

Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0337.01 Duane Gall

SENATE BILL 06-089

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SENATE SPONSORSHIP

Hagedorn,

HOUSE SPONSORSHIP

Carroll M.,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING COMMON INTEREST COMMUNITIES.

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Bill Summary

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

Clarifies provisions of S.B. 05-100 regarding regulation of political signs in common interest community associations (associations). Allows an association to prohibit the parking of commercial vehicles other than police, fire, and paramedic vehicles on community property and to limit the parking of police, fire, and paramedic vehicles so as to preserve adequate guest parking.

Simplifies provisions allowing a court to award attorney fees and costs to the prevailing party in litigation, eliminating the requirement of a claim-by-claim analysis of which party prevailed. Requires an

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.*

association to adopt a written policy for dealing with disputes between the association and unit owners, and to make the policy available to unit owners upon request.

Modifies the requirement imposed by S.B. 05-100 that a financial audit or review be completed within 90 days after the close of the association's fiscal year. In place of the requirement that the association's accounting records employ generally accepted accounting principles, requires that the records be kept on a cash or modified accrual basis and be accurate and complete. Replaces the current requirement for a biennial audit or review with an optional procedure whereby a review is only required if requested by 1/3 of the unit owners, and an audit is required only if requested by 1/3 of the unit owners and the association's budget exceeds \$250,000.

To the list of annual disclosures the association must make available to unit owners, adds a statement of the association's insurance and maintenance responsibilities. Requires recording of the declaration and any covenants in the county land records, if not already so recorded.

In provisions specifying notice by mail and publication to first mortgagees regarding proposed changes to a common interest community's governing declaration, clarifies that a preexisting process, under which amendments may be authorized by court order, is still available.

Allows supermajority provisions exceeding 67% for the amendment of covenants to continue to apply in communities where 67% or more of the votes are allocated to a single owner.

Clarifies provisions relating to notice of meetings and the opportunity for unit owners to offer their views on agenda items prior to action by the executive board. Modifies requirements for the taking of votes by secret ballot and the counting of ballots. Exempts associations whose board members are selected by delegates from secret-ballot requirements.

Replaces S.B. 05-100 provisions on board member conflicts of interest with provisions imported from the "Colorado Revised Nonprofit Corporation Act".

In provisions allowing a unit owner to file a claim against the association's property insurance policy to the same extent as a named insured, places conditions on the exercise of that right by requiring the unit owner first to contact the association and to give the association a reasonable opportunity to respond and inspect the damage. Prohibits an insurer from considering a clarification-of-coverage inquiry by a unit owner when setting premiums to be charged to the association.

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

1           **SECTION 1.** 38-33.3-106.5 (1) (c) (I), (1) (d) (II), and (1) (d)  
2 (IV), Colorado Revised Statutes, are amended to read:

3           **38-33.3-106.5. Prohibitions contrary to public policy -**  
4 **patriotic and political expression - emergency vehicles - fire**  
5 **prevention - definitions.** (1) Notwithstanding any provision in the  
6 declaration, bylaws, or rules and regulations of the association to the  
7 contrary, an association shall not prohibit any of the following:

8           (c) (I) The display of a political sign by a unit owner on that unit  
9 owner's property or in a window of the unit owner's residence; except that  
10 an association may prohibit the display of political signs earlier than  
11 forty-five days before the day of an election and later than seven days  
12 after an election day. An association may regulate the size and number  
13 of political signs that may be placed on a unit owner's property if the  
14 association's regulation is no more restrictive than any applicable city,  
15 town, or county ordinance that regulates the size and number of political  
16 signs on residential property. If the city, town, or county in which the  
17 property is located does not regulate the size and number of political signs  
18 on residential property, the association shall permit at least one political  
19 sign NO LARGER THAN THIRTY-SIX INCHES BY FORTY-EIGHT INCHES per  
20 political office or ballot issue that is contested in a pending election, with  
21 ~~the maximum dimensions of thirty-six inches by forty-eight inches;~~ on a  
22 unit owner's property.

23           (d) The parking of a motor vehicle by a unit owner on a street,  
24 driveway, or guest parking area in the common interest community if the  
25 vehicle is required to be available at designated periods at the unit  
26 owner's residence as a condition of the unit owner's employment and all  
27 of the following criteria are met:

1 (II) The unit owner is a bona fide member of a volunteer fire  
2 department or is employed by ~~an emergency service provider, as defined~~  
3 ~~in section 29-11-101 (1.6), C.R.S.~~ A PRIMARY PROVIDER OF EMERGENCY  
4 FIRE FIGHTING, LAW ENFORCEMENT, AMBULANCE, OR EMERGENCY  
5 MEDICAL SERVICES;

6 (IV) Parking of the vehicle can be accomplished without  
7 obstructing emergency access or interfering with the reasonable needs of  
8 other unit owners to use streets, ~~and~~ driveways, AND GUEST PARKING  
9 SPACES within the common interest community.

10 **SECTION 2.** 38-33.3-123 (1) (c), Colorado Revised Statutes, is  
11 amended to read:

12 **38-33.3-123. Enforcement - limitation.** (1) (c) ~~For each claim~~  
13 ~~or defense, including but not limited to counterclaims, cross-claims, and~~  
14 ~~third-party claims, and except as otherwise provided in paragraph (d) of~~  
15 ~~this subsection (1);~~ In any legal proceeding CIVIL ACTION to enforce or  
16 defend the provisions of this article or of the declaration, bylaws, articles,  
17 or rules and regulations, the court shall award ~~to the party prevailing on~~  
18 ~~such claim the prevailing party's reasonable collection costs and attorney~~  
19 ~~fees, and costs, incurred in asserting or defending the claim~~ AND COSTS  
20 OF COLLECTION TO THE PREVAILING PARTY.

21 **SECTION 3.** 38-33.3-124 (1), Colorado Revised Statutes, is  
22 amended to read:

23 **38-33.3-124. Legislative declaration - alternative dispute**  
24 **resolution encouraged - policy statement required.** (1) (a) The  
25 general assembly finds and declares that the cost, complexity, and delay  
26 inherent in court proceedings make litigation a particularly inefficient  
27 means of resolving neighborhood disputes. Therefore, common interest

1 communities are encouraged to adopt protocols that make use of  
2 mediation or arbitration as alternatives to, or preconditions upon, the  
3 filing of a complaint between a unit owner and association in situations  
4 that do not involve an imminent threat to the peace, health, or safety of  
5 the community.

6 (b) EACH ASSOCIATION SHALL ADOPT A WRITTEN POLICY SETTING  
7 FORTH ITS PROCEDURE FOR ADDRESSING DISPUTES ARISING BETWEEN THE  
8 ASSOCIATION AND UNIT OWNERS. THE ASSOCIATION SHALL MAKE A COPY  
9 OF THIS POLICY AVAILABLE TO UNIT OWNERS UPON REQUEST.

10 **SECTION 4.** 38-33.3-209.4 (2) (e), Colorado Revised Statutes,  
11 is amended, and the said 38-33.3-209.4 (2) is further amended BY THE  
12 ADDITION OF A NEW PARAGRAPH, to read:

13 **38-33.3-209.4. Public disclosures required - identity of**  
14 **association - agent - manager - contact information.** (2) Within ninety  
15 days after assuming control from the declarant pursuant to section  
16 38-33.3-303 (5), and within ninety days after the end of each fiscal year  
17 thereafter, the association shall make the following information available  
18 to unit owners upon reasonable notice in accordance with subsection (3)  
19 of this section:

20 (e) The results of ~~any~~ ITS MOST RECENT AVAILABLE financial audit  
21 or review; ~~for the fiscal year immediately preceding the current annual~~  
22 ~~disclosure;~~

23 (j) A LIST OF THE ASSOCIATION'S INSURANCE AND MAINTENANCE  
24 RESPONSIBILITIES RELATED TO THE COMMON ELEMENTS, LIMITED COMMON  
25 ELEMENTS, UNITS, OWNERS' PROPERTY, AND OWNERS' PERSONAL LIABILITY  
26 WITHIN UNITS. SUCH LIST SHALL STATE THAT UNIT OWNERS ARE  
27 RESPONSIBLE FOR DETERMINING WHAT ADDITIONAL INDIVIDUAL

1 INSURANCE COVERAGE MUST BE CARRIED TO COVER INSURANCE  
2 RESPONSIBILITIES NOT COVERED BY THE ASSOCIATION'S INSURANCE  
3 POLICIES.

4 **SECTION 5.** 38-33.3-209.5 (1) (a), (1) (b) (VI), and (1) (b) (VII),  
5 Colorado Revised Statutes, are amended, and the said 38-33.3-209.5 (1)  
6 (b) is further amended BY THE ADDITION OF A NEW  
7 SUBPARAGRAPH, to read:

8 **38-33.3-209.5. Responsible governance policies.** (1) To  
9 promote responsible governance, associations shall:

10 (a) Maintain ACCURATE AND COMPLETE accounting records using  
11 ~~generally accepted accounting principles~~ ON A CASH OR MODIFIED  
12 ACCRUAL BASIS IN ACCORDANCE WITH SECTION 38-33.3-303 (4) (b); and

13 (b) Adopt policies, procedures, and rules and regulations  
14 concerning:

15 (VI) Investment of reserve funds; and

16 (VII) Procedures for the adoption and amendment of policies,  
17 procedures, and rules; AND

18 (VIII) PROCEDURES FOR ADDRESSING DISPUTES ARISING BETWEEN  
19 THE ASSOCIATION AND UNIT OWNERS.

20 **SECTION 6.** 38-33.3-217 (1) and (4), Colorado Revised Statutes,  
21 are amended to read:

22 **38-33.3-217. Amendment of declaration.** (1) (a) Except in  
23 cases of amendments that may be executed by a declarant under section  
24 38-33.3-205 (4) and (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210,  
25 or 38-33.3-222, by an association under section 38-33.3-107, 38-33.3-206  
26 (4), 38-33.3-208 (2), 38-33.3-212, 38-33.3-213, or 38-33.3-218 (11) and  
27 (12), or by the district court for any county that includes all or any portion

1 of a common interest community under subsection (7) of this section, and  
2 except as limited by subsection (4) of this section, the declaration,  
3 including the plats and maps, may be amended only by the affirmative  
4 vote or agreement of unit owners of units to which more than fifty percent  
5 of the votes in the association are allocated or any larger percentage, not  
6 to exceed sixty-seven percent, that the declaration specifies. Any  
7 provision in the declaration that purports to specify a percentage larger  
8 than sixty-seven percent is hereby declared void as contrary to public  
9 policy, and until amended, such provision shall be deemed to specify a  
10 percentage of sixty-seven percent. The declaration may specify a smaller  
11 percentage than a simple majority only if all of the units are restricted  
12 exclusively to nonresidential use. NOTHING IN THIS PARAGRAPH (a)  
13 SHALL BE CONSTRUED TO PROHIBIT THE ASSOCIATION FROM SEEKING A  
14 COURT ORDER, IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION, TO  
15 REDUCE THE REQUIRED PERCENTAGE TO LESS THAN SIXTY-SEVEN  
16 PERCENT.

17 (b) (I) If the declaration requires first mortgagees to approve or  
18 consent to amendments, BUT DOES NOT SET FORTH A PROCEDURE FOR  
19 REGISTRATION OR NOTIFICATION OF FIRST MORTGAGEES, the association  
20 ~~shall~~ MAY:

21 (A) Send a dated, written notice and a copy of any proposed  
22 amendment by certified mail to each first mortgagee at its most recent  
23 address as shown on the recorded deed of trust or recorded assignment  
24 thereof; AND

25 (B) ~~In addition, the association shall~~ Cause the dated notice,  
26 together with information on how to obtain a copy of the proposed  
27 amendment, to be printed in full at least twice, on separate occasions at

1 least one week apart, in a newspaper of general circulation in the county  
2 in which the common interest community is located.

3 (II) A first mortgagee that does not deliver to the association a  
4 negative response within sixty days after the date of the notice SPECIFIED  
5 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) shall be deemed to have  
6 approved the proposed amendment.

7 (III) THE NOTIFICATION PROCEDURE SET FORTH IN THIS  
8 PARAGRAPH (b) IS NOT MANDATORY. IF THE CONSENT OF FIRST  
9 MORTGAGEES IS OBTAINED WITHOUT RESORT TO THIS PARAGRAPH (b), AND  
10 OTHERWISE IN ACCORDANCE WITH THE DECLARATION, THE NOTICE TO  
11 FIRST MORTGAGEES SHALL BE CONSIDERED SUFFICIENT.

12 (4) (a) Except to the extent expressly permitted or required by  
13 other provisions of this article, no amendment may create or increase  
14 special declarant rights, increase the number of units, or change the  
15 boundaries of any unit or the allocated interests of a unit in the absence  
16 of a vote or agreement of unit owners of units to which at least  
17 sixty-seven percent of the votes in the association, including sixty-seven  
18 percent of the votes allocated to units not owned by a declarant, are  
19 allocated or any larger percentage the declaration specifies. The  
20 declaration may specify a smaller percentage only if all of the units are  
21 restricted exclusively to nonresidential use.

22 (b) THE SIXTY-SEVEN-PERCENT MAXIMUM PERCENTAGE STATED IN  
23 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO  
24 ANY COMMON INTEREST COMMUNITY IN WHICH ONE UNIT OWNER, BY  
25 VIRTUE OF THE DECLARATION, BYLAWS, OR OTHER GOVERNING  
26 DOCUMENTS OF THE ASSOCIATION, IS ALLOCATED MORE THAN  
27 SIXTY-SEVEN PERCENT OF THE VOTES IN THE ASSOCIATION.

1           **SECTION 7.** 38-33.3-223 (2), Colorado Revised Statutes, is  
2 amended to read:

3           **38-33.3-223. Sale of unit - disclosure to buyer.** (2) (a) The  
4 association shall use its best efforts to accommodate a request by the  
5 seller for documents that are within the association's control, in  
6 accordance with section 38-33.3-317.

7           (b) THE ASSOCIATION SHALL ENSURE THAT THE DECLARATION AND  
8 COVENANTS, AND ANY AMENDMENTS THERETO, ARE RECORDED IN THE  
9 LAND RECORDS OF THE COUNTY IN WHICH THE COMMON INTEREST  
10 COMMUNITY IS LOCATED AND SHALL PROVIDE THE RECORDING DATE,  
11 RECEPTION NUMBER, BOOK AND PAGE, AND OTHER IDENTIFYING  
12 INFORMATION TO ANY PERSON UPON REQUEST.

13           **SECTION 8.** 38-33.3-303 (4) (b), Colorado Revised Statutes, is  
14 amended to read:

15           **38-33.3-303. Executive board members and officers - powers**  
16 **and duties - audit.** (4) (b) (I) AT THE DISCRETION OF THE EXECUTIVE  
17 BOARD OR UPON REQUEST PURSUANT TO SUBPARAGRAPH (II) OR (III) OF  
18 THIS PARAGRAPH (b) AS APPLICABLE, the books and records of the  
19 association shall be subject to an audit, using generally accepted auditing  
20 standards, or a review, using statements on standards for accounting and  
21 review services, ~~at least once every two years~~ by a person selected by the  
22 ~~executive~~ board. Such person need not be a certified public accountant  
23 except in the case of an audit. THE AUDIT OR REVIEW IS TO BE PREPARED  
24 USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, INCORPORATING  
25 THE ACCRUAL BASIS OF ACCOUNTING, OR USING OTHER ACCOUNTING  
26 PRINCIPLES, WHICH SHALL BE LIMITED TO THE CASH BASIS OF ACCOUNTING  
27 OR THE MODIFIED ACCRUAL BASIS OF ACCOUNTING.

1           (II) An audit shall be required under this paragraph (b) only when  
2 both of the following conditions are met:

3           (A) The association has annual revenues or expenditures of at  
4 least two hundred fifty thousand dollars; and

5           (B) An audit is requested by the owners of at least one-third of the  
6 units represented by the association.

7           (III) A REVIEW SHALL BE REQUIRED UNDER THIS PARAGRAPH (b)  
8 ONLY WHEN REQUESTED BY THE OWNERS OF AT LEAST ONE-THIRD OF THE  
9 UNITS REPRESENTED BY THE ASSOCIATION.

10          ~~(HH)~~ (IV) Copies of an audit or review under this paragraph (b)  
11 shall be made available upon request to any unit owner beginning no later  
12 than thirty days after its completion.

