

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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, 12-10-801, **amend**

3 **(3)(c)** as follows:

4 **12-10-801. HOA information and resource center - creation -**

1 **duties - rules - subject to review - repeal.** (3) (c) (I) The HOA
2 information officer shall track inquiries and complaints and report
3 annually to the director regarding the number and types of inquiries and
4 complaints received.

5 (II) IN ADDITION TO THE INFORMATION DESCRIBED IN SUBSECTION
6 (3)(c)(I) OF THIS SECTION, THE HOA INFORMATION OFFICER SHALL REPORT
7 IN THE ANNUAL HOA REPORT AGGREGATED INFORMATION PROVIDED BY
8 ASSOCIATIONS PURSUANT TO SECTION 38-33.3-401 (3.2) AS PART OF THE
9 ASSOCIATIONS' ANNUAL REGISTRATION WITH THE DIRECTOR OF THE
10 DIVISION.

11 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-123, **add** (3)
12 as follows:

13 **38-33.3-123. Enforcement - limitation.** (3) NOTWITHSTANDING
14 ANY LAW TO THE CONTRARY, AS A CONDITION PRECEDENT TO RECOVERING
15 MONEY OWED TO AN ASSOCIATION, COLLECTION COSTS, OR REASONABLE
16 ATTORNEY FEES OR COSTS THROUGH THE FORECLOSURE OF AN
17 ASSOCIATION LIEN, THE ASSOCIATION SHALL STRICTLY COMPLY WITH THIS
18 SECTION AND ANY APPLICABLE ASSOCIATION LIEN OR FORECLOSURE
19 PROVISIONS OF THIS TITLE 38 OR OTHER APPLICABLE LAW, THE
20 DECLARATION, BYLAWS, ARTICLES, AND RULES AND REGULATIONS.

21 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-209.5,
22 **amend** (5)(a) introductory portion, (5)(a)(V)(C), and (5)(a)(V)(D); and
23 **add** (5)(a)(V)(E) as follows:

24 **38-33.3-209.5. Responsible governance policies - due process**
25 **for imposition of fines - procedure for collection of delinquent**
26 **accounts - enforcement through small claims court - definitions.**

27 (5) (a) Notwithstanding any provision of the declaration, bylaws, articles,

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

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

14 (C) The name and contact information for the individual the unit
15 owner may contact to request a copy of the unit owner's ledger in order
16 to verify the amount of the debt, ~~and~~ WHICH COPY OF THE LEDGER MUST
17 BE PROVIDED TO THE UNIT OWNER NO LATER THAN SEVEN BUSINESS DAYS
18 AFTER RECEIPT OF THE UNIT OWNER'S REQUEST;

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

24 (E) THE AVAILABILITY OF, AND INSTRUCTIONS ON HOW TO ACCESS,
25 FREE ONLINE INFORMATION THROUGH THE HOA INFORMATION AND
26 RESOURCE CENTER CREATED IN SECTION 12-10-801 (1) RELATING TO THE
27 COLLECTION OF ASSESSMENTS BY AN ASSOCIATION, INCLUDING THE

1 ASSOCIATION'S ABILITY TO FORECLOSE AN ASSOCIATION LIEN FOR UNPAID
2 ASSESSMENTS AND FORCE THE SALE OF THE UNIT OWNER'S HOME, AND THE
3 AVAILABILITY OF ONLINE INFORMATION FROM THE FEDERAL DEPARTMENT
4 OF HOUSING AND URBAN DEVELOPMENT CONCERNING CREDIT COUNSELING
5 BEFORE FORECLOSURE THAT MAY BE ACCESSED THROUGH A LINK ON THE
6 DEPARTMENT OF LOCAL AFFAIRS' WEBSITE. ■ ■

7 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-316, **add**
8 (10.3), (11.2), and (14) as follows:

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

15 (a) THE UNIT OWNER HAS THE RIGHT TO PARTICIPATE IN CREDIT
16 COUNSELING AT THE UNIT OWNER'S EXPENSE AND THAT INFORMATION
17 RELATING TO OBTAINING CREDIT COUNSELING AND THE CONSEQUENCES OF
18 FORECLOSURE BY AN ASSOCIATION IS AVAILABLE THROUGH THE HOA
19 INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-10-801 (1)
20 OR THROUGH A LINK TO THE FEDERAL DEPARTMENT OF HOUSING AND
21 URBAN DEVELOPMENT ON THE DEPARTMENT OF LOCAL AFFAIRS' WEBSITE;
22 AND

23 (b) CREDIT COUNSELING MAY INCLUDE:

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

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

27 (III) ADDITIONAL DEBT THAT MAY BE INCURRED BY THE UNIT

1 OWNER IF FORECLOSURE BY THE ASSOCIATION IS COMPLETED;

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

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

6 (11.2) NO LATER THAN FIVE BUSINESS DAYS AFTER AN
7 ASSOCIATION INITIATES LEGAL ACTION TO FORECLOSE A LIEN DESCRIBED
8 IN THIS SECTION, THE ASSOCIATION SHALL PROVIDE WRITTEN AND
9 ELECTRONIC NOTICE TO ALL LIENHOLDERS IDENTIFIED IN THE UNIT OWNER
10 PROPERTY RECORDS OF:

11 (a) THE RIGHT TO CURE THE NONPAYMENT PURSUANT TO SECTION
12 38-38-104; AND

13 (b) THE RIGHT OF THE UNIT OWNER TO FILE A MOTION TO STAY THE
14 SALE OF THE PROPERTY AT AUCTION PURSUANT TO SECTION 38-38-109.5.

15

16 (14) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES, "ASSESSMENT" MEANS A PAYMENT FOR COMMON EXPENSE
18 OBLIGATIONS OF UNIT OWNERS BASED ON A PERIODIC BUDGET ADOPTED BY
19 THE ASSOCIATION UNDER SECTION 38-33.3-315 (1), OR A PAYMENT FOR
20 LIMITED COMMON ELEMENTS OF UNIT OWNERS, AND INCLUDES FEES
21 SPECIFIC TO DELINQUENT PAYMENTS AND REASONABLE COLLECTION COSTS
22 FOR COLLECTING DELINQUENT PAYMENTS.

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

25 **38-33.3-401. Registration - annual fees - data collection of**
26 **enforcement actions.** (3.2) AS PART OF AN ASSOCIATION'S ANNUAL
27 REGISTRATION, THE ASSOCIATION SHALL SUBMIT THE FOLLOWING

1 INFORMATION TO THE DIRECTOR OF THE DIVISION OF REAL ESTATE, IN THE
2 FORM AND MANNER DETERMINED BY THE DIRECTOR OF THE DIVISION OF
3 REAL ESTATE:

4 (a) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
5 THE ASSOCIATION'S ANNUAL REGISTRATION, THE NUMBER OF UNIT OWNERS
6 THAT WERE, AT ANY TIME DURING THE TWELVE-MONTH PERIOD, SIX OR
7 MORE CALENDAR MONTHS DELINQUENT IN THE PAYMENT OF AN ANNUAL
8 ASSESSMENT OR SPECIAL ASSESSMENT;

9 (b) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
10 THE ASSOCIATION'S ANNUAL REGISTRATION, FOR UNPAID ANNUAL
11 ASSESSMENTS OR SPECIAL ASSESSMENTS OR RELATED FEES OR ATTORNEY
12 FEES:

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

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

17 AND

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

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

23
24 **SECTION 6.** In Colorado Revised Statutes, **add 38-38-109.5 as**
25 **follows:**

26 **38-38-109.5 Continuance of sale - unit association lien - unit**
27 **owner's motion to stay - escrow of proceeds - purchaser title.**

1 (1) NOTWITHSTANDING ANY PROVISION OF THIS TITLE 38 TO THE
2 CONTRARY, AT ANY TIME AFTER A UNIT OWNERS' ASSOCIATION FILES AN
3 ACTION FOR FORECLOSURE OF THE UNIT ASSOCIATION LIEN ON A UNIT, BUT
4 PRIOR TO THE SALE DATE AT AUCTION, THE UNIT OWNER OR THE UNIT
5 OWNER'S DESIGNATED REPRESENTATIVE MAY FILE A MOTION WITH THE
6 COURT TO STAY THE SALE OF THE UNIT WITH NOTICE OF THE UNIT OWNER'S
7 INTENT TO LIST THE UNIT FOR SALE FOR THE FAIR MARKET VALUE OF THE
8 UNIT OR AN ALTERNATE AMOUNT AS SPECIFIED IN SUBSECTION (2) OF THIS
9 SECTION. THE UNIT OWNER OR THE UNIT OWNER'S DESIGNATED
10 REPRESENTATIVE SHALL PROVIDE NOTICE OF THE MOTION TO STAY THE
11 SALE TO THE ASSOCIATION AND TO THE OFFICER.

12 (2) (a) THE UNIT OWNER SHALL STATE IN THE MOTION TO STAY:

13 (I) THE FAIR MARKET VALUE OF THE UNIT, AS DETERMINED BY:

14 (A) AN APPRAISAL OF THE UNIT;

15 (B) A MARKET ANALYSIS CONDUCTED BY A LICENSED REAL ESTATE
16 AGENT; OR

17 (C) THE ASSESSED VALUE OF THE UNIT RECORDED IN THE COUNTY
18 ASSESSOR'S PROPERTY TAX RECORDS ON THE DATE OF THE COURT'S ORDER
19 TO SELL THE UNIT; OR

20 (II) AN ALTERNATE VALUE FOR THE UNIT THAT, IF LESS THAN THE
21 FAIR MARKET VALUE OF THE UNIT, EXCEEDS THE SUM OF ALL LIENS AND
22 ANY FEES OR COSTS ADVANCED BY THE HOLDER OF THE EVIDENCE OF
23 DEBT.

24 (b) THE COURT MAY ALLOW THE UNIT OWNER ADDITIONAL TIME TO
25 SUBMIT THE FAIR MARKET VALUE OR ALTERNATE VALUE TO THE COURT.

26 (c) THE UNIT OWNER SHALL LIST THE UNIT AT THE SALE PRICE
27 SPECIFIED IN THE MOTION TO STAY, UNLESS THE ASSOCIATION OBJECTS TO

1 THE UNIT OWNER'S DECLARED FAIR MARKET VALUE OR ALTERNATE VALUE
2 OF THE UNIT. THE ASSOCIATION MAY SUBMIT EVIDENCE OF THE UNIT'S
3 VALUE TO THE COURT. BASED ON THE EVIDENCE, THE COURT SHALL SET
4 THE INITIAL LIST PRICE OF THE UNIT AND MAY FURTHER ORDER A CHANGE
5 TO THE LIST PRICE IF SUPPORTED BY SUFFICIENT EVIDENCE.

6 (3) THE COURT MAY EXTEND THE STAY OF THE SALE OF THE UNIT
7 AT AUCTION BEYOND NINE MONTHS UPON EVIDENCE THAT THE SALE OF
8 THE UNIT IS IMMINENT OR FOR GOOD CAUSE, AS DETERMINED BY THE
9 COURT.

10 (4) IF A SALE DATE WAS SCHEDULED, THE OFFICER SHALL POST OR
11 PROVIDE NOTICE OF THE CONTINUANCE OF THE SALE WHILE THE STAY IS IN
12 EFFECT.

13 (5) THE COURT SHALL ENTER ANY ORDERS NECESSARY TO ENSURE
14 THAT THE PROCEEDS OF THE SALE OF THE UNIT ARE HELD IN ESCROW AND
15 DISTRIBUTED BY THE COURT IN ACCORDANCE WITH LIEN PRIORITY AND
16 OTHER APPLICABLE LAW.

17 (6) A PURCHASER OF A UNIT LISTED FOR SALE PURSUANT TO THIS
18 SECTION SHALL TAKE TITLE TO THE UNIT FREE AND CLEAR OF ANY
19 ENCUMBRANCES RELATING TO FILING OF THE FORECLOSURE ACTION.

20 **SECTION 7. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect October 1, 2025; except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within the ninety-day period after final adjournment of the general
25 assembly, then the act, item, section, or part will not take effect unless
26 approved by the people at the general election to be held in November
27 2026 and, in such case, will take effect on the date of the official

- 1 declaration of the vote thereon by the governor.
- 2 (2) This act applies to enforcement actions instituted on or after
- 3 the applicable effective date of this act.