

## CHAPTER 93

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**PROPERTY**


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**HOUSE BILL 22-1040**

BY REPRESENTATIVE(S) Rich and Hooton, Jodeh, Kipp, Lontine, Sirota, Titone, Weissman;  
also SENATOR(S) Story and Holbert, Buckner, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Priola.

**AN ACT**

**CONCERNING THE RIGHT OF UNIT OWNERS IN COMMON INTEREST COMMUNITIES TO HAVE  
REASONABLE ACCESS TO COMMON ELEMENTS OF SUCH COMMUNITIES.**

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

**SECTION 1.** In Colorado Revised Statutes, 38-33.3-302, **amend** (1)(f) as follows:

**38-33.3-302. Powers of unit owners' association.** (1) Except as provided in subsections (2) and (3) of this section, and subject to the provisions of the declaration, the association, without specific authorization in the declaration, may:

(f) Regulate the use, maintenance, repair, replacement, and modification of common elements; EXCEPT THAT, IN REGULATING THE USE OF COMMON ELEMENTS BY UNIT OWNERS, THE ASSOCIATION SHALL COMPLY WITH SECTION 38-33.3-302.5, INCLUDING DURING THE MAINTENANCE, REPAIR, REPLACEMENT, OR MODIFICATION OF A COMMON ELEMENT;

**SECTION 2.** In Colorado Revised Statutes, **add** 38-33.3-302.5 as follows:

**38-33.3-302.5. Unit owners' access to common elements - duties of association - unreasonable restrictions and prohibitions prohibited - notice of restriction or prohibition required.** (1) IN REGULATING THE USE OF COMMON ELEMENTS, AS PERMITTED BY SECTION 38-33.3-302 (1)(f), AN ASSOCIATION SHALL PRESERVE AND PROTECT UNIT OWNERS' ABILITY TO USE AND ENJOY COMMON ELEMENTS AND SHALL NOT UNREASONABLY RESTRICT OR PROHIBIT UNIT OWNERS' ACCESS TO, OR ENJOYMENT OF, ANY COMMON ELEMENT, INCLUDING DURING THE MAINTENANCE, REPAIR, REPLACEMENT, OR MODIFICATION OF A COMMON ELEMENT.

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(2) DURING MAINTENANCE, REPAIR, REPLACEMENT, OR MODIFICATION OF A COMMON ELEMENT, AN ASSOCIATION MAY RESTRICT OR PROHIBIT UNIT OWNERS' ACCESS TO, AND ENJOYMENT OF, THE COMMON ELEMENT ONLY TO THE EXTENT AND FOR THE LENGTH OF TIME NECESSARY TO:

(a) PROTECT THE SAFETY OF ANY INDIVIDUALS, INCLUDING UNIT OWNERS AND INDIVIDUALS PERFORMING THE MAINTENANCE, REPAIR, REPLACEMENT, OR MODIFICATION OF THE COMMON ELEMENT; OR

(b) PRESERVE THE STRUCTURAL INTEGRITY OR CONDITION OF A REPAIR, REPLACEMENT, OR MODIFICATION.

(3) IF AN ASSOCIATION MUST RESTRICT OR PROHIBIT UNIT OWNERS' ACCESS TO ONE OR MORE COMMON ELEMENTS OF THE COMMON INTEREST COMMUNITY FOR MORE THAN SEVENTY-TWO HOURS, THE ASSOCIATION SHALL:

(a) PROVIDE AN ELECTRONIC OR WRITTEN NOTICE TO EACH UNIT OWNER, WHICH NOTICE IS PROVIDED AS SOON AS REASONABLY POSSIBLE AND INCLUDES:

(I) A SIMPLE EXPLANATION OF THE REASON FOR THE RESTRICTION OR PROHIBITION;

(II) AN INDICATION OF THE ESTIMATED TIME OR DATE UPON WHICH THE RESTRICTION OR PROHIBITION WILL NO LONGER EXIST; AND

(III) A TELEPHONE NUMBER OR E-MAIL ADDRESS WHEREBY A UNIT OWNER MAY POSE QUESTIONS OR CONCERNS ABOUT THE RESTRICTION OR PROHIBITION FOR THE CONSIDERATION OF THE ASSOCIATION; AND

(b) POST A VISIBLE, CLEARLY LEGIBLE NOTICE AT EACH PHYSICAL ACCESS POINT TO THE COMMON ELEMENT, WHICH NOTICE REMAINS POSTED FOR THE DURATION OF THE RESTRICTION OR PROHIBITION AND INCLUDES THE ELEMENTS DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 38-33.3-307, **add** (4) as follows:

**38-33.3-307. Upkeep of the common interest community.** (4) IN MAINTAINING, REPAIRING, OR REPLACING COMMON ELEMENTS AS REQUIRED BY SUBSECTION (1) OF THIS SECTION, AN ASSOCIATION SHALL COMPLY WITH SECTION 38-33.3-302.5 CONCERNING UNIT OWNERS' ACCESS TO COMMON ELEMENTS.

**SECTION 4.** In Colorado Revised Statutes, 38-33.3-216, **amend** (2) introductory portion as follows:

**38-33.3-216. Easement rights.** (2) In a planned community, subject to the provisions of the declaration and the ability of the association to regulate and convey or encumber the common elements as set forth in sections 38-33.3-302 (1)(f), **38-33.3-302.5**, and 38-33.3-312, the unit owners have an easement:

**SECTION 5. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day

period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to unit owners' associations' regulation of the use of common elements of a common interest community by unit owners and their guests on and after the applicable effective date of this act.

Approved: April 12, 2022