NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 05-100

BY SENATOR(S) Hagedorn;
also REPRESENTATIVE(S) Carroll M., Carroll T., Green, Madden, May M., Soper, and Welker.

CONCERNING INCREASED PROTECTION FOR HOMEOWNERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-60-126 (11), Colorado Revised Statutes, is amended to read:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines. (11) (a) Any ~~new~~ SECTION OF A restrictive covenant that prohibits or limits XERISCAPE, PROHIBITS OR LIMITS the installation or use of drought-tolerant vegetative landscapes, ~~is prohibited~~ OR REQUIRES CULTIVATED VEGETATION TO CONSIST EXCLUSIVELY OR PRIMARILY OF TURF GRASS IS HEREBY DECLARED CONTRARY TO PUBLIC POLICY AND, ON THAT BASIS, THAT SECTION OF THE COVENANT SHALL BE UNENFORCEABLE.

(b) As used in this subsection (11):

(I) "EXECUTIVE BOARD POLICY OR PRACTICE" INCLUDES ANY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ADDITIONAL PROCEDURAL STEP OR BURDEN, FINANCIAL OR OTHERWISE, PLACED ON A UNIT OWNER WHO SEEKS APPROVAL FOR A LANDSCAPING CHANGE BY THE EXECUTIVE BOARD OF A UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103, C.R.S., AND NOT INCLUDED IN THE EXISTING DECLARATION OR BYLAWS OF THE ASSOCIATION. AN "EXECUTIVE BOARD POLICY OR PRACTICE" INCLUDES, WITHOUT LIMITATION, THE REQUIREMENT OF:

(A) AN ARCHITECT'S STAMP;

(B) PREAPPROVAL BY AN ARCHITECT OR LANDSCAPE ARCHITECT RETAINED BY THE EXECUTIVE BOARD;

(C) AN ANALYSIS OF WATER USAGE UNDER THE PROPOSED NEW LANDSCAPE PLAN OR A HISTORY OF WATER USAGE UNDER THE UNIT OWNER'S EXISTING LANDSCAPE PLAN; AND

(D) THE ADOPTION OF A LANDSCAPING CHANGE FEE.

(II) "Restrictive covenant" means any covenant, restriction, BYLAW, EXECUTIVE BOARD POLICY OR PRACTICE, or condition applicable to real property for the purpose of controlling land use, but does not include any covenant, restriction, or condition imposed on such real property by any governmental entity.

(III) "TURF GRASS" MEANS CONTINUOUS PLANT COVERAGE CONSISTING OF HYBRIDIZED GRASSES THAT, WHEN REGULARLY MOWED, FORM A DENSE GROWTH OF LEAF BLADES AND ROOTS.

(IV) "XERISCAPE" MEANS THE APPLICATION OF THE PRINCIPLES OF LANDSCAPE PLANNING AND DESIGN, SOIL ANALYSIS AND IMPROVEMENT, APPROPRIATE PLANT SELECTION, LIMITATION OF TURF AREA, USE OF MULCHES, IRRIGATION EFFICIENCY, AND APPROPRIATE MAINTENANCE THAT RESULTS IN WATER USE EFFICIENCY AND WATER-SAVING PRACTICES.

(c) NOTHING IN THIS SUBSECTION (11) SHALL PRECLUDE THE EXECUTIVE BOARD OF A COMMON INTEREST COMMUNITY FROM TAKING ENFORCEMENT ACTION AGAINST A UNIT OWNER WHO ALLOWS HIS OR HER EXISTING LANDSCAPING TO DIE; EXCEPT THAT:

(I) SUCH ENFORCEMENT ACTION SHALL BE SUSPENDED DURING A

PERIOD OF WATER USE RESTRICTIONS DECLARED BY THE JURISDICTION IN WHICH THE COMMON INTEREST COMMUNITY IS LOCATED, IN WHICH CASE THE UNIT OWNER SHALL COMPLY WITH ANY WATERING RESTRICTIONS IMPOSED BY THE WATER PROVIDER FOR THE COMMON INTEREST COMMUNITY;

(II) ENFORCEMENT SHALL BE CONSISTENT WITHIN THE COMMUNITY AND NOT ARBITRARY OR CAPRICIOUS; AND

(III) ONCE THE DROUGHT EMERGENCY IS LIFTED, THE UNIT OWNER SHALL BE ALLOWED A REASONABLE AND PRACTICAL OPPORTUNITY, AS DEFINED BY THE ASSOCIATION'S EXECUTIVE BOARD, WITH CONSIDERATION OF APPLICABLE LOCAL GROWING SEASONS OR PRACTICAL LIMITATIONS, TO RESEED AND REVIVE TURF GRASS BEFORE BEING REQUIRED TO REPLACE IT WITH NEW SOD.

SECTION 2. Part 1 of article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic and political expression - emergency vehicles - fire prevention - definitions. (1) NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF THE ASSOCIATION TO THE CONTRARY, AN ASSOCIATION SHALL NOT PROHIBIT ANY OF THE FOLLOWING:

(a) THE DISPLAY OF THE AMERICAN FLAG BY A UNIT OWNER ON THAT UNIT OWNER'S PROPERTY, IN A WINDOW OF THE UNIT OWNER'S RESIDENCE, OR ON A BALCONY ADJOINING THE UNIT OWNER'S PROPERTY IF THE AMERICAN FLAG IS DISPLAYED IN A MANNER CONSISTENT WITH THE FEDERAL FLAG CODE, P.L. 94-344; 90 STAT. 810; 4 U.S.C. 4 TO 10. THE ASSOCIATION MAY ADOPT REASONABLE RULES REGARDING THE PLACEMENT AND MANNER OF DISPLAY OF THE AMERICAN FLAG. THE ASSOCIATION RULES MAY REGULATE THE LOCATION AND SIZE OF FLAGS AND FLAGPOLES, BUT SHALL NOT PROHIBIT THE INSTALLATION OF A FLAG OR FLAGPOLE.

(b) THE DISPLAY BY A UNIT OWNER OF A SERVICE FLAG BEARING A STAR DENOTING THE SERVICE OF THE UNIT OWNER OR A MEMBER OF THE UNIT OWNER'S IMMEDIATE FAMILY IN THE ACTIVE OR RESERVE MILITARY SERVICE OF THE UNITED STATES DURING A TIME OF WAR OR ARMED CONFLICT, ON THE INSIDE OF A WINDOW OR DOOR OF THE UNIT OWNER'S RESIDENCE. THE ASSOCIATION MAY ADOPT REASONABLE RULES REGARDING THE SIZE AND MANNER OF DISPLAY OF SERVICE FLAGS; EXCEPT THAT THE MAXIMUM

DIMENSIONS ALLOWED SHALL BE NOT LESS THAN NINE INCHES BY SIXTEEN INCHES.

