

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 20, 2024
Date

Committee on Transportation, Housing & Local Government.

After consideration on the merits, the Committee recommends the following:

HB24-1158 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, before line 2 insert:
 - 2 "SECTION 1. In Colorado Revised Statutes, 38-33.3-123, **add**
 - 3 (3) as follows:
 - 4 **38-33.3-123. Enforcement - limitation.** (3) NOTWITHSTANDING
 - 5 ANY LAW TO THE CONTRARY, AS A CONDITION PRECEDENT TO RECOVERING
 - 6 MONEY OR SUMS DUE TO THE ASSOCIATION, COLLECTION COSTS, OR
 - 7 REASONABLE ATTORNEY FEES OR COSTS PURSUANT TO THIS SECTION, THE
 - 8 ASSOCIATION SHALL STRICTLY COMPLY WITH THIS SECTION AND ANY
 - 9 APPLICABLE PROVISIONS OF THIS TITLE 38 OR OTHER APPLICABLE LAW, THE
 - 10 DECLARATION, BYLAWS, ARTICLES, AND RULES AND REGULATIONS."
- 11 Renumber succeeding sections accordingly.
- 12 Page 3, line 22, strike "debt; ~~and~~" and substitute "debt, ~~and~~ WHICH COPY
- 13 OF THE LEDGER MUST BE PROVIDED TO THE UNIT OWNER NO LATER THAN
- 14 THREE BUSINESS DAYS AFTER RECEIPT OF THE UNIT OWNER'S REQUEST";
- 15 Page 4, line 9, before "(12);" insert "(1)(a) and".
- 16 Page 4, line 9, strike "(7)(c) and (8.5)" and substitute "(7)(c), (8.5), and
- 17 (13)".
- 18 Page 4, strike line 11 through 15 and substitute "**charges, costs, and**
- 19 **attorney fees - limitations - definition.** (1) (a) (I) The association, if
- 20 such association is incorporated or organized as a limited liability
- 21 company, has a statutory lien on a unit for any assessment levied against
- 22 that unit or fines imposed against its unit owner. Fees, charges, late

1 charges, attorney fees up to the maximum amount authorized under
2 subsection (7) of this section, fines, and interest charged pursuant to
3 section 38-33.3-302 (1)(j), (1)(k), and (1)(l), section 38-33.3-313 (6), and
4 section 38-33.3-315 (2) may be subject to a statutory lien but are not
5 subject to a foreclosure action under this article 33.3.

6 (II) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES, "ASSESSMENT" MEANS A PAYMENT FOR COMMON EXPENSE
8 OBLIGATIONS OF UNIT OWNERS BASED ON A PERIODIC BUDGET ADOPTED BY
9 THE ASSOCIATION UNDER SECTION 38-33.3-315 (1), OR A PAYMENT FOR
10 LIMITED COMMON ELEMENTS OF UNIT OWNERS, AND SPECIFICALLY
11 EXCLUDES FINES, FEES, AND ANY COSTS ASSOCIATED WITH COLLECTING
12 DELINQUENT ASSESSMENTS, DISPUTE RESOLUTION, OR ENFORCEMENT OF
13 COVENANTS.

14 (7) (c) (I) IN DETERMINING REASONABLE ATTORNEY FEES
15 PURSUANT TO THIS SUBSECTION (7) RELATING TO AN ASSOCIATION'S
16 FORECLOSURE OF A LIEN AGAINST A UNIT OWNER FOR UNPAID
17 ASSESSMENTS, THE COURT SHALL GIVE CONSIDERATION TO ALL RELEVANT
18 FACTORS, INCLUDING:

19 (A) THE AMOUNT OF THE UNPAID ASSESSMENTS;

20 (B) WHETHER THE AMOUNT OF THE ATTORNEY FEES REQUESTED
21 EXCEEDS THE AMOUNT OF THE UNPAID ASSESSMENTS;

22 (C) WHETHER THE AMOUNT OF TIME SPENT OR FEES INCURRED BY
23 THE ATTORNEY ARE DISPROPORTIONATE TO THE NEEDS OF THE CASE,
24 CONSIDERING THE COMPLEXITY OF THE CASE OR THE EFFORTS REQUIRED
25 TO OBTAIN THE UNPAID ASSESSMENTS;

26 (D) WHETHER THE FORECLOSURE ACTION WAS CONTESTED OR
27 REQUIRED THE ASSOCIATION TO RESPOND TO UNMERITORIOUS DEFENSES;
28 AND

29 (E) OTHER FACTORS TYPICALLY CONSIDERED IN DETERMINING AN
30 AWARD OF ATTORNEY FEES.

31 (II) AFTER CONSIDERATION OF THE FACTORS SET FORTH IN
32 SUBSECTION (7)(c)(I) OF THIS SECTION, THE COURT MAY AWARD
33 ATTORNEYS FEES PURSUANT TO THIS SUBSECTION (7) IN AN AMOUNT NOT
34 TO EXCEED FIVE THOUSAND DOLLARS."

35 Page 5, line 11, strike "foreclosed," and substitute "foreclosed PURSUANT
36 TO A LIEN UNDER THIS SECTION,".

37 Page 6, after line 8 insert:

38 "(13) A PURCHASER THAT PURCHASES A UNIT THROUGH THE
39 FORECLOSURE OF A LIEN UNDER THIS SECTION ACQUIRES THE UNIT SUBJECT
40 TO ANY COVENANTS OR LIMITATIONS ON THE USE OR SALE OF THE UNIT TO

1 WHICH THE PREVIOUS UNIT OWNER WAS SUBJECT."

2 Page 7, strike lines 6 through 9 and substitute:

3 "(b) THE AMOUNT OF THE ASSOCIATION'S OR ATTORNEY'S MINIMUM
4 BID AT AUCTION SHALL NOT BE LESS THAN SIXTY PERCENT OF THE FAIR
5 MARKET VALUE OF THE UNIT IF:

6 (I) THE FAIR MARKET VALUE OF THE UNIT DOES NOT EXCEED THE
7 SUM OF THE AMOUNTS SPECIFIED IN SUBSECTIONS (1)(a) TO (1)(c) OF THIS
8 SECTION; OR

9 (II) THE ASSOCIATION OR ATTORNEY CANNOT CALCULATE THE
10 MINIMUM BID AMOUNT PURSUANT TO SUBSECTION (1) OF THIS SECTION
11 BECAUSE THE AMOUNT OF THE MORTGAGE SECURED BY THE UNIT, AS
12 DESCRIBED IN SUBSECTION (1)(c) OF THIS SECTION, IS NOT KNOWN TO OR
13 DISCOVERABLE BY THE ASSOCIATION OR ATTORNEY."

14 Page 9, after line 18 insert:

15 "SECTION 4. In Colorado Revised Statutes, 38-33.3-117, **amend**
16 (1)(k.5); and **add** (1)(k.6) as follows:

17 **38-33.3-117. Applicability to preexisting common interest**
18 **communities.** (1) Except as provided in section 38-33.3-119, the
19 following sections apply to all common interest communities created
20 within this state before July 1, 1992, with respect to events and
21 circumstances occurring on or after July 1, 1992:

22 (k.5) 38-33.3-316.3; ~~and~~

23 (k.6) 38-33.3-316.4; AND

24 **SECTION 5.** In Colorado Revised Statutes, 38-33.3-401, **add**
25 (3.2) as follows:

26 **38-33.3-401. Registration - annual fees - data collection -**
27 **enforcement actions.** (3.2) AS PART OF AN ASSOCIATION'S ANNUAL
28 REGISTRATION, THE ASSOCIATION SHALL SUBMIT THE FOLLOWING
29 INFORMATION TO THE DIRECTOR OF THE DIVISION OF REAL ESTATE, IN THE
30 FORM AND MANNER DETERMINED BY THE DIRECTOR OF THE DIVISION OF
31 REAL ESTATE:

32 (a) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
33 THE ASSOCIATION'S ANNUAL REGISTRATION:

34 (I) THE NUMBER OF UNIT OWNERS THAT WERE, AT ANY TIME
35 DURING THE TWELVE-MONTH PERIOD, THREE OR MORE CALENDAR MONTHS
36 DELINQUENT IN THE PAYMENT OF AN ANNUAL ASSESSMENT OR SPECIAL
37 ASSESSMENT; AND

38 (II) OF THE UNIT OWNERS DESCRIBED IN SUBSECTION (3.2)(a)(I) OF
39 THIS SECTION, THE NUMBER OF UNIT OWNERS THAT WERE SIX OR MORE

1 CALENDAR MONTHS DELINQUENT IN THE PAYMENT OF AN ANNUAL
2 ASSESSMENT OR SPECIAL ASSESSMENT;

3 (b) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
4 THE ASSOCIATION'S ANNUAL REGISTRATION MONTH, FOR UNPAID ANNUAL
5 ASSESSMENTS OR SPECIAL ASSESSMENTS OR RELATED FEES OR ATTORNEY
6 FEES:

7 (I) THE NUMBER OF UNIT OWNERS AGAINST WHICH THE
8 ASSOCIATION OR ITS DESIGNEE OBTAINED A JUDGMENT;

9 (II) THE NUMBER OF PAYMENT PLANS ENTERED INTO BETWEEN THE
10 ASSOCIATION AND A UNIT OWNER PURSUANT TO SECTION 38-33.3-316.3;
11 AND

12 (III) THE NUMBER OF FORECLOSURE ACTIONS FILED AGAINST UNIT
13 OWNERS PURSUANT TO SECTION 38-33.3-316; AND

14 (c) ANY OTHER INFORMATION SPECIFIED BY THE DIRECTOR OF THE
15 DIVISION OF REAL ESTATE RELATING TO THE COLLECTION OF ASSESSMENTS
16 AND THE FORECLOSURE OF ASSOCIATIONS' LIENS."

17 Renumber succeeding sections accordingly.

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