR

29 (B) Thirty-six inches by forty-eight inches. ~~on a unit owner's~~
30 ~~property~~.

31 (H) (III) As used in this paragraph (c), "political sign" means a
32 sign that carries a message intended to influence the outcome of an
33 election, including supporting or opposing the election of a candidate, the
34 recall of a public official, or the passage of a ballot issue.



1 (d) The parking of a motor vehicle by THE OCCUPANT OF a unit
2 owner on a street, driveway, or guest parking area in the common interest
3 community if the vehicle is required to be available at designated periods
4 at ~~the unit owner's~~ SUCH OCCUPANT'S residence as a condition of the unit
5 owner's OCCUPANT'S employment and all of the following criteria are met:

6 (II) The ~~unit owner~~ OCCUPANT is a bona fide member of a
7 volunteer fire department or is employed by ~~an emergency service~~
8 ~~provider, as defined in section 29-11-101 (1.6), C.R.S.~~ A PRIMARY
9 PROVIDER OF EMERGENCY FIRE FIGHTING, LAW ENFORCEMENT,
10 AMBULANCE, OR EMERGENCY MEDICAL SERVICES;

11 (IV) Parking of the vehicle can be accomplished without
12 obstructing emergency access or interfering with the reasonable needs of
13 other unit owners OR OCCUPANTS to use streets, and driveways, AND
14 GUEST PARKING SPACES within the common interest community.

15 (f) ~~(f) The replacement by a unit owner of cedar shakes or other~~
16 ~~flammable roofing materials with nonflammable roofing materials for fire~~
17 ~~prevention or fire suppression purposes:~~

18 ~~(ii) The declaration or bylaws may specify reasonable standards~~
19 ~~for the color, appearance, and general type of nonflammable roofing~~
20 ~~materials that are used to replace flammable roofing materials, but may~~
21 ~~not require the use of nonflammable materials that exceed the~~
22 ~~replacement cost of the flammable materials for which they are being~~
23 ~~substituted:~~

24 (2) NOTWITHSTANDING ANY PROVISION IN THE DECLARATION,
25 BYLAWS, OR RULES AND REGULATIONS OF THE ASSOCIATION TO THE
26 CONTRARY, AN ASSOCIATION SHALL NOT REQUIRE THE USE OF CEDAR
27 SHAKES OR OTHER FLAMMABLE ROOFING MATERIALS.

28 **SECTION 2.** 38-33.3-117 (1) (g), (1.5) (a), and (1.5) (e),
29 Colorado Revised Statutes, are amended to read:

30 **38-33.3-117. Applicability to preexisting common interest**
31 **communities.** (1) Except as provided in section 38-33.3-119, the
32 following sections shall apply to all common interest communities created
33 within this state before July 1, 1992, with respect to events and
34 circumstances occurring on or after July 1, 1992:



1 (g) 38-33.3-122 and 38-33.3-123; (2);

2 (1.5) Except as provided in section 38-33.3-119, the following
3 sections shall apply to all common interest communities created within
4 this state before July 1, 1992, with respect to events and circumstances
5 occurring on or after January 1, 2006:

6 (a) ~~38-33.3-123(1);~~

7 (e) ~~38-33.3-223;~~

8 **SECTION 3.** 38-33.3-123 (1) (c), Colorado Revised Statutes, is
9 amended to read:

10 **38-33.3-123. Enforcement - limitation.** (1) (c) ~~For each claim~~
11 ~~or defense, including but not limited to counterclaims, cross-claims, and~~
12 ~~third-party claims, and except as otherwise provided in paragraph (d) of~~
13 ~~this subsection (1);~~ In any legal proceeding CIVIL ACTION to enforce or
14 defend the provisions of this article or of the declaration, bylaws, articles,
15 or rules and regulations, the court shall award to the party prevailing on
16 such claim the prevailing party's reasonable collection costs and attorney
17 fees, and costs, incurred in asserting or defending the claim AND COSTS
18 OF COLLECTION TO THE PREVAILING PARTY.

19 **SECTION 4.** 38-33.3-124 (1), Colorado Revised Statutes, is
20 amended to read:

21 **38-33.3-124. Legislative declaration - alternative dispute**
22 **resolution encouraged - policy statement required.** (1) (a) The
23 general assembly finds and declares that the cost, complexity, and delay
24 inherent in court proceedings make litigation a particularly inefficient
25 means of resolving neighborhood disputes. Therefore, common interest
26 communities are encouraged to adopt protocols that make use of
27 mediation or arbitration as alternatives to, or preconditions upon, the
28 filing of a complaint between a unit owner and association in situations
29 that do not involve an imminent threat to the peace, health, or safety of
30 the community.

31 (b) EACH ASSOCIATION SHALL ADOPT A WRITTEN POLICY SETTING
32 FORTH ITS PROCEDURE FOR ADDRESSING DISPUTES ARISING BETWEEN THE
33 ASSOCIATION AND UNIT OWNERS. THE ASSOCIATION SHALL MAKE A COPY



1 OF THIS POLICY AVAILABLE TO UNIT OWNERS UPON REQUEST.

2 **SECTION 5.** 38-33.3-209.4 (1) and (2) (e), Colorado Revised
3 Statutes, are amended to read:

4 **38-33.3-209.4. Public disclosures required - identity of**
5 **association - agent - manager - contact information.** (1) ~~The~~
6 ~~association shall provide to all unit owners, at least once per year, a~~
7 ~~written notice stating~~ WITHIN NINETY DAYS AFTER ASSUMING CONTROL
8 FROM THE DECLARANT PURSUANT TO SECTION 38-33.3-303 (5), THE
9 ASSOCIATION SHALL MAKE THE FOLLOWING INFORMATION AVAILABLE TO
10 UNIT OWNERS UPON REASONABLE NOTICE IN ACCORDANCE WITH
11 SUBSECTION (3) OF THIS SECTION. IN ADDITION, IF THE ASSOCIATION'S
12 ADDRESS, DESIGNATED AGENT, OR MANAGEMENT COMPANY CHANGES, THE
13 ASSOCIATION SHALL MAKE UPDATED INFORMATION AVAILABLE WITHIN
14 NINETY DAYS AFTER THE CHANGE:

15 (a) The name of the association;

16 (b) The name of the association's designated agent or management
17 company, if any; and

18 (c) A valid physical address and telephone number for both the
19 association and the designated agent or management company, if any;

20 (d) ~~The notice shall also include~~ The name of the common interest
21 community;

22 (e) The initial date of recording of the declaration; and

23 (f) The reception number or book and page for the main document
24 that constitutes the declaration. ~~If the association's address, designated~~
25 ~~agent, or management company changes, the association shall provide all~~
26 ~~unit owners with an amended notice within ninety days after the change.~~

27 (2) Within ninety days after assuming control from the declarant
28 pursuant to section 38-33.3-303 (5), and within ninety days after the end
29 of each fiscal year thereafter, the association shall make the following
30 information available to unit owners upon reasonable notice in
31 accordance with subsection (3) of this section:



1 (e) The results of ~~any~~ ITS MOST RECENT AVAILABLE financial audit
2 or review; for the fiscal year immediately preceding the current annual
3 disclosure;

4 **SECTION 6.** 38-33.3-209.5 (1) (a), (1) (b) (VI), and (1) (b) (VII),
5 Colorado Revised Statutes, are amended, and the said 38-33.3-209.5 (1)
6 (b) is further amended BY THE ADDITION OF A NEW
7 SUBPARAGRAPH, to read:

8 **38-33.3-209.5. Responsible governance policies.** (1) To
9 promote responsible governance, associations shall:

10 (a) Maintain ACCURATE AND COMPLETE accounting records using
11 ~~generally accepted accounting principles~~ ON AN ACCRUAL, CASH, OR
12 MODIFIED ACCRUAL BASIS OF ACCOUNTING; and

13 (b) Adopt policies, procedures, and rules and regulations
14 concerning:

15 (VI) Investment of reserve funds; and

16 (VII) Procedures for the adoption and amendment of policies,
17 procedures, and rules; AND

18 (VIII) PROCEDURES FOR ADDRESSING DISPUTES ARISING BETWEEN
19 THE ASSOCIATION AND UNIT OWNERS.

