

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0783.01 Jennifer Berman x3286

HOUSE BILL 24-1233

HOUSE SPONSORSHIP

Wilson and Snyder,

SENATE SPONSORSHIP

Roberts and Gardner,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO CERTAIN PROCEDURAL
102 REQUIREMENTS WITH WHICH A UNIT OWNERS' ASSOCIATION
103 MUST COMPLY WHEN SEEKING PAYMENT OF DELINQUENT
104 AMOUNTS OWED BY A UNIT OWNER.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

House Bill 22-1137, enacted in 2022, imposed a number of procedural requirements on unit owners' associations (HOAs) with respect to collecting payments from unit owners with delinquent

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

accounts. The bill changes some of these procedural requirements by:

- Removing a requirement that an HOA physically post notice of a unit owner's delinquent account on the unit owner's unit;
- Reducing the minimum duration of a payment plan that an HOA may enter into with a unit owner for the payment of unpaid fees, fines, or surcharges from 18 months to 12 months;
- Removing the requirement that monthly installments of a payment plan be paid in amounts of at least \$25 until the balance owed is less than \$25; and
- Allowing an HOA to charge a unit owner for the cost of sending notices or documentation by certified mail.

The bill also exempts time share units that are not occupied on a full-time basis from some of the procedural requirements imposed by House Bill 22-1137.

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-33.3-209.5,
3 **amend** (1.7)(a)(I) introductory portion and (7)(a)(II); and **add** (11) and
4 (12) as follows:

5 **38-33.3-209.5. Responsible governance policies - due process**
6 **for imposition of fines - procedure for collection of delinquent**
7 **accounts - enforcement through small claims court - definitions.**

8 (1.7) (a) With regard to a unit owner's delinquency in paying
9 assessments, fines, or fees, an association shall:

10 (I) First contact the unit owner to alert the unit owner of the
11 delinquency before taking action in relation to the delinquency pursuant
12 to subsection (1.7)(a)(II) of this section and shall maintain a record of any
13 ~~contacts~~ CONTACT, including information regarding the type of
14 communication used to contact the unit owner and the date and time that
15 the contact was made. Any ~~contacts~~ CONTACT that a community
16 association manager or a property management company makes on behalf

1 of an association pursuant to this subsection (1.7)(a) is deemed a contact
2 made by the association and not by a debt collector as defined in section
3 5-16-103 (9). A unit owner may identify another person to serve as a
4 designated contact for the unit owner to be contacted on the unit owner's
5 behalf for purposes of this subsection (1.7)(a)(I). A unit owner may also
6 notify the association if the unit owner prefers that correspondence and
7 notices from the association be made in a language other than English. If
8 a preference is not indicated, the association shall send the
9 correspondence and notices in English. The unit owner and the unit
10 owner's designated contact must receive the same correspondence and
11 notices ~~anytime~~ ANY TIME communications are sent out; except that the
12 unit owner must receive the correspondence and notices in the language
13 for which the unit owner has indicated a preference, if any. An
14 association may determine the manner in which a unit owner may identify
15 a designated contact. In contacting the unit owner or a designated contact,
16 an association shall send the same type of notice of delinquency required
17 to be sent pursuant to subsection (5)(a)(V) of this section, including
18 sending it by certified mail, return receipt requested. ~~and physically post~~
19 ~~a copy of the notice of delinquency at the unit owner's unit.~~ In addition,
20 the association shall contact the unit owner by one of the following
21 means:

22 (7) (a) An association shall not commence a legal action to initiate
23 a foreclosure proceeding based on a unit owner's delinquency in paying
24 assessments unless:

25 (II) The association has provided the unit owner with a written
26 offer to enter into a repayment plan pursuant to section 38-33.3-316.3 (2)
27 that authorizes the unit owner to repay the debt in monthly installments

1 over ~~eighteen~~ TWELVE months; ~~Under the repayment plan, the unit owner~~
2 ~~may choose the amount to be paid each month, so long as each payment~~
3 ~~must be in an amount of at least twenty-five dollars until the balance of~~
4 ~~the amount owed is less than twenty-five dollars and~~

5 (11) WITH RESPECT TO ANY NOTICES OR OTHER DOCUMENTATION
6 THAT AN ASSOCIATION SENDS A UNIT OWNER THROUGH CERTIFIED MAIL
7 PURSUANT TO THIS SECTION OR SECTION 38-33.3-316 (8), THE
8 ASSOCIATION MAY CHARGE THE UNIT OWNER AN AMOUNT NOT TO EXCEED
9 THE ACTUAL COST OF THE CERTIFIED MAIL.

10 (12) THIS SECTION, AS AMENDED BY HOUSE BILL 22-1137,
11 ENACTED IN 2022, DOES NOT APPLY TO THE COLLECTION OF DELINQUENT
12 PAYMENTS OF ASSESSMENTS, FINES, OR FEES FROM A UNIT OWNER WHO
13 OWNS A TIME SHARE UNIT, AS DEFINED IN SECTION 38-33-110 (7), THAT IS
14 NOT OCCUPIED BY RESIDENTS ON A FULL-TIME BASIS.

15 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-316.3,
16 **amend** (2) as follows:

17 **38-33.3-316.3. Collections - limitations - violations.** (2) A
18 payment plan negotiated between the association or a holder or assignee
19 of the association's debt, whether the holder or assignee of the
20 association's debt is an entity or a natural person, and the unit owner
21 pursuant to this section must permit the unit owner to pay off the
22 deficiency in equal installments over a period of at least ~~eighteen~~ TWELVE
23 months. Nothing in this section prohibits an association or a holder or
24 assignee of the association's debt from pursuing legal action against a unit
25 owner if the unit owner fails to comply with the terms of the unit owner's
26 payment plan. A unit owner's failure to remit payment of three or more
27 agreed-upon installments pursuant to section 38-33.3-209.5 (7)(a)(III)(B),

1 or to remain current with regular assessments as they come due during the
2 ~~eighteen-month~~ TWELVE-MONTH period, constitutes a failure to comply
3 with the terms of the unit owner's payment plan.

4 **SECTION 3. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly; except that, if a referendum petition is filed pursuant
8 to section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part will not take effect unless approved by the people at the
11 general election to be held in November 2024 and, in such case, will take
12 effect on the date of the official declaration of the vote thereon by the
13 governor.

14 (2) This act applies to notices of delinquency sent and payment
15 plans entered into on or after the applicable effective date of this act.