

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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LLS NO. 20-0519.01 Duane Gall x4335

SUNSET BILL

Sunset Process - House Business Affairs and Labor Committee

BILL TOPIC: "Sunset HOA Information & Resource Center"
DEADLINES: Finalize by: JAN 27, 2020 File by: JAN 29, 2020

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE HOA INFORMATION AND**
102 **RESOURCE CENTER, AND, IN CONNECTION THEREWITH,**
103 **IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE**
104 **2019 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY**
105 **AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Business Affairs and Labor Committee. The bill continues the HOA information and resource center

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

(center) for 5 years, until 2025 (*recommendation 1, sections 1 and 2* of the bill).

Sections 3 through 6 (*recommendation 2*) create a dispute resolution and enforcement program (program) under which the division of real estate shall:

- Collect and annually report upon additional data specifically related to disputes and violations of the "Colorado Common Interest Ownership Act" (act);
- Produce and distribute educational materials concerning the act and the program; and
- Take complaints, conduct investigations, make determinations, impose penalties, and participate in administrative dispute resolutions when there are alleged violations of the act or the program.

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

2 *Recommendation 1*

3 **SECTION 1.** In Colorado Revised Statutes, 12-10-801, **amend**
4 (6) as follows:

5 **12-10-801. HOA information and resource center - creation -**
6 **duties - rules - subject to review - repeal.** (6) This section is repealed,
7 effective September 1, ~~2020~~ 2025. Before the repeal, the HOA
8 information and resource center and the HOA information officer's
9 powers and duties under this section PART 8 are scheduled for review in
10 accordance with section 24-34-104. <*If recommendation 2 is accepted,*
11 *this section will be deleted and replaced with section 4 below.*>

12 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
13 (19)(a)(II); and **add** (26)(a)(IX) as follows: <*If recommendation 2 is*
14 *accepted, this section will be deleted and replaced with section 3*
15 *below.*>

16 **24-34-104. General assembly review of regulatory agencies**
17 **and functions for repeal, continuation, or reestablishment - legislative**

1 **declaration - repeal.** (19) (a) The following agencies, functions, or both,
2 are scheduled for repeal on September 1, 2020:

3 (II) ~~The HOA information and resource center created in section~~
4 ~~12-10-801;~~

5 (26) (a) The following agencies, functions, or both, are scheduled
6 for repeal on September 1, 2025:

7 (IX) THE HOA INFORMATION AND RESOURCE CENTER AND ITS
8 FUNCTIONS UNDER PART 8 OF ARTICLE 10 OF TITLE 12.

9 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **repeal**
10 **(19)(a)(II); and add (26)(a)(IX) as follows:**

11 **24-34-104. General assembly review of regulatory agencies**
12 **and functions for repeal, continuation, or reestablishment - legislative**
13 **declaration - repeal.** (19) (a) The following agencies, functions, or both,
14 are scheduled for repeal on September 1, 2020:

15 (II) ~~The HOA information and resource center created in section~~
16 ~~12-10-801;~~

17 (26) (a) The following agencies, functions, or both, are scheduled
18 for repeal on September 1, 2025:

19 (IX) THE HOA INFORMATION AND RESOURCE CENTER AND THE
20 FUNCTIONS OF THE CENTER AND, IN CONNECTION WITH THE HOA DISPUTE
21 RESOLUTION AND ENFORCEMENT PROGRAM UNDER PART 8 OF ARTICLE 10
22 OF TITLE 12, THE POWERS AND DUTIES OF THE DIVISION OF REAL ESTATE,
23 THE DIRECTOR OF THE DIVISION OF REAL ESTATE, AND THE HOA
24 INFORMATION OFFICER.

25 ***Recommendation 2***

26 **SECTION 4.** In Colorado Revised Statutes, 12-10-801, **amend**
27 **(5) and (6) as follows:**

1 **12-10-801. HOA information and resource center - creation -**
2 **duties - rules - subject to review - repeal.** (5) The director may adopt
3 rules as necessary to implement this ~~section~~ PART 8 and section
4 38-33.3-401. This subsection (5) shall not be construed to confer
5 additional rule-making authority upon the director for any other purpose.

6 (6) This ~~section~~ PART 8 is repealed, effective September 1, 2020
7 2025. Before the repeal, the HOA information and resource center and the
8 ~~HOA information officer's~~ powers and duties, under this ~~section~~ PART 8,
9 OF THE DIVISION, THE DIRECTOR, AND THE HOA INFORMATION OFFICER are
10 scheduled for review in accordance with section 24-34-104.

11 **SECTION 5.** In Colorado Revised Statutes, **add** 12-10-800.3,
12 12-10-802, 12-10-803, 12-10-804, 12-10-805, and 12-10-806 as follows:

13 **12-10-800.3. Definitions - rules.** AS USED IN THIS PART 8, UNLESS
14 THE CONTEXT OTHERWISE REQUIRES:

15 (1) "ACT" MEANS THE "COLORADO COMMON INTEREST
16 OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38.

17 (2) "ASSOCIATION" MEANS AN HOA AS DEFINED IN SECTION
18 12-10-101 (3).