(c) (I) THE DISPLAY OF A POLITICAL SIGN BY A UNIT OWNER ON THAT UNIT OWNER'S PROPERTY OR IN A WINDOW OF THE UNIT OWNER'S RESIDENCE; EXCEPT THAT AN ASSOCIATION MAY PROHIBIT THE DISPLAY OF POLITICAL SIGNS EARLIER THAN FORTY-FIVE DAYS BEFORE THE DAY OF AN ELECTION AND LATER THAN SEVEN DAYS AFTER AN ELECTION DAY. AN ASSOCIATION MAY REGULATE THE SIZE AND NUMBER OF POLITICAL SIGNS THAT MAY BE PLACED ON A UNIT OWNER'S PROPERTY IF THE ASSOCIATION'S REGULATION IS NO MORE RESTRICTIVE THAN ANY APPLICABLE CITY, TOWN, OR COUNTY ORDINANCE THAT REGULATES THE SIZE AND NUMBER OF POLITICAL SIGNS ON RESIDENTIAL PROPERTY. IF THE CITY, TOWN, OR COUNTY IN WHICH THE PROPERTY IS LOCATED DOES NOT REGULATE THE SIZE AND NUMBER OF POLITICAL SIGNS ON RESIDENTIAL PROPERTY, THE ASSOCIATION SHALL PERMIT AT LEAST ONE POLITICAL SIGN PER POLITICAL OFFICE OR BALLOT ISSUE THAT IS CONTESTED IN A PENDING ELECTION, WITH THE MAXIMUM DIMENSIONS OF THIRTY-SIX INCHES BY FORTY-EIGHT INCHES, ON A UNIT OWNER'S PROPERTY.

(II) AS USED IN THIS PARAGRAPH (c), "POLITICAL SIGN" MEANS A SIGN THAT CARRIES A MESSAGE INTENDED TO INFLUENCE THE OUTCOME OF AN ELECTION, INCLUDING SUPPORTING OR OPPOSING THE ELECTION OF A CANDIDATE, THE RECALL OF A PUBLIC OFFICIAL, OR THE PASSAGE OF A BALLOT ISSUE.

(d) THE PARKING OF A MOTOR VEHICLE BY A UNIT OWNER ON A STREET, DRIVEWAY, OR GUEST PARKING AREA IN THE COMMON INTEREST COMMUNITY IF THE VEHICLE IS REQUIRED TO BE AVAILABLE AT DESIGNATED PERIODS AT THE UNIT OWNER'S RESIDENCE AS A CONDITION OF THE UNIT OWNER'S EMPLOYMENT AND ALL OF THE FOLLOWING CRITERIA ARE MET:

(I) THE VEHICLE HAS A GROSS VEHICLE WEIGHT RATING OF TEN THOUSAND POUNDS OR LESS;

(II) THE UNIT OWNER IS A BONA FIDE MEMBER OF A VOLUNTEER FIRE DEPARTMENT OR IS EMPLOYED BY AN EMERGENCY SERVICE PROVIDER, AS DEFINED IN SECTION 29-11-101 (1.6), C.R.S.;

(III) THE VEHICLE BEARS AN OFFICIAL EMBLEM OR OTHER VISIBLE DESIGNATION OF THE EMERGENCY SERVICE PROVIDER; AND

(IV) PARKING OF THE VEHICLE CAN BE ACCOMPLISHED WITHOUT OBSTRUCTING EMERGENCY ACCESS OR INTERFERING WITH THE REASONABLE NEEDS OF OTHER UNIT OWNERS TO USE STREETS AND DRIVEWAYS WITHIN THE COMMON INTEREST COMMUNITY.

(e) THE REMOVAL BY A UNIT OWNER OF TREES, SHRUBS, OR OTHER VEGETATION TO CREATE DEFENSIBLE SPACE AROUND A DWELLING FOR FIRE MITIGATION PURPOSES, SO LONG AS SUCH REMOVAL COMPLIES WITH A WRITTEN DEFENSIBLE SPACE PLAN CREATED FOR THE PROPERTY BY THE COLORADO STATE FOREST SERVICE, AN INDIVIDUAL OR COMPANY CERTIFIED BY A LOCAL GOVERNMENTAL ENTITY TO CREATE SUCH A PLAN, OR THE FIRE CHIEF, FIRE MARSHAL, OR FIRE PROTECTION DISTRICT WITHIN WHOSE JURISDICTION THE UNIT IS LOCATED, AND IS NO MORE EXTENSIVE THAN NECESSARY TO COMPLY WITH SUCH PLAN. THE PLAN SHALL BE REGISTERED WITH THE ASSOCIATION BEFORE THE COMMENCEMENT OF WORK. THE ASSOCIATION MAY REQUIRE CHANGES TO THE PLAN IF THE ASSOCIATION OBTAINS THE CONSENT OF THE PERSON, OFFICIAL, OR AGENCY THAT ORIGINALLY CREATED THE PLAN. THE WORK SHALL COMPLY WITH APPLICABLE ASSOCIATION STANDARDS REGARDING SLASH REMOVAL, STUMP HEIGHT, REVEGETATION, AND CONTRACTOR REGULATIONS.

(f) (I) THE REPLACEMENT BY A UNIT OWNER OF CEDAR SHAKES OR OTHER FLAMMABLE ROOFING MATERIALS WITH NONFLAMMABLE ROOFING MATERIALS FOR FIRE PREVENTION OR FIRE SUPPRESSION PURPOSES.

(II) THE DECLARATION OR BYLAWS MAY SPECIFY REASONABLE STANDARDS FOR THE COLOR, APPEARANCE, AND GENERAL TYPE OF NONFLAMMABLE ROOFING MATERIALS THAT ARE USED TO REPLACE FLAMMABLE ROOFING MATERIALS, BUT MAY NOT REQUIRE THE USE OF NONFLAMMABLE MATERIALS THAT EXCEED THE REPLACEMENT COST OF THE FLAMMABLE MATERIALS FOR WHICH THEY ARE BEING SUBSTITUTED.

SECTION 3. 38-33.3-117 (1) (g) and (1) (l), Colorado Revised Statutes, are amended, and the said 38-33.3-117 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(g) 38-33.3-122 ~~and 38-33.3-123~~ AND 38-33.3-123 (2);

(i.5) 38-33.3-221.5;

(l) 38-33.3-317, ~~to~~ AS IT EXISTED PRIOR TO JANUARY 1, 2006, 38-33.3-318, AND 38-33.3-319.

SECTION 4. 38-33.3-117, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-33.3-117. Applicability to preexisting common interest communities. (1.5) EXCEPT AS PROVIDED IN SECTION 38-33.3-119, THE FOLLOWING SECTIONS SHALL APPLY TO ALL COMMON INTEREST COMMUNITIES CREATED WITHIN THIS STATE BEFORE JULY 1, 1992, WITH RESPECT TO EVENTS AND CIRCUMSTANCES OCCURRING ON OR AFTER JANUARY 1, 2006:

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

(b) 38-33.3-124;

(c) 38-33.3-209.4 TO 38-33.3-209.7;

(d) 38-33.3-217 (1);

(e) 38-33.3-223;

(f) 38-33.3-301;

(g) 38-33.3-302 (3) AND (4);

(h) 38-33.3-303 (4) (b);

(i) 38-33.3-308 (1), (2) (b), (2.5), AND (4.5);

(j) 38-33.3-310 (1) AND (2);

(k) 38-33.3-310.5;

(l) 38-33.3-315 (7); AND

(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~~ UNIT OWNER, or ANY class of ~~persons~~ UNIT OWNERS adversely affected by the failure to comply may ~~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

Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-33.3-209.4. Public disclosures required - identity of association - agent - manager - contact information. (1) THE ASSOCIATION SHALL PROVIDE TO ALL UNIT OWNERS, AT LEAST ONCE PER YEAR, A WRITTEN NOTICE STATING THE NAME OF THE ASSOCIATION; THE NAME OF THE ASSOCIATION'S DESIGNATED AGENT OR MANAGEMENT COMPANY, IF ANY; AND A VALID PHYSICAL ADDRESS AND TELEPHONE NUMBER FOR BOTH THE ASSOCIATION AND THE DESIGNATED AGENT OR MANAGEMENT COMPANY, IF ANY. THE NOTICE SHALL ALSO INCLUDE THE NAME OF THE COMMON INTEREST COMMUNITY, THE INITIAL DATE OF RECORDING OF THE DECLARATION, AND THE RECEPTION NUMBER OR BOOK AND PAGE FOR THE MAIN DOCUMENT THAT CONSTITUTES THE DECLARATION. IF THE ASSOCIATION'S ADDRESS, DESIGNATED AGENT, OR MANAGEMENT COMPANY CHANGES, THE ASSOCIATION SHALL PROVIDE ALL UNIT OWNERS WITH AN AMENDED NOTICE WITHIN NINETY DAYS AFTER THE CHANGE.

(2) WITHIN NINETY DAYS AFTER ASSUMING CONTROL FROM THE DECLARANT PURSUANT TO SECTION 38-33.3-303 (5), AND WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR THEREAFTER, THE ASSOCIATION SHALL MAKE THE FOLLOWING INFORMATION AVAILABLE TO UNIT OWNERS UPON REASONABLE NOTICE IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION:

(a) THE DATE ON WHICH ITS FISCAL YEAR COMMENCES;

(b) ITS OPERATING BUDGET FOR THE CURRENT FISCAL YEAR;

(c) A LIST, BY UNIT TYPE, OF THE ASSOCIATION'S CURRENT ASSESSMENTS, INCLUDING BOTH REGULAR AND SPECIAL ASSESSMENTS;

(d) ITS ANNUAL FINANCIAL STATEMENTS, INCLUDING ANY AMOUNTS HELD IN RESERVE FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT ANNUAL DISCLOSURE;

(e) THE RESULTS OF ANY FINANCIAL AUDIT OR REVIEW FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT ANNUAL DISCLOSURE;

(f) A LIST OF ALL ASSOCIATION INSURANCE POLICIES, INCLUDING, BUT NOT LIMITED TO, PROPERTY, GENERAL LIABILITY, ASSOCIATION DIRECTOR

AND OFFICER PROFESSIONAL LIABILITY, AND FIDELITY POLICIES. SUCH LIST SHALL INCLUDE THE COMPANY NAMES, POLICY LIMITS, POLICY DEDUCTIBLES, ADDITIONAL NAMED INSUREDS, AND EXPIRATION DATES OF THE POLICIES LISTED.

(g) ALL THE ASSOCIATION'S BYLAWS, ARTICLES, AND RULES AND REGULATIONS;

(h) THE MINUTES OF THE EXECUTIVE BOARD AND MEMBER MEETINGS FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT ANNUAL DISCLOSURE; AND

(i) THE ASSOCIATION'S RESPONSIBLE GOVERNANCE POLICIES ADOPTED UNDER SECTION 38-33.3-209.5.

(3) IT IS THE INTENT OF THIS SECTION TO ALLOW THE ASSOCIATION THE WIDEST POSSIBLE LATITUDE IN METHODS AND MEANS OF DISCLOSURE, WHILE REQUIRING THAT THE INFORMATION BE READILY AVAILABLE AT NO COST TO UNIT OWNERS AT THEIR CONVENIENCE. DISCLOSURE SHALL BE ACCOMPLISHED BY ONE OF THE FOLLOWING MEANS: POSTING ON AN INTERNET WEB PAGE WITH ACCOMPANYING NOTICE OF THE WEB ADDRESS VIA FIRST-CLASS MAIL OR E-MAIL; THE MAINTENANCE OF A LITERATURE TABLE OR BINDER AT THE ASSOCIATION'S PRINCIPAL PLACE OF BUSINESS; OR MAIL OR PERSONAL DELIVERY. THE COST OF SUCH DISTRIBUTION SHALL BE ACCOUNTED FOR AS A COMMON EXPENSE LIABILITY.

(4) NOTWITHSTANDING SECTION 38-33.3-117 (1) (h.5), THIS SECTION SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE UNIT IS A TIME-SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).

38-33.3-209.5. Responsible governance policies. (1) TO PROMOTE RESPONSIBLE GOVERNANCE, ASSOCIATIONS SHALL:

(a) MAINTAIN ACCOUNTING RECORDS USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(b) ADOPT POLICIES, PROCEDURES, AND RULES AND REGULATIONS CONCERNING:

(I) COLLECTION OF UNPAID ASSESSMENTS;

(II) HANDLING OF CONFLICTS OF INTEREST INVOLVING BOARD MEMBERS;

(III) CONDUCT OF MEETINGS, WHICH MAY REFER TO APPLICABLE PROVISIONS OF THE NONPROFIT CODE OR OTHER RECOGNIZED RULES AND PRINCIPLES;

(IV) ENFORCEMENT OF COVENANTS AND RULES, INCLUDING NOTICE AND HEARING PROCEDURES AND THE SCHEDULE OF FINES;

(V) INSPECTION AND COPYING OF ASSOCIATION RECORDS BY UNIT OWNERS;

(VI) INVESTMENT OF RESERVE FUNDS; AND

(VII) PROCEDURES FOR THE ADOPTION AND AMENDMENT OF POLICIES, PROCEDURES, AND RULES.

38-33.3-209.6. Executive board member education. THE BOARD MAY AUTHORIZE, AND ACCOUNT FOR AS A COMMON EXPENSE, REIMBURSEMENT OF BOARD MEMBERS FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN ATTENDING EDUCATIONAL MEETINGS AND SEMINARS ON RESPONSIBLE GOVERNANCE OF UNIT OWNERS' ASSOCIATIONS. THE COURSE CONTENT OF SUCH EDUCATIONAL MEETINGS AND SEMINARS SHALL BE SPECIFIC TO COLORADO, AND SHALL MAKE REFERENCE TO APPLICABLE SECTIONS OF THIS ARTICLE.

38-33.3-209.7. Owner education. (1) THE ASSOCIATION SHALL PROVIDE, OR CAUSE TO BE PROVIDED, EDUCATION TO OWNERS AT NO COST ON AT LEAST AN ANNUAL BASIS AS TO THE GENERAL OPERATIONS OF THE ASSOCIATION AND THE RIGHTS AND RESPONSIBILITIES OF OWNERS, THE ASSOCIATION, AND ITS EXECUTIVE BOARD UNDER COLORADO LAW. THE CRITERIA FOR COMPLIANCE WITH THIS SECTION SHALL BE DETERMINED BY THE EXECUTIVE BOARD.

(2) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (c), THIS SECTION SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7).

