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HOUSE BILL 22-1137

BY REPRESENTATIVE(S) Ricks and Bradfield, Bacon, Bernett, Boesenecker, Duran, Exum, Hooton, Jodeh, Kipp, Lindsay, Lontine, Titone;
also SENATOR(S) Gonzales and Coleman, Bridges, Buckner, Donovan, Hinrichsen, Jaquez Lewis, Moreno, Sonnenberg, Story.

CONCERNING PRACTICES OF UNIT OWNERS' ASSOCIATIONS, AND, IN CONNECTION THEREWITH, AUTHORIZING THE ENFORCEMENT OF CERTAIN MATTERS REGARDING UNIT OWNERS' ASSOCIATIONS IN SMALL CLAIMS COURT AND LIMITING THE CONDUCT OF UNIT OWNERS' ASSOCIATIONS IN COLLECTING UNPAID ASSESSMENTS, FEES, AND FINES.

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

SECTION 1. In Colorado Revised Statutes, 38-33.3-209.5, **amend** (2)(a), (5)(a) introductory portion, and (5)(a)(V) introductory portion; and **add** (1.7), (2)(c), (6), (7), (8), (9), and (10) as follows:

38-33.3-209.5. Responsible governance policies - due process for imposition of fines - procedure for collection of delinquent accounts - enforcement through small claims court - definitions. (1.7) (a) WITH

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.

REGARD TO A UNIT OWNER'S DELINQUENCY IN PAYING ASSESSMENTS, FINES, OR FEES, AN ASSOCIATION SHALL:

(I) FIRST CONTACT THE UNIT OWNER TO ALERT THE UNIT OWNER OF THE DELINQUENCY BEFORE TAKING ACTION IN RELATION TO THE DELINQUENCY PURSUANT TO SUBSECTION (1.7)(a)(II) OF THIS SECTION AND SHALL MAINTAIN A RECORD OF ANY CONTACTS, INCLUDING INFORMATION REGARDING THE TYPE OF COMMUNICATION USED TO CONTACT THE UNIT OWNER AND THE DATE AND TIME THAT THE CONTACT WAS MADE. ANY CONTACTS THAT A COMMUNITY ASSOCIATION MANAGER OR A PROPERTY MANAGEMENT COMPANY MAKES ON BEHALF OF AN ASSOCIATION PURSUANT TO THIS SUBSECTION (1.7)(a) IS DEEMED A CONTACT MADE BY THE ASSOCIATION AND NOT BY A DEBT COLLECTOR AS DEFINED IN SECTION 5-16-103 (9). A UNIT OWNER MAY IDENTIFY ANOTHER PERSON TO SERVE AS A DESIGNATED CONTACT FOR THE UNIT OWNER TO BE CONTACTED ON THE UNIT OWNER'S BEHALF FOR PURPOSES OF THIS SUBSECTION (1.7)(a)(I). A UNIT OWNER MAY ALSO NOTIFY THE ASSOCIATION IF THE UNIT OWNER PREFERS THAT CORRESPONDENCE AND NOTICES FROM THE ASSOCIATION BE MADE IN A LANGUAGE OTHER THAN ENGLISH. IF A PREFERENCE IS NOT INDICATED, THE ASSOCIATION SHALL SEND THE CORRESPONDENCE AND NOTICES IN ENGLISH. THE UNIT OWNER AND THE UNIT OWNER'S DESIGNATED CONTACT MUST RECEIVE THE SAME CORRESPONDENCE AND NOTICES ANYTIME COMMUNICATIONS ARE SENT OUT; EXCEPT THAT THE UNIT OWNER MUST RECEIVE THE CORRESPONDENCE AND NOTICES IN THE LANGUAGE FOR WHICH THE UNIT OWNER HAS INDICATED A PREFERENCE, IF ANY. AN ASSOCIATION MAY DETERMINE THE MANNER IN WHICH A UNIT OWNER MAY IDENTIFY A DESIGNATED CONTACT. IN CONTACTING THE UNIT OWNER OR A DESIGNATED CONTACT, AN ASSOCIATION SHALL SEND THE SAME TYPE OF NOTICE OF DELINQUENCY REQUIRED TO BE SENT PURSUANT TO SUBSECTION (5)(a)(V) OF THIS SECTION, INCLUDING SENDING IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND PHYSICALLY POST A COPY OF THE NOTICE OF DELINQUENCY AT THE UNIT OWNER'S UNIT. IN ADDITION, THE ASSOCIATION SHALL CONTACT THE UNIT OWNER BY ONE OF THE FOLLOWING MEANS:

(A) FIRST-CLASS MAIL;

(B) TEXT MESSAGE TO A CELLULAR NUMBER THAT THE ASSOCIATION HAS ON FILE BECAUSE THE UNIT OWNER HAS PROVIDED THE CELLULAR NUMBER TO THE ASSOCIATION; OR

(C) E-MAIL TO AN E-MAIL ADDRESS THAT THE ASSOCIATION HAS ON FILE BECAUSE THE UNIT OWNER HAS PROVIDED THE E-MAIL ADDRESS TO THE ASSOCIATION.

(II) REFER A DELINQUENT ACCOUNT TO A COLLECTION AGENCY OR ATTORNEY ONLY IF A MAJORITY OF THE EXECUTIVE BOARD VOTES TO REFER THE MATTER IN A RECORDED VOTE AT A MEETING CONDUCTED PURSUANT TO SECTION 38-33.3-308 (4)(e). A COMMUNITY ASSOCIATION MANAGEMENT OR PROPERTY MANAGEMENT COMPANY ACTING ON BEHALF OF THE ASSOCIATION SHALL NOT REFER A DELINQUENT ACCOUNT TO A COLLECTION AGENCY OR AN ATTORNEY UNLESS A MAJORITY OF THE EXECUTIVE BOARD VOTES TO REFER THE MATTER IN A RECORDED VOTE AT A MEETING CONDUCTED PURSUANT TO SECTION 38-33.3-308 (4)(e).

(b) (I) AN ASSOCIATION SHALL NOT IMPOSE THE FOLLOWING ON A DAILY BASIS AGAINST A UNIT OWNER:

(A) LATE FEES; OR

(B) FINES ASSESSED FOR VIOLATIONS OF THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF THE ASSOCIATION. AN ASSOCIATION MAY ONLY IMPOSE FINES FOR VIOLATIONS IN ACCORDANCE WITH THIS SUBSECTION (1.7)(b).

(II) (A) WITH RESPECT TO ANY VIOLATION OF THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF AN ASSOCIATION THAT THE ASSOCIATION REASONABLY DETERMINES THREATENS THE PUBLIC SAFETY OR HEALTH, THE ASSOCIATION SHALL PROVIDE THE UNIT OWNER WRITTEN NOTICE, IN ENGLISH AND IN ANY LANGUAGE THAT THE UNIT OWNER HAS INDICATED A PREFERENCE FOR CORRESPONDENCE AND NOTICES PURSUANT TO SUBSECTION (1.7)(a)(I) OF THIS SECTION, OF THE VIOLATION INFORMING THE UNIT OWNER THAT THE UNIT OWNER HAS SEVENTY-TWO HOURS TO CURE THE VIOLATION OR THE ASSOCIATION MAY FINE THE UNIT OWNER.

(B) IF, AFTER AN INSPECTION OF THE UNIT, THE ASSOCIATION DETERMINES THAT THE UNIT OWNER HAS NOT CURED THE VIOLATION WITHIN SEVENTY-TWO HOURS AFTER RECEIVING THE NOTICE, THE ASSOCIATION MAY IMPOSE FINES ON THE UNIT OWNER EVERY OTHER DAY AND MAY TAKE LEGAL ACTION AGAINST THE UNIT OWNER FOR THE VIOLATION; EXCEPT THAT, IN ACCORDANCE WITH SUBSECTION (8)(c)(I) OF THIS SECTION, THE

ASSOCIATION SHALL NOT PURSUE FORECLOSURE AGAINST THE UNIT OWNER BASED ON FINES OWED.

(III) (A) IF AN ASSOCIATION REASONABLY DETERMINES THAT A UNIT OWNER COMMITTED A VIOLATION OF THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF THE ASSOCIATION, OTHER THAN A VIOLATION THAT THREATENS THE PUBLIC SAFETY OR HEALTH, THE ASSOCIATION SHALL, THROUGH CERTIFIED MAIL, RETURN RECEIPT REQUESTED, PROVIDE THE UNIT OWNER WRITTEN NOTICE, IN ENGLISH AND IN ANY LANGUAGE THAT THE UNIT OWNER HAS INDICATED A PREFERENCE FOR CORRESPONDENCE AND NOTICES PURSUANT TO SUBSECTION (1.7)(a)(I) OF THIS SECTION, OF THE VIOLATION INFORMING THE UNIT OWNER THAT THE UNIT OWNER HAS THIRTY DAYS TO CURE THE VIOLATION OR THE ASSOCIATION, AFTER CONDUCTING AN INSPECTION AND DETERMINING THAT THE UNIT OWNER HAS NOT CURED THE VIOLATION, MAY FINE THE UNIT OWNER; HOWEVER, THE TOTAL AMOUNT OF FINES IMPOSED FOR THE VIOLATION MAY NOT EXCEED FIVE HUNDRED DOLLARS.

(B) AN ASSOCIATION SHALL GRANT A UNIT OWNER TWO CONSECUTIVE THIRTY-DAY PERIODS TO CURE A VIOLATION BEFORE THE ASSOCIATION MAY TAKE LEGAL ACTION AGAINST THE UNIT OWNER FOR THE VIOLATION. IN ACCORDANCE WITH SUBSECTION (8)(c)(I) OF THIS SECTION, AN ASSOCIATION SHALL NOT PURSUE FORECLOSURE AGAINST THE UNIT OWNER BASED ON FINES OWED.

(IV) IF THE UNIT OWNER CURES THE VIOLATION WITHIN THE PERIOD TO CURE AFFORDED THE UNIT OWNER, THE UNIT OWNER MAY NOTIFY THE ASSOCIATION OF THE CURE AND, IF THE UNIT OWNER SENDS WITH THE NOTICE VISUAL EVIDENCE THAT THE VIOLATION HAS BEEN CURED, THE VIOLATION IS DEEMED CURED ON THE DATE THAT THE UNIT OWNER SENDS THE NOTICE. IF THE UNIT OWNER'S NOTICE DOES NOT INCLUDE VISUAL EVIDENCE THAT THE VIOLATION HAS BEEN CURED, THE ASSOCIATION SHALL INSPECT THE UNIT AS SOON AS PRACTICABLE TO DETERMINE IF THE VIOLATION HAS BEEN CURED.

(V) IF THE ASSOCIATION DOES NOT RECEIVE NOTICE FROM THE UNIT OWNER THAT THE VIOLATION HAS BEEN CURED, THE ASSOCIATION SHALL INSPECT THE UNIT WITHIN SEVEN DAYS AFTER THE EXPIRATION OF THE THIRTY-DAY CURE PERIOD TO DETERMINE IF THE VIOLATION HAS BEEN CURED. IF, AFTER THE INSPECTION AND WHETHER OR NOT THE ASSOCIATION

RECEIVED NOTICE FROM THE UNIT OWNER THAT THE VIOLATION WAS CURED, THE ASSOCIATION DETERMINES THAT THE VIOLATION HAS NOT BEEN CURED:

(A) A SECOND THIRTY-DAY PERIOD TO CURE COMMENCES IF ONLY ONE THIRTY-DAY PERIOD TO CURE HAS ELAPSED; OR

(B) THE ASSOCIATION MAY TAKE LEGAL ACTION PURSUANT TO THIS SECTION IF TWO THIRTY-DAY PERIODS TO CURE HAVE ELAPSED.

(VI) ONCE THE UNIT OWNER CURES A VIOLATION, THE ASSOCIATION SHALL NOTIFY THE UNIT OWNER, IN ENGLISH AND IN ANY LANGUAGE THAT THE UNIT OWNER HAS INDICATED A PREFERENCE FOR CORRESPONDENCE AND NOTICES PURSUANT TO SUBSECTION (1.7)(a)(I) OF THIS SECTION:

(A) THAT THE UNIT OWNER WILL NOT BE FURTHER FINED WITH REGARD TO THE VIOLATION; AND

(B) OF ANY OUTSTANDING FINE BALANCE THAT THE UNIT OWNER STILL OWES THE ASSOCIATION.