19 (3) "COMMON INTEREST COMMUNITY" HAS THE SAME MEANING AS
20 SET FORTH IN SECTION 38-33.3-103 (8).

21 (4)(a) "COMMUNITY ASSOCIATION MANAGEMENT" MEANS ANY OF
22 THE FOLLOWING PRACTICES RELATING TO THE MANAGEMENT OF A
23 COMMON INTEREST COMMUNITY, AT THE DIRECTION OR ON BEHALF OF ITS
24 EXECUTIVE BOARD:

25 (I) ACTING WITH THE AUTHORITY OF THE COMMON INTEREST
26 COMMUNITY WITH RESPECT TO ITS BUSINESS, LEGAL, FINANCIAL, OR OTHER
27 TRANSACTIONS;

1 (II) EXECUTING THE RESOLUTIONS, DECISIONS, AND CONTRACTS OF
2 THE EXECUTIVE BOARD;

3 (III) ENFORCING THE RIGHTS OF THE COMMON INTEREST
4 COMMUNITY SECURED BY STATUTE, CONTRACT, COVENANT, RULE, OR
5 BYLAW;

6 (IV) ADMINISTERING OR COORDINATING MAINTENANCE OF
7 PROPERTY OR FACILITIES OF THE COMMON INTEREST COMMUNITY;

8 (V) ADMINISTERING APPLICATIONS FOR ARCHITECTURAL REVIEW;

9 (VI) CONDUCTING MEETINGS OF THE COMMON INTEREST
10 COMMUNITY'S MEMBERSHIP OR EXECUTIVE BOARD;

11 (VII) MAINTAINING THE COMMON INTEREST COMMUNITY'S
12 RECORDS PURSUANT TO ITS GOVERNING DOCUMENTS AND APPLICABLE
13 PROVISIONS OF THE ACT; OR

14 (VIII) ADMINISTERING, OR OTHERWISE EXERCISING CONTROL OF,
15 A COMMON INTEREST COMMUNITY'S FUNDS, INCLUDING THE
16 ADMINISTRATION OF A RESERVE PROGRAM FOR THE MAJOR REPAIR OR
17 REPLACEMENT OF CAPITAL ASSETS.

18 (b) "COMMUNITY ASSOCIATION MANAGEMENT" DOES NOT MEAN
19 THE PERFORMANCE OF ANY CLERICAL, MINISTERIAL, ACCOUNTING, OR
20 MAINTENANCE FUNCTION. THE DIRECTOR MAY ADOPT RULES TO FURTHER
21 DEFINE OR CLARIFY WHETHER A SPECIFIC FUNCTION FALLS WITHIN THIS
22 SUBSECTION (4)(b) AND THE REQUIREMENTS, IF ANY, THAT APPLY FOR
23 SUPERVISION OF SUPPORT STAFF BY MANAGERS.

24 (5) (a) "COMMUNITY ASSOCIATION MANAGER" OR "MANAGER"
25 MEANS A PERSON THAT SIGNS A WRITTEN CONTRACT TO PROVIDE
26 COMMUNITY ASSOCIATION MANAGEMENT SERVICES TO A COMMON
27 INTEREST COMMUNITY OR THAT, IN CONSIDERATION OF COMPENSATION BY

1 FEE, COMMISSION, SALARY, OR ANYTHING ELSE OF VALUE OR WITH THE
2 INTENTION OF RECEIVING OR COLLECTING THE COMPENSATION, WHETHER
3 OR NOT THE COMPENSATION IS RECEIVED BY THE MANAGER DIRECTLY OR
4 BY THE ENTITY THAT EMPLOYS THE MANAGER, ENGAGES IN OR OFFERS OR
5 ATTEMPTS TO ENGAGE IN COMMUNITY ASSOCIATION MANAGEMENT IN
6 COLORADO.

7 (b) "COMMUNITY ASSOCIATION MANAGER" OR "MANAGER" DOES
8 NOT INCLUDE:

9 (I) A PERSON WHO, UNDER THE SUPERVISION OF A MANAGER,
10 PERFORMS ANY CLERICAL, MINISTERIAL, ACCOUNTING, OR MAINTENANCE
11 FUNCTION;

12 (II) A PUBLIC OFFICIAL IN THE CONDUCT OF THE PUBLIC OFFICIAL'S
13 OFFICIAL DUTIES;

14 (III) A RECEIVER, TRUSTEE, ADMINISTRATOR, CONSERVATOR,
15 EXECUTOR, OR GUARDIAN ACTING UNDER PROPER AUTHORIZATION;

16 (IV) A PERSON IN ACQUIRING OR IN NEGOTIATING TO ACQUIRE ANY
17 INTEREST IN REAL ESTATE;

18 (V) AN ATTORNEY IN CONNECTION WITH THE ATTORNEY'S
19 REPRESENTATION OF CLIENTS IN THE PRACTICE OF LAW;