SECTION 8. 38-33.3-217 (1), Colorado Revised Statutes, is amended to read:

38-33.3-217. Amendment of declaration. (1) (a) Except in cases of amendments that may be executed by a declarant under section 38-33.3-205 (4) and (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210, or 38-33.3-222, by an association under section 38-33.3-107, 38-33.3-206 (4), 38-33.3-208 (2), 38-33.3-212, 38-33.3-213, or 38-33.3-218 (11) and (12), or by the district court for any county that includes all or any portion of a common interest community under subsection (7) of this section, and except as limited by subsection (4) of this section, the declaration, including the plats and maps, may be amended only by THE AFFIRMATIVE vote or agreement of unit owners of units to which more than fifty percent of the votes in the association are allocated or any larger percentage, NOT TO EXCEED SIXTY-SEVEN PERCENT, THAT the declaration specifies. ANY PROVISION IN THE DECLARATION THAT PURPORTS TO SPECIFY A PERCENTAGE LARGER THAN SIXTY-SEVEN PERCENT IS HEREBY DECLARED VOID AS CONTRARY TO PUBLIC POLICY, AND UNTIL AMENDED, SUCH PROVISION SHALL BE DEEMED TO SPECIFY A PERCENTAGE OF SIXTY-SEVEN PERCENT. The declaration may specify a smaller percentage THAN A SIMPLE MAJORITY only if all of the units are restricted exclusively to nonresidential use.

(b) IF THE DECLARATION REQUIRES FIRST MORTGAGEES TO APPROVE OR CONSENT TO AMENDMENTS, THE ASSOCIATION SHALL SEND A DATED, WRITTEN NOTICE AND A COPY OF ANY PROPOSED AMENDMENT BY CERTIFIED MAIL TO EACH FIRST MORTGAGEE AT ITS MOST RECENT ADDRESS AS SHOWN ON THE RECORDED DEED OF TRUST OR RECORDED ASSIGNMENT THEREOF. IN ADDITION, THE ASSOCIATION SHALL CAUSE THE DATED NOTICE, TOGETHER WITH INFORMATION ON HOW TO OBTAIN A COPY OF THE PROPOSED AMENDMENT, TO BE PRINTED IN FULL AT LEAST TWICE, ON SEPARATE OCCASIONS AT LEAST ONE WEEK APART, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE COMMON INTEREST COMMUNITY IS LOCATED. A FIRST MORTGAGEE THAT DOES NOT DELIVER TO THE ASSOCIATION A NEGATIVE RESPONSE WITHIN SIXTY DAYS AFTER THE DATE OF THE NOTICE SHALL BE DEEMED TO HAVE APPROVED THE PROPOSED AMENDMENT.

SECTION 9. Part 2 of article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-33.3-221.5. Withdrawal from merged common interest community. (1) A COMMON INTEREST COMMUNITY THAT WAS MERGED OR CONSOLIDATED WITH ANOTHER COMMON INTEREST COMMUNITY, OR IS PARTY TO AN AGREEMENT TO DO SO PURSUANT TO SECTION 38-33.3-221,

MAY WITHDRAW FROM THE MERGED OR CONSOLIDATED COMMON INTEREST COMMUNITY OR TERMINATE THE AGREEMENT TO MERGE OR CONSOLIDATE, WITHOUT THE CONSENT OF THE OTHER COMMON INTEREST COMMUNITY OR COMMUNITIES INVOLVED, IF THE COMMON INTEREST COMMUNITY WISHING TO WITHDRAW MEETS ALL OF THE FOLLOWING CRITERIA:

(a) IT IS A SEPARATE, PLATTED SUBDIVISION;

(b) ITS UNIT OWNERS ARE REQUIRED TO PAY INTO TWO COMMON INTEREST COMMUNITIES OR SEPARATE UNIT OWNERS' ASSOCIATIONS;

(c) IT IS OR HAS BEEN A SELF-OPERATING COMMON INTEREST COMMUNITY OR ASSOCIATION CONTINUOUSLY FOR AT LEAST TWENTY-FIVE YEARS;

(d) THE TOTAL NUMBER OF UNIT OWNERS COMPRISING IT IS FIFTEEN PERCENT OR LESS OF THE TOTAL NUMBER OF UNIT OWNERS IN THE MERGED OR CONSOLIDATED COMMON INTEREST COMMUNITY OR ASSOCIATION;

(e) ITS UNIT OWNERS HAVE APPROVED THE WITHDRAWAL BY A MAJORITY VOTE AND THE OWNERS OF UNITS REPRESENTING AT LEAST SEVENTY-FIVE PERCENT OF THE ALLOCATED INTERESTS IN THE COMMON INTEREST COMMUNITY WISHING TO WITHDRAW PARTICIPATED IN THE VOTE; AND

(f) ITS WITHDRAWAL WOULD NOT SUBSTANTIALLY IMPAIR THE ABILITY OF THE REMAINDER OF THE MERGED COMMON INTEREST COMMUNITY OR ASSOCIATION TO:

(I) ENFORCE EXISTING COVENANTS;

(II) MAINTAIN EXISTING FACILITIES; OR

(III) CONTINUE TO EXIST.

(2) IF AN ASSOCIATION HAS MET THE REQUIREMENTS SET FORTH IN SUBSECTION (1) OF THIS SECTION, IT SHALL BE CONSIDERED WITHDRAWN AS OF THE DATE OF THE ELECTION AT WHICH ITS UNIT OWNERS VOTED TO WITHDRAW.

SECTION 10. Part 2 of article 33.3 of title 38, Colorado Revised

Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-33.3-223. Sale of unit - disclosure to buyer. (1) EXCEPT IN THE CASE OF A FORECLOSURE SALE, THE SELLER OF A UNIT IN A COMMON INTEREST COMMUNITY SHALL MAIL OR DELIVER TO THE PURCHASER, ON OR BEFORE THE TITLE DEADLINE, COPIES OF ALL OF THE FOLLOWING IN THE MOST CURRENT FORM AVAILABLE:

(a) THE BYLAWS AND THE RULES OF THE ASSOCIATION;

(b) THE DECLARATION;

(c) THE COVENANTS;

(d) ANY PARTY WALL AGREEMENTS;

(e) MINUTES OF THE MOST RECENT ANNUAL UNIT OWNERS' MEETING AND OF ANY EXECUTIVE BOARD MEETINGS THAT OCCURRED WITHIN THE SIX MONTHS IMMEDIATELY PRECEDING THE TITLE DEADLINE;

(f) THE ASSOCIATION'S OPERATING BUDGET;

(g) THE ASSOCIATION'S ANNUAL INCOME AND EXPENDITURES STATEMENT; AND

(h) THE ASSOCIATION'S ANNUAL BALANCE SHEET.

(2) THE ASSOCIATION SHALL USE ITS BEST EFFORTS TO ACCOMMODATE A REQUEST BY THE SELLER FOR DOCUMENTS THAT ARE WITHIN THE ASSOCIATION'S CONTROL, IN ACCORDANCE WITH SECTION 38-33.3-317.

(3) WRITTEN NOTICE OF ANY UNSATISFACTORY PROVISION IN ANY OF THE DOCUMENTS LISTED IN SUBSECTION (1) OF THIS SECTION, WHICH NOTICE IS SIGNED BY THE BUYER OR ON BEHALF OF THE BUYER AND GIVEN TO THE SELLER ON OR BEFORE THE GOVERNING DOCUMENTS OBJECTION DEADLINE, SHALL BE CAUSE FOR TERMINATION OF THE CONTRACT OF PURCHASE AND SALE OF THE UNIT. IF THE SELLER DOES NOT RECEIVE SUCH WRITTEN NOTICE OF OBJECTION ON OR BEFORE THE GOVERNING DOCUMENTS OBJECTION DEADLINE, THE BUYER SHALL BE DEEMED TO HAVE ACCEPTED THE TERMS OF SAID DOCUMENTS, AND THE BUYER'S RIGHT TO TERMINATE THE CONTRACT ON

THIS BASIS IS WAIVED.

(4) THE TIME PERIODS SPECIFIED IN THIS SECTION MAY BE ALTERED BY MUTUAL AGREEMENT OF THE PARTIES.

(5) NOTWITHSTANDING SECTION 38-33.3-117 (1) (h.7), THIS SECTION SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE UNIT IS A TIME-SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).

SECTION 11. 38-33.3-301, Colorado Revised Statutes, is amended to read:

38-33.3-301. Organization of unit owners' association. A unit owners' association shall be organized no later than the date the first unit in the common interest community is conveyed to a purchaser. The membership of the association at all times shall consist exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under section 38-33.3-218, or their heirs, personal representatives, successors, or assigns. The association shall be organized as a nonprofit, not-for-profit, or for-profit corporation or as a limited liability company in accordance with the laws of the state of Colorado; except that the failure of the association to incorporate or organize as a limited liability company will not adversely affect either the existence of the common interest community for purposes of this article or the rights of persons acting in reliance upon such existence, other than as specifically provided in section 38-33.3-316. NEITHER THE CHOICE OF ENTITY NOR THE ORGANIZATIONAL STRUCTURE OF THE ASSOCIATION SHALL BE DEEMED TO AFFECT ITS SUBSTANTIVE RIGHTS AND OBLIGATIONS UNDER THIS ARTICLE.

SECTION 12. The introductory portion to 38-33.3-302 (1), Colorado Revised Statutes, is amended, and the said 38-33.3-302 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

38-33.3-302. Powers of unit owners' association. (1) Except as provided in ~~subsection (2)~~ SUBSECTIONS (2) AND (3) of this section, and subject to the provisions of the declaration, the association, without specific authorization in the declaration, may:

(3) (a) ANY MANAGING AGENT, EMPLOYEE, INDEPENDENT

CONTRACTOR, OR OTHER PERSON ACTING ON BEHALF OF THE ASSOCIATION SHALL BE SUBJECT TO THIS ARTICLE TO THE SAME EXTENT AS THE ASSOCIATION ITSELF WOULD BE.

(b) DECISIONS CONCERNING THE APPROVAL OR DENIAL OF A UNIT OWNER'S APPLICATION FOR ARCHITECTURAL OR LANDSCAPING CHANGES SHALL BE MADE IN ACCORDANCE WITH STANDARDS AND PROCEDURES SET FORTH IN THE DECLARATION OR IN DULY ADOPTED RULES AND REGULATIONS OR BYLAWS OF THE ASSOCIATION, AND SHALL NOT BE MADE ARBITRARILY OR CAPRICIOUSLY.

(4) (a) THE ASSOCIATION'S CONTRACT WITH A MANAGING AGENT SHALL BE TERMINABLE FOR CAUSE WITHOUT PENALTY TO THE ASSOCIATION. ANY SUCH CONTRACT SHALL BE SUBJECT TO RENEGOTIATION.

(b) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (g), THIS SUBSECTION (4) SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7).

SECTION 13. 38-33.3-303 (4), Colorado Revised Statutes, is amended to read:

38-33.3-303. Executive board members and officers - powers and duties - audit. (4) (a) Within ninety days after adoption of any proposed budget for the common interest community, the executive board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the bylaws. The executive board shall give notice to the unit owners of the meeting as allowed for in the bylaws. Unless the declaration requires otherwise, the budget proposed by the executive board does not require approval from the unit owners and it will be deemed approved by the unit owners in the absence of a veto at the noticed meeting by a majority of all unit owners, or if permitted in the declaration, a majority of a class of unit owners, or any larger percentage specified in the declaration, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the executive board and not vetoed by the unit owners must be continued until a subsequent budget proposed by the executive board is not vetoed by the unit owners.

(b) (I) THE BOOKS AND RECORDS OF THE ASSOCIATION SHALL BE SUBJECT TO AN AUDIT, USING GENERALLY ACCEPTED AUDITING STANDARDS, OR A REVIEW, USING STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES, AT LEAST ONCE EVERY TWO YEARS BY A PERSON SELECTED BY THE EXECUTIVE BOARD. SUCH PERSON NEED NOT BE A CERTIFIED PUBLIC ACCOUNTANT EXCEPT IN THE CASE OF AN AUDIT.

(II) AN AUDIT SHALL BE REQUIRED UNDER THIS PARAGRAPH (b) ONLY WHEN BOTH OF THE FOLLOWING CONDITIONS ARE MET:

(A) THE ASSOCIATION HAS ANNUAL REVENUES OR EXPENDITURES OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS; AND

(B) AN AUDIT IS REQUESTED BY THE OWNERS OF AT LEAST ONE-THIRD OF THE UNITS REPRESENTED BY THE ASSOCIATION.

(III) COPIES OF AN AUDIT OR REVIEW UNDER THIS PARAGRAPH (b) SHALL BE MADE AVAILABLE UPON REQUEST TO ANY UNIT OWNER BEGINNING NO LATER THAN THIRTY DAYS AFTER ITS COMPLETION.

(IV) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (h), THIS PARAGRAPH (b) SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7).

SECTION 14. 38-33.3-308 (1) and (2), Colorado Revised Statutes, are amended, and the said 38-33.3-308 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

38-33.3-308. Meetings. (1) Meetings of the unit owners, as the members of the association, shall be held at least once each year. Special meetings of the unit owners may be called by the president, by a majority of the executive board, or by unit owners having twenty percent, or any lower percentage specified in the bylaws, of the votes in the association. Not less than ten nor more than fifty days in advance of any meeting of the unit owners, the secretary or other officer specified in the bylaws shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting ~~must~~ SHALL BE PHYSICALLY POSTED IN A CONSPICUOUS PLACE, TO THE EXTENT THAT SUCH POSTING IS FEASIBLE AND PRACTICABLE, IN ADDITION TO ANY ELECTRONIC POSTING OR ELECTRONIC MAIL NOTICES THAT MAY BE GIVEN PURSUANT TO

PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION. THE NOTICE SHALL state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or member of the executive board.

(2) (a) All regular and special meetings of the association's executive board, or any committee thereof, shall be open to attendance by all members of the association or their representatives. Agendas for meetings of the executive board shall be made reasonably available for examination by all members of the association or their representatives.

