

CHAPTER 217

PROPERTY

SENATE BILL 96-186

BY SENATORS Linkhart, Coffman, and Schroeder;
also REPRESENTATIVE Kerns.

AN ACT

CONCERNING THE "COLORADO COMMON INTEREST OWNERSHIP ACT".

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

SECTION 1. 38-33.3-123, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-33.3-123. Enforcement - limitation. (1) If any person subject to the provisions of this article fails to comply with any of its provisions or any provision of the declaration, bylaws, articles, or rules and regulations, any person or class of persons adversely affected by the failure to comply may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. For each claim, including but not limited to counterclaims, cross-claims, and third-party claims, in any legal proceeding to enforce the provisions of this article or of the declaration, bylaws, articles, or rules and regulations, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim.

(2) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NO ACTION SHALL BE COMMENCED OR MAINTAINED TO ENFORCE THE TERMS OF ANY BUILDING RESTRICTION CONTAINED IN THE PROVISIONS OF THE DECLARATION, BYLAWS, ARTICLES, OR RULES AND REGULATIONS OR TO COMPEL THE REMOVAL OF ANY BUILDING OR IMPROVEMENT BECAUSE OF THE VIOLATION OF THE TERMS OF ANY SUCH BUILDING RESTRICTION UNLESS THE ACTION IS COMMENCED WITHIN ONE YEAR FROM THE DATE FROM WHICH THE PERSON COMMENCING THE ACTION KNEW OR IN THE EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE KNOWN OF THE VIOLATION FOR WHICH THE ACTION IS SOUGHT TO BE BROUGHT OR MAINTAINED.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 38-33.3-306 (3) (b), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is repealed as follows:

38-33.3-306. Bylaws. (3) (b) ~~This subsection (3) is repealed, effective July 1, 1996.~~

SECTION 3. Applicability. Section 1 of this act shall apply to causes of action accruing on or after July 1, 1996.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 23, 1996