20 (VI) A CORPORATION WITH RESPECT TO PROPERTY OWNED OR
21 LEASED BY IT, ACTING THROUGH ITS OFFICERS OR REGULAR SALARIED
22 EMPLOYEES, WHEN THE ACTS ARE INCIDENTAL AND NECESSARY IN THE
23 ORDINARY COURSE OF THE CORPORATION'S BUSINESS ACTIVITIES OF A
24 NON-PROPERTY-MANAGEMENT NATURE. FOR THE PURPOSES OF THIS
25 SUBSECTION (5)(b), THE TERM "OFFICERS OR REGULAR SALARIED
26 EMPLOYEES" MEANS PERSONS REGULARLY EMPLOYED WHO DERIVE NOT
27 LESS THAN SEVENTY-FIVE PERCENT OF THEIR COMPENSATION FROM THE

1 CORPORATION IN THE FORM OF SALARIES;

2 (VII) AN INDEPENDENT CONTRACTOR WHO:

3 (A) PERFORMS ANY CLERICAL, MINISTERIAL, ACCOUNTING, OR
4 MAINTENANCE FUNCTION; OR

5 (B) IS NOT OTHERWISE ENGAGED IN THE PERFORMANCE OF
6 COMMUNITY ASSOCIATION MANAGEMENT; OR

7 (VIII) AN APPRENTICE WORKING UNDER THE SUPERVISION OF A
8 MANAGER.

9 (6) "COMPLAINANT" MEANS A PERSON WHO HAS FILED A
10 COMPLAINT ALLEGING A VIOLATION OF THE ACT OR THE PROGRAM. THE
11 TERM INCLUDES THE COMPLAINANT'S AGENT, EMPLOYEE, OR
12 REPRESENTATIVE AUTHORIZED TO ACT ON THE COMPLAINANT'S BEHALF.

13 (7) "FUND" MEANS THE DIVISION OF REAL ESTATE CASH FUND
14 CREATED IN SECTION 12-10-215.

15 (8) "PENALTY" MEANS A MONETARY PENALTY LEVIED AGAINST A
16 COMPLAINANT OR RESPONDENT BECAUSE OF A VIOLATION OF EITHER THE
17 ACT OR THE PROGRAM.

18 (9) "PROGRAM" MEANS THE HOA DISPUTE RESOLUTION AND
19 ENFORCEMENT PROGRAM CREATED IN SECTION 12-10-802.

20 (10) "RESPONDENT" MEANS AN ASSOCIATION, MANAGER,
21 EXECUTIVE BOARD MEMBER, OR OTHER PERSON ALLEGED TO HAVE
22 COMMITTED A VIOLATION OF THE ACT OR THE PROGRAM. THE TERM
23 INCLUDES THE RESPONDENT'S AGENT, EMPLOYEE, OR REPRESENTATIVE
24 AUTHORIZED TO ACT ON THE RESPONDENT'S BEHALF.

25 **12-10-802. Dispute resolution program - creation - duties of**
26 **division - report - rules.** (1) THE HOA DISPUTE RESOLUTION AND
27 ENFORCEMENT PROGRAM IS HEREBY CREATED.

1 (2) THE DIVISION SHALL:

2 (a) PRODUCE EDUCATIONAL MATERIALS REGARDING THE ACT AND
3 THE PROGRAM. THESE MATERIALS MUST BE IN BOTH ENGLISH AND
4 SPANISH AND MUST BE POSTED ON THE DIVISION'S WEBSITE. THE
5 MATERIALS MUST INCLUDE:

6 (I) THE EDUCATIONAL AND REFERENCE MATERIALS ASSEMBLED BY
7 THE HOA INFORMATION OFFICER PURSUANT TO SECTION 12-10-801 (3)(a);
8 AND

9 (II) A TOLL-FREE TELEPHONE NUMBER THAT MEMBERS OF THE
10 PUBLIC CAN USE TO SEEK ADDITIONAL INFORMATION AND COMMUNICATE
11 COMPLAINTS SPECIFIC TO THE ACT OR THE PROGRAM.

12 (b) CREATE AND MAINTAIN A DATABASE OF ASSOCIATIONS AND
13 MANAGERS THAT HAVE HAD COMPLAINTS FILED AGAINST THEM UNDER THE
14 PROGRAM;

15 (c) RECEIVE COMPLAINTS AND PERFORM DISPUTE RESOLUTION AND
16 ENFORCEMENT ACTIVITIES RELATED TO THE PROGRAM, INCLUDING
17 INVESTIGATIONS, NEGOTIATIONS, DETERMINATIONS OF VIOLATIONS, AND
18 THE IMPOSITION OF PENALTIES AS DESCRIBED IN SECTION 12-10-803;

19 (d) ISSUE SUBPOENAS; AND

20 (e) PROVIDE AN ANNUAL REPORT, AS DESCRIBED IN SECTION
21 12-10-806, ON THE OPERATION OF THE PROGRAM TO THE BUSINESS
22 AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND
23 THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR
24 THEIR SUCCESSOR COMMITTEES, AND TO THE DEPARTMENT. THE DIVISION
25 SHALL PUBLISH A COPY OF EACH ANNUAL REPORT ON THE DIVISION'S
26 WEBSITE AND SHALL KEEP ALL REPORTS ACCESSIBLE ON THE WEBSITE FOR
27 AS LONG AS THE PROGRAM CONTINUES IN EXISTENCE.

