

CHAPTER 164

PROPERTY

HOUSE BILL 98-1337

BY REPRESENTATIVE Kaufman;
also SENATORS Matsunaka and Wattenberg.

AN ACT

CONCERNING THE "COLORADO COMMON INTEREST OWNERSHIP ACT", AND, IN CONNECTION THEREWITH, ALLOWING VARIATION BY AGREEMENT FROM CERTAIN PROVISIONS OF THE ACT, EXPANDING THE EXEMPTION FROM THE ACT FOR NEW SMALL COOPERATIVES AND SMALL AND LIMITED EXPENSE PLANNED COMMUNITIES, REQUIRING ADDITIONAL NOTICE OF MEETINGS OF A UNIT OWNERS' ASSOCIATION, AND REQUIRING NOTICE OF MEETINGS OF A UNIT OWNERS' ASSOCIATION'S EXECUTIVE BOARD OR COMMITTEE THEREOF.

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

SECTION 1. 38-33.3-103 (20), Colorado Revised Statutes, is amended to read:

38-33.3-103. Definitions. As used in the declaration and bylaws of an association, unless specifically provided otherwise or unless the context otherwise requires, and in this article:

(20) "Master association" means an organization ~~described in section 38-33.3-220, whether or not it is also an association described in section 38-33.3-301~~ THAT IS AUTHORIZED TO EXERCISE SOME OR ALL OF THE POWERS OF ONE OR MORE ASSOCIATIONS ON BEHALF OF ONE OR MORE COMMON INTEREST COMMUNITIES OR FOR THE BENEFIT OF THE UNIT OWNERS OF ONE OR MORE COMMON INTEREST COMMUNITIES.

SECTION 2. 38-33.3-116, Colorado Revised Statutes, is amended to read:

38-33.3-116. Exception for new small cooperatives and small and limited expense planned communities. (1) If a cooperative created in this state on or after July 1, 1992, BUT PRIOR TO JULY 1, 1998, contains only units restricted to nonresidential use, or contains no more than ten units and is not subject to any development rights, it is subject only to sections 38-33.3-105, 38-33.3-106, and

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

38-33.3-107, unless the declaration provides that this entire article is applicable. If a planned community created in this state on or after July 1, 1992, BUT PRIOR TO JULY 1, 1998, contains no more than ten units and is not subject to any development rights or if a planned community provides, in its declaration, that the annual average common expense liability of each unit restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed three hundred dollars, it is subject only to sections 38-33.3-105, 38-33.3-106, and 38-33.3-107, unless the declaration provides that this entire article is applicable.

(2) IF A COOPERATIVE OR PLANNED COMMUNITY CREATED IN THIS STATE ON OR AFTER JULY 1, 1998, CONTAINS ONLY UNITS RESTRICTED TO NONRESIDENTIAL USE, OR CONTAINS NO MORE THAN TWENTY UNITS AND IS NOT SUBJECT TO ANY DEVELOPMENT RIGHTS, IT IS SUBJECT ONLY TO SECTIONS 38-33.3-105, 38-33.3-106, AND 38-33.3-107, UNLESS THE DECLARATION PROVIDES THAT THIS ENTIRE ARTICLE IS APPLICABLE. IF A PLANNED COMMUNITY CREATED IN THIS STATE AFTER JULY 1, 1998, PROVIDES, IN ITS DECLARATION, THAT THE ANNUAL AVERAGE COMMON EXPENSE LIABILITY OF EACH UNIT RESTRICTED TO RESIDENTIAL PURPOSES, EXCLUSIVE OF OPTIONAL USER FEES AND ANY INSURANCE PREMIUMS PAID BY THE ASSOCIATION, MAY NOT EXCEED FOUR HUNDRED DOLLARS, AS ADJUSTED PURSUANT TO SUBSECTION (3) OF THIS SECTION, IT IS SUBJECT ONLY TO SECTIONS 38-33.3-105, 38-33.3-106, AND 38-33.3-107, UNLESS THE DECLARATION PROVIDES THAT THIS ENTIRE ARTICLE IS APPLICABLE.

