

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 25-0077.01 Brita Darling x2241

HOUSE BILL 25-1043

HOUSE SPONSORSHIP

Ricks and Bacon, Clifford, Mabrey, English, Lindsay, Rutinel, Woodrow

SENATE SPONSORSHIP

Exum,

House Committees

Transportation, Housing & Local Government

Senate Committees

Local Government & Housing

A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF UNIT OWNERS IN RELATION TO**
102 **ENFORCEMENT ACTIONS BY UNIT OWNERS' ASSOCIATIONS.**

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>.)

Prior to taking enforcement actions to recover money owed to a unit owners' association (HOA) and related collection costs, the bill requires the HOA to be in compliance with HOA law and the HOA's declaration, bylaws, articles, and rules and regulations.

An HOA's written policy concerning the collection of unpaid assessments must require the notice of deficiency sent to a unit owner to

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.

HOUSE
3rd Reading Unamended
February 27, 2025

HOUSE
Amended 2nd Reading
February 18, 2025

include:

- An advisement that the unit owner may request a copy of the HOA's ledger verifying the amount owed, which copy of the ledger shall be sent to the unit owner no later than 7 business days after the request; and
- An advisement that free information relating to the HOA's collection of assessments and its ability to foreclose and force the sale of a unit is available online through the HOA information and resource center.

The bill requires the division of real estate in the department of regulatory agencies (division) to present data to certain committees of the general assembly concerning the number of requests the HOA information and resource center receives annually concerning credit counseling, the collection of assessments, or foreclosure actions.

Before initiating a legal action to foreclose an HOA lien, the HOA must send written and electronic notices to the unit owner stating that the unit owner has the right to participate in credit counseling at the unit owner's expense in order to understand the consequences of foreclosure and that information about credit counseling may be found on the HOA information and resource center's website.

As part of an HOA's annual registration with the director of the division, the HOA shall submit information concerning:

- The number of unit owners that were, at any time during the preceding 12-month period, 3 or more or 6 or more calendar months delinquent in the payment of an annual assessment or special assessment;
- The number of judgments obtained against unit owners;
- The number of payment plans entered into with unit owners; and
- The number of foreclosure actions filed by the HOA.

If an HOA forecloses an HOA priority lien against a unit owner's home (unit) in an HOA-governed community, and the unit is sold at a sheriff's auction, the bill requires the HOA to make a minimum bid for the unit that is not less than 80% of the fair market value of the unit, as determined by an independent appraisal or other methods described in the bill. The bill amends the foreclosure sale statute to conform to the minimum bid requirement required in the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-10-801, **amend**

3 **(3)(c)** as follows:

4 **12-10-801. HOA information and resource center - creation -**

1 **duties - rules - subject to review - repeal.** (3) (c) (I) The HOA
2 information officer shall track inquiries and complaints and report
3 annually to the director regarding the number and types of inquiries and
4 complaints received.

5 (II) IN ADDITION TO THE INFORMATION DESCRIBED IN SUBSECTION
6 (3)(c)(I) OF THIS SECTION, THE HOA INFORMATION OFFICER SHALL REPORT
7 IN THE ANNUAL HOA REPORT AGGREGATED INFORMATION PROVIDED BY
8 ASSOCIATIONS PURSUANT TO SECTION 38-33.3-401 (3.2) AS PART OF THE
9 ASSOCIATIONS' ANNUAL REGISTRATION WITH THE DIRECTOR OF THE
10 DIVISION.

11 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-123, **add**
12 (1)(f)(III.5) and (3) as follows:

13 **38-33.3-123. Enforcement - limitation.** (1) (f) In determining
14 reasonable attorney fees pursuant to this subsection (1) relating to an
15 association's foreclosure of a lien against a unit owner for unpaid
16 assessments, the court shall give consideration to all relevant factors,
17 including:

18 (III.5) WHETHER THE ASSOCIATION INCURRED INFLATED OR
19 DUPLICATIVE ATTORNEY FEES DUE TO A STAY IN COURT PROCEEDINGS
20 PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR THE ASSOCIATION TO
21 COME INTO STRICT COMPLIANCE WITH APPLICABLE LIEN OR FORECLOSURE
22 PROVISIONS OF THIS TITLE 38;

23 (3) NOTWITHSTANDING ANY LAW TO THE CONTRARY, AS A
24 CONDITION PRECEDENT TO RECOVERING MONEY OWED TO AN
25 ASSOCIATION, COLLECTION COSTS, OR REASONABLE ATTORNEY FEES OR
26 COSTS THROUGH THE FORECLOSURE OF AN ASSOCIATION LIEN, THE
27 ASSOCIATION SHALL STRICTLY COMPLY WITH _____ ANY APPLICABLE

1 ASSOCIATION LIEN OR FORECLOSURE PROVISIONS OF THIS TITLE 38 AND
2 ANY APPLICABLE LIEN OR FORECLOSURE PROVISIONS OF THE
3 ASSOCIATION'S DECLARATION, BYLAWS, ARTICLES, AND RULES AND
4 REGULATIONS. IN ADDITION, IF A COURT DETERMINES THAT A COMMON
5 INTEREST COMMUNITY IS NOT IN STRICT COMPLIANCE WITH THE LIEN OR
6 FORECLOSURE PROVISIONS OF THIS TITLE 38, THE COURT MAY STAY THE
7 PROCEEDINGS TO GRANT THE ASSOCIATION A REASONABLE PERIOD OF TIME
8 TO COME INTO STRICT COMPLIANCE WITH THE LAW. DURING THE STAY IN
9 PROCEEDINGS, THE ASSOCIATION SHALL NOT ASSESS OR ACCRUE LATE
10 FEES, INTEREST, OR OTHER DELINQUENCY CHARGES AGAINST THE UNIT
11 OWNER.

12 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-209.5,
13 **amend** (5)(a) introductory portion, (5)(a)(V)(C), and (5)(a)(V)(D); and
14 **add** (1)(a.5), (1.7)(a)(I)(D), and (5)(a)(V)(E) as follows:

15 **38-33.3-209.5. Responsible governance policies - due process**
16 **for imposition of fines - procedure for collection of delinquent**
17 **accounts - enforcement through small claims court - definitions.**

18 (1) To promote responsible governance, associations shall:

19 (a.5) REQUEST PERIODICALLY FROM A UNIT OWNER OR
20 DESIGNATED CONTACT, AND MAINTAIN IN THE ASSOCIATION'S RECORDS
21 FOR PURPOSES OF PROVIDING NOTICE TO THE UNIT OWNER AS REQUIRED
22 PURSUANT TO THIS SECTION AND THIS TITLE 38, A TELEPHONE NUMBER FOR
23 PHONE CALLS, A CELLULAR NUMBER FOR TEXTS, AND AN EMAIL ADDRESS
24 FOR EMAILS;

25 (1.7) (a) With regard to a unit owner's delinquency in paying
26 assessments, fines, or fees, an association shall:

27 (I) First contact the unit owner to alert the unit owner of the

1 delinquency before taking action in relation to the delinquency pursuant
2 to subsection (1.7)(a)(II) of this section and shall maintain a record of any
3 contact, including information regarding the type of communication used
4 to contact the unit owner and the date and time that the contact was made.
5 Any contact that a community association manager or a property
6 management company makes on behalf of an association pursuant to this
7 subsection (1.7)(a) is deemed a contact made by the association and not
8 by a debt collector as defined in section 5-16-103 (9). A unit owner may
9 identify another person to serve as a designated contact for the unit owner
10 to be contacted on the unit owner's behalf for purposes of this subsection
11 (1.7)(a)(I). A unit owner may also notify the association if the unit owner
12 prefers that correspondence and notices from the association be made in
13 a language other than English. If a preference is not indicated, the
14 association shall send the correspondence and notices in English. The unit
15 owner and the unit owner's designated contact must receive the same
16 correspondence and notices any time communications are sent out; except
17 that the unit owner must receive the correspondence and notices in the
18 language for which the unit owner has indicated a preference, if any. An
19 association may determine the manner in which a unit owner may identify
20 a designated contact. In contacting the unit owner or a designated contact,
21 an association shall send the same type of notice of delinquency required
22 to be sent pursuant to subsection (5)(a)(V) of this section, including
23 sending it by certified mail, return receipt requested. In addition, the
24 association shall contact the unit owner or designated contact by two of
25 the following means:
26 (D) BY REGULAR MAIL, IF THE UNIT OWNER OR DESIGNATED
27 CONTACT HAS NOT PROVIDED A TELEPHONE NUMBER, CELLULAR NUMBER,

1 OR EMAIL ADDRESS AS ADDITIONAL MEANS BY WHICH TO RECEIVE
2 NOTICES.

3 (5) (a) Notwithstanding any provision of the declaration, bylaws,
4 articles, or rules and regulations to the contrary or the absence of a
5 relevant provision in the declaration, bylaws, articles, or rules or
6 regulations, the association or a holder or assignee of the association's
7 debt, whether the holder or assignee of the association's debt is an entity
8 or a natural person, ~~may~~ SHALL not use a collection agency or take legal
9 action to collect unpaid assessments unless the association or a holder or
10 assignee of the association's debt has adopted and follows a written policy
11 governing the collection of unpaid assessments and unless the association
12 complies with subsection (7) of this section. The policy must, at a
13 minimum, specify:

14 (V) That, before the entity turns over a delinquent account of a
15 unit owner to a collection agency or refers it to an attorney for legal
16 action, the entity must send the unit owner a notice of delinquency, by
17 certified mail, return receipt requested, specifying:

18 (C) The name and contact information for the individual the unit
19 owner may contact to request a copy of the unit owner's ledger in order
20 to verify the amount of the debt, ~~and~~ WHICH COPY OF THE LEDGER MUST
21 BE PROVIDED TO THE UNIT OWNER NO LATER THAN SEVEN BUSINESS DAYS
22 AFTER RECEIPT OF THE UNIT OWNER'S REQUEST;

23 (D) That action is required to cure the delinquency and that failure
24 to do so within thirty days may result in the unit owner's delinquent
25 account being turned over to a collection agency, a lawsuit being filed
26 against the owner, the filing and foreclosure of a lien against the unit
27 owner's property, THE SALE OF THE UNIT OWNER'S UNIT AT AUCTION TO

1 PAY DELINQUENT ASSESSMENTS, WHICH COULD RESULT IN THE UNIT
2 OWNER LOSING SOME OR ALL OF THE UNIT OWNER'S EQUITY IN THE UNIT,
3 or other remedies available under Colorado law; AND

4 (E) THE AVAILABILITY OF, AND INSTRUCTIONS ON HOW TO ACCESS,
5 FREE ONLINE INFORMATION THROUGH THE HOA INFORMATION AND
6 RESOURCE CENTER CREATED IN SECTION 12-10-801 (1) RELATING TO THE
7 COLLECTION OF ASSESSMENTS BY AN ASSOCIATION, INCLUDING THE
8 ASSOCIATION'S ABILITY TO FORECLOSE AN ASSOCIATION LIEN FOR UNPAID
9 ASSESSMENTS AND FORCE THE SALE OF THE UNIT OWNER'S HOME, AND THE
10 AVAILABILITY OF ONLINE INFORMATION FROM THE FEDERAL DEPARTMENT
11 OF HOUSING AND URBAN DEVELOPMENT CONCERNING CREDIT COUNSELING
12 BEFORE FORECLOSURE THAT MAY BE ACCESSED THROUGH A LINK ON THE
13 DEPARTMENT OF LOCAL AFFAIRS' WEBSITE. ■ ■

14 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-316, **add**
15 (10.3), (11.2), and (14) as follows:

16 **38-33.3-316. Lien for assessments - liens for fines, fees,**
17 **charges, costs, and attorney fees - limitations - definitions.** (10.3) AT
18 LEAST THIRTY DAYS BEFORE INITIATING A LEGAL ACTION TO FORECLOSE
19 AN ASSOCIATION LIEN, THE ASSOCIATION SHALL PROVIDE WRITTEN AND
20 ELECTRONIC NOTICE TO THE UNIT OWNER OR THE UNIT OWNER'S DESIGNEE
21 THAT:

22 (a) THE UNIT OWNER HAS THE RIGHT TO PARTICIPATE IN CREDIT
23 COUNSELING AT THE UNIT OWNER'S EXPENSE AND THAT INFORMATION
24 RELATING TO OBTAINING CREDIT COUNSELING AND THE CONSEQUENCES OF
25 FORECLOSURE BY AN ASSOCIATION IS AVAILABLE THROUGH THE HOA
26 INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-10-801 (1)
27 OR THROUGH A LINK TO THE FEDERAL DEPARTMENT OF HOUSING AND

1 URBAN DEVELOPMENT ON THE DEPARTMENT OF LOCAL AFFAIRS' WEBSITE;
2 AND

3 (b) CREDIT COUNSELING MAY INCLUDE:

4 (I) DISCUSSION OF AMOUNTS OWED TO THE ASSOCIATION IN
5 UNPAID ASSESSMENTS AND RELATED COSTS;

6 (II) THE IMPACT OF FORECLOSURE ON THE UNIT OWNER'S CREDIT;

7 (III) ADDITIONAL DEBT THAT MAY BE INCURRED BY THE UNIT
8 OWNER IF FORECLOSURE BY THE ASSOCIATION IS COMPLETED;

9 (IV) OPTIONS AVAILABLE TO THE UNIT OWNER TO RETAIN TITLE TO
10 THE UNIT OR TO REMAIN IN THE UNIT; AND

11 (V) ANY OTHER OPTIONS THAT MAY BE AVAILABLE TO THE UNIT
12 OWNER TO AVOID FORECLOSURE.

13 (11.2) NO LATER THAN FIVE BUSINESS DAYS AFTER AN
14 ASSOCIATION INITIATES LEGAL ACTION TO FORECLOSE A LIEN DESCRIBED
15 IN THIS SECTION, THE ASSOCIATION SHALL PROVIDE WRITTEN AND
16 ELECTRONIC NOTICE TO ALL LIENHOLDERS IDENTIFIED IN THE UNIT OWNER
17 PROPERTY RECORDS OF:

18 (a) THE RIGHT TO CURE THE NONPAYMENT PURSUANT TO SECTION
19 38-38-104; AND

20 (b) THE RIGHT OF THE UNIT OWNER TO FILE A MOTION TO STAY THE
21 SALE OF THE PROPERTY AT AUCTION PURSUANT TO SECTION 38-38-109.5.

22

23 (14) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
24 REQUIRES, "ASSESSMENT" MEANS A PAYMENT FOR COMMON EXPENSE
25 OBLIGATIONS OF UNIT OWNERS BASED ON A PERIODIC BUDGET ADOPTED BY
26 THE ASSOCIATION UNDER SECTION 38-33.3-315 (1), OR A PAYMENT FOR
27 LIMITED COMMON ELEMENTS OF UNIT OWNERS, AND INCLUDES FEES

1 SPECIFIC TO DELINQUENT PAYMENTS AND REASONABLE COLLECTION COSTS
2 FOR COLLECTING DELINQUENT PAYMENTS.

3 **SECTION 5.** In Colorado Revised Statutes, 38-33.3-401, **add**
4 (3.2) as follows:

5 **38-33.3-401. Registration - annual fees - data collection of**
6 **enforcement actions.** (3.2) AS PART OF AN ASSOCIATION'S ANNUAL
7 REGISTRATION, THE ASSOCIATION SHALL SUBMIT THE FOLLOWING
8 INFORMATION TO THE DIRECTOR OF THE DIVISION OF REAL ESTATE, IN THE
9 FORM AND MANNER DETERMINED BY THE DIRECTOR OF THE DIVISION OF
10 REAL ESTATE:

11 (a) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
12 THE ASSOCIATION'S ANNUAL REGISTRATION, THE NUMBER OF UNIT OWNERS
13 THAT WERE, AT ANY TIME DURING THE TWELVE-MONTH PERIOD, SIX OR
14 MORE CALENDAR MONTHS DELINQUENT IN THE PAYMENT OF AN ANNUAL
15 ASSESSMENT OR SPECIAL ASSESSMENT;

16 (b) FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING
17 THE ASSOCIATION'S ANNUAL REGISTRATION, FOR UNPAID ANNUAL
18 ASSESSMENTS OR SPECIAL ASSESSMENTS OR RELATED FEES OR ATTORNEY
19 FEES:

20 (I) THE NUMBER OF UNIT OWNERS AGAINST WHICH THE
21 ASSOCIATION OR ITS DESIGNEE OBTAINED A JUDGMENT;

22 (II) THE NUMBER OF PAYMENT PLANS ENTERED INTO BETWEEN THE
23 ASSOCIATION AND A UNIT OWNER PURSUANT TO SECTION 38-33.3-316.3;

24 AND

25 (III) THE NUMBER OF FORECLOSURE ACTIONS FILED AGAINST UNIT
26 OWNERS PURSUANT TO SECTION 38-33.3-316; AND

27 (c) ANY OTHER INFORMATION SPECIFIED BY THE DIRECTOR OF THE

1 DIVISION OF REAL ESTATE RELATING TO THE COLLECTION OF ASSESSMENTS
2 AND THE FORECLOSURE OF THE ASSOCIATION'S LIENS.

3

4 **SECTION 6.** In Colorado Revised Statutes, **add** 38-38-109.5 as
5 follows:

6 **38-38-109.5 Continuance of sale - unit association lien - unit**
7 **owner's motion to stay - escrow of proceeds - purchaser title.**

8 (1) NOTWITHSTANDING ANY PROVISION OF THIS TITLE 38 TO THE
9 CONTRARY, AT ANY TIME AFTER A UNIT OWNERS' ASSOCIATION FILES AN
10 ACTION FOR FORECLOSURE OF THE UNIT ASSOCIATION LIEN ON A UNIT, BUT
11 PRIOR TO THE SALE DATE AT AUCTION, THE UNIT OWNER OR THE UNIT
12 OWNER'S DESIGNATED REPRESENTATIVE MAY FILE A MOTION WITH THE
13 COURT TO STAY THE SALE OF THE UNIT WITH NOTICE OF THE UNIT OWNER'S
14 INTENT TO LIST THE UNIT FOR SALE FOR THE FAIR MARKET VALUE OF THE
15 UNIT OR AN ALTERNATE AMOUNT AS SPECIFIED IN SUBSECTION (2) OF THIS
16 SECTION. THE UNIT OWNER OR THE UNIT OWNER'S DESIGNATED
17 REPRESENTATIVE SHALL PROVIDE NOTICE OF THE MOTION TO STAY THE
18 SALE TO THE ASSOCIATION AND TO THE OFFICER.

19 (2) (a) THE UNIT OWNER SHALL STATE IN THE MOTION TO STAY:

20 (I) THE FAIR MARKET VALUE OF THE UNIT, AS DETERMINED BY:

21 (A) AN APPRAISAL OF THE UNIT;

22 (B) A MARKET ANALYSIS CONDUCTED BY A LICENSED REAL ESTATE
23 AGENT;

24 (C) AN ESTIMATE FROM AN ONLINE REAL ESTATE MARKETPLACE
25 COMPANY; OR

26 (D) THE ASSESSED VALUE OF THE UNIT RECORDED IN THE COUNTY
27 ASSESSOR'S PROPERTY TAX RECORDS ON THE DATE OF THE COURT'S ORDER

1 TO SELL THE UNIT;

2 (II) AN ALTERNATE VALUE FOR THE UNIT THAT, IF LESS THAN THE
3 FAIR MARKET VALUE OF THE UNIT, EXCEEDS THE SUM OF ALL LIENS AND
4 ANY FEES OR COSTS ADVANCED BY THE HOLDER OF THE EVIDENCE OF
5 DEBT.

6 (b) THE COURT MAY ALLOW THE UNIT OWNER ADDITIONAL TIME TO
7 SUBMIT THE FAIR MARKET VALUE OR ALTERNATE VALUE TO THE COURT.

8 (c) THE UNIT OWNER SHALL LIST THE UNIT AT THE SALE PRICE
9 SPECIFIED IN THE MOTION TO STAY, UNLESS THE ASSOCIATION OBJECTS TO
10 THE UNIT OWNER'S DECLARED FAIR MARKET VALUE OR ALTERNATE VALUE
11 OF THE UNIT. THE ASSOCIATION MAY SUBMIT EVIDENCE OF THE UNIT'S
12 VALUE TO THE COURT. BASED ON THE EVIDENCE, THE COURT SHALL SET
13 THE INITIAL LIST PRICE OF THE UNIT AND MAY FURTHER ORDER A CHANGE
14 TO THE LIST PRICE IF SUPPORTED BY SUFFICIENT EVIDENCE.

15 (3) THE COURT'S ORDER STAYING THE SALE OF THE UNIT AT
16 AUCTION IS IN EFFECT FOR NINE MONTHS AFTER THE DATE OF THE
17 ORDER. THE COURT MAY EXTEND THE STAY OF THE SALE OF THE UNIT AT
18 AUCTION BEYOND NINE MONTHS UPON EVIDENCE THAT THE SALE OF THE
19 UNIT IS IMMINENT OR FOR GOOD CAUSE, AS DETERMINED BY THE COURT.

20 (4) IF A SALE DATE WAS SCHEDULED, THE OFFICER SHALL POST OR
21 PROVIDE NOTICE OF THE CONTINUANCE OF THE SALE WHILE THE STAY IS IN
22 EFFECT.

23 (5) THE COURT SHALL ENTER ANY ORDERS NECESSARY TO ENSURE
24 THAT THE PROCEEDS OF THE SALE OF THE UNIT ARE HELD IN ESCROW AND
25 DISTRIBUTED BY THE COURT IN ACCORDANCE WITH LIEN PRIORITY AND
26 OTHER APPLICABLE LAW.

27 (6) A PURCHASER OF A UNIT LISTED FOR SALE PURSUANT TO THIS

1 SECTION SHALL TAKE TITLE TO THE UNIT FREE AND CLEAR OF ANY
2 ENCUMBRANCES RELATING TO FILING OF THE FORECLOSURE ACTION.

3 **SECTION 7. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect October 1, 2025; except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within the ninety-day period after final adjournment of the general
8 assembly, then the act, item, section, or part will not take effect unless
9 approved by the people at the general election to be held in November
10 2026 and, in such case, will take effect on the date of the official
11 declaration of the vote thereon by the governor.
12 (2) This act applies to enforcement actions instituted on or after
13 the applicable effective date of this act.