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## Civil Law

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During the 2017 legislative session, the General Assembly considered measures related to construction defects, music performance contracts, property transfers, trusts, and the Right to Rest.

### Construction Defects

*House Bill 17-1279* imposes certain requirements on the executive board of a unit owners' association (HOA) in a common interest community before the HOA initiates a construction defects lawsuit against a developer or builder on behalf of unit owners. Prior to filing the lawsuit, the HOA must: notify all unit owners of the HOA and the builder(s) of the development of any plans to bring a construction defect lawsuit; convene a meeting for the board and the developer to present relevant facts and arguments to HOA unit owners; and obtain the approval of a majority of the unit owners. The bill also specifies information that HOAs must provide to the unit owners and other parties, and sets deadlines for certain actions related to the lawsuit.

The General Assembly considered other bills relating to construction defects that did not become law. *House Bill 17-1169* would have required a builder to offer a claimant monetary compensation for lodging and storage if the claimant would be required to vacate the property while the builder remedies a defect. *Senate Bill 17-155* redefined the term "construction defect" and *Senate Bill 17-157* made requirements of HOAs similar to those in HB 17-1279, discussed above, before filing

a lawsuit. *Senate Bill 17-156* would have required HOAs to enter into mediation or arbitration with a development party before a construction defects lawsuit could be filed.

### Music Performance Agreements

A performing rights society is an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners. *House Bill 17-1092* changes state laws governing contracts between performing rights societies and proprietors of retail venues that host performances or broadcast music for public enjoyment. The bill changes the timeframes for consideration of such a contract, and raises the minimum damages for violating laws covering performing rights societies. The bill also requires performing rights societies to make certain information public and accessible, including information regarding licensing contracts, royalty fees, and musical works to which the society holds a license.

### Property and Deeds

Under prior law, a conveyance of property by warranty deed carried the presumption that a grantor's interest in an adjoining right-of-way is included with the property being conveyed unless it is expressly excluded. *Senate Bill 17-097* broadens this presumption of including interests in adjoining rights-of-way in all types of deeds, deeds of trust, leases, mortgages, and other liens.

### Trusts

Decanting is the process by which the assets from one trust are distributed into a second trust. *Senate Bill 17-124* clarifies decanting rules as they pertain to an authorized fiduciary's authority over a grantor trust, specifically, that an authorized fiduciary may not exercise decanting power between two trusts if the first trust grants the settlor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant the same authority.

*House Bill 17-1280* amends the definition of a disability trust so that the beneficiary of a disability trust can be the person who established the trust.

### Right to Rest Legislation

*House Bill 17-1314* would have created the Colorado Right to Rest Act. The bill would have established rights concerning the use of public space for people experiencing homelessness. The bill defined "public space" to include any property owned or leased by a state or local government, or any property with an easement for public use. This definition only applied to enclosed buildings during hours that building is open to the public. The bill was postponed indefinitely by the House Local Government Committee.