

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.

An Act

HOUSE BILL 10-1278

BY REPRESENTATIVE(S) Ryden, Casso, Tyler, Peniston;
also SENATOR(S) Carroll M., Williams.

CONCERNING THE CREATION OF AN INFORMATION OFFICER FOR MATTERS ARISING UNDER THE "COLORADO COMMON INTEREST OWNERSHIP ACT", AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-61-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-61-101. Definitions. As used in this part 1, unless the context otherwise requires:

(1.2) "HOA" OR "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION OR UNIT OWNERS' ASSOCIATION FORMED BEFORE, ON, OR AFTER JULY 1, 1992, AS PART OF A COMMON INTEREST COMMUNITY AS DEFINED IN SECTION 38-33.3-103, C.R.S.

SECTION 2. 12-61-111.5 (2) (a), Colorado Revised Statutes, is amended to read:

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

12-61-111.5. Fee adjustments. (2) (a) (I) The division shall propose, as part of its annual budget request, an adjustment in the amount of each fee ~~which~~ THAT it is authorized by law to collect under parts 1, 3, 4, and 7 of this article. The budget request and the adjusted fees for the division shall reflect direct and indirect costs.

(II) THE COSTS OF THE HOA INFORMATION AND RESOURCE CENTER, CREATED IN SECTION 12-61-406.5, SHALL BE PAID FROM THE HOA INFORMATION AND RESOURCE CENTER CASH FUND CREATED IN SECTION 12-61-406.5. THE DIVISION OF REAL ESTATE SHALL ESTIMATE THE DIRECT AND INDIRECT COSTS OF OPERATING THE HOA INFORMATION AND RESOURCE CENTER AND SHALL ESTABLISH THE AMOUNT OF THE ANNUAL REGISTRATION FEE TO BE COLLECTED UNDER SECTION 38-33.3-401, C.R.S. THE AMOUNT OF THE REGISTRATION FEE SHALL BE SUFFICIENT TO RECOVER SUCH COSTS, SUBJECT TO A MAXIMUM LIMIT OF FIFTY DOLLARS AND SUBJECT TO ADJUSTMENT TO REFLECT THE ACTUAL DIRECT AND INDIRECT COSTS OF OPERATING THE HOA INFORMATION AND RESOURCE CENTER PURSUANT TO THE GENERAL DIRECTIVE TO ADJUST FEES TO AVOID EXCEEDING THE STATUTORY LIMIT ON UNCOMMITTED RESERVES IN ADMINISTRATIVE AGENCY CASH FUNDS AS SET FORTH IN SECTION 24-75-401 (3), C.R.S.

SECTION 3. 12-61-401, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-61-401. Definitions. As used in this part 4, unless the context otherwise requires:

(2.5) "HOA" OR "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION OR UNIT OWNERS' ASSOCIATION FORMED BEFORE, ON, OR AFTER JULY 1, 1992, AS PART OF A COMMON INTEREST COMMUNITY AS DEFINED IN SECTION 38-33.3-103, C.R.S.

SECTION 4. Part 4 of article 61 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-61-406.5. HOA information and resource center - creation - duties - rules - cash fund - repeal. (1) THERE IS HEREBY CREATED, WITHIN THE DIVISION OF REAL ESTATE, THE HOA INFORMATION AND RESOURCE CENTER, THE HEAD OF WHICH SHALL BE THE HOA INFORMATION OFFICER. THE HOA INFORMATION OFFICER SHALL BE APPOINTED BY THE