20 **SECTION 7.** 38-33.3-217 (1) and (4), Colorado Revised Statutes,
21 are amended to read:

22 **38-33.3-217. Amendment of declaration.** (1) (a) (I) Except in
23 cases of amendments that may be executed by a declarant under section
24 ~~38-33.3-205 (4) and (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210,~~
25 ~~or 38-33.3-222, by an association under section 38-33.3-107, 38-33.3-206~~
26 ~~(4), 38-33.3-208 (2), 38-33.3-212, 38-33.3-213, or 38-33.3-218 (11) and~~
27 ~~(12), or by the district court for any county that includes all or any portion~~
28 ~~of a common interest community under subsection (7) of this section, and~~
29 ~~except as limited by subsection (4) of this section, AS OTHERWISE~~
30 PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (a), the
31 declaration, including the plats and maps, may be amended only by the
32 affirmative vote or agreement of unit owners of units to which more than



1 fifty percent of the votes in the association are allocated or any larger
2 percentage, not to exceed sixty-seven percent, that the declaration
3 specifies. Any provision in the declaration that purports to specify a
4 percentage larger than sixty-seven percent is hereby declared void as
5 contrary to public policy, and until amended, such provision shall be
6 deemed to specify a percentage of sixty-seven percent. The declaration
7 may specify a smaller percentage than a simple majority only if all of the
8 units are restricted exclusively to nonresidential use. NOTHING IN THIS
9 PARAGRAPH (a) SHALL BE CONSTRUED TO PROHIBIT THE ASSOCIATION
10 FROM SEEKING A COURT ORDER, IN ACCORDANCE WITH SUBSECTION (7) OF
11 THIS SECTION, TO REDUCE THE REQUIRED PERCENTAGE TO LESS THAN
12 SIXTY-SEVEN PERCENT.

13 (II) IF THE DECLARATION PROVIDES FOR AN INITIAL PERIOD OF
14 APPLICABILITY TO BE FOLLOWED BY AUTOMATIC EXTENSION PERIODS, THE
15 DECLARATION MAY BE AMENDED AT ANY TIME IN ACCORDANCE WITH
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

17 (III) THIS PARAGRAPH (a) SHALL NOT APPLY:

18 (A) TO THE EXTENT THAT ITS APPLICATION IS LIMITED BY
19 SUBSECTION (4) OF THIS SECTION;

20 (B) TO AMENDMENTS EXECUTED BY A DECLARANT UNDER SECTION
21 38-33.3-205 (4) AND (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210,
22 OR 38-33.3-222;

23 (C) TO AMENDMENTS EXECUTED BY AN ASSOCIATION UNDER
24 SECTION 38-33.3-107, 38-33.3-206 (4), 38-33.3-208 (2), 38-33.3-212,
25 38-33.3-213, OR 38-33.3-218 (11) AND (12); OR

26 (D) TO AMENDMENTS EXECUTED BY THE DISTRICT COURT FOR ANY
27 COUNTY THAT INCLUDES ALL OR ANY PORTION OF A COMMON INTEREST
28 COMMUNITY UNDER SUBSECTION (7) OF THIS SECTION.

29 (b) (I) If the declaration requires first mortgagees to approve or
30 consent to amendments, BUT DOES NOT SET FORTH A PROCEDURE FOR
31 REGISTRATION OR NOTIFICATION OF FIRST MORTGAGEES, the association
32 shall MAY:

33 (A) Send a dated, written notice and a copy of any proposed



1 amendment by certified mail to each first mortgagee at its most recent
2 address as shown on the recorded deed of trust or recorded assignment
3 thereof; AND

4 (B) ~~In addition, the association shall~~ Cause the dated notice,
5 together with information on how to obtain a copy of the proposed
6 amendment, to be printed in full at least twice, on separate occasions at
7 least one week apart, in a newspaper of general circulation in the county
8 in which the common interest community is located.