(3) THE FOUR-HUNDRED-DOLLAR LIMITATION SET FORTH IN SUBSECTION (2) OF THIS SECTION SHALL BE INCREASED ANNUALLY ON JULY 1, 1999, AND ON JULY 1 OF EACH SUCCEEDING YEAR IN ACCORDANCE WITH ANY INCREASE IN THE UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS FINAL CONSUMER PRICE INDEX FOR THE DENVER-BOULDER CONSOLIDATED METROPOLITAN STATISTICAL AREA FOR THE PRECEDING CALENDAR YEAR. THE LIMITATION SHALL NOT BE INCREASED IF THE FINAL CONSUMER PRICE INDEX FOR THE PRECEDING CALENDAR YEAR DID NOT INCREASE AND SHALL NOT BE DECREASED IF THE FINAL CONSUMER PRICE INDEX FOR THE PRECEDING CALENDAR YEAR DECREASED.

SECTION 3. Part 1 of article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-33.3-120.5 Extension of declaration term. (1) IF A COMMON INTEREST COMMUNITY HAS A DECLARATION IN EFFECT WITH A LIMITED TERM OF YEARS THAT WAS RECORDED PRIOR TO JULY 1, 1992, AND IF, BEFORE THE TERM OF THE DECLARATION EXPIRES, THE UNIT OWNERS IN THE COMMON INTEREST COMMUNITY HAVE NOT AMENDED THE DECLARATION PURSUANT TO SECTION 38-33.3-120 AND IN ACCORDANCE WITH ANY CONDITIONS OR FIXED LIMITATIONS DESCRIBED IN THE DECLARATION, THE DECLARATION MAY BE EXTENDED AS PROVIDED IN THIS SECTION.

(2) THE TERM OF THE DECLARATION MAY BE EXTENDED:

(a) IF THE EXECUTIVE BOARD ADOPTS A RESOLUTION RECOMMENDING THAT THE DECLARATION BE EXTENDED FOR A SPECIFIC TERM NOT TO EXCEED TWENTY YEARS AND DIRECTS THAT THE QUESTION OF EXTENDING THE TERM OF THE DECLARATION BE SUBMITTED TO THE UNIT OWNERS, AS MEMBERS OF THE ASSOCIATION; AND

(b) IF AN EXTENSION OF THE TERM OF THE DECLARATION IS APPROVED BY VOTE OR AGREEMENT OF UNIT OWNERS OF UNITS TO WHICH AT LEAST SIXTY-SEVEN PERCENT OF THE VOTES IN THE ASSOCIATION ARE ALLOCATED OR ANY LARGER PERCENTAGE THE DECLARATION SPECIFIES.

(3) EXCEPT FOR THE EXTENSION OF THE TERM OF A DECLARATION AS AUTHORIZED BY THIS SECTION, NO OTHER PROVISION OF A DECLARATION MAY BE AMENDED PURSUANT TO THE PROVISIONS OF THIS SECTION.

(4) FOR ANY MEETING OF UNIT OWNERS AT WHICH A VOTE IS TO BE TAKEN ON A PROPOSED EXTENSION OF THE TERM OF A DECLARATION AS PROVIDED IN THIS SECTION, THE SECRETARY OR OTHER OFFICER SPECIFIED IN THE BYLAWS SHALL PROVIDE WRITTEN NOTICE TO EACH UNIT OWNER ENTITLED TO VOTE AT THE MEETING STATING THAT THE PURPOSE, OR ONE OF THE PURPOSES, OF THE MEETING IS TO CONSIDER EXTENDING THE TERM OF THE DECLARATION. THE NOTICE SHALL BE GIVEN IN THE TIME AND MANNER SPECIFIED IN SECTION 38-33.3-308 OR IN THE ARTICLES OF INCORPORATION, DECLARATION, BYLAWS, OR OTHER GOVERNING DOCUMENTS OF THE ASSOCIATION.

(5) THE EXTENSION OF THE DECLARATION, IF APPROVED, SHALL BE INCLUDED IN AN AMENDMENT TO THE DECLARATION AND SHALL BE EXECUTED, ACKNOWLEDGED, AND RECORDED BY THE ASSOCIATION IN THE RECORDS OF THE CLERK AND RECORDER OF EACH COUNTY IN WHICH ANY PORTION OF THE COMMON INTEREST COMMUNITY IS LOCATED. THE AMENDMENT SHALL INCLUDE:

(a) A STATEMENT OF THE NAME OF THE COMMON INTEREST COMMUNITY AND THE ASSOCIATION;

(b) A STATEMENT THAT THE ASSOCIATION HAS ELECTED TO EXTEND THE TERM OF THE DECLARATION PURSUANT TO THIS SECTION AND THE TERM OF THE APPROVED EXTENSION;

(c) A STATEMENT THAT INDICATES THAT THE EXECUTIVE BOARD HAS ADOPTED A RESOLUTION RECOMMENDING THAT THE DECLARATION BE EXTENDED FOR A SPECIFIC TERM NOT TO EXCEED TWENTY YEARS, THAT SETS FORTH THE DATE OF THE MEETING AT WHICH THE UNIT OWNERS ELECTED TO EXTEND THE TERM OF THE DECLARATION, AND THAT DECLARES THAT THE EXTENSION WAS AUTHORIZED BY A VOTE OR AGREEMENT OF UNIT OWNERS OF UNITS TO WHICH AT LEAST SIXTY-SEVEN PERCENT OF THE VOTES IN THE ASSOCIATION ARE ALLOCATED OR ANY LARGER PERCENTAGE THE DECLARATION SPECIFIES;

(d) A STATEMENT OF THE NAMES AND RESPECTIVE ADDRESSES OF THE OFFICERS AND EXECUTIVE BOARD MEMBERS OF THE ASSOCIATION.

(6) UPON THE RECORDING OF THE AMENDMENT REQUIRED BY SUBSECTION (5) OF THIS SECTION, AND SUBJECT TO THE PROVISIONS OF THIS SECTION, A COMMON INTEREST COMMUNITY IS SUBJECT TO ALL PROVISIONS OF THE DECLARATION, AS AMENDED.

SECTION 4. 38-33.3-205 (1) (h), Colorado Revised Statutes, is amended, and the said 38-33.3-205 is further amended BY THE ADDITION OF THE

FOLLOWING NEW SUBSECTIONS, to read:

38-33.3-205. Contents of declaration. (1) (h) A description of any development rights and other special declarant rights reserved by the declarant, together with a ~~legally sufficient~~ **SUFFICIENT TO IDENTIFY** description of the real estate to which each of those rights applies and the time limit within which each of those rights must be exercised;

(4) A DECLARANT MAY AMEND THE DECLARATION, A PLAT, OR A MAP TO CORRECT CLERICAL, TYPOGRAPHICAL, OR TECHNICAL ERRORS.

(5) A DECLARANT MAY AMEND THE DECLARATION TO COMPLY WITH THE REQUIREMENTS, STANDARDS, OR GUIDELINES OF RECOGNIZED SECONDARY MORTGAGE MARKETS, THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE FEDERAL HOUSING ADMINISTRATION, THE VETERANS ADMINISTRATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION, THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.

SECTION 5. 38-33.3-207 (4) (a) (III), (4) (a) (IV), and (4) (d), Colorado Revised Statutes, are amended to read:

38-33.3-207. Allocation of allocated interests. (4) (a) The declaration may provide:

(III) For class voting on specified issues affecting the class, INCLUDING THE ELECTION OF THE EXECUTIVE BOARD ~~if necessary to protect valid interests of the class~~; and

(IV) ~~For large planned communities created after July 1, 1994~~, For assessments including, but not limited to, assessments on retail sales and services not to exceed six percent of the amount charged for the retail sale or service, and real estate transfers not to exceed three percent of the real estate sales price or its equivalent.

(d) ~~Large planned Communities specifying~~ WITH classes for voting SPECIFIED in the declaration as allowed pursuant to subparagraph (III) of paragraph (a) of this subsection (4) may designate classes of members on a reasonable basis which do not allow the declarant to control the association beyond the period provided for in section 38-33.3-303 ~~or to control the association to an extent greater than allowed for planned communities other than large planned communities~~, including, without limitation, residence owners, commercial space owners, and owners of lodging space and to elect members to the association executive board from such classes.

SECTION 6. 38-33.3-209 (1), the introductory portion to 38-33.3-209 (2), and 38-33.3-209 (6) and (7), Colorado Revised Statutes, are amended to read:

38-33.3-209. Plats and maps. (1) ~~Plats and maps are~~ A PLAT OR MAP IS a part of the declaration and ~~are~~ IS required for all common interest communities except cooperatives. ~~Separate A plats and maps are~~ PLAT OR MAP IS not required by this article if all the information required by this section is contained in ~~either a plat or a map~~ THE DECLARATION. Each plat ~~and~~ OR map must be clear and legible. ~~and~~ EACH MAP MUST contain a certification that the ~~plat or~~ map contains all the information

required by this section.

(2) In addition to meeting the requirements of a land survey plat as set forth in section 38-51-106, each ~~plat~~ MAP must show:

(6) Upon exercising any development right, the declarant shall record ~~either new plats and maps~~ AN AMENDMENT TO THE DECLARATION with respect to that real estate reflecting change as a result of such exercise necessary to conform to the requirements of subsections (1), (2), and (4) of this section or new certifications of ~~plats and maps~~ previously recorded if those ~~plats and maps~~ otherwise conform to the requirements of subsections (1), (2), and (4) of this section.

(7) Any certification of a ~~plat or~~ map required by this article must be made by a registered land surveyor.

SECTION 7. 38-33.3-210 (2), Colorado Revised Statutes, is amended to read:

38-33.3-210. Exercise of development rights. (2) ADDITIONAL development rights NOT PREVIOUSLY RESERVED may be reserved within any real estate added to the common interest community if the amendment adding that real estate includes all matters required by section 38-33.3-205 or 38-33.3-206, as the case may be, and, in a condominium or planned community, the plats and maps include all matters required by section 38-33.3-209. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to section 38-33.3-205 (1) (h).

SECTION 8. 38-33.3-213 (1), Colorado Revised Statutes, is amended to read:

38-33.3-213. Subdivision of units. (1) If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the provisions of the declaration and other provisions of law, and pursuant to the procedures described in THIS section, ~~38-33.3-217~~, a unit owner may apply to the association to subdivide a unit.

SECTION 9. 38-33.3-215, Colorado Revised Statutes, is amended to read:

38-33.3-215. Use for sales purposes. A declarant may maintain sales offices, management offices, and models in the common interest community only if the declaration so provides. ~~and specifies the rights of a declarant with regard to the number, size, location, and relocation thereof.~~ EXCEPT AS PROVIDED IN A DECLARATION, any real estate IN A COMMON INTEREST COMMUNITY used as a sales office, management office, or model and not designated a unit by the declaration is a common element. If a declarant ceases to be a unit owner, such declarant ceases to have any rights with regard to any real estate used as a sales office, management office, or model, unless it is removed promptly from the common interest community in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the common interest community. This section is subject to the provisions of other state laws and to local ordinances.

SECTION 10. 38-33.3-217 (1) and (4), Colorado Revised Statutes, are amended,

and the said 38-33.3-217 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-33.3-217. Amendment of declaration. (1) Except in cases of amendments that may be executed by a declarant under section 38-33-205 (4) and (5), 38-33.3-208 (3), 38-33.3-209 (6), 38-33.3-210, or 38-33.3-222, or by the association under section 38-33.3-107, 38-33.3-206 (4), 38-33.3-208 (2), 38-33.3-212, 38-33.3-213, or 38-33.3-218 (11) and (12) and except as limited by subsection (4) of this section, the declaration, including the plats and maps, may be amended only by vote or agreement of unit owners of units to which ~~at least sixty-seven~~ MORE THAN FIFTY percent of the votes in the association are allocated or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use.