(b) (I) THE ASSOCIATION IS ENCOURAGED TO PROVIDE ALL NOTICES AND AGENDAS REQUIRED BY THIS ARTICLE IN ELECTRONIC FORM, BY POSTING ON A WEB SITE OR OTHERWISE, IN ADDITION TO PRINTED FORM. IF SUCH ELECTRONIC MEANS ARE AVAILABLE, THE ASSOCIATION SHALL PROVIDE NOTICE OF ALL REGULAR AND SPECIAL MEETINGS OF UNIT OWNERS BY ELECTRONIC MAIL TO ALL UNIT OWNERS WHO SO REQUEST AND WHO FURNISH THE ASSOCIATION WITH THEIR ELECTRONIC MAIL ADDRESSES. ELECTRONIC NOTICE OF A SPECIAL MEETING SHALL BE GIVEN AS SOON AS POSSIBLE BUT AT LEAST TWENTY-FOUR HOURS BEFORE THE MEETING.

(II) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (i), THIS PARAGRAPH (b) SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7), C.R.S.

(2.5) (a) NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS, OR OTHER DOCUMENTS TO THE CONTRARY, ALL MEETINGS OF THE ASSOCIATION AND BOARD OF DIRECTORS ARE OPEN TO EVERY UNIT OWNER OF THE ASSOCIATION, OR TO ANY PERSON DESIGNATED BY A UNIT OWNER IN WRITING AS THE UNIT OWNER'S REPRESENTATIVE, AND ALL UNIT OWNERS OR DESIGNATED REPRESENTATIVES SO DESIRING SHALL BE PERMITTED TO ATTEND, LISTEN, AND SPEAK AT AN APPROPRIATE TIME DURING THE DELIBERATIONS AND PROCEEDINGS; EXCEPT THAT, FOR REGULAR AND SPECIAL MEETINGS OF THE BOARD, UNIT OWNERS WHO ARE NOT BOARD MEMBERS MAY NOT PARTICIPATE IN ANY DELIBERATION OR DISCUSSION UNLESS EXPRESSLY SO AUTHORIZED BY A VOTE OF THE MAJORITY OF A QUORUM OF THE BOARD.

(b) THE BOARD MAY PLACE REASONABLE TIME RESTRICTIONS ON THOSE PERSONS SPEAKING DURING THE MEETING BUT SHALL PERMIT A UNIT

OWNER OR A UNIT OWNER'S DESIGNATED REPRESENTATIVE TO SPEAK BEFORE THE BOARD TAKES FORMAL ACTION ON AN ITEM UNDER DISCUSSION, IN ADDITION TO ANY OTHER OPPORTUNITIES TO SPEAK. THE BOARD SHALL PROVIDE FOR A REASONABLE NUMBER OF PERSONS TO SPEAK ON EACH SIDE OF AN ISSUE.

(c) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (i), THIS SUBSECTION (2.5) SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7).

(4.5) UPON THE FINAL RESOLUTION OF ANY MATTER FOR WHICH THE BOARD RECEIVED LEGAL ADVICE OR THAT CONCERNED PENDING OR CONTEMPLATED LITIGATION, THE BOARD MAY ELECT TO PRESERVE THE ATTORNEY-CLIENT PRIVILEGE IN ANY APPROPRIATE MANNER, OR IT MAY ELECT TO DISCLOSE SUCH INFORMATION, AS IT DEEMS APPROPRIATE, ABOUT SUCH MATTER IN AN OPEN MEETING.

SECTION 15. 38-33.3-310 (1) and (2), Colorado Revised Statutes, are amended to read:

38-33.3-310. Voting - proxies. (1) (a) If only one of the multiple owners of a unit is present at a meeting of the association, such owner is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(b) (I) VOTES FOR POSITIONS ON THE EXECUTIVE BOARD SHALL BE TAKEN BY SECRET BALLOT AND, UPON THE REQUEST OF ONE OR MORE UNIT OWNERS, A VOTE ON ANY OTHER MATTER AFFECTING THE COMMON INTEREST COMMUNITY ON WHICH ALL UNIT OWNERS ARE ENTITLED TO VOTE SHALL BE BY SECRET BALLOT. BALLOTS SHALL BE COUNTED BY A NEUTRAL THIRD PARTY OR BY A UNIT OWNER WHO IS NOT A CANDIDATE, WHO ATTENDS THE MEETING AT WHICH THE VOTE IS HELD, AND WHO IS SELECTED AT RANDOM FROM A POOL OF TWO OR MORE SUCH UNIT OWNERS. THE RESULTS OF THE VOTE SHALL BE REPORTED WITHOUT REFERENCE TO NAMES, ADDRESSES, OR OTHER IDENTIFYING INFORMATION.

(II) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (j), THIS PARAGRAPH (b) SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7).

(2) (a) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. A PROXY SHALL NOT BE VALID IF OBTAINED THROUGH FRAUD OR MISREPRESENTATION. UNLESS OTHERWISE PROVIDED IN THE DECLARATION, BYLAWS, OR RULES OF THE ASSOCIATION, APPOINTMENT OF PROXIES MAY BE MADE SUBSTANTIALLY AS PROVIDED IN SECTION 7-127-203, C.R.S.

(b) If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise.

(c) THE ASSOCIATION IS ENTITLED TO REJECT A VOTE, CONSENT, WRITTEN BALLOT, WAIVER, PROXY APPOINTMENT, OR PROXY APPOINTMENT REVOCATION IF THE SECRETARY OR OTHER OFFICER OR AGENT AUTHORIZED TO TABULATE VOTES, ACTING IN GOOD FAITH, HAS REASONABLE BASIS FOR DOUBT ABOUT THE VALIDITY OF THE SIGNATURE ON IT OR ABOUT THE SIGNATORY'S AUTHORITY TO SIGN FOR THE UNIT OWNER.

(d) THE ASSOCIATION AND ITS OFFICER OR AGENT WHO ACCEPTS OR REJECTS A VOTE, CONSENT, WRITTEN BALLOT, WAIVER, PROXY APPOINTMENT, OR PROXY APPOINTMENT REVOCATION IN GOOD FAITH AND IN ACCORDANCE WITH THE STANDARDS OF THIS SECTION ARE NOT LIABLE IN DAMAGES FOR THE CONSEQUENCES OF THE ACCEPTANCE OR REJECTION.

(e) ANY ACTION OF THE ASSOCIATION BASED ON THE ACCEPTANCE OR REJECTION OF A VOTE, CONSENT, WRITTEN BALLOT, WAIVER, PROXY APPOINTMENT, OR PROXY APPOINTMENT REVOCATION UNDER THIS SECTION IS VALID UNLESS A COURT OF COMPETENT JURISDICTION DETERMINES OTHERWISE.

SECTION 16. Part 3 of article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-33.3-310.5. Executive board - conflicts of interest. (1) IF ANY CONTRACT, DECISION, OR OTHER ACTION TAKEN BY OR ON BEHALF OF THE EXECUTIVE BOARD WOULD FINANCIALLY BENEFIT ANY MEMBER OF THE EXECUTIVE BOARD OR ANY PERSON WHO IS A PARENT, GRANDPARENT, SPOUSE, CHILD, OR SIBLING OF A MEMBER OF THE EXECUTIVE BOARD OR A PARENT OR SPOUSE OF ANY OF THOSE PERSONS, THAT MEMBER OF THE EXECUTIVE BOARD SHALL DECLARE A CONFLICT OF INTEREST FOR THAT ISSUE. THE MEMBER SHALL DECLARE THE CONFLICT IN AN OPEN MEETING, PRIOR TO ANY DISCUSSION OR ACTION ON THAT ISSUE. AFTER MAKING SUCH DECLARATION, THE MEMBER MAY PARTICIPATE IN THE DISCUSSION BUT SHALL NOT VOTE ON THAT ISSUE.

(2) ANY CONTRACT ENTERED INTO IN VIOLATION OF THIS SECTION IS VOID AND UNENFORCEABLE.

(3) THIS SECTION SHALL NOT BE CONSTRUED TO INVALIDATE ANY PROVISION OF THE DECLARATION, BYLAWS, OR OTHER DOCUMENTS THAT MORE STRICTLY DEFINES CONFLICTS OF INTEREST OR CONTAINS FURTHER LIMITS ON THE PARTICIPATION OF EXECUTIVE BOARD MEMBERS WHO MAY HAVE CONFLICTS OF INTEREST.

(4) NOTWITHSTANDING SECTION 38-33.3-117 (1.5) (k), THIS SECTION SHALL NOT APPLY TO AN ASSOCIATION THAT INCLUDES TIME-SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7).

SECTION 17. 38-33.3-315, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-33.3-315. Assessments for common expenses. (7) UNLESS OTHERWISE SPECIFICALLY PROVIDED IN THE DECLARATION OR BYLAWS, THE ASSOCIATION MAY ENTER INTO AN ESCROW AGREEMENT WITH THE HOLDER OF A UNIT OWNER'S MORTGAGE SO THAT ASSESSMENTS MAY BE COMBINED WITH THE UNIT OWNER'S MORTGAGE PAYMENTS AND PAID AT THE SAME TIME AND IN THE SAME MANNER; EXCEPT THAT ANY SUCH ESCROW AGREEMENT SHALL COMPLY WITH ANY APPLICABLE RULES OF THE FEDERAL HOUSING ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VETERANS' ADMINISTRATION, OR OTHER GOVERNMENT AGENCY.

SECTION 18. 38-33.3-317, Colorado Revised Statutes, is amended to read:

38-33.3-317. Association records. (1) (a) The association shall keep financial records sufficiently detailed to enable the association to comply with section 38-33.3-316 (8) concerning statements of unpaid assessments.

(b) THE ASSOCIATION SHALL KEEP AS PERMANENT RECORDS MINUTES OF ALL MEETINGS OF UNIT OWNERS AND THE EXECUTIVE BOARD, A RECORD OF ALL ACTIONS TAKEN BY THE UNIT OWNERS OR EXECUTIVE BOARD BY WRITTEN BALLOT OR WRITTEN CONSENT IN LIEU OF A MEETING, A RECORD OF ALL ACTIONS TAKEN BY A COMMITTEE OF THE EXECUTIVE BOARD IN PLACE OF THE EXECUTIVE BOARD ON BEHALF OF THE ASSOCIATION, AND A RECORD OF ALL WAIVERS OF NOTICES OF MEETINGS OF UNIT OWNERS AND OF THE EXECUTIVE BOARD OR ANY COMMITTEE OF THE EXECUTIVE BOARD.

(c) (I) THE ASSOCIATION OR ITS AGENT SHALL MAINTAIN A RECORD OF UNIT OWNERS IN A FORM THAT PERMITS PREPARATION OF A LIST OF THE NAMES AND ADDRESSES OF ALL UNIT OWNERS, SHOWING THE NUMBER OF VOTES EACH UNIT OWNER IS ENTITLED TO VOTE.

(II) NOTWITHSTANDING SECTION 38-33.3-117 (1) (l), THIS PARAGRAPH (c) SHALL NOT APPLY TO A UNIT, OR THE OWNER THEREOF, IF THE UNIT IS A TIME-SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7).

(d) THE ASSOCIATION SHALL MAINTAIN ITS RECORDS IN WRITTEN FORM OR IN ANOTHER FORM CAPABLE OF CONVERSION INTO WRITTEN FORM WITHIN A REASONABLE TIME.

(2) All financial and other records shall be made reasonably available for examination AND COPYING by any unit owner and such owner's authorized agents.

(3) THE ASSOCIATION MAY CHARGE A FEE, NOT TO EXCEED THE ASSOCIATION'S ACTUAL COST PER PAGE, FOR COPIES OF ASSOCIATION RECORDS.

(4) AS USED IN THIS SECTION, "REASONABLY AVAILABLE" MEANS AVAILABLE DURING NORMAL BUSINESS HOURS, UPON NOTICE OF FIVE BUSINESS DAYS, TO THE EXTENT THAT:

(a) THE REQUEST IS MADE IN GOOD FAITH AND FOR A PROPER PURPOSE;

(b) THE REQUEST DESCRIBES WITH REASONABLE PARTICULARITY THE RECORDS SOUGHT AND THE PURPOSE OF THE REQUEST; AND

(c) THE RECORDS ARE RELEVANT TO THE PURPOSE OF THE REQUEST.

(5) IN ADDITION TO THE RECORDS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE ASSOCIATION SHALL KEEP A COPY OF EACH OF THE FOLLOWING RECORDS AT ITS PRINCIPAL OFFICE:

(a) ITS ARTICLES OF INCORPORATION, IF IT IS A CORPORATION, OR THE CORRESPONDING ORGANIZATIONAL DOCUMENTS IF IT IS ANOTHER FORM OF ENTITY;

(b) THE DECLARATION;

(c) THE COVENANTS;

(d) ITS BYLAWS;

(e) RESOLUTIONS ADOPTED BY ITS EXECUTIVE BOARD RELATING TO THE CHARACTERISTICS, QUALIFICATIONS, RIGHTS, LIMITATIONS, AND OBLIGATIONS OF UNIT OWNERS OR ANY CLASS OR CATEGORY OF UNIT OWNERS;

(f) THE MINUTES OF ALL UNIT OWNERS' MEETINGS, AND RECORDS OF ALL ACTION TAKEN BY UNIT OWNERS WITHOUT A MEETING, FOR THE PAST THREE YEARS;

(g) ALL WRITTEN COMMUNICATIONS WITHIN THE PAST THREE YEARS TO UNIT OWNERS GENERALLY AS UNIT OWNERS;

(h) A LIST OF THE NAMES AND BUSINESS OR HOME ADDRESSES OF ITS CURRENT DIRECTORS AND OFFICERS;

(i) ITS MOST RECENT ANNUAL REPORT, IF ANY; AND

(j) ALL FINANCIAL AUDITS OR REVIEWS CONDUCTED PURSUANT TO SECTION 38-33.3-303 (4) (b) DURING THE IMMEDIATELY PRECEDING THREE YEARS.

(6) THIS SECTION SHALL NOT BE CONSTRUED TO AFFECT:

(a) THE RIGHT OF A UNIT OWNER TO INSPECT RECORDS:

(I) UNDER CORPORATION STATUTES GOVERNING THE INSPECTION OF LISTS OF SHAREHOLDERS OR MEMBERS PRIOR TO AN ANNUAL MEETING; OR

(II) IF THE UNIT OWNER IS IN LITIGATION WITH THE ASSOCIATION, TO THE SAME EXTENT AS ANY OTHER LITIGANT; OR

(b) THE POWER OF A COURT, INDEPENDENTLY OF THIS ARTICLE, TO COMPEL THE PRODUCTION OF ASSOCIATION RECORDS FOR EXAMINATION ON PROOF BY A UNIT OWNER OF PROPER PURPOSE.

(7) THIS SECTION SHALL NOT BE CONSTRUED TO INVALIDATE ANY PROVISION OF THE DECLARATION, BYLAWS, THE CORPORATE LAW UNDER WHICH THE ASSOCIATION IS ORGANIZED, OR OTHER DOCUMENTS THAT MORE BROADLY DEFINES RECORDS OF THE ASSOCIATION THAT ARE SUBJECT TO INSPECTION AND COPYING BY UNIT OWNERS, OR THAT GRANTS UNIT OWNERS FREER ACCESS TO SUCH RECORDS.

SECTION 19. Article 35.7 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-35.7-102. Disclosure - common interest community - requirement for architectural approval. (1) IN EVERY PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY IN A COMMON INTEREST COMMUNITY:

(a) THE SELLER SHALL CAUSE TO BE FURNISHED TO THE BUYER, AT THE SELLER'S EXPENSE, ALL DOCUMENTS REQUIRED BY SECTION 38-33.3-223 AT LEAST TEN DAYS BEFORE CLOSING IN THE CASE OF A SALE BY OWNER OR WITHIN THE TIME LIMITS SET FORTH IN SECTION 38-33.3-223 IN THE CASE OF A BROKERED TRANSACTION.

(b) (I) THE SELLER SHALL PROVIDE THE BUYER WITH A DISCLOSURE STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE AND IN SUBSTANTIALLY THE FOLLOWING FORM:

"**THE BUYER HEREBY ACKNOWLEDGES THAT THE BUYER HAS RECEIVED COPIES OF THE**

DECLARATION, COVENANTS, BYLAWS, AND RULES AND REGULATIONS OF THE HOMEOWNERS' ASSOCIATION OF THE [NAME OF COMMON INTEREST COMMUNITY], IN WHICH THE PROPERTY IS LOCATED, AND THE BUYER UNDERSTANDS THAT THESE DOCUMENTS CONSTITUTE AN AGREEMENT BETWEEN THE ASSOCIATION AND THE BUYER. BY SIGNING THIS STATEMENT, THE BUYER ACKNOWLEDGES THAT THE BUYER HAS READ AND UNDERSTANDS THE ASSOCIATION'S DECLARATION, COVENANTS, BYLAWS, AND RULES AND REGULATIONS. THE BUYER ALSO UNDERSTANDS THAT BY COMPLETING THIS PURCHASE, THE BUYER IS RESPONSIBLE FOR PAYING ASSESSMENTS TO THE ASSOCIATION. IF THE BUYER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO COLLECT THE DEBT.

THE BUYER ALSO UNDERSTANDS THAT ANY CHANGE TO THE EXTERIOR OF THE PROPERTY MAY BE SUBJECT TO ARCHITECTURAL REVIEW AND APPROVAL. FAILURE TO SECURE SUCH REVIEW AND APPROVAL COULD BE A VIOLATION OF THE DECLARATION AND COULD RESULT IN REMEDIAL ACTION BEING TAKEN BY THE ASSOCIATION."

(II) IT SHALL BE THE RESPONSIBILITY OF THE SELLER TO OBTAIN FROM THE PURCHASER A SIGNED ACKNOWLEDGMENT OF RECEIPT OF THE INFORMATION AND DISCLOSURE STATEMENT DESCRIBED IN THIS SECTION, WHETHER SUCH ACKNOWLEDGMENT IS INCORPORATED IN THE CONTRACT OF PURCHASE AND SALE OR OTHERWISE, AT THE TIME OF CLOSING AND TO DELIVER SUCH SIGNED ACKNOWLEDGMENT TO THE ASSOCIATION AS SOON AS IS PRACTICABLE THEREAFTER. IN THE EVENT OF THE FAILURE BY THE SELLER TO PROVIDE SUCH INFORMATION AND DISCLOSURE STATEMENT, THE PURCHASER SHALL HAVE A CLAIM FOR RELIEF AGAINST THE SELLER FOR ALL DAMAGES TO THE PURCHASER RESULTING FROM SUCH FAILURE PLUS COURT

COSTS; EXCEPT THAT, TO THE EXTENT THAT THE BUYER'S DAMAGES RESULTED FROM THE ASSOCIATION'S FAILURE OR REFUSAL, WITHOUT LEGAL JUSTIFICATION, TO PROVIDE DOCUMENTS WITHIN ITS CONTROL TO THE SELLER DESPITE THE GOOD FAITH EFFORTS OF THE SELLER TO OBTAIN THEM, OR BECAUSE THE ASSOCIATION DID NOT MAINTAIN RECORDS AS REQUIRED BY SECTION 38-33.3-317, THE SELLER SHALL NOT BE LIABLE.

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

SECTION 20. 10-4-110.8 (3) and (4), Colorado Revised Statutes, are amended, and the said 10-4-110.8 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-4-110.8. Homeowner's insurance - prohibited practices - definitions. (3) For the purposes of this section, unless the context otherwise requires:

(a) "Claim" includes a demand for payment of a benefit by the insured, the payment of a covered benefit by an insurer, a loss reserve established by the insurer, a loss adjustment expense incurred by the insurer, or a payment made to the insured.

(b) "INQUIRY" MEANS A REQUEST FOR INFORMATION REGARDING THE TERMS, CONDITIONS, OR COVERAGES AFFORDED UNDER AN INSURANCE CONTRACT.

(4) ~~For the purposes of this section, "inquiry" means a request for information regarding the terms, conditions, or coverages afforded under an insurance contract.~~ EVERY INSURER ISSUING A POLICY OF HOMEOWNER'S INSURANCE SHALL COMPLY WITH SECTION 10-3-1104 (1) (h) AND ALL OTHER PROVISIONS OF PART 11 OF ARTICLE 3 OF THIS TITLE.

(5) IN A COMMON INTEREST COMMUNITY, AS DEFINED IN SECTION 38-33.3-103 (8), C.R.S., A UNIT OWNER MAY FILE A CLAIM AGAINST THE POLICY OF THE UNIT OWNER'S ASSOCIATION TO THE SAME EXTENT, AND WITH THE SAME EFFECT, AS IF THE UNIT OWNER WERE AN ADDITIONAL NAMED INSURED.

SECTION 21. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such

invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 22. Effective date. Sections 1, 2, 8, 21, 22, and 23 of this act shall take effect upon passage, and the remainder of this act shall take effect January 1, 2006.

SECTION 23. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Joan Fitz-Gerald PRESIDENT OF THE SENATE	Andrew Romanoff SPEAKER OF THE HOUSE OF REPRESENTATIVES
Karen Goldman SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO