

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0961.01 Duane Gall

HOUSE BILL 09-1359

HOUSE SPONSORSHIP

Kerr A.,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE GOVERNANCE OF COMMON INTEREST COMMUNITIES**
102 **UNDER THE "COLORADO COMMON INTEREST OWNERSHIP**
103 **ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires all members of the executive board of a common interest community's unit owners' association (HOA) to receive relevant information related to the HOA's operation. Establishes the same standards for election or appointment as a chair of an HOA committee, to which authority may be delegated, as apply to the election or appointment of members on the executive board.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Requires an HOA to commission a reserve study at least every 3 years and to identify how it proposes to pay for scheduled repair or replacement of reserve assets.

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

2 **SECTION 1.** 38-33.3-303 (1), (2.5), and (3), Colorado Revised
3 Statutes, are amended to read:

4 **38-33.3-303. Executive board members and officers - powers**
5 **and duties - reserve funds - reserve study - audit.** (1) (a) Except as
6 provided in the declaration, the bylaws, or subsection (3) of this section
7 or any other provisions of this article, the executive board may act in all
8 instances on behalf of the association.

9 (b) NOTWITHSTANDING ANY PROVISION OF THE DECLARATION OR
10 BYLAWS TO THE CONTRARY, ALL MEMBERS OF THE EXECUTIVE BOARD IN
11 ACTING ON BEHALF OF THE ASSOCIATION AND AS FIDUCIARIES TO THE UNIT
12 OWNERS SHALL HAVE AVAILABLE TO THEM ALL RELEVANT INFORMATION
13 RELATED TO THE ASSOCIATION'S OPERATION. THIS INFORMATION SHALL
14 INCLUDE, BUT IS NOT NECESSARILY LIMITED TO, REPORTS OF DETAILED
15 MONTHLY EXPENDITURES, CONTRACTS TO WHICH THE ASSOCIATION IS A
16 PARTY, AND COPIES OF COMMUNICATIONS, REPORTS, AND OPINIONS TO
17 AND FROM OFFICERS OF THE ASSOCIATION. AS USED IN THIS PARAGRAPH
18 (b), "OFFICER" MEANS ANY PERSON DESIGNATED AS AN OFFICER OF THE
19 ASSOCIATION AND ANY PERSON TO WHOM THE EXECUTIVE BOARD
20 DELEGATES RESPONSIBILITIES UNDER THIS ARTICLE, INCLUDING, WITHOUT
21 LIMITATION, A MANAGING AGENT, ATTORNEY, OR ACCOUNTANT EMPLOYED
22 BY THE EXECUTIVE BOARD.

23 (2.5) (a) (I) EFFECTIVE JULY 1, 2010, AT LEAST ONCE EVERY THREE
24 YEARS, THE ASSOCIATION SHALL PERFORM A RESERVE STUDY OF THE

1 COMMON ELEMENTS AND, BASED ON THE RESERVE STUDY, SHALL CREATE
2 OR UPDATE A FUNDING PLAN FOR REPAIR OR REPLACEMENT OF THE
3 ASSOCIATION'S RESERVE ASSETS. THE FUNDING PLAN SHALL LIST ALL
4 PROJECTED COSTS AND SHALL INDICATE WHAT PERCENTAGE OF THOSE
5 COSTS WILL BE FUNDED THROUGH REGULAR ASSESSMENTS, SPECIAL
6 ASSESSMENTS, OR OTHER FUNDING METHODS.

7 (II) THE RESERVE STUDY SHALL CONSIST OF A PHYSICAL ANALYSIS
8 AND A FINANCIAL ANALYSIS, WITH A DESCRIPTION OF HOW THESE
9 ANALYSES WERE CONDUCTED.

10 (b) With regard to the investment of reserve funds of the
11 association, the officers and members of the executive board shall be
12 subject to the standards set forth in section 7-128-401, C.R.S.; except
13 that, as used in that section:

14 ~~(a)~~ (I) "Corporation" or "nonprofit corporation" means the
15 association.

16 ~~(b)~~ (II) "Director" means a member of the association's executive
17 board.

18 ~~(c)~~ (III) "Officer" means any person designated as an officer of the
19 association and any person to whom the executive board delegates
20 responsibilities under this article, including, without limitation, a
21 managing agent, attorney, or accountant employed by the executive
22 board.

23 (3) (a) The executive board may not act on behalf of the
24 association to amend the declaration, to terminate the common interest
25 community, or to elect members of the executive board or determine the
26 qualifications, powers and duties, or terms of office of executive board
27 members, but the executive board may fill vacancies in its membership

1 for the unexpired portion of any term.

2 (b) COMMITTEES OF THE ASSOCIATION SHALL BE APPOINTED
3 PURSUANT TO SECTION 7-128-206, C.R.S., OR THE GOVERNING
4 DOCUMENTS OF THE ASSOCIATION. THE PERSON WHO PRESIDES OVER ANY
5 SUCH COMMITTEE SHALL MEET THE SAME QUALIFICATIONS AS ARE
6 REQUIRED BY THE GOVERNING DOCUMENTS OF THE ASSOCIATION FOR
7 ELECTION OR APPOINTMENT TO THE EXECUTIVE BOARD OF THE
8 ASSOCIATION.

9 **SECTION 2. Act subject to petition - effective date -**
10 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
11 following the expiration of the ninety-day period after final adjournment
12 of the general assembly that is allowed for submitting a referendum
13 petition pursuant to article V, section 1 (3) of the state constitution,
14 (August 5, 2009, if adjournment sine die is on May 6, 2009); except that,
15 if a referendum petition is filed against this act or an item, section, or part
16 of this act within such period, then the act, item, section, or part, if
17 approved by the people, shall take effect on the date of the official
18 declaration of the vote thereon by proclamation of the governor.

19 (2) The provisions of this act shall apply to acts occurring on or
20 after the applicable effective date of this act.