1 (3) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, THE DIRECTOR
2 SHALL PROMULGATE RULES AS NECESSARY TO IMPLEMENT THE PROGRAM
3 AND TO CLARIFY THE REQUIREMENTS OF THE ACT.

4 (4) THE PROGRAM MUST BE FUNDED BY THE PENALTIES AND FEES
5 DEPOSITED IN THE FUND, ANY MONEY THE GENERAL ASSEMBLY
6 APPROPRIATES TO THE DEPARTMENT FOR USE BY THE DIVISION TO
7 IMPLEMENT THE PROGRAM, AND ANY OTHER RESOURCES DIRECTED TO THE
8 PROGRAM.

9 **12-10-803. Dispute resolution program - complaint process -**
10 **cease-and-desist orders - penalties.** (1) BEGINNING MAY 1, 2021, ANY
11 AGGRIEVED PARTY MAY FILE A COMPLAINT WITH THE DIVISION ALLEGING
12 A VIOLATION OF THE ACT OR THE PROGRAM.

13 (2) AFTER RECEIVING A COMPLAINT UNDER THIS PART 8, THE
14 DIVISION SHALL INVESTIGATE THE ALLEGED VIOLATIONS AT THE DIVISION'S
15 DISCRETION AND, IF APPROPRIATE, FACILITATE NEGOTIATIONS BETWEEN
16 THE COMPLAINANT AND THE RESPONDENT.

17 (3) COMPLAINANTS AND RESPONDENTS SHALL COOPERATE WITH
18 THE DIVISION IN THE COURSE OF AN INVESTIGATION AND SHALL RESPOND
19 TO SUBPOENAS ISSUED BY THE DIVISION. FAILURE TO COOPERATE WITH
20 THE DIVISION IN THE COURSE OF AN INVESTIGATION IS A VIOLATION OF
21 THIS PART 8.

22 (4) (a) IF, AFTER AN INVESTIGATION, THE DIVISION DETERMINES
23 THAT THE PARTIES ARE UNABLE TO COME TO AN AGREEMENT, THE
24 DIVISION SHALL MAKE A WRITTEN DETERMINATION ON WHETHER A
25 VIOLATION OF THE ACT, AN ORDER OF THE DIVISION, THE RULES, OR THE
26 PROGRAM HAS OCCURRED.

27 (b) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A

1 VIOLATION OF THE ACT, AN ORDER OF THE DIVISION, THE RULES, OR THE
2 PROGRAM HAS OCCURRED, THE DIVISION SHALL DELIVER A WRITTEN
3 NOTICE OF VIOLATION BY CERTIFIED MAIL TO BOTH THE COMPLAINANT
4 AND THE RESPONDENT. THE NOTICE OF VIOLATION MUST SPECIFY THE
5 BASIS FOR THE DIVISION'S DETERMINATION, THE VIOLATION, THE ACTION
6 REQUIRED TO CURE THE VIOLATION, THE TIME WITHIN WHICH THAT ACTION
7 MUST BE TAKEN, THE PENALTIES THAT WILL BE IMPOSED IF THAT ACTION
8 IS NOT TAKEN WITHIN THE SPECIFIED TIME PERIOD, AND THE PROCESS FOR
9 CONTESTING THE DETERMINATION, REQUIRED ACTION, AND PENALTIES BY
10 MEANS OF AN ADMINISTRATIVE HEARING.

11 (c) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
12 VIOLATION OF THE ACT, AN ORDER OF THE DIVISION, THE RULES, OR THE
13 PROGRAM HAS NOT OCCURRED, THE DIVISION SHALL DELIVER A WRITTEN
14 NOTICE OF NONVIOLATION TO BOTH THE COMPLAINANT AND THE
15 RESPONDENT BY CERTIFIED MAIL. THE NOTICE OF NONVIOLATION MUST
16 INCLUDE THE BASIS FOR THE DIVISION'S DETERMINATION AND THE PROCESS
17 FOR CONTESTING THE DETERMINATION INCLUDED IN THE NOTICE OF
18 NONVIOLATION BY MEANS OF AN ADMINISTRATIVE HEARING.

19 (5) THE RESPONDENT MUST COMPLY WITH THE REQUIREMENTS OF
20 A NOTICE OF VIOLATION FROM THE DIVISION WITHIN SEVEN DAYS AFTER
21 THE NOTICE OF VIOLATION BECOMES A FINAL AGENCY ACTION OF THE
22 DIVISION UNDER EITHER SUBSECTION (7)(b) OR (9)(b) OF THIS SECTION,
23 EXCEPT AS REQUIRED OTHERWISE BY THE DIVISION. IF A RESPONDENT
24 FAILS TO COMPLY WITH THE REQUIREMENTS OF A NOTICE OF VIOLATION
25 WITHIN THE REQUIRED TIME PERIOD AND THE DIVISION HAS NOT RECEIVED
26 A TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING, THE DIVISION MAY
27 IMPOSE A PENALTY, UP TO A MAXIMUM OF FIVE THOUSAND DOLLARS PER

1 VIOLATION PER DAY, FOR EACH DAY THAT A VIOLATION REMAINS
2 UNCORRECTED. WHEN DETERMINING THE AMOUNT OF THE PENALTY TO
3 IMPOSE ON A RESPONDENT, THE DIVISION SHALL CONSIDER THE SEVERITY
4 AND DURATION OF THE VIOLATION AND THE IMPACT OF THE VIOLATION ON
5 OTHER RESIDENTS OF THE ASSOCIATION. IF THE RESPONDENT SHOWS, UPON
6 TIMELY APPLICATION TO THE DIVISION, THAT A GOOD-FAITH EFFORT TO
7 COMPLY WITH THE REQUIREMENTS OF THE NOTICE OF VIOLATION HAS BEEN
8 MADE AND THAT THE RESPONDENT HAS NOT COMPLIED BECAUSE OF
9 MITIGATING FACTORS BEYOND THE RESPONDENT'S CONTROL, THE DIVISION
10 MAY DELAY OR DISMISS THE IMPOSITION OF A PENALTY.

11 (6) THE DIVISION MAY ISSUE AN ORDER REQUIRING THE
12 RESPONDENT TO CEASE AND DESIST FROM AN UNLAWFUL PRACTICE. THE
13 DIVISION MAY ALSO ISSUE AN ORDER REQUIRING THE RESPONDENT TO
14 TAKE ACTIONS THAT, IN THE JUDGMENT OF THE DIVISION, WILL CARRY OUT
15 THE PURPOSES OF THE ACT OR THE PROGRAM. THE ACTIONS MAY INCLUDE:

16 (a) REFUNDING FINES, ASSESSMENTS, OR ANY OTHER FEES AND
17 CHARGES COLLECTED IN VIOLATION OF THE ACT, AN ORDER OF THE
18 DIVISION, THE RULES, OR THE PROGRAM;

19 (b) FILING DOCUMENTS THAT CORRECT A VIOLATION; AND

20 (c) TAKING ACTION NECESSARY TO CORRECT A VIOLATION.

21 (7) (a) A COMPLAINANT OR RESPONDENT MAY REQUEST AN
22 ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE TO
23 CONTEST:

24 (I) A NOTICE OF VIOLATION ISSUED UNDER SUBSECTION (4)(b) OF
25 THIS SECTION OR A NOTICE OF NONVIOLATION ISSUED UNDER SUBSECTION
26 (4)(c) OF THIS SECTION;

27 (II) A PENALTY IMPOSED UNDER SUBSECTION (5) OF THIS SECTION;

1 OR

2 (III) AN ORDER TO CEASE AND DESIST OR AN ORDER TO TAKE
3 ACTIONS UNDER SUBSECTION (6) OF THIS SECTION.

4 (b) IF THE COMPLAINANT OR RESPONDENT REQUESTS AN
5 ADMINISTRATIVE HEARING PURSUANT TO SUBSECTION (7)(a) OF THIS
6 SECTION, THE COMPLAINANT OR RESPONDENT MUST FILE THE REQUEST
7 WITHIN FOURTEEN BUSINESS DAYS AFTER RECEIPT OF A NOTICE OF
8 VIOLATION, NOTICE OF NONVIOLATION, PENALTY, ORDER, OR ACTION. IF
9 AN ADMINISTRATIVE HEARING IS NOT REQUESTED WITHIN THIS TIME
10 PERIOD, THE NOTICE OF VIOLATION OR NOTICE OF NONVIOLATION
11 CONSTITUTES A FINAL AGENCY ACTION OF THE DIVISION.

12 (8) HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE COURTS
13 MUST BE CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
14 UNLESS OTHERWISE SPECIFIED IN THIS SECTION.

15 (9) (a) AN APPOINTED ADMINISTRATIVE LAW JUDGE SHALL:

16 (I) HEAR AND RECEIVE PERTINENT EVIDENCE AND TESTIMONY;

17 (II) DECIDE WHETHER THE EVIDENCE SUPPORTS THE DIVISION'S
18 FINDINGS BY A PREPONDERANCE OF THE EVIDENCE; AND

19 (III) ENTER AN APPROPRIATE ORDER WITHIN SIXTY-THREE DAYS
20 AFTER THE COMPLETION OF THE HEARING AND IMMEDIATELY SEND COPIES
21 OF THE ORDER TO THE AFFECTED PARTIES.

22 (b) AN ORDER ENTERED BY AN ADMINISTRATIVE LAW JUDGE
23 CONSTITUTES THE FINAL AGENCY ACTION OF THE DIVISION AND IS SUBJECT
24 TO JUDICIAL REVIEW PURSUANT TO ARTICLE 4 OF TITLE 24. AN ORDER
25 ENTERED BY AN ADMINISTRATIVE LAW JUDGE MAY BE APPEALED.

26 (10) WHEN THE DIVISION IMPOSES ANY PENALTY AGAINST A
27 RESPONDENT ASSOCIATION, MANAGER, OR EXECUTIVE BOARD MEMBER

1 UNDER THIS PART 8, THE RESPONDENT MAY NOT SEEK ANY RECOVERY OR
2 REIMBURSEMENT OF THE PENALTY FROM A COMPLAINANT OR FROM ANY
3 OTHER UNIT OWNER AS DEFINED IN SECTION 38-33.3-103 (31).

