

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0288.01 Brita Darling x2241

HOUSE BILL 26-1099

HOUSE SPONSORSHIP

Titone and Nguyen,

SENATE SPONSORSHIP

Kolker and Marchman,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTING THE FINANCIAL CONDITION OF COMMON**
102 **INTEREST COMMUNITIES.**

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>.)

The bill requires the declarant of a new planned community or condominium, prior to the sale or conveyance of the first unit, to obtain a reserve study for the planned community or condominium, which study estimates the projected costs of maintaining, repairing, or replacing the common elements or property of the planned community or condominium over a 30-year period. The reserve study must be updated after each phase

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.

of building, with a final updated reserve study conducted for the planned community or condominium as built.

Until the transfer of control of the planned community or condominium to a unit owners' association (association), a declarant must provide the reserve study to each prospective purchaser of a unit at least 24 hours prior to the sale or conveyance of the unit. After such transfer of control, the association must make the reserve study available to a unit owner upon reasonable notice.

At or before the transfer of control of the planned community or condominium to an association, a declarant must pay to the association 1.5% of the amount required to fully fund the reserves.

When an association changes association management companies, the former association management company shall, within 45 days, deliver to the new association management company or the association, at no charge to the association, all association property, records, money, accounts, information, and other items or information specified in the bill (property and records).

The former association management company shall pay the association \$250 for each business day that it fails to timely return the association's property and records and is liable for all interest and late fees on late payments made by the association due to the former association management company's failure to turn over the property and records, as well as any other damages incurred by the association.

In a civil action to recover the property and records or the payments owed to the association for the former association management company's failure to turn over the property and records, if the court finds that the former association management company's violation was willful, the former association management company shall be liable for treble the association's damages, plus attorney fees and court costs.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 38-33.3-209.2

3 as follows:

4 **38-33.3-209.2. Declarant duties - reserve study - contribution**
5 **to reserves.**

6 (1) (a) PRIOR TO THE SALE OR CONVEYANCE BY A DECLARANT TO
7 THE FIRST PURCHASER OF A UNIT IN A PLANNED COMMUNITY OR
8 CONDOMINIUM, THE DECLARANT SHALL COMMISSION AND PAY FOR A

1 RESERVE STUDY FOR THE PLANNED COMMUNITY OR CONDOMINIUM, WHICH
2 STUDY ADDRESSES THE COMPONENTS OF THE COMMON ELEMENTS AND
3 PROPERTY THAT THE ASSOCIATION IS RESPONSIBLE FOR MAINTAINING,
4 REPAIRING, OR REPLACING, AS DESCRIBED IN THE DECLARATION. THE
5 RESERVE STUDY MUST PROJECT COSTS OVER A THIRTY-YEAR PERIOD.

6 (b) THE RESERVE STUDY DESCRIBED IN SUBSECTION (1)(a) OF THIS
7 SECTION MUST INCLUDE AN ESTIMATE OF THE PROJECTED COST OF
8 MAINTAINING, REPAIRING, OR REPLACING THE COMMON ELEMENTS OR
9 PROPERTY OF THE PLANNED COMMUNITY OR CONDOMINIUM AS PLANNED.
10 THE DECLARANT SHALL UPDATE THE RESERVE STUDY AT THE COMPLETION
11 OF EACH PHASE OF BUILDING.

12 (c) PRIOR TO THE TRANSFER OF CONTROL FROM THE DECLARANT
13 TO THE ASSOCIATION, THE DECLARANT SHALL COMMISSION AND PAY FOR
14 AN UPDATED OR NEW RESERVE STUDY THAT REFLECTS THE PLANNED
15 COMMUNITY OR CONDOMINIUM AS BUILT AT THE TIME OF TRANSITION TO
16 ASSOCIATION CONTROL.

17 (d) A RESERVE STUDY REQUIRED PURSUANT TO THIS SECTION MUST
18 BE CONDUCTED BY AN INDEPENDENT RESERVE STUDY PROFESSIONAL OR
19 OTHER QUALIFIED PROFESSIONAL THAT:

20 (I) HAS KNOWLEDGE OF INDUSTRY STANDARDS FOR RESERVE
21 STUDIES;

22 (II) HAS NO BUSINESS RELATIONSHIP WITH OR FINANCIAL INTEREST
23 IN THE DECLARANT; AND

24 (III) IS NOT AN AFFILIATE OF THE DECLARANT.

25 (2) UNTIL THE DECLARANT TRANSFERS CONTROL OF A PLANNED
26 COMMUNITY OR CONDOMINIUM TO AN ASSOCIATION, AT LEAST
27 TWENTY-FOUR HOURS PRIOR TO THE CLOSING DATE FOR THE SALE OR

1 CONVEYANCE OF A UNIT BY THE DECLARANT TO A PURCHASER OF A UNIT,
2 THE DECLARANT SHALL PROVIDE THE MOST RECENT RESERVE STUDY TO
3 THE PROSPECTIVE PURCHASER.

4 (3) NO LATER THAN THE TIME OF TRANSFER OF CONTROL FROM THE
5 DECLARANT TO THE ASSOCIATION, THE DECLARANT SHALL PAY TO THE
6 ASSOCIATION AN AMOUNT EQUAL TO ONE AND ONE-HALF PERCENT OF THE
7 AMOUNT REQUIRED TO FULLY FUND THE RESERVES, AS INDICATED IN THE
8 MOST RECENT RESERVE STUDY FOR THE PLANNED COMMUNITY OR
9 CONDOMINIUM AS BUILT, TO BE CREDITED TO THE ASSOCIATION'S RESERVE
10 ACCOUNT.

11 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-209.4,
12 **amend** (2)(h) and (2)(i); and **add** (2)(j) as follows:

13 **38-33.3-209.4. Public disclosures required - identity of
14 association - agent - manager - contact information.**

15 (2) Within ninety days after assuming control from the declarant
16 pursuant to section 38-33.3-303 (5), and within ninety days after the end
17 of each fiscal year thereafter, the association shall make the following
18 information available to unit owners upon reasonable notice in
19 accordance with subsection (3) of this section:

20 (h) The minutes of the executive board and member meetings for
21 the fiscal year immediately preceding the current annual disclosure; **and**

22 (i) The association's responsible governance policies adopted
23 under section 38-33.3-209.5; **AND**

24 (j) THE MOST RECENT RESERVE STUDY REQUIRED PURSUANT TO
25 SECTION 38-33.3-209.2.

26 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-303, **amend**
27 (9)(l) and (9)(m); and **add** (9)(n) as follows:

1 **38-33.3-303. Executive board members and officers - powers**
2 **and duties - reserve funds - audit.**

3 (9) Within sixty days after the unit owners other than the declarant
4 elect a majority of the members of the executive board, the declarant shall
5 deliver to the association all property of the unit owners and of the
6 association held by or controlled by the declarant, including without
7 limitation the following items:

8 (l) Any service contract in which the association is a contracting
9 party or in which the association or the unit owners have any obligation
10 to pay a fee to the persons performing the services; **and**

11 (m) For large planned communities, copies of all recorded deeds
12 and all recorded and unrecorded leases evidencing ownership or leasehold
13 rights of the large planned community unit owners' association in all
14 common elements within the large planned community; **AND**

15 (n) **FOR PLANNED COMMUNITIES AND CONDOMINIUMS, THE**
16 **RESERVE STUDY COMMISSIONED BY THE DECLARANT PURSUANT TO**
17 **SECTION 38-33.3-209.2, INCLUDING A REVISED OR UPDATED RESERVE**
18 **STUDY COMMISSIONED BY THE DECLARANT, IF ANY.**

19 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-317, **add (9)**
20 as follows:

21 **38-33.3-317. Association records - rules - timely transfer of**
22 **association money and records to new management company or the**
23 **association - penalty - civil action - damages - attorney fees.**

24 (9) (a) (I) **WHEN AN ASSOCIATION, OTHER THAN A SELF-MANAGED**
25 **ASSOCIATION THAT HAS NOT RETAINED AN ASSOCIATION MANAGEMENT**
26 **COMPANY, TERMINATES OR FAILS TO RENEW AN AGREEMENT WITH ITS**
27 **ASSOCIATION MANAGEMENT COMPANY, WITHIN FORTY-FIVE DAYS AFTER**

1 THE TERMINATION OR FAILURE TO RENEW THE AGREEMENT, THE FORMER
2 ASSOCIATION MANAGEMENT COMPANY SHALL DELIVER TO THE NEW
3 ASSOCIATION MANAGEMENT COMPANY OR TO THE ASSOCIATION, AT NO
4 CHARGE TO THE ASSOCIATION, ALL ASSOCIATION PROPERTY, INCLUDING
5 MONEY, FINANCIAL ACCOUNTS, ACCOUNT BOOKS, FINANCIAL RECORDS,
6 INSURANCE POLICIES, CONTRACTS, BUSINESS DOCUMENTS, INVOICES,
7 RECEIPTS, SUBSCRIPTIONS, ACCOUNT INFORMATION, ACCOUNT
8 PASSWORDS, KEYS, AND ANY OTHER PROPERTY OR RECORDS OF THE
9 ASSOCIATION, OR INFORMATION CONCERNING THE ASSOCIATION.

10 (II) SUBSECTION (9)(a)(I) OF THIS SECTION DOES NOT REQUIRE A
11 FORMER ASSOCIATION MANAGEMENT COMPANY TO SUBMIT ANY
12 PROPRIETARY SOFTWARE OR COMPUTER PROGRAMS TO THE ASSOCIATION,
13 SO LONG AS THE ASSOCIATION'S DATA OR RECORDS WITHIN THE
14 PROPRIETARY SOFTWARE OR COMPUTER PROGRAM IS SUBMITTED TO THE
15 ASSOCIATION.

16 (b) UNLESS OTHERWISE AGREED IN WRITING BETWEEN THE
17 ASSOCIATION AND THE FORMER ASSOCIATION MANAGEMENT COMPANY,
18 THE FORMER ASSOCIATION MANAGEMENT COMPANY THAT FAILS TO
19 COMPLY WITH THE REQUIREMENT SET FORTH IN SUBSECTION (9)(a)(I) OF
20 THIS SECTION:

21 (I) IS LIABLE TO THE ASSOCIATION FOR ALL INTEREST AND LATE
22 FEES ON LATE PAYMENTS MADE BY THE ASSOCIATION DUE TO THE FORMER
23 ASSOCIATION MANAGEMENT COMPANY'S FAILURE TO COMPLY WITH THE
24 REQUIREMENT SET FORTH IN SUBSECTION (9)(a)(I) OF THIS SECTION AND
25 ANY OTHER DAMAGES INCURRED BY THE ASSOCIATION DUE TO THE
26 INABILITY OF THE ASSOCIATION TO ACCESS THE ASSOCIATION'S ACCOUNTS,
27 MONEY, PROPERTY, OR INFORMATION SPECIFIED IN SUBSECTION (9)(a)(I)

1 OF THIS SECTION;

2 (II) SHALL PAY TO THE ASSOCIATION TWO HUNDRED FIFTY
3 DOLLARS FOR EACH BUSINESS DAY THAT THE FORMER ASSOCIATION
4 MANAGEMENT COMPANY FAILS TO COMPLY WITH THE REQUIREMENT SET
5 FORTH IN SUBSECTION (9)(a)(I) OF THIS SECTION; AND

6 (III) IN ANY CIVIL ACTION TO ENFORCE THIS SUBSECTION (9), IF THE
7 FORMER ASSOCIATION MANAGEMENT COMPANY'S VIOLATION IS FOUND TO
8 BE WILLFUL, SHALL BE LIABLE TO THE ASSOCIATION FOR TREBLE THE
9 ASSOCIATION'S ACTUAL DAMAGES PLUS THE ASSOCIATION'S REASONABLE
10 ATTORNEY FEES AND COURT COSTS.

11 **SECTION 5. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2026 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.