9 (II) A first mortgagee that does not deliver to the association a
10 negative response within sixty days after the date of the notice SPECIFIED
11 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) shall be deemed to have
12 approved the proposed amendment.

13 (III) THE NOTIFICATION PROCEDURE SET FORTH IN THIS
14 PARAGRAPH (b) IS NOT MANDATORY. IF THE CONSENT OF FIRST
15 MORTGAGEES IS OBTAINED WITHOUT RESORT TO THIS PARAGRAPH (b), AND
16 OTHERWISE IN ACCORDANCE WITH THE DECLARATION, THE NOTICE TO
17 FIRST MORTGAGEES SHALL BE CONSIDERED SUFFICIENT.

18 (4) (a) Except to the extent expressly permitted or required by
19 other provisions of this article, no amendment may create or increase
20 special declarant rights, increase the number of units, or change the
21 boundaries of any unit or the allocated interests of a unit in the absence
22 of a vote or agreement of unit owners of units to which at least
23 sixty-seven percent of the votes in the association, including sixty-seven
24 percent of the votes allocated to units not owned by a declarant, are
25 allocated or any larger percentage the declaration specifies. The
26 declaration may specify a smaller percentage only if all of the units are
27 restricted exclusively to nonresidential use.

28 (b) THE SIXTY-SEVEN-PERCENT MAXIMUM PERCENTAGE STATED IN
29 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO
30 ANY COMMON INTEREST COMMUNITY IN WHICH ONE UNIT OWNER, BY
31 VIRTUE OF THE DECLARATION, BYLAWS, OR OTHER GOVERNING
32 DOCUMENTS OF THE ASSOCIATION, IS ALLOCATED MORE THAN
33 SIXTY-SEVEN PERCENT OF THE VOTES IN THE ASSOCIATION.

34 **SECTION 8.** 38-33.3-303 (2) and (4) (b), Colorado Revised
35 Statutes, are amended, and the said 38-33.3-303 is further amended BY



1 THE ADDITION OF A NEW SUBSECTION, to read:

2 **38-33.3-303. Executive board members and officers - powers**
3 **and duties - audit.** (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
4 (2.5) OF THIS SECTION:

5 (a) If appointed by the declarant, in the performance of their
6 duties, the officers and members of the executive board are required to
7 exercise the care required of fiduciaries of the unit owners.

8 (b) If not appointed by the declarant, no member of the executive
9 board and no officer shall be liable for actions taken or omissions made
10 in the performance of such member's duties except for wanton and
11 willful acts or omissions.

12 (2.5) WITH REGARD TO THE INVESTMENT OF RESERVE FUNDS OF
13 THE ASSOCIATION, THE OFFICERS AND MEMBERS OF THE EXECUTIVE BOARD
14 SHALL BE SUBJECT TO THE STANDARDS SET FORTH IN SECTION 7-128-401,
15 C.R.S.; EXCEPT THAT, AS USED IN THAT SECTION:

16 (a) "CORPORATION" OR "NONPROFIT CORPORATION" MEANS THE
17 ASSOCIATION.

18 (b) "DIRECTOR" MEANS A MEMBER OF THE ASSOCIATION'S
19 EXECUTIVE BOARD.

20 (c) "OFFICER" MEANS ANY PERSON DESIGNATED AS AN OFFICER OF
21 THE ASSOCIATION AND ANY PERSON TO WHOM THE EXECUTIVE BOARD
22 DELEGATES RESPONSIBILITIES UNDER THIS ARTICLE, INCLUDING, WITHOUT
23 LIMITATION, A MANAGING AGENT, ATTORNEY, OR ACCOUNTANT EMPLOYED
24 BY THE EXECUTIVE BOARD.

25 (4) (b) (I) AT THE DISCRETION OF THE EXECUTIVE BOARD OR UPON
26 REQUEST PURSUANT TO SUBPARAGRAPH (II) OR (III) OF THIS PARAGRAPH
27 (b) AS APPLICABLE, the books and records of the association shall be
28 subject to an audit, using generally accepted auditing standards, or a
29 review, using statements on standards for accounting and review services,
30 ~~at least once every two years~~ by a AN INDEPENDENT AND QUALIFIED
31 person selected by the executive board. Such person need not be a
32 certified public accountant except in the case of an audit. THE AUDIT OR
33 REVIEW REPORT SHALL COVER THE ASSOCIATION'S FINANCIAL



1 STATEMENTS, WHICH SHALL BE PREPARED ON AN ACCRUAL, CASH, OR
2 MODIFIED ACCRUAL BASIS OF ACCOUNTING.

3 (II) An audit shall be required under this paragraph (b) only when
4 both of the following conditions are met:

5 (A) The association has annual revenues or expenditures of at
6 least two hundred fifty thousand dollars; and

7 (B) An audit is requested by the owners of at least one-third of the
8 units represented by the association.

9 (III) A REVIEW SHALL BE REQUIRED UNDER THIS PARAGRAPH (b)
10 ONLY WHEN REQUESTED BY THE OWNERS OF AT LEAST ONE-THIRD OF THE
11 UNITS REPRESENTED BY THE ASSOCIATION.

12 ~~(II)~~ (IV) Copies of an audit or review under this paragraph (b)
13 shall be made available upon request to any unit owner beginning no later
14 than thirty days after its completion.

15 ~~(IV)~~ (V) Notwithstanding section 38-33.3-117 (1.5) (h), this
16 paragraph (b) shall not apply to an association that includes time-share
17 units, as defined in section 38-33-110 (7).

18 **SECTION 9.** 38-33.3-308 (1), (2.5) (a), and (2.5) (b), Colorado
19 Revised Statutes, are amended to read:

20 **38-33.3-308. Meetings.** (1) Meetings of the unit owners, as the
21 members of the association, shall be held at least once each year. Special
22 meetings of the unit owners may be called by the president, by a majority
23 of the executive board, or by unit owners having twenty percent, or any
24 lower percentage specified in the bylaws, of the votes in the association.
25 Not less than ten nor more than fifty days in advance of any meeting of
26 the unit owners, the secretary or other officer specified in the bylaws shall
27 cause notice to be hand delivered or sent prepaid by United States mail to
28 the mailing address of each unit or to any other mailing address
29 designated in writing by the unit owner. The notice of any meeting OF
30 THE UNIT OWNERS shall be physically posted in a conspicuous place, to
31 the extent that such posting is feasible and practicable, in addition to any
32 electronic posting or electronic mail notices that may be given pursuant
33 to paragraph (b) of subsection (2) of this section. The notice shall state



1 the time and place of the meeting and the items on the agenda, including
2 the general nature of any proposed amendment to the declaration or
3 bylaws, any budget changes, and any proposal to remove an officer or
4 member of the executive board.

5 (2.5) (a) Notwithstanding any provision in the declaration, bylaws,
6 or other documents to the contrary, all meetings of the association and
7 board of directors are open to every unit owner of the association, or to
8 any person designated by a unit owner in writing as the unit owner's
9 representative. ~~and all unit owners or designated representatives so~~
10 ~~desiring shall be permitted to attend, listen, and speak at an appropriate~~
11 ~~time during the deliberations and proceedings, except that, for regular and~~
12 ~~special meetings of the board, unit owners who are not board members~~
13 ~~may not participate in any deliberation or discussion unless expressly so~~
14 ~~authorized by a vote of the majority of a quorum of the board.~~

15 (b) AT AN APPROPRIATE TIME DETERMINED BY THE BOARD, BUT
16 BEFORE THE BOARD VOTES ON AN ISSUE UNDER DISCUSSION, UNIT OWNERS
17 OR THEIR DESIGNATED REPRESENTATIVES SHALL BE PERMITTED TO SPEAK
18 REGARDING THAT ISSUE. The board may place reasonable time
19 restrictions on those persons speaking during the meeting. ~~but shall~~
20 ~~permit a unit owner or a unit owner's designated representative to speak~~
21 ~~before the board takes formal action on an item under discussion, in~~
22 ~~addition to any other opportunities to speak.~~ IF MORE THAN ONE PERSON
23 DESIRES TO ADDRESS AN ISSUE AND THERE ARE OPPOSING VIEWS, the board
24 shall provide for a reasonable number of persons to speak on each side of
25 an THE issue.

26 **SECTION 10.** 38-33.3-310 (1) (b) (I), Colorado Revised Statutes,
27 is amended to read:

28 **38-33.3-310. Voting - proxies.** (1) (b) (I) (A) Votes for
29 CONTESTED positions on the executive board shall be taken by secret
30 ballot. ~~and;~~ THIS SUBPARAGRAPH (A) SHALL NOT APPLY TO AN
31 ASSOCIATION WHOSE GOVERNING DOCUMENTS PROVIDE FOR ELECTION OF
32 POSITIONS ON THE EXECUTIVE BOARD BY DELEGATES ON BEHALF OF THE
33 UNIT OWNERS.

34 (B) AT THE DISCRETION OF THE BOARD OR upon the request of ~~one~~
35 ~~or more~~ TWENTY PERCENT OF THE unit owners WHO ARE PRESENT AT THE
36 MEETING OR REPRESENTED BY PROXY, IF A QUORUM HAS BEEN ACHIEVED,



1 a vote on any other matter affecting the common interest community on
2 which all unit owners are entitled to vote shall be by secret ballot.

3 (C) Ballots shall be counted by a neutral third party or by a unit
4 owner who is not a candidate, who attends the meeting at which the vote
5 is held, and who is selected at random from a pool of two or more such
6 unit owners COMMITTEE OF VOLUNTEERS. SUCH VOLUNTEERS SHALL BE
7 UNIT OWNERS WHO ARE SELECTED OR APPOINTED AT AN OPEN MEETING, IN
8 A FAIR MANNER, BY THE CHAIR OF THE BOARD OR ANOTHER PERSON
9 PRESIDING DURING THAT PORTION OF THE MEETING. THE VOLUNTEERS
10 SHALL NOT BE BOARD MEMBERS AND, IN THE CASE OF A CONTESTED
11 ELECTION FOR A BOARD POSITION, SHALL NOT BE CANDIDATES.

12 (D) The results of the A vote TAKEN BY SECRET BALLOT shall be
13 reported without reference to THE names, addresses, or other identifying
14 information OF UNIT OWNERS PARTICIPATING IN SUCH VOTE.

15 **SECTION 11.** 38-33.3-310.5, Colorado Revised Statutes, is
16 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

17 **38-33.3-310.5. Executive board - conflicts of interest -**
18 **definitions.** (1) SECTION 7-128-501, C.R.S., SHALL APPLY TO MEMBERS
19 OF THE EXECUTIVE BOARD; EXCEPT THAT, AS USED IN THAT SECTION:

20 (a) "CORPORATION" OR "NONPROFIT CORPORATION" MEANS THE
21 ASSOCIATION.

22 (b) "DIRECTOR" MEANS A MEMBER OF THE ASSOCIATION'S
23 EXECUTIVE BOARD.

24 (c) "OFFICER" MEANS ANY PERSON DESIGNATED AS AN OFFICER OF
25 THE ASSOCIATION AND ANY PERSON TO WHOM THE BOARD DELEGATES
26 RESPONSIBILITIES UNDER THIS ARTICLE, INCLUDING, WITHOUT LIMITATION,
27 A MANAGING AGENT, ATTORNEY, OR ACCOUNTANT EMPLOYED BY THE
28 BOARD.

29 **SECTION 12.** 38-33.3-317 (2), (3), (4), and (7), Colorado
30 Revised Statutes, are amended to read:

31 **38-33.3-317. Association records.** (2) (a) EXCEPT AS
32 OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), all



1 financial and other records shall be made reasonably available for
2 examination and copying by any unit owner and such owner's authorized
3 agents.

4 (b) (I) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION
5 (2), A MEMBERSHIP LIST OR ANY PART THEREOF MAY NOT BE OBTAINED OR
6 USED BY ANY PERSON FOR ANY PURPOSE UNRELATED TO A UNIT OWNER'S
7 INTEREST AS A UNIT OWNER WITHOUT CONSENT OF THE EXECUTIVE BOARD.

8 (II) WITHOUT LIMITING THE GENERALITY OF SUBPARAGRAPH (I) OF
9 THIS PARAGRAPH (b), WITHOUT THE CONSENT OF THE EXECUTIVE BOARD,
10 A MEMBERSHIP LIST OR ANY PART THEREOF MAY NOT BE:

11 (A) USED TO SOLICIT MONEY OR PROPERTY UNLESS SUCH MONEY
12 OR PROPERTY WILL BE USED SOLELY TO SOLICIT THE VOTES OF THE UNIT
13 OWNERS IN AN ELECTION TO BE HELD BY THE ASSOCIATION;

14 (B) USED FOR ANY COMMERCIAL PURPOSE; OR

15 (C) SOLD TO OR PURCHASED BY ANY PERSON.

16 (3) The association may charge a fee, ~~not to~~ WHICH MAY BE
17 COLLECTED IN ADVANCE BUT WHICH SHALL NOT exceed the association's
18 actual cost per page, for copies of association records.

19 (4) As used in this section, "reasonably available" means available
20 during normal business hours, upon notice of five business days, OR AT
21 THE NEXT REGULARLY SCHEDULED MEETING IF SUCH MEETING OCCURS
22 WITHIN THIRTY DAYS AFTER THE REQUEST, to the extent that:

23 (a) The request is made in good faith and for a proper purpose;

24 (b) The request describes with reasonable particularity the records
25 sought and the purpose of the request; and

26 (c) The records are relevant to the purpose of the request.

27 (7) This section shall not be construed to invalidate any provision
28 of the declaration, bylaws, the corporate law under which the association
29 is organized, or other documents that more broadly defines records of the
30 association that are subject to inspection and copying by unit owners, or



1 that grants unit owners freer access to such records; EXCEPT THAT THE
2 PRIVACY PROTECTIONS CONTAINED IN PARAGRAPH (b) OF SUBSECTION (2)
3 OF THIS SECTION SHALL SUPERSEDE ANY SUCH PROVISION.

4 **SECTION 13. Repeal.** 38-33.3-223, Colorado Revised Statutes,
5 is repealed.

6 **SECTION 14.** 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) ON AND AFTER JANUARY 1, 2007, EVERY CONTRACT FOR
11 THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY IN A COMMON
12 INTEREST COMMUNITY SHALL CONTAIN A DISCLOSURE STATEMENT IN
13 BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE AND IN SUBSTANTIALLY THE
14 FOLLOWING FORM:

15 "THE PROPERTY IS LOCATED WITHIN A
16 COMMON INTEREST COMMUNITY AND IS
17 SUBJECT TO THE DECLARATION FOR SUCH
18 COMMUNITY. THE OWNER OF THE PROPERTY
19 WILL BE REQUIRED TO BE A MEMBER OF THE
20 OWNER'S ASSOCIATION FOR THE COMMUNITY
21 AND WILL BE SUBJECT TO THE BYLAWS AND
22 RULES AND REGULATIONS OF THE
23 ASSOCIATION. THE DECLARATION, BYLAWS,
24 AND RULES AND REGULATIONS WILL IMPOSE
25 FINANCIAL OBLIGATIONS UPON THE OWNER
26 OF THE PROPERTY, INCLUDING AN
27 OBLIGATION TO PAY ASSESSMENTS OF THE
28 ASSOCIATION. IF THE OWNER DOES NOT PAY
29 THESE ASSESSMENTS, THE ASSOCIATION
30 COULD PLACE A LIEN ON THE PROPERTY AND
31 POSSIBLY SELL IT TO PAY THE DEBT. THE
32 DECLARATION, BYLAWS, AND RULES AND
33 REGULATIONS OF THE COMMUNITY MAY
34 PROHIBIT THE OWNER FROM MAKING
35 CHANGES TO THE PROPERTY WITHOUT AN
36 ARCHITECTURAL REVIEW BY THE
37 ASSOCIATION (OR A COMMITTEE OF THE



1 ASSOCIATION) AND THE APPROVAL OF THE
2 ASSOCIATION. PURCHASERS OF PROPERTY
3 WITHIN THE COMMON INTEREST COMMUNITY
4 SHOULD INVESTIGATE THE FINANCIAL
5 OBLIGATIONS OF MEMBERS OF THE
6 ASSOCIATION. PURCHASERS SHOULD
7 CAREFULLY READ THE DECLARATION FOR THE
8 COMMUNITY AND THE BYLAWS AND RULES
9 AND REGULATIONS OF THE ASSOCIATION."

10 (2) (a) THE OBLIGATION TO PROVIDE THE DISCLOSURE SET FORTH
11 IN SUBSECTION (1) OF THIS SECTION SHALL BE UPON THE SELLER, AND, IN
12 THE EVENT OF THE FAILURE BY THE SELLER TO PROVIDE THE WRITTEN
13 DISCLOSURE DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE
14 PURCHASER SHALL HAVE A CLAIM FOR RELIEF AGAINST THE SELLER FOR
15 ACTUAL DAMAGES DIRECTLY AND PROXIMATELY CAUSED BY SUCH
16 FAILURE PLUS COURT COSTS. IT SHALL BE AN AFFIRMATIVE DEFENSE TO
17 ANY CLAIM FOR DAMAGES BROUGHT UNDER THIS SECTION THAT THE
18 PURCHASER HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE FACTS
19 AND INFORMATION REQUIRED TO BE DISCLOSED.

20 (b) UPON REQUEST, THE SELLER SHALL EITHER PROVIDE TO THE
21 BUYER OR AUTHORIZE THE UNIT OWNERS' ASSOCIATION TO PROVIDE TO
22 THE BUYER, UPON PAYMENT OF THE ASSOCIATION'S USUAL FEE PURSUANT
23 TO SECTION 38-33.3-317 (3), ALL OF THE COMMON INTEREST COMMUNITY'S
24 GOVERNING DOCUMENTS AND FINANCIAL DOCUMENTS, AS LISTED IN THE
25 MOST RECENT AVAILABLE VERSION OF THE CONTRACT TO BUY AND SELL
26 REAL ESTATE PROMULGATED BY THE REAL ESTATE COMMISSION AS OF THE
27 DATE OF THE CONTRACT.

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

30 **SECTION 15.** 10-4-110.8 (5), Colorado Revised Statutes, is
31 amended to read:

32 **10-4-110.8. Homeowner's insurance - prohibited practices -**
33 **definitions.** (5) (a) In a common interest community, as defined in
34 section 38-33.3-103 (8), C.R.S., a unit owner may file a claim against the
35 policy of the unit owner's association to the same extent, and with the
36 same effect, as if the unit owner were ~~an additional~~ A named insured IF



1 THE FOLLOWING CONDITIONS ARE MET:

2 (I) THE UNIT OWNER HAS CONTACTED THE EXECUTIVE BOARD OR
3 THE ASSOCIATION'S MANAGING AGENT IN WRITING, AND IN ACCORDANCE
4 WITH ANY APPLICABLE ASSOCIATION POLICIES OR PROCEDURES FOR
5 OWNER-INITIATED INSURANCE CLAIMS, REGARDING THE SUBJECT MATTER
6 OF THE CLAIM;

7 (II) THE UNIT OWNER HAS GIVEN THE ASSOCIATION AT LEAST
8 FIFTEEN DAYS TO RESPOND IN WRITING, AND, IF SO REQUESTED, HAS GIVEN
9 THE ASSOCIATION'S AGENT A REASONABLE OPPORTUNITY TO INSPECT THE
10 DAMAGE; AND

11 (III) THE SUBJECT MATTER OF THE CLAIM FALLS WITHIN THE
12 ASSOCIATION'S INSURANCE RESPONSIBILITIES.

13 (b) THE ASSOCIATION'S INSURER, WHEN DETERMINING PREMIUMS
14 TO BE CHARGED TO THE ASSOCIATION, SHALL NOT TAKE INTO ACCOUNT
15 ANY REQUEST BY A UNIT OWNER FOR A CLARIFICATION OF COVERAGE.

16 **SECTION 16. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety."

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