4 (11) ALL MONEY COLLECTED FROM THE IMPOSITION OF ANY
5 PENALTIES IMPOSED UNDER THIS SECTION OTHER THAN ANY PORTION OF
6 THE PENALTIES REQUIRED TO BE PAID TO A COMPLAINANT MUST BE
7 DEPOSITED IN THE FUND.

8 (12) THIS SECTION DOES NOT PROVIDE AN EXCLUSIVE REMEDY AND
9 DOES NOT LIMIT THE RIGHT OF AN ASSOCIATION OR UNIT OWNER TO TAKE
10 LEGAL ACTION AGAINST ANOTHER PARTY AS PROVIDED IN THE ACT OR THIS
11 PART 8. EXHAUSTION OF THE ADMINISTRATIVE REMEDY PROVIDED IN THIS
12 SECTION IS NOT REQUIRED BEFORE A UNIT OWNER OR AN ASSOCIATION
13 MAY BRING A LEGAL ACTION.

14 (13) AN ASSOCIATION, MANAGER, OR EXECUTIVE BOARD MEMBER
15 SHALL NOT TAKE ANY RETALIATORY ACTION AGAINST A UNIT OWNER FOR
16 EXPRESSING AN INTENTION TO FILE A COMPLAINT UNDER THIS PART 8 OR
17 FILING A COMPLAINT UNDER THIS PART 8. IF THE DIVISION DETERMINES
18 THAT SUCH RETALIATION HAS OCCURRED, THE DIVISION MAY IMPOSE A
19 FINE OF UP TO TEN THOUSAND DOLLARS ON THE PERSON THAT
20 RETALIATED, SUBJECT TO THE COMPLAINT, NOTICE, AND HEARING
21 REQUIREMENTS SET FORTH IN THIS SECTION.

22 (14) A PENALTY LEVIED AGAINST AN ASSOCIATION UNDER THIS
23 PART 8 IS A LIEN AGAINST THE ASSOCIATION'S COMMON ELEMENTS, AS
24 DEFINED IN SECTION 38-33.3-103 (5), UNTIL FULLY PAID.

25 **12-10-804. Every association to register - process - fees - rules.**

26 (1) PURSUANT TO THE REGISTRATION REQUIREMENT SET FORTH IN
27 SECTION 38-33.3-401, EVERY ASSOCIATION SHALL UPDATE ALL

1 REGISTRATION INFORMATION WITHIN THIRTY DAYS AFTER ANY CHANGE.

2 (2) THE DIVISION SHALL SEND REGISTRATION NOTIFICATIONS AND
3 INFORMATION PACKETS TO ALL KNOWN COMMON INTEREST COMMUNITIES
4 WITHOUT A REGISTERED ASSOCIATION. THESE INFORMATION PACKETS
5 MUST INCLUDE:

6 (a) REGISTRATION FORMS THAT SATISFY ALL OF THE
7 REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION;

8 (b) INFORMATION ABOUT THE DIFFERENT METHODS OF
9 REGISTRATION;

10 (c) INFORMATION ABOUT THE SINGLE, STATEWIDE TOLL-FREE
11 TELEPHONE NUMBER DESCRIBED IN SUBSECTION (11) OF THIS SECTION;

12 (d) REGISTRATION ASSESSMENT INFORMATION, INCLUDING
13 REGISTRATION DUE DATES AND LATE FEES, AND THE COLLECTION
14 PROCEDURES, LIENS, AND CHARGING COSTS ESTABLISHED BY THE
15 DIVISION; AND

16 (e) A DESCRIPTION OF THE PROTECTIONS AFFORDED UNIT OWNERS
17 UNDER SECTION 12-10-803 (13).

18 (3) THE DIVISION SHALL ANNUALLY SEND REGISTRATION RENEWAL
19 NOTIFICATIONS AND INFORMATION PACKETS TO ALL REGISTERED
20 ASSOCIATIONS.

21 (4) AN ASSOCIATION MUST FILE FOR REGISTRATION OR
22 REGISTRATION RENEWAL BY SUBMITTING TO THE DIVISION, THROUGH THE
23 DIVISION'S WEBSITE AND IN A FORM AND MANNER PRESCRIBED BY THE
24 DIVISION, AND PAY A REGISTRATION FEE AS DESCRIBED IN SUBSECTION (8)
25 OF THIS SECTION.

26 (5) AN ASSOCIATION SHALL NOTIFY THE DIVISION WITHIN THIRTY
27 DAYS AFTER A CHANGE IN THE MEMBERSHIP OF THE ASSOCIATION'S

1 EXECUTIVE BOARD AND SHALL PROVIDE A TELEPHONE NUMBER OR E-MAIL
2 ADDRESS FOR EACH BOARD MEMBER INDIVIDUALLY.

3 (6) THE DIVISION SHALL MAKE AVAILABLE ON THE DIVISION'S
4 WEBSITE ELECTRONIC FORMS TO REGISTER AN ASSOCIATION. THESE FORMS
5 MUST BE AVAILABLE IN BOTH ENGLISH AND SPANISH AND SATISFY ALL OF
6 THE REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION.

7 (7) THE REGISTRATION FORMS PROVIDED BY THE DIVISION MUST
8 REQUIRE INFORMATION NECESSARY TO ASSIST THE DIVISION IN
9 IDENTIFYING AND LOCATING AN ASSOCIATION AND OTHER INFORMATION
10 THAT MAY BE USEFUL IN ADMINISTERING THIS PART 8, INCLUDING, AT A
11 MINIMUM:

12 (a) THE NAME AND ADDRESS OF THE PRESIDENT OF THE EXECUTIVE
13 BOARD;

14 (b) THE NAME AND ADDRESS OF THE ASSOCIATION'S MANAGER, IF
15 THE ASSOCIATION EMPLOYS A MANAGER;

16 (c) THE NUMBER OF UNITS WITHIN THE COMMON INTEREST
17 COMMUNITY AND THEIR DESIGNATION AS RESIDENTIAL OR COMMERCIAL;

18 (d) THE NUMBER OF UNITS UNDER THE CONTROL OF A DECLARANT,
19 AS DEFINED IN SECTION 38-33.3-103 (12); AND

20 (e) THE DATE AND RECEPTION NUMBER OF THE ORIGINAL
21 DECLARATION FILED PURSUANT TO SECTION 38-33.3-201.

22 (8) FOR THE 2021 CALENDAR YEAR, THE DIVISION SHALL CHARGE
23 EACH ASSOCIATION A REGISTRATION FEE, ESTABLISHED BY THE DIVISION
24 BY RULE, FOR EACH RESIDENTIAL UNIT AND EACH COMMERCIAL UNIT
25 REPRESENTED BY THE ASSOCIATION. EACH YEAR THEREAFTER, THE
26 DIVISION SHALL ESTABLISH FEES IN AMOUNTS THAT REASONABLY RELATE
27 TO THE COST OF ADMINISTERING THE HOA INFORMATION AND RESOURCE

1 CENTER AND THE PROGRAM.

2 (9) INITIAL REGISTRATIONS OF EXISTING ASSOCIATIONS NOT
3 ALREADY REGISTERED PURSUANT TO SECTION 38-33.3-401 MUST BE FILED
4 BEFORE FEBRUARY 1, 2021, AND AFTER THAT DATE WITHIN THREE
5 MONTHS AFTER CREATION OF AN ASSOCIATION PURSUANT TO SECTION
6 38-33.3-301. AN ASSOCIATION THAT WAS SENT AN INITIAL REGISTRATION
7 FORM AND THAT MISSED THE DEADLINE FOR REGISTRATION IS SUBJECT TO
8 A DELINQUENCY FEE OF UP TO FIVE THOUSAND DOLLARS. ASSOCIATIONS
9 THAT RECEIVE REGISTRATION RENEWAL NOTIFICATIONS AND DO NOT
10 RENEW THEIR REGISTRATION BY THE EXPIRATION DATE AS ASSIGNED BY
11 THE DIVISION ARE ALSO SUBJECT TO A DELINQUENCY FEE OF UP TO FIVE
12 THOUSAND DOLLARS.

13 (10) REGISTRATION IS EFFECTIVE ON THE DATE DETERMINED BY
14 THE DIVISION, AND THE DIVISION SHALL ISSUE A REGISTRATION NUMBER
15 TO EACH REGISTERED ASSOCIATION. THE DIVISION SHALL PROVIDE AN
16 EXPIRATION DATE, ASSIGNED BY THE DIVISION, TO EACH REGISTERED
17 ASSOCIATION.

18 (11) THE DIVISION SHALL ESTABLISH A SYSTEM, INCLUDING A
19 SINGLE, STATEWIDE TOLL-FREE TELEPHONE NUMBER, FOR RESPONDING
20 DIRECTLY TO INQUIRIES ABOUT THE REGISTRATION PROCESS.

21 **12-10-805. Association complaint database.** (1) BY MAY 1,
22 2021, THE DIVISION SHALL CREATE AND MAINTAIN A DATABASE OF
23 ASSOCIATIONS THAT HAVE HAD COMPLAINTS FILED AGAINST THEM UNDER
24 THE PROGRAM.

25 (2) AT A MINIMUM, THE DATABASE MUST INCLUDE:

26 (a) THE NUMBER OF COMPLAINTS RECEIVED;

27 (b) THE NATURE AND EXTENT OF THE COMPLAINTS RECEIVED;

1 (c) THE VIOLATION OF LAW COMPLAINED OF; AND

2 (d) THE OUTCOME OF EACH COMPLAINT.

3 **12-10-806. Annual report.** (1) NOTWITHSTANDING SECTION
4 24-1-136 (11)(a)(I), ON OR BEFORE MARCH 1, 2021, AND ON OR BEFORE
5 EACH MARCH 1 THEREAFTER, THE DIVISION SHALL PREPARE AN ANNUAL
6 REPORT THAT CONTAINS, AT A MINIMUM, FOR THE PRIOR TWELVE MONTHS:

7 (a) THE NUMBER OF ASSOCIATIONS CONTACTED BY THE DIVISION
8 IN REGARD TO THE PROGRAM;

9 (b) THE NUMBER OF COMPLAINTS UNDER THE PROGRAM RECEIVED
10 BY THE DIVISION;

11 (c) THE NUMBER OF COMPLAINTS UNDER THE PROGRAM RESOLVED
12 BY THE DIVISION;

13 (d) A BRIEF SUMMARY OF THE NATURE OF THE COMPLAINTS UNDER
14 THE PROGRAM RECEIVED BY THE DIVISION;

15 (e) HOW THE COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE
16 DIVISION WERE RESOLVED;

17 (f) THE NUMBER OF ADMINISTRATIVE APPEALS UNDER THE
18 PROGRAM;

19 (g) A SUMMARY OF ANY RELEVANT COURT DECISIONS RELATING
20 TO THE PROGRAM; AND

21 (h) A SUMMARY OF RESULTS OF AN ANNUAL CONSTITUENT SURVEY
22 CONDUCTED BY AN INDEPENDENT CONTRACTOR.

23 (2) THE DIVISION SHALL POST EACH ANNUAL REPORT ON THE
24 DIVISION'S WEBSITE, IN ADDITION TO PROVIDING IT TO THE COMMITTEES
25 LISTED IN SECTION 12-10-802 (2)(e). THE DIVISION SHALL NOT INCLUDE
26 ANY PERSONALLY IDENTIFYING INFORMATION, SUCH AS NAMES OR
27 ADDRESSES, IN THE REPORT.

1 **SECTION 6.** In Colorado Revised Statutes, 12-10-215, amend
2 (1) and (2)(a) as follows:

3 **12-10-215. Fee adjustments - cash fund created.** (1) This
4 section applies to all activities of the division under parts 2, 5, 6, and 7,
5 AND 8 of this article 10.

6 (2) (a) (I) The division shall propose, as part of its annual budget
7 request, an adjustment in the amount of each fee that it is authorized by
8 law to collect under parts 2, 5, 6, and 7, AND 8 of this article 10. The
9 budget request and the adjusted fees for the division must reflect direct
10 and indirect costs.

11 (II) The costs of the HOA information and resource center created
12 in section 12-10-801 AND THE HOA DISPUTE RESOLUTION AND
13 ENFORCEMENT PROGRAM CREATED IN SECTION 12-10-802 shall be paid
14 from the division of real estate cash fund created in this section. The
15 division shall ~~estimate the direct and indirect costs of operating the HOA~~
16 ~~information and resource center and shall~~ establish the amount of the
17 annual registration fee to be collected under section 38-33.3-401 The
18 amount of the registration fee shall be sufficient to recover these costs,
19 ~~subject to a maximum limit of fifty dollars~~ IN ACCORDANCE WITH SECTION
20 12-10-804 (8).

21 **SECTION 7.** In Colorado Revised Statutes, 38-33.3-401, amend
22 (2) and (4)(a) as follows:

23 **38-33.3-401. Registration - annual fees.** (2) (a) Except as
24 otherwise provided in subsection (2)(b) of this section, the unit owners'
25 association shall submit with its annual registration a fee in the amount
26 set by the director OF THE DIVISION OF REAL ESTATE in accordance with
27 section ~~12-10-215~~ and shall include the following information, updated

1 ~~within ninety days after any change: 12-10-804 (8).~~

2 ~~(I) The name of the association, as shown in the Colorado~~
3 ~~secretary of state's records;~~

4 ~~(II) The name of the association's management company;~~
5 ~~managing agent, or designated agent, which may be the association's~~
6 ~~registered agent, as shown in the Colorado secretary of state's records, or~~
7 ~~any other agent that the executive board has designated for purposes of~~
8 ~~registration under this section;~~

9 ~~(III) The physical address of the HOA;~~

10 ~~(IV) A valid address, email address, if any, website, if any, and~~
11 ~~telephone number for the association or its management company;~~
12 ~~managing agent, or designated agent; and~~

13 ~~(V) The number of units in the association.~~

14 (b) A unit owners' association is exempt from the fee, but not the
15 registration requirement, if the association:

16 (I) Has annual revenues of five thousand dollars or less; or

17 (II) Is not authorized to make assessments and does not have
18 revenue.

19 (4) (a) A registration is valid upon the division of real estate's
20 acceptance of the information required by paragraph (a) of subsection (2)
21 of this section REGISTRATION IN THE FORM AND MANNER SPECIFIED BY THE
22 DIRECTOR OF THE DIVISION OF REAL ESTATE UNDER SUBSECTION (1) OF
23 THIS SECTION and the payment of applicable fees.

24 **SECTION 8. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly (August 5, 2020, if adjournment sine die is on May 6,

1 2020); except that, if a referendum petition is filed pursuant to section 1
2 (3) of article V of the state constitution against this act or an item, section,
3 or part of this act within such period, then the act, item, section, or part
4 will not take effect unless approved by the people at the general election
5 to be held in November 2020 and, in such case, will take effect on the
6 date of the official declaration of the vote thereon by the governor.

7 (2) This act applies to conduct occurring on or after the effective
8 date of this act.