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

(2) THE HOA INFORMATION OFFICER SHALL BE FAMILIAR WITH THE "COLORADO COMMON INTEREST OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38, C.R.S., ALSO REFERRED TO IN THIS SECTION AS THE "ACT". NO PERSON WHO IS OR, WITHIN THE IMMEDIATELY PRECEDING TEN YEARS, HAS BEEN LICENSED BY OR REGISTERED WITH THE DIVISION OF REAL ESTATE OR WHO OWNS STOCKS, BONDS, OR ANY PECUNIARY INTEREST IN A CORPORATION SUBJECT IN WHOLE OR IN PART TO REGULATION BY THE DIVISION OF REAL ESTATE SHALL BE APPOINTED AS HOA INFORMATION OFFICER. IN ADDITION, IN CONDUCTING THE SEARCH FOR AN APPOINTEE, THE EXECUTIVE DIRECTOR OF THE DIVISION OF REAL ESTATE SHALL PLACE A HIGH PREMIUM ON CANDIDATES WHO ARE BALANCED, INDEPENDENT, UNBIASED, AND WITHOUT ANY CURRENT FINANCIAL TIES TO AN HOA BOARD OR BOARD MEMBER OR TO ANY PERSON OR ENTITY THAT PROVIDES HOA MANAGEMENT SERVICES. AFTER BEING APPOINTED, THE HOA INFORMATION OFFICER SHALL REFRAIN FROM ENGAGING IN ANY CONDUCT OR RELATIONSHIP THAT WOULD CREATE A CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST.

(3) (a) THE HOA INFORMATION OFFICER SHALL ACT AS A CLEARING HOUSE FOR INFORMATION CONCERNING THE BASIC RIGHTS AND DUTIES OF UNIT OWNERS, DECLARANTS, AND UNIT OWNERS' ASSOCIATIONS UNDER THE ACT.

(b) THE HOA INFORMATION OFFICER:

(I) MAY EMPLOY ONE OR MORE ASSISTANTS, UP TO A MAXIMUM OF 1.0 FTE, AS MAY BE NECESSARY TO CARRY OUT HIS OR HER DUTIES; AND

(II) SHALL TRACK INQUIRIES AND COMPLAINTS AND REPORT ANNUALLY TO THE DIRECTOR OF THE DIVISION OF REAL ESTATE REGARDING THE NUMBER AND TYPES OF INQUIRIES AND COMPLAINTS RECEIVED.

(4) THE OPERATING EXPENSES OF THE HOA INFORMATION AND RESOURCE CENTER SHALL BE PAID FROM THE HOA INFORMATION AND RESOURCE CENTER CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL CONSIST OF ANNUAL REGISTRATION FEES PAID BY UNIT OWNERS' ASSOCIATIONS AND COLLECTED BY THE DIVISION OF REAL ESTATE PURSUANT TO SECTION 38-33.3-401, C.R.S. INTEREST

EARNED ON MONEYS IN THE FUND SHALL REMAIN IN THE FUND, AND ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. PAYMENTS FROM THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION.

(5) THE DIRECTOR OF THE DIVISION OF REAL ESTATE MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION AND SECTION 38-33.3-401, C.R.S. THIS SUBSECTION (5) SHALL NOT BE CONSTRUED TO CONFER ADDITIONAL RULE-MAKING AUTHORITY UPON THE DIRECTOR FOR ANY OTHER PURPOSE.

(6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2020. PRIOR TO SUCH REPEAL, THE HOA INFORMATION AND RESOURCE CENTER AND THE HOA INFORMATION OFFICER'S POWERS AND DUTIES UNDER THIS SECTION SHALL BE REVIEWED IN ACCORDANCE WITH SECTION 24-34-104, C.R.S.

SECTION 5. Article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 4 REGISTRATION

38-33.3-401. Registration - annual fees. (1) EVERY UNIT OWNERS' ASSOCIATION ORGANIZED UNDER SECTION 38-33.3-301 SHALL REGISTER ANNUALLY WITH THE DIRECTOR OF THE DIVISION OF REAL ESTATE, IN THE FORM AND MANNER SPECIFIED BY THE DIRECTOR.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE ANNUAL REGISTRATION SHALL BE ACCOMPANIED BY A FEE IN THE AMOUNT SET BY THE DIRECTOR IN ACCORDANCE WITH SECTION 12-61-111.5, C.R.S., AND SHALL INCLUDE THE INFORMATION REQUIRED TO BE DISCLOSED UNDER SECTION 38-33.3-209.4(1). THE INFORMATION SHALL BE UPDATED WITHIN NINETY DAYS OF ANY CHANGE, IN ACCORDANCE WITH SECTION 38-33.3-209.4 (1).

(b) A UNIT OWNERS' ASSOCIATION SHALL BE EXEMPT FROM THE FEE, BUT NOT THE REGISTRATION REQUIREMENT, IF THE ASSOCIATION:

January 1, 2011, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO