

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0101.02 Brita Darling x2241

HOUSE BILL 24-1158

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HOUSE SPONSORSHIP

Ricks,

SENATE SPONSORSHIP

(None),

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House Committees

Transportation, Housing & Local Government

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE PROTECTION OF UNIT OWNERS IN RELATION TO  
102 FORECLOSURES BY UNIT OWNERS' ASSOCIATIONS.

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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>.)*

The bill makes changes to the law relating to the foreclosure of a unit owners' association's (HOA) lien on a homeowner's (unit owner's) home (unit) for unpaid HOA assessments.

Prior to the HOA turning over a delinquent account to collections or to an attorney for legal action, the bill requires the HOA to send notice to the unit owner that free information about collections and foreclosures

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.*

may be obtained through the department of regulatory agencies' HOA information and resource center. Further, before foreclosing on an HOA lien, the HOA shall provide notice to the unit owner that credit counseling is available at the unit owner's expense relating to the impact of foreclosure and options to avoid foreclosure.

The bill limits a court's award of reasonable attorney fees that an HOA incurs when foreclosing on an HOA lien to \$2,500. Further, currently, an executive board member, employee of the HOA's community association management company, and employees of the law firm representing the HOA, and such individuals' immediate family members, are prohibited from purchasing a foreclosed unit. The bill extends the individuals or entities prohibited from purchasing a foreclosed unit to include a community association management company representing the HOA and an individual who was a board member, employee of the HOA's community association management company, or employee of the law firm representing the HOA, or such individuals' immediate family members, during any of the 5-year period preceding the foreclosure sale, as well as a business entity owned by or affiliated with a community association management company or such individuals.

The bill establishes a minimum initial bid amount for the HOA's sale at auction of a unit after foreclosure of the HOA's priority lien for assessments. The amount of the HOA's initial bid at auction must be at least the amount necessary to satisfy the HOA lien foreclosed, the liens for unpaid real estate taxes or other government taxes, and the first mortgage secured by the unit, as well as an amount equal to 60% of the unit owner's equity in the unit, as determined in accordance with the bill, unless the percentage of equity included in the bid amount is decreased by agreement of the unit owner and the HOA. The bill authorizes a different minimum bid amount if the unit owner does not have equity in the unit at the time of the foreclosure sale. Further, the HOA is required to include the minimum bid amount and the information necessary to calculate the minimum bid in the lis pendens filed with the county clerk and recorder in the county where the unit is located.

For purposes of notice of the sale of a unit at auction, the bill amends the mailing list to include the unit owner's address listed in the county assessor's records for the unit, if that address is different from the property address, as well as the address of the unit owner's property manager employed by the unit owner, if that person is known to the HOA.

The bill applies to HOA liens foreclosed on or after October 1, 2024.

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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,

1 **amend** (5)(a) introductory portion, (5)(a)(V)(C), and (5)(a)(V)(D); and  
2 **add** (5)(a)(V)(E) as follows:

3 **38-33.3-209.5. Responsible governance policies - due process**  
4 **for imposition of fines - procedure for collection of delinquent**  
5 **accounts - enforcement through small claims court - definitions.**

6 (5)(a) Notwithstanding any provision of the declaration, bylaws, articles,  
7 or rules and regulations to the contrary or the absence of a relevant  
8 provision in the declaration, bylaws, articles, or rules or regulations, the  
9 association or a holder or assignee of the association's debt, whether the  
10 holder or assignee of the association's debt is an entity or a natural person,  
11 ~~may~~ SHALL not use a collection agency or take legal action to collect  
12 unpaid assessments unless the association or a holder or assignee of the  
13 association's debt has adopted and follows a written policy governing the  
14 collection of unpaid assessments and unless the association complies with  
15 subsection (7) of this section. The policy must, at a minimum, specify:

16 (V) That, before the entity turns over a delinquent account of a  
17 unit owner to a collection agency or refers it to an attorney for legal  
18 action, the entity must send the unit owner a notice of delinquency, by  
19 certified mail, return receipt requested, specifying:

20 (C) The name and contact information for the individual the unit  
21 owner may contact to request a copy of the unit owner's ledger in order  
22 to verify the amount of the debt; ~~and~~

23 (D) That action is required to cure the delinquency and that failure  
24 to do so within thirty days may result in the unit owner's delinquent  
25 account being turned over to a collection agency, a lawsuit being filed  
26 against the owner, the filing and foreclosure of a lien against the unit  
27 owner's property, or other remedies available under Colorado law; AND

1 (E) THAT FREE INFORMATION RELATING TO THE COLLECTION OF  
2 ASSESSMENTS BY AN ASSOCIATION, INCLUDING THE ASSOCIATION'S  
3 ABILITY TO FORECLOSE AN ASSOCIATION LIEN FOR UNPAID ASSESSMENTS  
4 AND FORCE THE SALE OF THE UNIT OWNER'S HOME AND HOW TO OBTAIN  
5 CREDIT COUNSELING PRIOR TO FORECLOSURE, IS AVAILABLE TO THE UNIT  
6 OWNER AT [HTTPS://DRE.COLORADO.GOV/HOA-CENTER](https://dre.colorado.gov/hoa-center) THROUGH THE HOA  
7 INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-10-801 (1);

8 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-316, **amend**  
9 (12); and **add** (7)(c) and (8.5) as follows:

10 **38-33.3-316. Lien for assessments - liens for fines, fees,**  
11 **charges, costs, and attorney fees - limitations.** (7) (c) THE COURT  
12 SHALL DETERMINE THE REASONABLE ATTORNEY FEES THAT THE  
13 ASSOCIATION INCURRED IN FORECLOSING ON A LIEN AGAINST A UNIT  
14 OWNER FOR UNPAID ASSESSMENTS, WHICH AMOUNT MUST NOT EXCEED  
15 TWO THOUSAND FIVE HUNDRED DOLLARS.

16 (8.5) AT LEAST THIRTY DAYS PRIOR TO INITIATING A LEGAL ACTION  
17 TO FORECLOSE AN ASSOCIATION LIEN, THE ASSOCIATION SHALL PROVIDE  
18 WRITTEN AND ELECTRONIC NOTICE TO THE UNIT OWNER OR THE UNIT  
19 OWNER'S DESIGNEE THAT:

20 (a) THE UNIT OWNER HAS THE RIGHT TO PARTICIPATE IN CREDIT  
21 COUNSELING AT THE UNIT OWNER'S EXPENSE AND THAT CONTACT  
22 INFORMATION FOR INDIVIDUALS OR ENTITIES THAT MAY PROVIDE CREDIT  
23 COUNSELING TO THE UNIT OWNER RELATING TO FORECLOSURE BY AN  
24 ASSOCIATION MAY BE FOUND AT  
25 [HTTPS://DRE.COLORADO.GOV/HOA-CENTER](https://dre.colorado.gov/hoa-center) THROUGH THE HOA  
26 INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-10-801 (1);  
27 AND

- 1 (b) CREDIT COUNSELING MAY INCLUDE:
- 2 (I) DISCUSSION OF AMOUNTS OWED TO THE ASSOCIATION IN
- 3 UNPAID ASSESSMENTS AND RELATED COSTS;
- 4 (II) THE IMPACT OF FORECLOSURE ON THE UNIT OWNER'S CREDIT;
- 5 (III) ADDITIONAL DEBT THAT MAY BE INCURRED BY THE UNIT
- 6 OWNER IF FORECLOSURE BY THE ASSOCIATION IS COMPLETED;
- 7 (IV) OPTIONS AVAILABLE TO THE UNIT OWNER TO RETAIN TITLE TO
- 8 THE UNIT OR TO REMAIN IN THE UNIT; AND
- 9 (V) ANY OTHER OPTIONS THAT MAY BE AVAILABLE TO THE UNIT
- 10 OWNER TO AVOID FORECLOSURE.

11 (12) (a) If a unit has been foreclosed, THE FOLLOWING

12 INDIVIDUALS OR BUSINESS ENTITIES SHALL NOT PURCHASE THE

13 FORECLOSED UNIT:

- 14 (I) A member of the executive board;
- 15 (II) An employee of a community association management
- 16 company representing the association;
- 17 (III) An employee of a law firm representing the association; ~~or~~
- 18 (IV) An immediate family member, as defined in section 2-4-401
- 19 (3.7), of ~~any such~~ AN executive board member, community association
- 20 management company employee, or law firm employee; ~~shall not~~
- 21 ~~purchase the foreclosed unit~~ OR
- 22 (V) A COMMUNITY ASSOCIATION MANAGEMENT COMPANY
- 23 REPRESENTING THE ASSOCIATION.

