

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 24-0394.01 Clare Haffner x6137

**HOUSE BILL 24-1383**

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**A BILL FOR AN ACT**

101     **CONCERNING DECLARATIONS THAT FORM COMMON INTEREST**  
102     **COMMUNITIES UNDER THE "COLORADO COMMON INTEREST**  
103     **OWNERSHIP ACT".**

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**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>.)*

HOUSE  
3rd Reading Unamended  
April 14, 2024

Under the "Colorado Common Interest Ownership Act" (CCIOA), every common interest community must be formed by the execution and recording of a declaration. The CCIOA does not state who is required to execute the declaration. The bill clarifies that:

- A declaration that forms a common interest community

HOUSE  
2nd Reading Unamended  
April 11, 2024

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.

- must be executed by or with the express written authorization of the owner or owners of the real estate that is to be included in the common interest community; and
- Any amendment to a declaration that adds real estate to a common interest community must be executed by or with the express written authorization of the owner or owners of the real estate to be added.

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

2           2       **SECTION 1. Legislative declaration.** (1) The general assembly  
3           3 finds and declares that:

4           4       (a) In *FD Interests, LLC v. Fairways At Buffalo Run Homeowners*  
5           5       *Association, Inc.*, 2019 COA 148, 490 P.3d 496, the Colorado court of  
6       appeals held that the recording of a declaration executed by an affiliate of  
7       the owner of real property that was intended to be included in a common  
8       interest community pursuant to section 38-33.3-201, Colorado Revised  
9       Statutes, but not executed by the owner of the property, was effective to  
10      create the common interest community and to govern the future use and  
11      development of the property. In that case, the court of appeals held that  
12      the trial court had erred in reforming the recorded declaration to include  
13      the owner's signature because the declaration had been validly executed  
14      by the owner's affiliate and reformation was unnecessary.

15       15       (b) With this act, the general assembly intends to clarify, for  
16      16       parties that currently have an interest in real property or that may acquire  
17      17       an interest in real property, that, like other documents purporting to affect  
18      18       title to or use of real property in the absence of specific statutory authority  
19      19       allowing execution by another person, a declaration that creates a  
20      20       common interest community, and any amendment to a declaration that  
21      21       adds real property to an existing common interest community, must be  
22      22       executed by or on behalf of the record owner of the real property to be

1 included in the common interest community. The general assembly  
2 further intends to confirm that the equitable remedy of reformation  
3 should, in appropriate situations, in accordance with principles of equity,  
4 and with due regard for all affected interests, be available to correct errors  
5 relating to the execution or contents of documents affecting real property.

6 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-201, **amend**  
7 (1) as follows:

8 **38-33.3-201. Creation of common interest communities.**

9 (1) (a) A common interest community may be created pursuant to this  
10 ~~article~~ ARTICLE 33.3 only by recording a declaration executed in the same  
11 manner as a deed and, in a cooperative, by conveying the real estate  
12 subject to that declaration to the association. The declaration must be:

13 (I) EXECUTED BY OR WITH THE EXPRESS WRITTEN AUTHORIZATION  
14 OF THE OWNER OR OWNERS OF THE REAL ESTATE THAT IS TO BE INCLUDED  
15 IN THE COMMON INTEREST COMMUNITY, AS SHOWN BY THE RECORDS OF  
16 THE COUNTY CLERK AND RECORDER'S OFFICE OF THE COUNTY WHERE THE  
17 REAL ESTATE IS LOCATED;

18 (II) Recorded in every county in which any portion of the common  
19 interest community is located; ~~and must be~~

20 (III) Indexed in the grantee's index in the name of the common  
21 interest community and in the name of the association; and

22 (IV) INDEXED in the grantor's index in the name of each person  
23 executing the declaration.

24 (b) No common interest community is created until the plat or  
25 map for the common interest community is recorded.

26 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-217, **amend**  
27 (3) as follows:

1                   **38-33.3-217. Amendment of declaration.** (3) ANY AMENDMENT  
2    TO A DECLARATION THAT ADDS REAL ESTATE TO A COMMON INTEREST  
3    COMMUNITY MUST BE EXECUTED BY OR WITH THE EXPRESS WRITTEN  
4    AUTHORIZATION OF THE OWNER OR OWNERS OF THE REAL ESTATE TO BE  
5    ADDED, AS SHOWN BY THE RECORDS OF THE COUNTY CLERK AND  
6    RECORDER'S OFFICE OF THE COUNTY WHERE THE REAL ESTATE IS LOCATED.

7    Every amendment to the declaration must be recorded in every county in  
8    which any portion of the common interest community is located and is  
9    effective only upon recordation. An amendment must be indexed in the  
10   grantee's index in the name of the common interest community and the  
11   association and in the grantor's index in the name of each person  
12   executing the amendment.

13                   **SECTION 4. Act subject to petition - effective date -**  
14   **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
15   the expiration of the ninety-day period after final adjournment of the  
16   general assembly; except that, if a referendum petition is filed pursuant  
17   to section 1 (3) of article V of the state constitution against this act or an  
18   item, section, or part of this act within such period, then the act, item,  
19   section, or part will not take effect unless approved by the people at the  
20   general election to be held in November 2024 and, in such case, will take  
21   effect on the date of the official declaration of the vote thereon by the  
22   governor.

23                   (2) This act applies to declarations that are executed or amended  
24   on or after the effective date of this act.