

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 ~~(III)~~ (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

