

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVE Ricks

1 Amend the Judiciary Committee Report, dated February 25, 2025, strike
2 pages 1 through 3 and substitute:

3 "Amend printed bill, strike everything below the enacting clause and
4 substitute:

5 "SECTION 1. In Colorado Revised Statutes, **repeal and reenact,**
6 **with amendments,** 38-33.3-124 as follows:

7 **38-33.3-124. Mandatory alternative dispute resolution -**
8 **purpose - legislative declaration - definitions.** (1) THE GENERAL
9 ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS SECTION IS TO
10 PROVIDE AN EFFICIENT, FAIR, AND COST-EFFECTIVE PROCESS FOR
11 RESOLVING DISPUTES BETWEEN A UNIT OWNER AND A UNIT OWNERS'
12 ASSOCIATION, WHILE PRESERVING THE INTEGRITY OF COMMUNITY
13 RELATIONS AND MINIMIZING THE BURDEN ON THE JUDICIAL SYSTEM.

14 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "DISPUTE" MEANS ANY CONFLICT, CONTROVERSY, OR
17 DISAGREEMENT BETWEEN A UNIT OWNER AND A UNIT OWNERS'
18 ASSOCIATION.

19 (b) "MEDIATION" HAS THE SAME MEANING AS SET FORTH IN
20 SECTION 13-22-302.

21 (3) A DISPUTE BETWEEN A UNIT OWNER AND A UNIT OWNERS'
22 ASSOCIATION MUST UNDERGO AN INFORMAL NEGOTIATION PURSUANT TO
23 SUBSECTION (4) OF THIS SECTION AND, IF UNSUCCESSFUL, MEDIATION
24 AFTER FILING A LAWSUIT UNLESS MEDIATION HAS ALREADY BEEN
25 ATTEMPTED.

26 (4) (a) IN THE EVENT OF A DISPUTE, EITHER PARTY MAY REQUEST
27 AN INFORMAL NEGOTIATION TO RESOLVE THE DISPUTE.

28 (b) AFTER A PARTY REQUESTS AN INFORMAL NEGOTIATION, THE
29 UNIT OWNERS' ASSOCIATION SHALL SUBMIT A WRITTEN NOTICE TO THE
30 UNIT OWNER. THE WRITTEN NOTICE MUST INCLUDE:

31 (I) A BRIEF DESCRIPTION OF THE DISPUTE BETWEEN THE PARTIES;

32 (II) A REQUIREMENT THAT THE UNIT OWNER MEET WITH THE UNIT
33 OWNERS' ASSOCIATION WITHIN SIXTY DAYS OF RECEIVING THE NOTICE;
34 AND

35 (III) A COPY OF THIS SECTION.

36 (c) SERVICE OF THE NOTICE DESCRIBED IN SUBSECTION (4)(b) OF
37 THIS SECTION MUST BE MADE BY CERTIFIED MAIL, RETURN RECEIPT
38 REQUESTED.

1 (d) THE INFORMAL NEGOTIATION DESCRIBED IN THIS SUBSECTION
2 (4) MUST TAKE PLACE AT A REGULARLY SCHEDULED UNIT OWNERS'
3 ASSOCIATION BOARD MEETING IN EXECUTIVE SESSION, OR, IF THERE IS NOT
4 A MEETING SCHEDULED WITHIN SIXTY DAYS FOLLOWING DELIVERY OF THE
5 WRITTEN NOTICE, AT A SPECIAL UNIT OWNERS' ASSOCIATION BOARD
6 MEETING IN EXECUTIVE SESSION DURING THAT SIXTY-DAY PERIOD TO
7 INFORMALLY NEGOTIATE A RESOLUTION OF THE DISPUTE.
8 COMMUNICATIONS DURING THE UNIT OWNERS' ASSOCIATION BOARD
9 MEETING DURING THE INFORMAL NEGOTIATION ARE CONFIDENTIAL AND
10 PROTECTED COMMUNICATIONS CONSISTENT WITH RULE 408 OF THE
11 COLORADO RULES OF EVIDENCE AND SECTION 13-22-307. THE PORTION OF
12 THE UNIT OWNERS' ASSOCIATION BOARD MEETING IN WHICH AN INFORMAL
13 NEGOTIATION TAKES PLACE MUST BE CLOSED TO ANYONE WHO IS NOT A
14 PARTY TO THE DISPUTE THAT IS THE SUBJECT OF THE INFORMAL
15 NEGOTIATION.

16 (e) FOR DISPUTES GOVERNED BY THE DISPUTE RESOLUTION
17 PROCESS DESCRIBED IN SECTION 38-33.3-209.5 (1.7), THE INFORMAL
18 NEGOTIATION MUST TAKE PLACE PURSUANT TO THE PROCESS DESCRIBED
19 IN SECTION 38-33.3-209.5 (1.7) PRIOR TO FILING A COMPLAINT IN COURT.

20 (f) A PROVISION OF AN AGREEMENT ENTERED INTO BETWEEN THE
21 PARTIES THAT RESOLVES THE DISPUTE IS NOT A WAIVER OF A COVENANT
22 OR ENFORCEMENT RIGHT BY THE ASSOCIATION IN ANOTHER MATTER.

23 (g) EITHER PARTY MAY BE REPRESENTED BY AN ATTORNEY AT THE
24 INFORMAL NEGOTIATION AT THE PARTY'S OWN EXPENSE.

25 (5) (a) IN THE EVENT THAT THE DISPUTE IS NOT RESOLVED
26 THROUGH INFORMAL NEGOTIATION AS REQUIRED IN SUBSECTION (4) OF
27 THIS SECTION, EITHER PARTY MAY FILE A COMPLAINT IN A COURT OF
28 COMPETENT JURISDICTION. ONCE A COMPLAINT IS FILED, BUT BEFORE AN
29 ANSWER OR OTHER RESPONSIVE MOTION IS FILED, THE COURT SHALL
30 ORDER MEDIATION UNLESS THE PARTIES HAVE ATTEMPTED VOLUNTARY
31 MEDIATION ON ISSUES IDENTIFIED IN THE COMPLAINT WITHIN NINETY DAYS
32 PRIOR TO THE DATE THE COMPLAINT IS FILED. THE COST OF MEDIATION
33 MUST BE EQUALLY SHARED BY THE PARTIES.

34 (b) THIS SUBSECTION (5) DOES NOT PRECLUDE THE PARTIES FROM
35 VOLUNTARILY TAKING PART IN MEDIATION BEFORE FILING WITH A COURT
36 OF COMPETENT JURISDICTION IF THE PARTIES ARE UNABLE TO REACH A
37 RESOLUTION THROUGH AN INFORMAL NEGOTIATION PURSUANT TO
38 SUBSECTION (4) OF THIS SECTION.

39 (6) THIS SECTION DOES NOT APPLY TO A DISPUTE INVOLVING A
40 REASONABLE THREAT OF IMMEDIATE INJURY, HARM, OR DAMAGE TO A
41 PERSON OR PROPERTY.

42 (7) A UNIT OWNERS' ASSOCIATION SHALL ANNUALLY PROVIDE A
43 COPY OF THIS SECTION TO EACH OF ITS UNIT OWNERS.

1 (8) A UNIT OWNERS' ASSOCIATION MUST UPDATE THE
2 ASSOCIATION'S WRITTEN POLICIES TO COMPLY WITH THE REQUIREMENTS
3 OF THIS SECTION AND PROVIDE A COPY OF THE UPDATED WRITTEN POLICY
4 TO ITS UNIT OWNERS WITHIN FOURTEEN DAYS AFTER UPDATING THE
5 WRITTEN POLICIES.

6 **SECTION 2. Safety clause.** The general assembly finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety or for appropriations for
9 the support and maintenance of the departments of the state and state
10 institutions."."

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