

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 24-0170.03 Jery Payne x2157

HOUSE BILL 24-1337

HOUSE SPONSORSHIP

Jodeh and Bacon,

SENATE SPONSORSHIP

(None),

House Committees
Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RIGHTS OF A UNIT OWNER IN A COMMON INTEREST**
102 **COMMUNITY IN RELATION TO THE COLLECTION OF AMOUNTS**
103 **OWED BY THE UNIT OWNER TO THE COMMON INTEREST**
104 **COMMUNITY.**

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>.)

In common interest communities for real property, current law allows a unit owners' association (association) to require, without starting a legal proceeding, a unit owner to reimburse the association for

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.

collection costs, attorney fees, or other costs resulting from the owner failing to timely pay assessments or other money owed. The bill limits the reimbursement amount to 50% of the original money owed.

Current law allows the association to require, without starting a legal proceeding, a unit owner to reimburse the association for collection costs and attorney fees resulting from the owner failing to obey the bylaws or rules of the association. The bill limits the reimbursement amount to 50% of the actual cost the association incurred for the failure to obey.

Current law requires a court to award an association reasonable attorney fees, costs, and collection costs in an action in which the association seeks to collect unpaid assessments or enforce or defend the association's bylaws or rules and the association prevails in the matter. The bill limits the award to 50% of the balance owed to the association.

Current law grants an association a lien on the unit for amounts owed to the association by the unit owner. The bill prohibits foreclosing on the lien until:

- The association has:
 - Obtained a personal judgment against the unit owner in a civil action;
 - Attempted to bring a civil action against the unit owner but was prevented by the death of or incapacity of the unit owner; or
 - Attempted to bring a civil action against the unit owner but the association was unable to serve the unit owner within 180 days; or
- The unit owner is in a bankruptcy civil action.

Current law requires the association to attempt to enter into a payment plan to collect amounts due from a unit owner. The bill prohibits foreclosure on the lien if the unit owner is in compliance with the payment plan.

The bill creates a right of redemption following certain involuntary transfers of a unit to the association or a foreclosure purchaser for 180 days following the transfer. During the 180 days, the foreclosure purchaser or association is prohibited from selling the unit. The following people have the right of redemption in order of priority:

- The unit owner;
- A tenant of the unit;
- A nonprofit entity whose primary purpose is the development or preservation of affordable housing;
- A community land trust;
- A cooperative housing corporation; and
- The state of Colorado or a political subdivision of the state of Colorado.

The redeemer may send a notice of intent to exercise the right of

redemption. Upon receiving the notice of intent, the foreclosure purchaser or association is prohibited for a specified time from transferring the property to an authorized redeemer that has lower priority than the authorized redeemer that sent the notice.

To redeem a unit, the redeemer must reimburse the foreclosure purchaser or association in accordance with the standards set by the bill. Failure to execute a deed after redemption subjects the owner to liability plus attorney fees. Procedures are set for exercising the right of redemption and for recording deeds, affidavits, or certificates of compliance concerning the right of redemption with the county clerk and recorder. Filing an affidavit or certificate of compliance with the county clerk and recorder without a reasonable basis subjects the person to liability and attorney fees.

If a redeemer makes partial payment, but fails to pay all amounts necessary to redeem the unit before the redemption period expires, the association or foreclosure purchaser shall refund the partial payment on or before 30 days after the expiration of the redemption period.

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-33.3-123, **amend**
3 (1)(a), (1)(b), and (1)(c) as follows:

4 **38-33.3-123. Enforcement - limitation.** (1) (a) **If any** A unit
5 owner fails to timely pay assessments or any money ~~or sums due~~ OWED
6 to the association, the association may require, WITHOUT THE NECESSITY
7 OF COMMENCING A LEGAL PROCEEDING, reimbursement for THE
8 FOLLOWING, IN ADDITION TO THE ASSESSMENTS OR OWED MONEY:

9 (I) ACTUAL collection costs ~~and~~ OF THE UNPAID ASSESSMENTS;
10 (II) Reasonable attorney fees INCURRED AS A RESULT OF THE
11 FAILURE TO PAY; ~~EXCEPT THAT THE ASSOCIATION IS NOT ENTITLED TO~~
12 ~~REIMBURSEMENT FOR ATTORNEY FEES THAT EXCEED FIFTY PERCENT OF~~
13 ~~THE ASSESSMENTS AND ANY MONEY OWED TO THE ASSOCIATION AS~~
14 ~~DESCRIBED IN THE INTRODUCTORY PORTION OF THIS SUBSECTION (1)(a);~~
15 and

16 (III) OTHER ACTUAL costs incurred as a result of ~~such~~ THE failure

1 without the necessity of commencing a legal proceeding TO PAY.

2 [REDACTED] [REDACTED]

3 (b) For any failure to comply with the provisions of this article
4 THIS ARTICLE 33.3 or any provision of the declaration, bylaws, articles, or
5 rules and regulations, other than the payment of assessments or any
6 money or sums due OWED to the association, the association, any unit
7 owner, or any class of unit owners adversely affected by the failure to
8 comply may seek, WITHOUT THE NECESSITY OF COMMENCING A LEGAL
9 PROCEEDING, reimbursement for:

10 (I) ACTUAL collection costs INCURRED AS A RESULT OF THE
11 FAILURE TO COMPLY; and

12 (II) Reasonable attorney fees and costs incurred as a result of such
13 THE failure to comply; without the necessity of commencing a legal
14 proceeding. EXCEPT THAT THE ASSOCIATION IS NOT ENTITLED TO
15 REIMBURSEMENT FOR ATTORNEY FEES THAT EXCEED FIFTY PERCENT OF
16 THE ACTUAL COSTS THE ASSOCIATION OR UNIT OWNER INCURRED AS A
17 RESULT OF THE FAILURE TO COMPLY.

18 (c) (I) In any civil action to enforce or defend the provisions of
19 this article or of THIS ARTICLE 33.3 OR the declaration, bylaws, articles, or
20 rules and regulations, the court shall award reasonable attorney fees,
21 ACTUAL costs, and ACTUAL costs of collection to the prevailing party,
22 EXCEPT AS PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION.

23 (II) IN CONNECTION WITH ANY CIVIL ACTION DESCRIBED IN
24 SUBSECTION (1)(c)(I) OF THIS SECTION TO COLLECT MONEY OWED TO AN
25 ASSOCIATION FROM A UNIT OWNER, THE COURT SHALL NOT AWARD
26 ATTORNEY FEES TO THE ASSOCIATION IN AN AMOUNT IN EXCESS OF FIFTY
27 PERCENT OF THE ACTUAL COSTS THE ASSOCIATION INCURRED AS A RESULT

1 OF THE FAILURE TO COMPLY WITH THIS ARTICLE 33.3 OR WITH THE
2 DECLARATION, BYLAWS, ARTICLES, OR RULES AND REGULATIONS.

3 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-209.5,
4 **amend** (7)(a)(I), (7)(a)(III) introductory portion, and (7)(a)(III)(A) as
5 follows:

6 **38-33.3-209.5. Responsible governance policies - due process**
7 **for imposition of fines - procedure for collection of delinquent**
8 **accounts - enforcement through small claims court - definitions.**

9 (7) (a) An association shall not commence a legal action to initiate a
10 JUDICIAL foreclosure proceeding based on a unit owner's delinquency in
11 paying assessments unless:

12 (I) The association has complied with each of the requirements in
13 this section and in ~~section 38-33.3-316.3~~ SECTIONS 38-33.3-316 AND
14 38-33.3-316.3 related to a unit owner's delinquency in paying
15 assessments;

16 (III) ~~Within thirty days~~ After the association has provided the
17 owner with a written offer to enter into a repayment plan, the unit owner
18 has either:

19 (A) ~~Declined~~ FAILED TO ACCEPT the repayment plan WITHIN
20 THIRTY DAYS AFTER THE WRITTEN OFFER WAS MADE; or

21 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-316, **amend**
22 (11) introductory portion; and **add** (10.5) as follows:

23 **38-33.3-316. Lien for assessments - liens for fines, fees,**
24 **charges, costs, and attorney fees - limitations.** (10.5) TO FORECLOSE A
25 LIEN DESCRIBED IN THIS SECTION:

26 (a) THE ASSOCIATION MUST HAVE OBTAINED A PERSONAL
27 JUDGMENT AGAINST THE UNIT OWNER IN A CIVIL ACTION TO COLLECT THE

1 AMOUNTS DUE;

2 (b) THE ASSOCIATION MUST HAVE ATTEMPTED TO BRING A CIVIL
3 ACTION AGAINST THE UNIT OWNER BUT WAS PREVENTED BY THE DEATH OF
4 OR INCAPACITY OF THE UNIT OWNER;

5 (c) THE ASSOCIATION MUST HAVE ATTEMPTED TO BRING A CIVIL
6 ACTION AGAINST THE UNIT OWNER AND MADE A REASONABLE ATTEMPT TO
7 SERVE THE UNIT OWNER BUT THE ASSOCIATION WAS UNABLE TO SERVE THE
8 UNIT OWNER WITHIN ONE HUNDRED EIGHTY DAYS; OR

9 (d) THE UNIT OWNER MUST HAVE FILED A BANKRUPTCY PETITION
10 OR MUST HAVE AN INVOLUNTARY BANKRUPTCY PETITION FILED AGAINST
11 THE UNIT OWNER, AND THE AMOUNT DUE THE ASSOCIATION IS SUBJECT TO
12 THE BANKRUPTCY CIVIL ACTION.

13 (11) SUBJECT TO SUBSECTION (10.5) OF THIS SECTION, the
14 association's lien may be foreclosed by any of the following means:

15 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-316.3, **add**
16 (3.5) as follows:

17 **38-33.3-316.3. Collections - limitations - violations.** (3.5) AN
18 ASSOCIATION OR THE HOLDER OR ASSIGNEE OF THE ASSOCIATION'S DEBTS
19 SHALL NOT FORECLOSE A LIEN CREATED UNDER SECTION 38-33.3-316 IF
20 THE UNIT OWNER IS IN COMPLIANCE WITH THE TERMS OF A PAYMENT PLAN
21 REQUIRED BY THIS SECTION.

22 **SECTION 5.** In Colorado Revised Statutes, 38-38-100.3, **add**
23 (1.3), (4.3), (25), and (26) as follows:

24 **38-38-100.3. Definitions.** As used in articles 37 to 39 of this title
25 38, unless the context otherwise requires:

26 (1.3) "ALTERNATE LIENOR" MEANS A PERSON DEEMED A LIENOR BY
27 SECTION 38-38-305.5 (1)(a).

1 (4.3) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET
2 FORTH IN SECTION 38-33.3-103 (8).

3 (25) "UNIT" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103

4 (30).

5 (26) "UNIT ASSOCIATION LIEN" MEANS A LIEN IN A UNIT IN A
6 COMMON INTEREST COMMUNITY THAT IS HELD BY AN ASSOCIATION AS
7 DEFINED IN SECTION 38-33.3-103 (3).

8 **SECTION 6.** In Colorado Revised Statutes, 38-38-302, amend
9 (1)(d) introductory portion and (4)(a) as follows:

38-38-302. Redemption by lienor - procedure.

11 (1) **Requirements for redemption.** A lienor or assignee of a lien is
12 entitled to redeem if the following requirements are met to the satisfaction
13 of the officer:

1 of this section, may redeem the property sold by paying to the officer, no
2 later than 12 noon on the last day of the lienor's redemption period, in the
3 form specified in section 38-37-108, the amount for which the property
4 was sold with interest from the date of sale, together with all sums
5 allowed under section 38-38-301. Interest on the amount for which the
6 property was sold ~~shall be~~ IS charged at the default rate specified in the
7 evidence of debt, deed of trust, or other lien being foreclosed or, if not so
8 specified, at the regular rate specified in the evidence of debt, deed of
9 trust, or other lien being foreclosed. If different interest rates are specified
10 in the evidence of debt, deed of trust, or other lien being foreclosed, the
11 interest rate specified in the evidence of debt ~~shall prevail~~ PREVAILS. If
12 the evidence of debt does not specify an interest rate, including a default
13 interest rate, THE applicable interest rate as specified in the deed of trust
14 or other lien being foreclosed ~~shall apply~~ APPLIES.

15 (II) (A) IF THE LIEN BEING FORECLOSED IS IN A UNIT ASSOCIATION
16 LIEN, AN ALTERNATE LIENOR'S REDEMPTION PERIOD COMMENCES UPON
17 THE EXPIRATION OF ALL REDEMPTION RIGHTS AS SET BY THE OFFICER IN
18 ACCORDANCE WITH SUBSECTION (4)(d) OF THIS SECTION AND IS NO
19 SOONER THAN THIRTY-FIVE DAYS AFTER THE SALE. THIS SUBSECTION
20 (4)(a)(II) DOES NOT OTHERWISE CHANGE THE REQUIREMENTS OF THIS
21 SECTION FOR AN ALTERNATE REDEEMER.

22 (B) NO SOONER THAN THIRTY-FIVE DAYS AND NO LATER THAN ONE
23 HUNDRED EIGHTY DAYS AFTER A SALE OF A UNIT ASSOCIATION LIEN UNDER
24 THIS ARTICLE 38, THE ALTERNATE LIENOR THAT FILED THE NOTICE WITH
25 THE OFFICER OF THE ALTERNATE LIENOR'S INTENT TO REDEEM AND THAT
26 HAS THE HIGHEST PRIORITY IN THE SOLD PROPERTY MAY REDEEM THE
27 PROPERTY BY PAYING, IN THE FORM SPECIFIED IN SECTION 38-37-108, TO

1 THE OFFICER, NO LATER THAN 12 NOON ON THE LAST DAY OF THE
2 ALTERNATE LIENOR'S REDEMPTION PERIOD, THE AMOUNT FOR WHICH THE
3 PROPERTY WAS SOLD WITH INTEREST FROM THE DATE OF SALE, TOGETHER
4 WITH ALL SUMS ALLOWED UNDER SECTION 38-38-107 AND IF APPLICABLE,
5 THE REDEMPTION AMOUNT PAID BY THE IMMEDIATELY PRIOR REDEEMING
6 LIENOR, WITH INTEREST AT THE RATE SPECIFIED IN SUBSECTION (4)(a) OF
7 THIS SECTION, PLUS THE AMOUNT CLAIMED IN THE STATEMENT DELIVERED
8 BY THE IMMEDIATELY PRIOR REDEEMING LIENOR PURSUANT TO
9 SUBSECTION (6) OF THIS SECTION, INCLUDING THE PER DIEM AMOUNTS
10 THROUGH THE DATE WHEN THE PAYMENT IS MADE, OR IF NO PRIOR LIEN
11 HAS REDEEMED, THE REDEMPTION AMOUNT DETERMINED PURSUANT
12 SUBSECTION (4)(a)(I) OF THIS SECTION.

13 (C) IF PROPERTY IS REDEEMED UNDER THIS SUBSECTION (4)(a)(II),
14 ANY ALTERNATE REDEEMER WITH A LOWER PRIORITY REDEMPTION RIGHT
15 IS EXTINGUISHED.

16 (11) AS USED IN THIS SECTION, "UNIT ASSOCIATION LIEN" MEANS
17 A LIEN IN A UNIT IN A COMMON INTEREST COMMUNITY THAT IS HELD BY AN
18 ASSOCIATION AS DEFINED IN SECTION 38-33.3-103 (3).

19 **SECTION 7.** In Colorado Revised Statutes, **add 38-38-305.5 as**
20 **follows:**

21 **38-38-305.5. Persons considered as lienors - redemption of**
22 **property.** (1) (a) FOR THE PURPOSE OF THIS ARTICLE 38, THE FOLLOWING
23 PEOPLE ARE DEEMED ALTERNATE LIENORS WITHOUT A LIEN AMOUNT:

24 (I) THE UNIT OWNER THAT HAS AN INTEREST APPEARING BY AN
25 INSTRUMENT RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF
26 THE COUNTY PRIOR TO THE RECORDING OF THE LIS PENDENS IS THE FIRST
27 PRIORITY;

1 (II) A TENANT OF THE UNIT, IF THE TENANCY COMMENCED PRIOR
2 TO THE RECORDING OF THE LIS PENDENS AND IF THE LEASE IS NOT
3 RECORDED, IS THE SECOND PRIORITY;

4 (III) A NONPROFIT ENTITY THAT HAS A PRIMARY PURPOSE TO
5 DEVELOP OR PRESERVE AFFORDABLE HOUSING IS THE THIRD PRIORITY;

6 (IV) A COMMUNITY LAND TRUST IS THE FOURTH PRIORITY;

7 (V) A COOPERATIVE HOUSING CORPORATION FORMED PURSUANT
8 TO ARTICLE 33.5 OF THIS TITLE 38 IS THE FIFTH PRIORITY; AND

9 (VI) THE STATE OF COLORADO OR A POLITICAL SUBDIVISION OF
10 THE STATE OF COLORADO IS THE SIXTH PRIORITY.

11 (b) AN ALTERNATE LIENOR'S ABILITY TO REDEEM THE PROPERTY
12 IS SUBJECT TO:

13 (I) A LIENOR THAT HOLDS EVIDENCE OF DEBT SECURED BY THE
14 PROPERTY: OR

15 (II) A PERSON THAT IS DEEMED A LIENOR UNDER SECTION
16 38-38-305

17 (c) IF AN ALTERNATE LIENOR REDEEMS AFTER THE REDEMPTION OF
18 A LESSEE OR EASEMENT HOLDER, THE ALTERNATE LIENOR, IN ACQUIRING
19 THE PROPERTY, TAKES THE PROPERTY SUBJECT TO THE LEASE OR
20 EASEMENT.

21 (2) THIS SECTION DOES NOT AFFECT THE RIGHTS UNDER THIS
22 ARTICLE 38 OF A LESSEE WHOSE RESIDENTIAL LEASE IS RECORDED.

23 (3) THIS SECTION APPLIES TO THE FORECLOSURE OF A LIEN IN A
24 UNIT IN A COMMON INTEREST COMMUNITY BY AN ASSOCIATION, AS
25 DEFINED IN SECTION 38-33.3-103 (3).

26 **SECTION 8.** In Colorado Revised Statutes, 38-38-501, **add** (3)
27 as follows:

1 **38-38-501. Title vests upon expiration of redemption periods**

2 **- confirmation deed - definition.** (3) AS USED IN THIS SECTION,
3 "REDEMPTION PERIODS" MEANS THE PERIODS OF TIME DURING WHICH A
4 PERSON MAY REDEEM PROPERTY AS DESCRIBED IN SECTION 38-38-302(4);
5 EXCEPT THAT THE REDEMPTION PERIOD IS THIRTY DAYS IF THE PROPERTY
6 IS A UNIT IN A COMMON INTEREST COMMUNITY; THE LIEN BEING
7 FORECLOSED IS HELD BY AN ASSOCIATION, AS DEFINED IN 38-33.3-103(3),
8 AND A LIENOR DOES NOT FILE A NOTICE WITH THE OFFICER OF THE LIENOR'S
9 INTENT TO REDEEM. [REDACTED]

10 **SECTION 9. Act subject to petition - effective date -**
11 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
12 the expiration of the ninety-day period after final adjournment of the
13 general assembly; except that, if a referendum petition is filed pursuant
14 to section 1 (3) of article V of the state constitution against this act or an
15 item, section, or part of this act within such period, then the act, item,
16 section, or part will not take effect unless approved by the people at the
17 general election to be held in November 2024 and, in such case, will take
18 effect on the date of the official declaration of the vote thereon by the
19 governor.

20 (2) This act applies to debts accrued on or after the applicable
21 effective date of this act.