

CHAPTER 212

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**PROPERTY**

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**HOUSE BILL 02-1191**

BY REPRESENTATIVE(S) Decker, Tapia, Webster, and Coleman;  
also SENATOR(S) Windels, Lamborn, Perlmutter, and Taylor.

**AN ACT**

**CONCERNING THE "COLORADO COMMON INTEREST OWNERSHIP ACT".**

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

**SECTION 1.** 38-33.3-117 (2), Colorado Revised Statutes, is amended to read:

**38-33.3-117. Applicability to preexisting common interest communities.**

(2) The sections specified in paragraphs (a) to (j) and (l) of subsection (1) of this section shall be applied and construed to establish a clear, comprehensive, and uniform framework for the operation and management of common interest communities within this state and to supplement the provisions of any declaration, bylaws, plat, or map in existence on June 30, 1992. EXCEPT FOR SECTION 38-33.3-217 (7), in the event of specific conflicts between the provisions of the sections specified in paragraphs (a) to (j) and (l) of subsection (1) of this section, and express requirements or restrictions in a declaration, bylaws, a plat, or a map in existence on June 30, 1992, such requirements or restrictions in the declaration, bylaws, plat, or map shall control, but only to the extent necessary to avoid invalidation of the specific requirement or restriction in the declaration, bylaws, plat, or map. ~~Section~~ SECTIONS 38-33.3-217 (7) AND 38-33.3-316 shall be applied and construed as stated in such ~~section~~ SECTIONS.

**SECTION 2.** 38-33.3-120, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**38-33.3-120. Amendments to preexisting governing instruments.** (3) AN AMENDMENT TO THE DECLARATION MAY ALSO BE MADE PURSUANT TO THE PROCEDURES SET FORTH IN SECTION 38-33.3-217 (7).

**SECTION 3.** 38-33.3-207 (6), Colorado Revised Statutes, is amended to read:

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

**38-33.3-207. Allocation of allocated interests.** (6) In a condominium, the common elements are not subject to partition EXCEPT AS ALLOWED FOR IN SECTION 38-33.3-312, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements NOT ALLOWED FOR IN SECTION 38-33.3-312, THAT IS made without the unit to which that interest is allocated is void.

**SECTION 4.** 38-33.3-303 (4) and (5) (a) (I), Colorado Revised Statutes, are amended to read:

**38-33.3-303. Executive board members and officers.** (4) Within ~~thirty~~ <sup>thirty</sup> NINETY days after adoption of any proposed budget for the common interest community, the executive board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ~~ratification~~ of the budget. ~~not less than fourteen nor more than sixty days~~ SUCH MEETING SHALL OCCUR WITHIN A REASONABLE TIME after mailing or other delivery of the summary, ~~Unless at that meeting~~ OR AS ALLOWED FOR IN THE BYLAWS. THE EXECUTIVE BOARD SHALL GIVE NOTICE TO THE UNIT OWNERS OF THE MEETING AS ALLOWED FOR IN THE BYLAWS. UNLESS THE DECLARATION REQUIRES OTHERWISE, THE BUDGET PROPOSED BY THE EXECUTIVE BOARD DOES NOT REQUIRE APPROVAL FROM THE UNIT OWNERS AND IT WILL BE DEEMED APPROVED BY THE UNIT OWNERS IN THE ABSENCE OF A VETO AT THE NOTICED MEETING BY a majority of all unit owners, OR IF PERMITTED IN THE DECLARATION, A MAJORITY OF A CLASS OF UNIT OWNERS, or any larger percentage specified in the declaration, ~~reject the budget, the budget is ratified,~~ whether or not a quorum is present. In the event that the proposed budget is ~~rejected~~ VETOED, the periodic budget last ~~ratified~~ PROPOSED BY THE EXECUTIVE BOARD AND NOT VETOED by the unit owners must be continued until ~~such time as the unit owners ratify~~ a subsequent budget proposed by the executive board IS NOT VETOED BY THE UNIT OWNERS.

(5) (a) (I) The declaration, except a declaration for a large planned community, may provide for a period of declarant control of the association, during which period a declarant, or persons designated by such declarant, may appoint and remove the officers and members of the executive board. Regardless of the period of declarant control provided in the declaration, a period of declarant control terminates no later than ~~either~~ THE EARLIER OF sixty days after conveyance of seventy-five percent of the units that may be created to unit owners other than a declarant, two years after the last conveyance of a unit by the declarant in the ordinary course of business, or two years after any right to add new units was last exercised.

**SECTION 5.** 38-33.3-308 (4) (a), Colorado Revised Statutes, is amended, and the said 38-33.3-308 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**38-33.3-308. Meetings.** (4) Matters for discussion by an executive or closed session are limited to:

(a) Matters pertaining to employees of the association OR THE MANAGING AGENT'S CONTRACT or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the association;

(f) REVIEW OF OR DISCUSSION RELATING TO ANY WRITTEN OR ORAL COMMUNICATION FROM LEGAL COUNSEL.

**SECTION 6. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 30, 2002