

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 25-0077.01 Brita Darling x2241

HOUSE BILL 25-1043

HOUSE SPONSORSHIP

Ricks, Clifford, Mabrey

SENATE SPONSORSHIP

Exum,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF UNIT OWNERS IN RELATION TO**
102 **ENFORCEMENT ACTIONS BY UNIT OWNERS' ASSOCIATIONS.**

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>.)

Prior to taking enforcement actions to recover money owed to a unit owners' association (HOA) and related collection costs, the bill requires the HOA to be in compliance with HOA law and the HOA's declaration, bylaws, articles, and rules and regulations.

An HOA's written policy concerning the collection of unpaid assessments must require the notice of deficiency sent to a unit owner to

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.

include:

- An advisement that the unit owner may request a copy of the HOA's ledger verifying the amount owed, which copy of the ledger shall be sent to the unit owner no later than 7 business days after the request; and
- An advisement that free information relating to the HOA's collection of assessments and its ability to foreclose and force the sale of a unit is available online through the HOA information and resource center.

The bill requires the division of real estate in the department of regulatory agencies (division) to present data to certain committees of the general assembly concerning the number of requests the HOA information and resource center receives annually concerning credit counseling, the collection of assessments, or foreclosure actions.

Before initiating a legal action to foreclose an HOA lien, the HOA must send written and electronic notices to the unit owner stating that the unit owner has the right to participate in credit counseling at the unit owner's expense in order to understand the consequences of foreclosure and that information about credit counseling may be found on the HOA information and resource center's website.

As part of an HOA's annual registration with the director of the division, the HOA shall submit information concerning:

- The number of unit owners that were, at any time during the preceding 12-month period, 3 or more or 6 or more calendar months delinquent in the payment of an annual assessment or special assessment;
- The number of judgments obtained against unit owners;
- The number of payment plans entered into with unit owners; and
- The number of foreclosure actions filed by the HOA.

If an HOA forecloses an HOA priority lien against a unit owner's home (unit) in an HOA-governed community, and the unit is sold at a sheriff's auction, the bill requires the HOA to make a minimum bid for the unit that is not less than 80% of the fair market value of the unit, as determined by an independent appraisal or other methods described in the bill. The bill amends the foreclosure sale statute to conform to the minimum bid requirement required in the bill.

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

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

1 ANY LAW TO THE CONTRARY, AS A CONDITION PRECEDENT TO RECOVERING
2 MONEY OWED TO AN ASSOCIATION, COLLECTION COSTS, OR REASONABLE
3 ATTORNEY FEES OR COSTS PURSUANT TO THIS SECTION, THE ASSOCIATION
4 SHALL STRICTLY COMPLY WITH THIS SECTION AND ANY APPLICABLE
5 PROVISIONS OF THIS TITLE 38 OR OTHER APPLICABLE LAW, THE
6 DECLARATION, BYLAWS, ARTICLES, AND RULES AND REGULATIONS.

7 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-209.5,
8 **amend** (5)(a) introductory portion, (5)(a)(V)(C), and (5)(a)(V)(D); and
9 **add** (5)(a)(V)(E) and (5)(a.5) as follows:

10 **38-33.3-209.5. Responsible governance policies - due process**
11 **for imposition of fines - procedure for collection of delinquent**
12 **accounts - enforcement through small claims court - definitions.**

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

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

27 (C) The name and contact information for the individual the unit

1 owner may contact to request a copy of the unit owner's ledger in order
2 to verify the amount of the debt, and WHICH COPY OF THE LEDGER MUST
3 BE PROVIDED TO THE UNIT OWNER NO LATER THAN SEVEN BUSINESS DAYS
4 AFTER RECEIPT OF THE UNIT OWNER'S REQUEST;

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

10 (E) THE AVAILABILITY OF, AND INSTRUCTIONS ON HOW TO ACCESS,
11 FREE ONLINE INFORMATION THROUGH THE HOA INFORMATION AND
12 RESOURCE CENTER CREATED IN SECTION 12-10-801 (1) RELATING TO THE
13 COLLECTION OF ASSESSMENTS BY AN ASSOCIATION, INCLUDING THE
14 ASSOCIATION'S ABILITY TO FORECLOSE AN ASSOCIATION LIEN FOR UNPAID
15 ASSESSMENTS AND FORCE THE SALE OF THE UNIT OWNER'S HOME AND HOW
16 TO OBTAIN CREDIT COUNSELING PRIOR TO FORECLOSURE.

17 (a.5) BEGINNING IN JANUARY 2026, AND EACH JANUARY
18 THEREAFTER, THE DIVISION OF REAL ESTATE IN THE DEPARTMENT OF
19 REGULATORY AGENCIES SHALL PRESENT TO THE HOUSE OF
20 REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT
21 COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING
22 COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, DATA RELATING TO THE
23 NUMBER OF PERSONS WHO HAVE CONTACTED THE HOA INFORMATION AND
24 RESOURCE CENTER CREATED IN SECTION 12-10-801 (1) FOR INFORMATION
25 CONCERNING:

26 (I) CREDIT COUNSELING;

27 (II) THE COLLECTION OF ASSESSMENTS; OR

1 (III) FORECLOSURE ACTIONS.

2 SECTION 3. In Colorado Revised Statutes, 38-33.3-316, add
3 (10.3), (11.5), and (14) as follows:

4 38-33.3-316. Lien for assessments - liens for fines, fees,
5 charges, costs, and attorney fees - limitations - definitions. (10.3) AT
6 LEAST THIRTY DAYS BEFORE INITIATING A LEGAL ACTION TO FORECLOSE
7 AN ASSOCIATION LIEN, THE ASSOCIATION SHALL PROVIDE WRITTEN AND
8 ELECTRONIC NOTICE TO THE UNIT OWNER OR THE UNIT OWNER'S DESIGNEE
9 THAT:

10 (a) THE UNIT OWNER HAS THE RIGHT TO PARTICIPATE IN CREDIT
11 COUNSELING AT THE UNIT OWNER'S EXPENSE AND THAT INFORMATION
12 RELATING TO OBTAINING CREDIT COUNSELING AND THE CONSEQUENCES OF
13 FORECLOSURE BY AN ASSOCIATION IS AVAILABLE THROUGH THE HOA
14 INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-10-801 (1);
15 AND

16 (b) CREDIT COUNSELING MAY INCLUDE:

17 (I) DISCUSSION OF AMOUNTS OWED TO THE ASSOCIATION IN
18 UNPAID ASSESSMENTS AND RELATED COSTS;

19 (II) THE IMPACT OF FORECLOSURE ON THE UNIT OWNER'S CREDIT;

20 (III) ADDITIONAL DEBT THAT MAY BE INCURRED BY THE UNIT
21 OWNER IF FORECLOSURE BY THE ASSOCIATION IS COMPLETED;

22 (IV) OPTIONS AVAILABLE TO THE UNIT OWNER TO RETAIN TITLE TO
23 THE UNIT OR TO REMAIN IN THE UNIT; AND

24 (V) ANY OTHER OPTIONS THAT MAY BE AVAILABLE TO THE UNIT
25 OWNER TO AVOID FORECLOSURE.

26 (11.5) (a) AS USED IN THIS SUBSECTION (11.5), "FAIR MARKET
27 VALUE" MEANS THE VALUE OF THE UNIT AS DETERMINED BY:

1 (I) AN APPRAISAL CONDUCTED BY A LICENSED, INDEPENDENT
2 APPRAISER THAT IS PAID FOR BY THE ASSOCIATION;

3 (II) IF AGREED TO BY THE UNIT OWNER, A COMPARATIVE MARKET
4 ANALYSIS CONDUCTED BY A LICENSED REAL ESTATE AGENT SELECTED BY
5 THE UNIT OWNER; OR

6 (III) IF THE ASSOCIATION IS UNABLE TO CONDUCT THE APPRAISAL
7 OR TO OBTAIN A COMPARATIVE MARKET ANALYSIS WITHIN THIRTY DAYS
8 AFTER FORECLOSING ON THE UNIT DUE TO THE ACTION OR INACTION OF
9 THE UNIT OWNER, THE ASSESSED VALUE OF THE UNIT RECORDED IN THE
10 COUNTY ASSESSOR'S PROPERTY TAX RECORDS ON THE DATE ON WHICH THE
11 UNIT WAS FORECLOSED.

12 (b) AS PART OF A FORECLOSURE ACTION ON A UNIT OWNER'S UNIT:

13 (I) THE ASSOCIATION SHALL PROVIDE WRITTEN AND ELECTRONIC
14 NOTICE TO THE UNIT OWNER AFTER THE UNIT IS FORECLOSED OF THE
15 METHODS FOR DETERMINING FAIR MARKET VALUE OF THE UNIT AS
16 DESCRIBED IN SUBSECTION (11.5)(a) OF THIS SECTION; AND

17 (II) THE ASSOCIATION OR THE ATTORNEY REPRESENTING THE
18 ASSOCIATION SHALL SUBMIT TO THE COURT THE FAIR MARKET VALUE OF
19 THE UNIT.

20 (c) AFTER FORECLOSING ON A UNIT THROUGH AN ASSOCIATION
21 LIEN DESCRIBED IN SUBSECTION (2)(b)(I) OF THIS SECTION, THE
22 ASSOCIATION OR THE ATTORNEY REPRESENTING THE ASSOCIATION SHALL
23 MAKE AN INITIAL BID AT AUCTION THAT IS NOT LESS THAN EIGHTY
24 PERCENT OF THE FAIR MARKET VALUE OF THE UNIT, LESS THE
25 ASSOCIATION'S ALLOWABLE COSTS ASSOCIATED WITH THE FORECLOSURE
26 ACTION.

27 (14) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES, "ASSESSMENT" MEANS A PAYMENT FOR COMMON EXPENSE
2 OBLIGATIONS OF UNIT OWNERS BASED ON A PERIODIC BUDGET ADOPTED BY
3 THE ASSOCIATION UNDER SECTION 38-33.3-315 (1), OR A PAYMENT FOR
4 LIMITED COMMON ELEMENTS OF UNIT OWNERS, AND INCLUDES FEES
5 SPECIFIC TO DELINQUENT PAYMENTS AND REASONABLE COLLECTION COSTS
6 FOR COLLECTING DELINQUENT PAYMENTS.

7 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-401, **add**
8 (3.2) as follows:

9 **38-33.3-401. Registration - annual fees - data collection of**
10 **enforcement actions.** (3.2) AS PART OF AN ASSOCIATION'S ANNUAL
11 REGISTRATION, THE ASSOCIATION SHALL SUBMIT THE FOLLOWING
12 INFORMATION TO THE DIRECTOR OF THE DIVISION OF REAL ESTATE, IN THE
13 FORM AND MANNER DETERMINED BY THE DIRECTOR OF THE DIVISION OF
14 REAL ESTATE:

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

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

21 (II) OF THE UNIT OWNERS DESCRIBED IN SUBSECTION (3.2)(a)(I) OF
22 THIS SECTION, THE NUMBER OF UNIT OWNERS THAT WERE SIX OR MORE
23 CALENDAR MONTHS DELINQUENT IN THE PAYMENT OF AN ANNUAL
24 ASSESSMENT OR SPECIAL ASSESSMENT;

25 (b) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
26 THE ASSOCIATION'S ANNUAL REGISTRATION, FOR UNPAID ANNUAL
27 ASSESSMENTS OR SPECIAL ASSESSMENTS OR RELATED FEES OR ATTORNEY

1 FEES:

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

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

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

9 (c) ANY OTHER INFORMATION SPECIFIED BY THE DIRECTOR OF THE
10 DIVISION OF REAL ESTATE RELATING TO THE COLLECTION OF ASSESSMENTS
11 AND THE FORECLOSURE OF THE ASSOCIATION'S LIENS.

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

14 **38-38-106. Bid required - form of bid.** (6) (a) EXCEPT AS
15 PROVIDED IN SUBSECTION (6)(b) OF THIS SECTION, the holder of the
16 evidence of debt or the attorney for the holder shall bid at least the
17 holder's good faith estimate of the fair market value of the property being
18 sold, less the amount of unpaid real property taxes and all amounts
19 secured by liens against the property being sold that are senior to the deed
20 of trust or other lien being foreclosed and less the estimated reasonable
21 costs and expenses of holding, marketing, and selling the property, net of
22 income received; except that the holder or the attorney for the holder need
23 not bid more than the total amount due to the holder as specified in the
24 bid pursuant to subsection (2) of this section. The failure of the holder to
25 bid the amount required by this subsection (6) shall not affect the validity
26 of the sale but may be raised as a defense by any person sued on a
27 deficiency.

1 (b) A HOLDER OF THE EVIDENCE OF DEBT THAT IS AN ASSOCIATION,
2 AS DEFINED IN SECTION 38-33.3-103 (3), OR THE ATTORNEY REPRESENTING
3 THE ASSOCIATION, SHALL MAKE AN INITIAL BID THAT IS NOT LESS THAN
4 THE AMOUNT DETERMINED PURSUANT TO SECTION 38-33.3-316 (11.5).

5 **SECTION 6. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect October 1, 2025; except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within the ninety-day period after final adjournment of the general
10 assembly, then the act, item, section, or part will not take effect unless
11 approved by the people at the general election to be held in November
12 2026 and, in such case, will take effect on the date of the official
13 declaration of the vote thereon by the governor.

14 (2) This act applies to enforcement actions instituted on or after
15 the applicable effective date of this act.