(c) ON A MONTHLY BASIS AND BY FIRST-CLASS MAIL AND, IF THE ASSOCIATION HAS THE RELEVANT E-MAIL ADDRESS, BY E-MAIL, AN ASSOCIATION SHALL SEND TO EACH UNIT OWNER WHO HAS ANY OUTSTANDING BALANCE OWED THE ASSOCIATION AN ITEMIZED LIST OF ALL ASSESSMENTS, FINES, FEES, AND CHARGES THAT THE UNIT OWNER OWES TO THE ASSOCIATION. THE ASSOCIATION SHALL SEND THE ITEMIZED LIST TO THE UNIT OWNER IN ENGLISH OR IN ANY LANGUAGE FOR WHICH THE UNIT OWNER HAS INDICATED A PREFERENCE FOR CORRESPONDENCE AND NOTICES PURSUANT TO SUBSECTION (1.7)(a)(I) OF THIS SECTION AND TO ANY DESIGNATED CONTACT FOR THE UNIT OWNER.

(2) Notwithstanding any provision of the declaration, bylaws, articles, or rules and regulations to the contrary, the association may not fine any unit owner for an alleged violation unless:

(a) The association has adopted, and follows, a written policy governing the imposition of fines; and

(c) THE POLICY:

(I) REQUIRES NOTICE REGARDING THE NATURE OF THE ALLEGED VIOLATION, THE ACTION OR ACTIONS REQUIRED TO CURE THE ALLEGED VIOLATION, AND THE TIMELINE FOR THE FAIR AND IMPARTIAL FACT-FINDING PROCESS REQUIRED UNDER SUBSECTION (2)(b) OF THIS SECTION. THE ASSOCIATION MAY SEND THE UNIT OWNER THE NOTICE REQUIRED UNDER THIS SUBSECTION (2)(c)(I) IN ACCORDANCE WITH SUBSECTION (1.7)(a) OF THIS SECTION.

(II) SPECIFIES THE INTERVAL UPON WHICH FINES MAY BE LEVIED IN ACCORDANCE WITH SUBSECTION (1.7)(b) OF THIS SECTION FOR VIOLATIONS THAT ARE CONTINUING IN NATURE.

(5) (a) Notwithstanding any provision of the declaration, bylaws, articles, or rules and regulations to the contrary or the absence of a relevant provision in the declaration, bylaws, articles, or rules or regulations, the association or a holder or assignee of the association's debt, whether the holder or assignee of the association's debt is an entity or a natural person, may not use a collection agency or take legal action to collect unpaid assessments unless the association or a holder or assignee of the association's debt has adopted, and follows, a written policy governing the collection of unpaid assessments AND UNLESS THE ASSOCIATION COMPLIES WITH SUBSECTION (7) OF THIS SECTION. The policy must, at a minimum, specify:

(V) That, before the entity turns over a delinquent account of a unit owner to a collection agency or refers it to an attorney for legal action, the entity must send the unit owner a notice of delinquency, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, specifying:

(6) A NOTICE OF DELINQUENCY THAT AN ASSOCIATION SENDS TO A UNIT OWNER FOR UNPAID ASSESSMENTS, FINES, FEES, OR CHARGES MUST:

(a) BE WRITTEN IN ENGLISH AND IN ANY LANGUAGE THAT THE UNIT OWNER HAS INDICATED A PREFERENCE FOR CORRESPONDENCE AND NOTICES PURSUANT TO SUBSECTION (1.7)(a)(I) OF THIS SECTION;

(b) SPECIFY WHETHER THE DELINQUENCY CONCERNS UNPAID ASSESSMENTS; UNPAID FINES, FEES, OR CHARGES; OR BOTH UNPAID ASSESSMENTS AND UNPAID FINES, FEES, OR CHARGES, AND, IF THE NOTICE OF DELINQUENCY CONCERNS UNPAID ASSESSMENTS, THE NOTICE OF

DELINQUENCY MUST NOTIFY THE UNIT OWNER THAT UNPAID ASSESSMENTS MAY LEAD TO FORECLOSURE; AND

(c) INCLUDE:

(I) A DESCRIPTION OF THE STEPS THE ASSOCIATION MUST TAKE BEFORE THE ASSOCIATION MAY TAKE LEGAL ACTION AGAINST THE UNIT OWNER, INCLUDING A DESCRIPTION OF THE ASSOCIATION'S CURE PROCESS ESTABLISHED IN ACCORDANCE WITH SUBSECTION (1.7)(b) OF THIS SECTION; AND

(II) A DESCRIPTION OF WHAT LEGAL ACTION THE ASSOCIATION MAY TAKE AGAINST THE UNIT OWNER, INCLUDING A DESCRIPTION OF THE TYPES OF MATTERS THAT THE ASSOCIATION OR UNIT OWNER MAY TAKE TO SMALL CLAIMS COURT, INCLUDING INJUNCTIVE MATTERS FOR WHICH THE ASSOCIATION SEEKS AN ORDER REQUIRING THE UNIT OWNER TO COMPLY WITH THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF THE ASSOCIATION.

(7)(a) AN ASSOCIATION SHALL NOT COMMENCE A LEGAL ACTION TO INITIATE A FORECLOSURE PROCEEDING BASED ON A UNIT OWNER'S DELINQUENCY IN PAYING ASSESSMENTS UNLESS:

(I) THE ASSOCIATION HAS COMPLIED WITH EACH OF THE REQUIREMENTS IN THIS SECTION AND IN SECTION 38-33.3-316.3 RELATED TO A UNIT OWNER'S DELINQUENCY IN PAYING ASSESSMENTS;

(II) THE ASSOCIATION HAS PROVIDED THE UNIT OWNER WITH A WRITTEN OFFER TO ENTER INTO A REPAYMENT PLAN PURSUANT TO SECTION 38-33.3-316.3 (2) THAT AUTHORIZES THE UNIT OWNER TO REPAY THE DEBT IN MONTHLY INSTALLMENTS OVER EIGHTEEN MONTHS. UNDER THE REPAYMENT PLAN, THE UNIT OWNER MAY CHOOSE THE AMOUNT TO BE PAID EACH MONTH, SO LONG AS EACH PAYMENT MUST BE IN AN AMOUNT OF AT LEAST TWENTY-FIVE DOLLARS UNTIL THE BALANCE OF THE AMOUNT OWED IS LESS THAN TWENTY-FIVE DOLLARS; AND

(III) WITHIN THIRTY DAYS AFTER THE ASSOCIATION HAS PROVIDED THE OWNER WITH A WRITTEN OFFER TO ENTER INTO A REPAYMENT PLAN, THE UNIT OWNER HAS EITHER:

(A) DECLINED THE REPAYMENT PLAN; OR

(B) AFTER ACCEPTING THE REPAYMENT PLAN, FAILED TO PAY AT LEAST THREE OF THE MONTHLY INSTALLMENTS WITHIN FIFTEEN DAYS AFTER THE MONTHLY INSTALLMENTS WERE DUE.

(b) A UNIT OWNER WHO HAS ENTERED INTO A REPAYMENT PLAN PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION MAY ELECT TO PAY THE REMAINING BALANCE OWED UNDER THE REPAYMENT PLAN AT ANY TIME DURING THE DURATION OF THE REPAYMENT PLAN.

(8) AN ASSOCIATION SHALL NOT:

(a) CHARGE A RATE OF INTEREST ON UNPAID ASSESSMENTS, FINES, OR FEES IN AN AMOUNT GREATER THAN EIGHT PERCENT PER YEAR;

(b) ASSESS A FEE OR OTHER CHARGE TO RECOVER COSTS INCURRED FOR PROVIDING THE UNIT OWNER A STATEMENT OF THE TOTAL AMOUNT THAT THE UNIT OWNER OWES;

(c) FORECLOSE ON AN ASSESSMENT LIEN IF THE DEBT SECURING THE LIEN CONSISTS ONLY OF ONE OR BOTH OF THE FOLLOWING:

(I) FINES THAT THE ASSOCIATION HAS ASSESSED AGAINST THE UNIT OWNER; OR

(II) COLLECTION COSTS OR ATTORNEY FEES THAT THE ASSOCIATION HAS INCURRED AND THAT ARE ONLY ASSOCIATED WITH ASSESSED FINES.

(9) A PARTY SEEKING TO ENFORCE RIGHTS AND RESPONSIBILITIES ARISING UNDER THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF AN ASSOCIATION IN RELATION TO DISPUTES ARISING FROM ASSESSMENTS, FINES, OR FEES OWED TO THE ASSOCIATION AND FOR WHICH THE AMOUNT AT ISSUE DOES NOT EXCEED SEVEN THOUSAND FIVE HUNDRED DOLLARS, EXCLUSIVE OF INTEREST AND COSTS, MAY FILE A CLAIM IN SMALL CLAIMS COURT PURSUANT TO SECTION 13-6-403 (1)(b)(I).

(10) AS USED IN THIS SECTION, "NOTICE OF DELINQUENCY" MEANS A WRITTEN NOTICE THAT AN ASSOCIATION SENDS TO A UNIT OWNER TO NOTIFY THE UNIT OWNER OF ANY UNPAID ASSESSMENTS, FINES, FEES, OR

CHARGES THAT THE UNIT OWNER OWES THE ASSOCIATION.

SECTION 2. In Colorado Revised Statutes, 38-33.3-308, **amend** (4)(e) as follows:

38-33.3-308. Meetings. (4) Matters for discussion by an executive or closed session are limited to:

(e) Any matter, the disclosure of which would constitute an unwarranted invasion of individual privacy, INCLUDING A DISCIPLINARY HEARING REGARDING A UNIT OWNER AND ANY REFERRAL OF DELINQUENCY; EXCEPT THAT A UNIT OWNER WHO IS THE SUBJECT OF A DISCIPLINARY HEARING OR A REFERRAL OF DELINQUENCY MAY REQUEST AND RECEIVE THE RESULTS OF ANY VOTE TAKEN AT THE RELEVANT MEETING;

SECTION 3. In Colorado Revised Statutes, 38-33.3-315, **amend** (2) as follows:

38-33.3-315. Assessments for common expenses. (2) Except for assessments under subsections (3) and (4) of this section and section 38-33.3-207 (4)(a)(IV), all common expenses shall be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to section 38-33.3-207 (1) and (2). Any past-due common expense assessment or installment ~~thereof shall bear~~ OF A COMMON EXPENSE ASSESSMENT BEARS interest at the rate established by the association ~~not exceeding twenty-one~~ IN AN AMOUNT NOT TO EXCEED EIGHT percent per year.

SECTION 4. In Colorado Revised Statutes, 38-33.3-316, **amend** (1), (2)(d), and (7); and **add** (12) as follows:

38-33.3-316. Lien for assessments - liens for fines, fees, charges, costs, and attorney fees - limitations. (1) (a) The association, if such association is incorporated or organized as a limited liability company, has a statutory lien on a unit for any assessment levied against that unit or fines imposed against its unit owner. ~~Unless the declaration otherwise provides,~~ Fees, charges, late charges, attorney fees UP TO THE MAXIMUM AMOUNT AUTHORIZED UNDER SUBSECTION (7) OF THIS SECTION, fines, and interest charged pursuant to section 38-33.3-302 (1)(j), (1)(k), and (1)(l), section 38-33.3-313 (6), and section 38-33.3-315 (2) ~~are enforceable as assessments~~

~~under this article. The amount of the lien shall include all those items set forth in this section from the time such items become due~~ MAY BE SUBJECT TO A STATUTORY LIEN BUT ARE NOT SUBJECT TO A FORECLOSURE ACTION UNDER THIS ARTICLE 33.3.