13          ~~(IV)~~ (V) Notwithstanding section 38-33.3-117 (1.5) (h), this  
14 paragraph (b) shall not apply to an association that includes time-share  
15 units, as defined in section 38-33-110 (7).

16          **SECTION 9.** 38-33.3-308 (1), (2.5) (a), and (2.5) (b), Colorado  
17 Revised Statutes, are amended to read:

18          **38-33.3-308. Meetings.** (1) Meetings of the unit owners, as the  
19 members of the association, shall be held at least once each year. Special  
20 meetings of the unit owners may be called by the president, by a majority  
21 of the executive board, or by unit owners having twenty percent, or any  
22 lower percentage specified in the bylaws, of the votes in the association.  
23 Not less than ten nor more than fifty days in advance of any meeting of  
24 the unit owners, the secretary or other officer specified in the bylaws shall  
25 cause notice to be hand delivered or sent prepaid by United States mail to  
26 the mailing address of each unit or to any other mailing address  
27 designated in writing by the unit owner. The notice of any meeting OF

1 THE UNIT OWNERS shall be physically posted in a conspicuous place, to  
2 the extent that such posting is feasible and practicable, in addition to any  
3 electronic posting or electronic mail notices that may be given pursuant  
4 to paragraph (b) of subsection (2) of this section. The notice shall state  
5 the time and place of the meeting and the items on the agenda, including  
6 the general nature of any proposed amendment to the declaration or  
7 bylaws, any budget changes, and any proposal to remove an officer or  
8 member of the executive board.

9 (2.5)(a) Notwithstanding any provision in the declaration, bylaws,  
10 or other documents to the contrary, all meetings of the association and  
11 board of directors are open to every unit owner of the association, or to  
12 any person designated by a unit owner in writing as the unit owner's  
13 representative. ~~and all unit owners or designated representatives so~~  
14 ~~desiring shall be permitted to attend, listen, and speak at an appropriate~~  
15 ~~time during the deliberations and proceedings, except that, for regular and~~  
16 ~~special meetings of the board, unit owners who are not board members~~  
17 ~~may not participate in any deliberation or discussion unless expressly so~~  
18 ~~authorized by a vote of the majority of a quorum of the board.~~

19 (b) AT AN APPROPRIATE TIME DETERMINED BY THE BOARD, BUT  
20 BEFORE THE BOARD VOTES ON AN ISSUE UNDER DISCUSSION, UNIT OWNERS  
21 OR THEIR DESIGNATED REPRESENTATIVES SHALL BE PERMITTED TO SPEAK  
22 REGARDING THAT ISSUE. The board may place reasonable time  
23 restrictions on those persons speaking during the meeting. ~~but shall~~  
24 ~~permit a unit owner or a unit owner's designated representative to speak~~  
25 ~~before the board takes formal action on an item under discussion, in~~  
26 ~~addition to any other opportunities to speak.~~ IF MORE THAN ONE PERSON  
27 DESIRES TO ADDRESS AN ISSUE AND THERE ARE OPPOSING VIEWS, the board

1 shall provide for a reasonable number of persons to speak on each side of  
2 an THE issue.

3 **SECTION 10.** 38-33.3-310 (1) (b) (I), Colorado Revised Statutes,  
4 is amended, and the said 38-33.3-310 (1) (b) is further amended BY THE  
5 ADDITION OF A NEW SUBPARAGRAPH, to read:

6 **38-33.3-310. Voting - proxies.** (1) (b) (I) Votes for CONTESTED  
7 positions on the executive board shall be taken by secret ballot. and AT  
8 THE DISCRETION OF THE BOARD OR upon the request of ~~one or more~~  
9 TWENTY PERCENT OF THE unit owners WHO ARE PRESENT AT THE MEETING  
10 OR REPRESENTED BY PROXY, IF A QUORUM HAS BEEN ACHIEVED, a vote on  
11 any other matter affecting the common interest community on which all  
12 unit owners are entitled to vote shall be by secret ballot. Ballots shall be  
13 counted by a ~~neutral third party or by a unit owner who is not a candidate,~~  
14 ~~who attends the meeting at which the vote is held, and who is selected at~~  
15 ~~random from a pool of two or more such unit owners~~ COMMITTEE OF UNIT  
16 OWNERS WHO ARE NOT CANDIDATES AND NOT BOARD MEMBERS. THE  
17 COMMITTEE SHALL CONSIST OF VOLUNTEERS SELECTED OR APPOINTED AT  
18 THE MEETING, IN A FAIR MANNER, BY THE CHAIR OF THE BOARD OR  
19 ANOTHER PERSON PRESIDING DURING THAT PORTION OF THE MEETING.  
20 The results of ~~the~~ A vote TAKEN BY SECRET BALLOT shall be reported  
21 without reference to names, addresses, or other identifying information.

22 (III) THIS PARAGRAPH (b) SHALL NOT APPLY TO AN ASSOCIATION  
23 WHOSE GOVERNING DOCUMENTS PROVIDE FOR ELECTION OF POSITIONS ON  
24 THE EXECUTIVE BOARD BY DELEGATES ON BEHALF OF THE UNIT OWNERS.

25 **SECTION 11.** 38-33.3-310.5, Colorado Revised Statutes, is  
26 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

27 **38-33.3-310.5. Executive board - definitions - conflicting**

1 **interest transactions. (1) AS USED IN THIS SECTION:**

2 (a) "CONFLICTING INTEREST TRANSACTION" MEANS A CONTRACT,  
3 TRANSACTION, OR OTHER FINANCIAL RELATIONSHIP BETWEEN THE  
4 ASSOCIATION AND A DIRECTOR, OR BETWEEN THE ASSOCIATION AND A  
5 PARTY RELATED TO A DIRECTOR, OR BETWEEN THE ASSOCIATION AND AN  
6 ENTITY IN WHICH A DIRECTOR OF THE ASSOCIATION IS A DIRECTOR OR  
7 OFFICER OR HAS A FINANCIAL INTEREST.

8 (b) "DIRECTOR" MEANS A MEMBER OF THE ASSOCIATION'S  
9 EXECUTIVE BOARD.

10 (c) "PARTY RELATED TO A DIRECTOR" SHALL MEAN A SPOUSE, A  
11 DESCENDANT, AN ANCESTOR, A SIBLING, THE SPOUSE OR DESCENDANT OF  
12 A SIBLING, AN ESTATE OR TRUST IN WHICH THE DIRECTOR OR A PARTY  
13 RELATED TO A DIRECTOR HAS A BENEFICIAL INTEREST, OR AN ENTITY IN  
14 WHICH A PARTY RELATED TO A DIRECTOR IS A DIRECTOR OR OFFICER OR  
15 HAS A FINANCIAL INTEREST.

16 (2) NO LOANS SHALL BE MADE BY THE ASSOCIATION TO ITS  
17 DIRECTORS OR OFFICERS. ANY DIRECTOR OR OFFICER WHO ASSENTS TO OR  
18 PARTICIPATES IN THE MAKING OF ANY SUCH LOAN SHALL BE LIABLE TO THE  
19 ASSOCIATION FOR THE AMOUNT OF THE LOAN UNTIL THE LOAN IS REPAYED.

20 (3) NO CONFLICTING INTEREST TRANSACTION SHALL BE VOID OR  
21 VOIDABLE OR BE ENJOINED, SET ASIDE, OR GIVE RISE TO AN AWARD OF  
22 DAMAGES OR OTHER SANCTIONS IN A PROCEEDING BY A UNIT OWNER OR  
23 BY OR IN THE RIGHT OF THE ASSOCIATION SOLELY BECAUSE THE  
24 CONFLICTING INTEREST TRANSACTION INVOLVES A DIRECTOR, A PARTY  
25 RELATED TO A DIRECTOR, OR AN ENTITY IN WHICH A DIRECTOR OF THE  
26 ASSOCIATION IS A DIRECTOR OR OFFICER OR HAS A FINANCIAL INTEREST;  
27 SOLELY BECAUSE THE DIRECTOR IS PRESENT AT OR PARTICIPATES IN THE

1 MEETING OF THE EXECUTIVE BOARD OR OF THE COMMITTEE OF THE BOARD  
2 THAT AUTHORIZES, APPROVES, OR RATIFIES THE CONFLICTING INTEREST  
3 TRANSACTION; OR SOLELY BECAUSE THE DIRECTOR'S VOTE IS COUNTED  
4 FOR SUCH PURPOSE, IF:

5 (a) THE MATERIAL FACTS AS TO THE DIRECTOR'S RELATIONSHIP OR  
6 INTEREST AND AS TO THE CONFLICTING INTEREST TRANSACTION ARE  
7 DISCLOSED OR ARE KNOWN TO THE EXECUTIVE BOARD OR THE COMMITTEE,  
8 AND THE EXECUTIVE BOARD OR COMMITTEE IN GOOD FAITH AUTHORIZES,  
9 APPROVES, OR RATIFIES THE CONFLICTING INTEREST TRANSACTION BY THE  
10 AFFIRMATIVE VOTE OF A MAJORITY OF THE DISINTERESTED DIRECTORS,  
11 EVEN THOUGH THE DISINTERESTED DIRECTORS ARE LESS THAN A QUORUM;

12 (b) THE MATERIAL FACTS AS TO THE DIRECTOR'S RELATIONSHIP OR  
13 INTEREST AND AS TO THE CONFLICTING INTEREST TRANSACTION ARE  
14 DISCLOSED OR ARE KNOWN TO THE UNIT OWNERS ENTITLED TO VOTE ON  
15 THE ISSUE, AND THE CONFLICTING INTEREST TRANSACTION IS  
16 SPECIFICALLY AUTHORIZED, APPROVED, OR RATIFIED IN GOOD FAITH BY A  
17 VOTE OF THE UNIT OWNERS ENTITLED TO VOTE ON THE ISSUE; OR

18 (c) THE CONFLICTING INTEREST TRANSACTION IS FAIR AS TO THE  
19 ASSOCIATION.

20 (4) COMMON OR INTERESTED DIRECTORS MAY BE COUNTED IN  
21 DETERMINING THE PRESENCE OF A QUORUM AT A MEETING OF THE  
22 EXECUTIVE BOARD OR OF A COMMITTEE THAT AUTHORIZES, APPROVES, OR  
23 RATIFIES THE CONFLICTING INTEREST TRANSACTION.

24 **SECTION 12.** 10-4-110.8 (5), Colorado Revised Statutes, is  
25 amended to read:

26 **10-4-110.8. Homeowner's insurance - prohibited practices -**  
27 **definitions.** (5) (a) In a common interest community, as defined in

1 section 38-33.3-103 (8), C.R.S., a unit owner may file a claim against the  
2 policy of the unit owner's association to the same extent, and with the  
3 same effect, as if the unit owner were ~~an additional~~ A named insured IF  
4 THE FOLLOWING CONDITIONS ARE MET:

5 (I) THE UNIT OWNER HAS CONTACTED THE EXECUTIVE BOARD OR  
6 THE ASSOCIATION'S MANAGING AGENT IN WRITING, AND IN ACCORDANCE  
7 WITH ANY APPLICABLE ASSOCIATION POLICIES OR PROCEDURES FOR  
8 OWNER-INITIATED INSURANCE CLAIMS, REGARDING THE SUBJECT MATTER  
9 OF THE CLAIM;

10 (II) THE UNIT OWNER HAS GIVEN THE ASSOCIATION AT LEAST  
11 FIFTEEN DAYS TO RESPOND IN WRITING, AND, IF SO REQUESTED, HAS GIVEN  
12 THE ASSOCIATION'S AGENT A REASONABLE OPPORTUNITY TO INSPECT THE  
13 DAMAGE; AND

14 (III) THE SUBJECT MATTER OF THE CLAIM FALLS WITHIN THE  
15 ASSOCIATION'S INSURANCE RESPONSIBILITIES AS DEFINED BY THE  
16 DECLARATION OR LISTED PURSUANT TO SECTION 38-33.3-209.4 (2) (j),  
17 C.R.S.

18 (b) THE ASSOCIATION'S INSURER, WHEN DETERMINING PREMIUMS  
19 TO BE CHARGED TO THE ASSOCIATION, SHALL NOT TAKE INTO ACCOUNT  
20 ANY REQUEST BY A UNIT OWNER FOR A CLARIFICATION OF COVERAGE.

21 **SECTION 13. Safety clause.** The general assembly hereby finds,  
22 determines, and declares that this act is necessary for the immediate  
23 preservation of the public peace, health, and safety.