24 (b) THE PROHIBITION ON THE PURCHASE OF A FORECLOSED UNIT

25 PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION INCLUDES AN

26 INDIVIDUAL OR A COMMUNITY ASSOCIATION MANAGEMENT COMPANY

27 THAT WAS, AT ANY TIME DURING THE FIVE-YEAR PERIOD IMMEDIATELY

1 PRECEDING THE SALE OF THE FORECLOSED UNIT, AN INDIVIDUAL OR A  
2 COMMUNITY ASSOCIATION MANAGEMENT COMPANY DESCRIBED IN  
3 SUBSECTION (12)(a) OF THIS SECTION. THE PROHIBITION IN THIS SECTION  
4 ALSO INCLUDES A BUSINESS ENTITY THAT WAS, AT ANY TIME DURING THE  
5 FIVE-YEAR PERIOD IMMEDIATELY PRECEDING THE SALE OF THE  
6 FORECLOSED UNIT, OWNED BY OR AFFILIATED WITH AN INDIVIDUAL OR  
7 COMMUNITY ASSOCIATION MANAGEMENT COMPANY DESCRIBED IN  
8 SUBSECTION (12)(a) OF THIS SECTION.

9 **SECTION 3.** In Colorado Revised Statutes, **add 38-33.3-316.4**  
10 as follows:

11 **38-33.3-316.4. Foreclosure of an association lien - sale at**  
12 **auction - bid requirements - definitions.** (1) NOTWITHSTANDING ANY  
13 PROVISION OF THIS TITLE 38 TO THE CONTRARY, EXCEPT AS PROVIDED IN  
14 SUBSECTION (2) OF THIS SECTION, AFTER FORECLOSING AN ASSOCIATION  
15 LIEN ON A UNIT, THE ASSOCIATION OR THE ATTORNEY REPRESENTING THE  
16 ASSOCIATION SHALL MAKE AN INITIAL BID AT AUCTION THAT IS NOT LESS  
17 THAN THE SUM OF:

18 (a) THE AMOUNT OF THE ASSOCIATION'S LIEN DESCRIBED IN  
19 SECTION 38-33.3-316 (2)(b);

20 (b) THE AMOUNT, IF ANY, OF ALL LIENS FOR REAL ESTATE TAXES  
21 AND OTHER GOVERNMENTAL ASSESSMENTS OR CHARGES, AS DESCRIBED  
22 IN SECTION 38-33.3-316 (2)(a)(III);

23 (c) THE AMOUNT, IF ANY, OF THE FIRST MORTGAGE SECURED BY  
24 THE UNIT; AND

25 (d) SIXTY PERCENT OF THE UNIT OWNER'S EQUITY IN THE UNIT.

26 (2) (a) THE AMOUNT OF THE ASSOCIATION'S OR ATTORNEY'S  
27 INITIAL BID AT AUCTION PURSUANT TO SUBSECTION (1) OF THIS SECTION

1 MAY BE DECREASED BY AGREEMENT OF THE ASSOCIATION AND THE UNIT  
2 OWNER PRIOR TO PLACING THE INITIAL BID OR AT ANY TIME, AS PERMITTED  
3 UNDER THE LAWS GOVERNING THE FORECLOSURE SALE, TO REDUCE THE  
4 PERCENTAGE OF THE UNIT OWNER'S EQUITY IN THE UNIT INCLUDED IN THE  
5 BID AMOUNT PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION.

6 (b) IF THE FAIR MARKET VALUE OF THE UNIT DOES NOT EXCEED  
7 THE SUM OF THE AMOUNTS SPECIFIED IN SUBSECTIONS (1)(a) TO (1)(c) OF  
8 THIS SECTION, THE ASSOCIATION'S OR ATTORNEY'S INITIAL BID AT AUCTION  
9 SHALL NOT BE LESS THAN THE FAIR MARKET VALUE OF THE UNIT.

10 (3) IN ADDITION TO ANY OTHER INFORMATION REQUIRED  
11 PURSUANT TO SECTION 38-35-110, THE ASSOCIATION OR THE ATTORNEY  
12 REPRESENTING THE ASSOCIATION SHALL INCLUDE IN A LIS PENDENS FILED  
13 WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE UNIT IS  
14 LOCATED:

15 (a) THE AMOUNT OF THE REQUIRED MINIMUM INITIAL BID AT  
16 AUCTION, AS CALCULATED PURSUANT TO SUBSECTION (1) OR (2) OF THIS  
17 SECTION; AND

18 (b) INFORMATION SUPPORTING THE CALCULATION OF THE MINIMUM  
19 INITIAL BID AT AUCTION, INCLUDING:

20 (I) THE FAIR MARKET VALUE OF THE UNIT AND THE METHOD USED  
21 TO DETERMINE THE FAIR MARKET VALUE OF THE UNIT, AS DESCRIBED IN  
22 SUBSECTION (6)(a)(I) OF THIS SECTION;

23 (II) THE AMOUNT OF EACH LIEN OR ENCUMBRANCE ON THE UNIT  
24 DESCRIBED IN SUBSECTIONS (1)(a) TO (1)(c) OF THIS SECTION; AND

25 (III) THE AMOUNT OF THE UNIT OWNER'S EQUITY IN THE UNIT.

26 (4) (a) IN ANY ACTION TO FORECLOSE AN ASSOCIATION LIEN  
27 PURSUANT TO SECTION 38-33.3-316, THE AWARD OF COSTS TO AN

1 ASSOCIATION FOR AN APPRAISAL CONDUCTED PURSUANT TO THIS SECTION  
2 IS LIMITED TO THE MARKET RATE AT THE TIME THE APPRAISAL WAS  
3 CONDUCTED, NOT TO EXCEED SEVEN HUNDRED FIFTY DOLLARS.

4 (b) AN INDEPENDENT APPRAISER CONDUCTING AN APPRAISAL OF  
5 THE UNIT PURSUANT TO SUBSECTION (6)(a)(I) OF THIS SECTION MUST NOT  
6 BE OR HAVE BEEN AFFILIATED OR ASSOCIATED WITH:

7 (I) A MEMBER OF THE EXECUTIVE BOARD, AN EMPLOYEE OF THE  
8 ASSOCIATION, AN EMPLOYEE OF A COMMUNITY ASSOCIATION  
9 MANAGEMENT COMPANY REPRESENTING THE ASSOCIATION, A PERSON  
10 PROVIDING SERVICES TO THE COMMON INTEREST COMMUNITY, AN  
11 ATTORNEY OR LAW FIRM REPRESENTING THE ASSOCIATION, OR A UNIT  
12 OWNER; OR

13 (II) AN IMMEDIATE FAMILY MEMBER, AS DEFINED IN SECTION  
14 2-4-401 (3.7), OF AN INDIVIDUAL DESCRIBED IN SUBSECTION (4)(b)(I) OF  
15 THIS SECTION.

16 (c) THE ASSOCIATION SHALL PROVIDE TO THE UNIT OWNER, AT NO  
17 CHARGE TO THE UNIT OWNER, A COPY OF THE ASSOCIATION'S INDEPENDENT  
18 APPRAISAL CONDUCTED PURSUANT TO SUBSECTION (6)(a)(I) OF THIS  
19 SECTION, ALONG WITH NOTICE TO THE UNIT OWNER THAT THE UNIT OWNER  
20 MAY OBTAIN AN APPRAISAL BY AN INDEPENDENT APPRAISER AT THE UNIT  
21 OWNER'S EXPENSE AND, IF AN APPRAISAL IS OBTAINED BY THE UNIT  
22 OWNER, THAT THE APPRAISED VALUE OF THE UNIT WILL BE EITHER THE  
23 AVERAGE OF THE TWO APPRAISALS OR THE FAIR MARKET VALUE OF THE  
24 UNIT AS STIPULATED BY THE ASSOCIATION AND THE UNIT OWNER.

25 (5) NOTHING IN THIS SECTION LIMITS ANY PROTECTIONS OR  
26 DEFENSES AVAILABLE TO A UNIT OWNER PURSUANT TO SECTION 38-38-106  
27 IF THE UNIT OWNER IS SUED FOR A DEFICIENCY OR ANY OTHER

1 PROTECTIONS OR DEFENSES IN THIS ARTICLE 33.3 OR ARTICLE 38 OF THIS  
2 TITLE 38 THAT ARE AFFORDED TO A UNIT OWNER OR BORROWER.

3 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
4 REQUIRES:

5 (a) "FAIR MARKET VALUE" MEANS:

6 (I) THE FAIR MARKET VALUE OF THE UNIT, AS DETERMINED BY AN  
7 INDEPENDENT APPRAISER AT THE ASSOCIATION'S EXPENSE; EXCEPT THAT,  
8 IF THE UNIT OWNER DOES NOT AGREE WITH THE ASSOCIATION'S APPRAISAL,  
9 THE UNIT OWNER MAY OBTAIN ANOTHER APPRAISAL OF THE UNIT BY AN  
10 INDEPENDENT APPRAISER AT THE UNIT OWNER'S EXPENSE, AND, IF THE  
11 UNIT OWNER OBTAINS AN APPRAISAL OF THE UNIT, THE FAIR MARKET  
12 VALUE OF THE UNIT IS THE AVERAGE OF THE ASSOCIATION'S APPRAISED  
13 VALUE AND THE UNIT OWNER'S APPRAISED VALUE; OR

14 (II) THE FAIR MARKET VALUE OF THE UNIT AS STIPULATED BY THE  
15 ASSOCIATION AND THE UNIT OWNER.

16 (b) "UNIT OWNER'S EQUITY" MEANS THE FAIR MARKET VALUE OF  
17 THE UNIT LESS THE SUM OF THE AMOUNTS SPECIFIED IN SUBSECTIONS  
18 (1)(a) TO (1)(c) OF THIS SECTION.

19 **SECTION 4.** In Colorado Revised Statutes, 38-38-100.3, **amend**  
20 (14)(c) and (14)(d); and **add** (14)(e) as follows:

21 **38-38-100.3. Definitions.** As used in articles 37 to 39 of this title  
22 38, unless the context otherwise requires:

23 (14) "Mailing list" means the mailing list in accordance with  
24 section 38-38-101 (1)(e) provided to the officer by the holder of the  
25 evidence of debt or the attorney for the holder containing the names and  
26 addresses of the following persons:

27 (c) The occupant of the property, addressed to "occupant" at the

1 address of the property; ~~and~~

2 (d) With respect to a public trustee sale, a lessee with an  
3 unrecorded possessory interest in the property at the address of the  
4 premises of the lessee and, if different, the address of the property, to the  
5 extent that the holder of the evidence of debt desires to terminate the  
6 possessory interest with the foreclosure; AND

7 (e) (I) WITH RESPECT TO A SHERIFF'S SALE OF A PROPERTY IN A  
8 COMMON INTEREST COMMUNITY AFTER FORECLOSURE OF A LIEN BY AN  
9 ASSOCIATION:

10 (A) THE OWNER OF THE PROPERTY, AT THE OWNER ADDRESS  
11 SHOWN IN THE COUNTY ASSESSOR RECORDS FOR THE COUNTY IN WHICH  
12 THE PROPERTY IS LOCATED, IF DIFFERENT FROM THE ADDRESS OF THE  
13 PROPERTY; AND

14 (B) A PROPERTY MANAGER EMPLOYED BY THE PROPERTY OWNER,  
15 IF KNOWN TO THE ASSOCIATION, AT THE ADDRESS OF THE PROPERTY  
16 MANAGER, IF DIFFERENT FROM THE ADDRESS OF THE PROPERTY.

17 (II) AS USED IN THIS SUBSECTION (14)(e):

18 (A) "ASSOCIATION" HAS THE MEANING SET FORTH IN SECTION  
19 38-33.3-103 (3).

20 (B) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET  
21 FORTH IN SECTION 38-33.3-103 (8).

22 **SECTION 5.** In Colorado Revised Statutes, 38-38-106, **amend**  
23 (6) as follows:

24 **38-38-106. Bid required - form of bid.** (6) (a) EXCEPT AS  
25 PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, the holder of the  
26 evidence of debt or the attorney for the holder shall bid at least the  
27 holder's good faith estimate of the fair market value of the property being

1 sold, less the amount of unpaid real property taxes and all amounts  
2 secured by liens against the property being sold that are senior to the deed  
3 of trust or other lien being foreclosed and less the estimated reasonable  
4 costs and expenses of holding, marketing, and selling the property, net of  
5 income received; except that the holder or the attorney for the holder need  
6 not bid more than the total amount due to the holder as specified in the  
7 bid pursuant to subsection (2) of this section. The failure of the holder to  
8 bid the amount required by this subsection (6) shall not affect the validity  
9 of the sale but may be raised as a defense by any person sued on a  
10 deficiency.

11 (b) A HOLDER OF THE EVIDENCE OF DEBT THAT IS AN ASSOCIATION,  
12 AS DEFINED IN SECTION 38-33.3-103 (3), OR THE ATTORNEY REPRESENTING  
13 THE ASSOCIATION, SHALL MAKE AN INITIAL BID THAT IS NOT LESS THAN  
14 THE AMOUNT DETERMINED PURSUANT TO SECTION 38-33.3-316.4.

15 **SECTION 6. Effective date - applicability.** This act takes effect  
16 October 1, 2024, and applies to a foreclosure of a common interest  
17 community lien on or after said date.

18 **SECTION 7. Safety clause.** The general assembly finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, or safety or for appropriations for  
21 the support and maintenance of the departments of the state and state  
22 institutions.