(4) Except to the extent expressly permitted or required by other provisions of this article, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit or the allocated interests of a unit ~~or the uses to which any unit is restricted~~, in the absence of ~~unanimous consent of the unit owners~~ A VOTE OR AGREEMENT OF UNIT OWNERS OF UNITS TO WHICH AT LEAST SIXTY-SEVEN PERCENT OF THE VOTES IN THE ASSOCIATION, INCLUDING SIXTY-SEVEN PERCENT OF THE VOTES ALLOCATED TO UNITS NOT OWNED BY A DECLARANT, ARE ALLOCATED OR ANY LARGER PERCENTAGE THE DECLARATION SPECIFIES. THE DECLARATION MAY SPECIFY A SMALLER PERCENTAGE ONLY IF ALL OF THE UNITS ARE RESTRICTED EXCLUSIVELY TO NONRESIDENTIAL USE.

(4.5) EXCEPT TO THE EXTENT EXPRESSLY PERMITTED OR REQUIRED BY OTHER PROVISIONS OF THIS ARTICLE, NO AMENDMENT MAY CHANGE THE USES TO WHICH ANY UNIT IS RESTRICTED IN THE ABSENCE OF A VOTE OR AGREEMENT OF UNIT OWNERS OF UNITS TO WHICH AT LEAST SIXTY-SEVEN PERCENT OF THE VOTES IN THE ASSOCIATION ARE ALLOCATED OR ANY LARGER PERCENTAGE THE DECLARATION SPECIFIES. THE DECLARATION MAY SPECIFY A SMALLER PERCENTAGE ONLY IF ALL OF THE UNITS ARE RESTRICTED EXCLUSIVELY TO NONRESIDENTIAL USE.

SECTION 11. 38-33.3-220 (1), Colorado Revised Statutes, is amended to read:

38-33.3-220. Master associations. (1) If the declaration provides that any of the powers of a unit owners' association described in section 38-33.3-302 are to be exercised by or may be delegated to a ~~profit or nonprofit corporation that exercises those or other powers on behalf of one or more common interest communities or for the benefit of the unit owners of one or more common interest communities~~, MASTER ASSOCIATION, all provisions of this article applicable to unit owners' associations apply to any such ~~corporation~~ MASTER ASSOCIATION except as modified by this section.

SECTION 12. 38-33.3-222, Colorado Revised Statutes, is amended to read:

38-33.3-222. Addition of unspecified real estate. In a common interest community, if the right is originally reserved in the declaration, the declarant, in addition to any other development right, may amend the declaration at any time during as many years as are specified in the declaration to add additional real estate

to the common interest community without describing the location of that real estate in the original declaration; but the area of real estate added to the common interest community pursuant to this section may not exceed ten percent of the total area of real estate described in section ~~38-33.3-205 (1) (c)~~, 38-33.3-205 (1) (c) AND (1) (h), and the declarant may not in any event increase the number of units in the common interest community beyond the number stated in the original declaration pursuant to section 38-33.3-205 (1) (d), EXCEPT AS PROVIDED IN SECTION 38-33.3-217 (4).

SECTION 13. 38-33.3-301, Colorado Revised Statutes, is amended to read:

38-33.3-301. Organization of unit owners' association. A unit owners' association shall be organized no later than the date the first unit in the common interest community is conveyed to a purchaser. The membership of the association at all times shall consist exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under section 38-33.3-218, or their heirs, personal representatives, successors, or assigns. The association shall be organized as a nonprofit, not-for-profit, or for-profit corporation OR AS A LIMITED LIABILITY COMPANY in accordance with the laws of the state of Colorado; except that the failure of the association to incorporate OR ORGANIZE AS A LIMITED LIABILITY COMPANY will not adversely affect either the existence of the common interest community for purposes of this article or the rights of persons acting in reliance upon such existence, other than as specifically provided in section 38-33.3-316.

SECTION 14. 38-33.3-307 (2), Colorado Revised Statutes, is amended to read:

38-33.3-307. Upkeep of the common interest community. (2) In addition to the liability that a declarant as a unit owner has under this article, the declarant alone is liable for all expenses in connection with real estate WITHIN THE COMMON INTEREST COMMUNITY subject to development rights. No other unit owner and no other portion of the common interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant. If the declarant fails to pay all expenses in connection with real estate within the common interest community subject to development rights, the association may pay such expenses, and such expenses shall be assessed as a common expense against the real estate subject to development rights, and the association may enforce the assessment pursuant to section 38-33.3-316 by treating such real estate as if it were a unit. If the association acquires title to the real estate subject to the development rights through foreclosure or otherwise, the development rights shall not be extinguished thereby, and, thereafter, the association may succeed to any special declarant rights specified in a written instrument prepared, executed, and recorded by the association in accordance with the requirements of section 38-33.3-304 (3).

SECTION 15. 38-33.3-308 (2), Colorado Revised Statutes, is amended to read:

38-33.3-308. Meetings. (2) All regular and special meetings of the association's executive board, or any committee thereof, shall be open to attendance by all members of the association or their representatives. AGENDAS FOR MEETINGS OF THE EXECUTIVE BOARD SHALL BE MADE REASONABLY AVAILABLE FOR EXAMINATION BY ALL MEMBERS OF THE ASSOCIATION OR THEIR REPRESENTATIVES.

SECTION 16. 38-33.3-309 (2), Colorado Revised Statutes, is amended to read:

38-33.3-309. Quorums. (2) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast fifty percent of the votes on that board are present at the beginning of the meeting OR GRANT THEIR PROXY, AS PROVIDED IN SECTION 7-128-205 (4), C.R.S.

SECTION 17. 38-33.3-312 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

38-33.3-312. Conveyance or encumbrance of common elements. (1) In a condominium or planned community, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least ~~eighty percent, or, in the case of an association with over one thousand unit owners;~~ sixty-seven percent of the votes in the association, including ~~eighty~~ SIXTY-SEVEN percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; except that all owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association.

(2) Part of a cooperative may be conveyed and all or part of a cooperative may be subjected to a security interest by the association if persons entitled to cast at least ~~eighty~~ SIXTY-SEVEN percent of the votes in the association, including ~~eighty~~ SIXTY-SEVEN percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; except that, if fewer than all of the units or limited common elements are to be conveyed or subjected to a security interest, then all unit owners of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association. Any purported conveyance or other voluntary transfer of an entire cooperative, unless made in compliance with section 38-33.3-218, is void.

(3) An agreement to convey, or subject to a security interest, common elements in a condominium or planned community, or, in a cooperative, an agreement to convey, or subject to a security interest, any part of a cooperative, must be evidenced by the execution of an agreement, ~~or ratifications thereof,~~ in the same manner as a deed, by the ~~requisite number of unit owners~~ ASSOCIATION. The agreement must specify a date after which the agreement will be void unless ~~recorded before that date~~ APPROVED BY THE REQUISITE PERCENTAGE OF OWNERS. ~~The agreement and all ratifications thereof~~ ANY GRANT, CONVEYANCE, OR DEED EXECUTED BY THE ASSOCIATION must be recorded in every county in which a portion of the common interest community is situated and is effective only upon recordation.

SECTION 18. 38-33.3-313 (9) (a) (III), Colorado Revised Statutes, is amended to read:

38-33.3-313. Insurance. (9) (a) Any portion of the common interest community for which insurance is required under this section which is damaged or destroyed must be repaired or replaced promptly by the association unless:

(III) ~~Eighty~~ SIXTY-SEVEN percent of the unit owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild; or

SECTION 19. 38-33.3-316 (1), Colorado Revised Statutes, is amended to read:

38-33.3-316. Lien for assessments. (1) 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, 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. 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.

SECTION 20. Effective date. This act shall take effect July 1, 1998.

SECTION 21. 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: April 22, 1998