(b) If an assessment is payable in installments, each installment is ~~a lien from the time it becomes due, including the due date set by any valid association's acceleration of installment obligations~~ MAY BE SUBJECT TO A STATUTORY LIEN IF THE UNIT OWNER FAILS TO PAY THE INSTALLMENT WITHIN FIFTEEN DAYS AFTER THE INSTALLMENT BECOMES DUE, BUT THE ASSOCIATION MAY NOT PURSUE LEGAL ACTION FOR UNPAID MONTHLY INSTALLMENTS UNTIL THE UNIT OWNER HAS FAILED TO PAY AT LEAST THREE MONTHLY INSTALLMENTS PURSUANT TO SECTION 38-33.3-209.5 (7)(a)(III)(B).

(2) (d) ~~The association shall have the statutory lien described in subsection (1) of this section for any assessment levied or fine imposed after June 30, 1992. Such A lien shall have~~ DESCRIBED IN SUBSECTION (1) OF THIS SECTION HAS the priority described in this subsection (2) if the other lien or encumbrance is created after June 30, 1992.

(7)(a) (I) The association ~~shall be~~ IS entitled to costs and reasonable attorney fees ~~incurred by~~ THAT the association ~~in a judgment or decree~~ INCURS in any action or suit FOR A JUDGMENT OR DECREE brought by the association under this section.

(II) A COURT SHALL DETERMINE REASONABLE ATTORNEY FEES IN ACCORDANCE WITH RULE 121 SEC. 1-22 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(b) AN ASSOCIATION IS NOT ENTITLED TO RECOVER ATTORNEY FEES UNDER SUBSECTION (7)(a) OF THIS SECTION FOR ATTORNEY FEES INCURRED BEFORE THE ASSOCIATION HAS COMPLIED WITH THE NOTICE REQUIREMENTS OF SECTION 38-33.3-209.5 (1.7)(a) WITH REGARD TO ANY MATTER FOR WHICH THE ASSOCIATION IS REQUIRED TO COMPLY WITH THE NOTICE REQUIREMENTS OF SECTION 38-33.3-209.5 (1.7)(a).

(12) IF A UNIT HAS BEEN FORECLOSED, A MEMBER OF THE EXECUTIVE BOARD, AN EMPLOYEE OF A COMMUNITY ASSOCIATION MANAGEMENT COMPANY REPRESENTING THE ASSOCIATION, AN EMPLOYEE OF A LAW FIRM

REPRESENTING THE ASSOCIATION, OR AN IMMEDIATE FAMILY MEMBER, AS DEFINED IN SECTION 2-4-401 (3.7), OF ANY SUCH EXECUTIVE BOARD MEMBER, COMMUNITY ASSOCIATION MANAGEMENT COMPANY EMPLOYEE, OR LAW FIRM EMPLOYEE SHALL NOT PURCHASE THE FORECLOSED UNIT.

SECTION 5. In Colorado Revised Statutes, 38-33.3-316.3, **amend** (2); **repeal** (3); and **add** (4) and (5) as follows:

38-33.3-316.3. Collections - limitations - violations. (2) A payment plan negotiated between the association or a holder or assignee of the association's debt, whether the holder or assignee of the association's debt is an entity or a natural person, and the unit owner pursuant to this section must permit the unit owner to pay off the deficiency in equal installments over a period of at least ~~six~~ EIGHTEEN months. Nothing in this section prohibits an association or a holder or assignee of the association's debt from pursuing legal action against a unit owner if the unit owner fails to comply with the terms of ~~his or her~~ THE UNIT OWNER'S payment plan. A unit owner's failure to remit payment of ~~an~~ THREE OR MORE agreed-upon ~~installment~~ INSTALLMENTS PURSUANT TO SECTION 38-33.3-209.5 (7)(a)(III)(B), or to remain current with regular assessments as they come due during the ~~six-month~~ EIGHTEEN-MONTH period, constitutes a failure to comply with the terms of ~~his or her~~ THE UNIT OWNER'S payment plan.

(3) ~~For purposes of this section, "assessments" includes regular and special assessments and any associated fees, charges, late charges, attorney fees, fines, and interest charged pursuant to section 38-33.3-315 (2).~~

(4) IF A UNIT OWNER WHO HAS BOTH UNPAID ASSESSMENTS AND UNPAID FINES, FEES, OR OTHER CHARGES MAKES A PAYMENT TO THE ASSOCIATION, THE ASSOCIATION SHALL APPLY THE PAYMENT FIRST TO THE ASSESSMENTS OWED AND ANY REMAINING AMOUNT OF THE PAYMENT TO THE FINES, FEES, OR OTHER CHARGES OWED.

(5) IF AN ASSOCIATION HAS VIOLATED ANY FORECLOSURE LAWS, THE UNIT OWNER IN RELATION TO WHOM THE VIOLATION OCCURRED MAY, WITHIN FIVE YEARS AFTER THE VIOLATION OCCURRED, FILE CIVIL SUIT IN A COURT OF COMPETENT JURISDICTION AGAINST THE ASSOCIATION TO SEEK DAMAGES. THE COURT MAY AWARD THE UNIT OWNER DAMAGES IN AN AMOUNT OF UP TO TWENTY-FIVE THOUSAND DOLLARS, PLUS COSTS AND REASONABLE ATTORNEY FEES, IF THE UNIT OWNER PROVES THE VIOLATION BY A

PREPONDERANCE OF THE EVIDENCE.

SECTION 6. In Colorado Revised Statutes, 13-6-403, **amend** (1), (2) introductory portion, and (2)(h) as follows:

13-6-403. Jurisdiction of small claims court - limitations.

(1) (a) ~~On and after January 1, 1996,~~ The small claims court ~~shall have~~ HAS concurrent original jurisdiction with the county and district courts in all civil actions in which the debt, damage, or value of the personal property claimed by either the plaintiff or the defendant, exclusive of interest and ~~cost~~ COSTS, does not exceed seven thousand five hundred dollars, including such civil penalties as may be provided by law. By way of further example, and not limitation, the small claims court ~~shall have~~ HAS jurisdiction to hear and determine actions in tort and assess damages ~~therein~~ IN TORT ACTIONS not to exceed seven thousand five hundred dollars.

(b) The small claims court division ~~shall also have~~ ALSO HAS concurrent original jurisdiction with the county and district courts in actions where a party seeks:

(I) TO ENFORCE RIGHTS AND RESPONSIBILITIES ARISING UNDER THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF A UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103 (3), IN RELATION TO DISPUTES ARISING FROM ASSESSMENTS, FINES, OR FEES OWED TO THE UNIT OWNERS' ASSOCIATION AND FOR WHICH THE AMOUNT AT ISSUE DOES NOT EXCEED SEVEN THOUSAND FIVE HUNDRED DOLLARS, EXCLUSIVE OF INTEREST AND COSTS.

(II) To enforce a restrictive covenant on residential property and the amount required to comply with the covenant does not exceed seven thousand five hundred dollars, exclusive of interest and costs; ~~in actions~~

(III) ~~Where a party seeks~~ Replevin if the value of the property sought does not exceed seven thousand five hundred dollars; and ~~in actions~~

(IV) ~~Where a party seeks~~ To enforce a contract by specific performance or to disaffirm, avoid, or rescind a contract and the amount at issue does not exceed seven thousand five hundred dollars.

(2) The small claims court ~~shall have no~~ HAS ONLY THAT jurisdiction

~~except that~~ specifically conferred upon it by law, AS PROVIDED IN SUBSECTION (1) OF THIS SECTION. In particular, it ~~shall have no~~ DOES NOT HAVE jurisdiction over the following matters:

(h) Actions involving injunctive relief, except as required to:

(I) ENFORCE RIGHTS OR RESPONSIBILITIES ARISING UNDER THE DECLARATION, BYLAWS, COVENANTS, OR OTHER GOVERNING DOCUMENTS OF A UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103 (3), AND INCLUDING ACTIONS SEEKING DECLARATORY RELIEF;

~~(H)~~ (II) Enforce restrictive covenants on residential property;

~~(H)~~ (III) Enforce the provisions of section 6-1-702.5; ~~C.R.S.~~;

~~(H)~~ (IV) Accomplish replevin; and

~~(H)~~ (V) Enter judgments in actions where a party seeks to enforce a contract by specific performance or to disaffirm, avoid, or rescind a contract;

SECTION 7. 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 conduct occurring on or after the applicable effective date of this act.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO