

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

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.**

5 (1) **PRIOR TO TRANSFER OF CONTROL FROM THE DECLARANT TO**
6 **THE ASSOCIATION OF A PLANNED COMMUNITY OR CONDOMINIUM,** THE
7 DECLARANT SHALL COMMISSION AND PAY FOR A RESERVE STUDY FOR THE
8 PLANNED COMMUNITY OR CONDOMINIUM, WHICH STUDY ADDRESSES THE

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

5 (2) THE RESERVE STUDY DESCRIBED IN SUBSECTION (1) OF THIS
6 SECTION MUST INCLUDE AN ESTIMATE OF THE PROJECTED COST OF
7 MAINTAINING, REPAIRING, OR REPLACING THE COMMON ELEMENTS OR
8 PROPERTY OF THE PLANNED COMMUNITY OR CONDOMINIUM.

9 (3) A RESERVE STUDY REQUIRED PURSUANT TO THIS SECTION MUST
10 BE CONDUCTED BY AN INDEPENDENT RESERVE STUDY PROFESSIONAL OR
11 OTHER QUALIFIED PROFESSIONAL THAT:

12 (a) HAS KNOWLEDGE OF INDUSTRY STANDARDS FOR RESERVE
13 STUDIES;

14 (b) HAS NO BUSINESS RELATIONSHIP WITH OR FINANCIAL INTEREST
15 IN THE DECLARANT, OTHER THAN BEING RETAINED BY THE DECLARANT TO
16 CONDUCT RESERVE STUDIES; AND

17 (c) IS NOT AN AFFILIATE OF THE DECLARANT.

18

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

21 **38-33.3-209.4. Public disclosures required - identity of**
22 **association - agent - manager - contact information.**

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

1 (h) The minutes of the executive board and member meetings for
2 the fiscal year immediately preceding the current annual disclosure; ~~and~~

3 (i) The association's responsible governance policies adopted
4 under section 38-33.3-209.5; AND

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

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

9 **38-33.3-303. Executive board members and officers - powers**
10 **and duties - reserve funds - audit.**

11 (9) Within sixty days after the unit owners other than the declarant
12 elect a majority of the members of the executive board, the declarant shall
13 deliver to the association all property of the unit owners and of the
14 association held by or controlled by the declarant, including without
15 limitation the following items:

16 (l) Any service contract in which the association is a contracting
17 party or in which the association or the unit owners have any obligation
18 to pay a fee to the persons performing the services; ~~and~~

19 (m) For large planned communities, copies of all recorded deeds
20 and all recorded and unrecorded leases evidencing ownership or leasehold
21 rights of the large planned community unit owners' association in all
22 common elements within the large planned community; AND

23 (n) FOR PLANNED COMMUNITIES AND CONDOMINIUMS, THE
24 RESERVE STUDY COMMISSIONED BY THE DECLARANT PURSUANT TO
25 SECTION 38-33.3-209.2.

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

1 **38-33.3-317. Association records - rules - timely transfer of**
2 **association money and records to new management company or the**
3 **association - penalty - civil action - damages - attorney fees.**

4 (9) (a) (I) WHEN AN ASSOCIATION, OTHER THAN A SELF-MANAGED
5 ASSOCIATION THAT HAS NOT RETAINED AN ASSOCIATION MANAGEMENT
6 COMPANY, TERMINATES OR FAILS TO RENEW AN AGREEMENT WITH ITS
7 ASSOCIATION MANAGEMENT COMPANY, WITHIN FORTY-FIVE DAYS AFTER
8 THE TERMINATION OR FAILURE TO RENEW THE AGREEMENT, THE FORMER
9 ASSOCIATION MANAGEMENT COMPANY SHALL DELIVER TO THE NEW
10 ASSOCIATION MANAGEMENT COMPANY OR TO THE ASSOCIATION, AT NO
11 CHARGE TO THE ASSOCIATION, ALL ASSOCIATION PROPERTY, INCLUDING
12 MONEY, FINANCIAL ACCOUNTS, ACCOUNT BOOKS, FINANCIAL RECORDS,
13 INSURANCE POLICIES, CONTRACTS, BUSINESS DOCUMENTS, INVOICES,
14 RECEIPTS, SUBSCRIPTIONS, ACCOUNT INFORMATION, ACCOUNT
15 PASSWORDS, KEYS, AND ANY OTHER PROPERTY OR RECORDS OF THE
16 ASSOCIATION, OR INFORMATION CONCERNING THE ASSOCIATION.

17 (II) SUBSECTION (9)(a)(I) OF THIS SECTION DOES NOT REQUIRE A
18 FORMER ASSOCIATION MANAGEMENT COMPANY TO SUBMIT ANY
19 PROPRIETARY SOFTWARE OR COMPUTER PROGRAMS TO THE ASSOCIATION,
20 SO LONG AS THE ASSOCIATION'S DATA OR RECORDS WITHIN THE
21 PROPRIETARY SOFTWARE OR COMPUTER PROGRAM IS SUBMITTED TO THE
22 ASSOCIATION.

23 (b) UNLESS OTHERWISE AGREED IN WRITING BETWEEN THE
24 ASSOCIATION AND THE FORMER ASSOCIATION MANAGEMENT COMPANY,
25 THE FORMER ASSOCIATION MANAGEMENT COMPANY THAT FAILS TO
26 COMPLY WITH THE REQUIREMENT SET FORTH IN SUBSECTION (9)(a)(I) OF
27 THIS SECTION:

1 (I) IS LIABLE TO THE ASSOCIATION FOR ALL INTEREST AND LATE
2 FEES ON LATE PAYMENTS MADE BY THE ASSOCIATION DUE TO THE FORMER
3 ASSOCIATION MANAGEMENT COMPANY'S FAILURE TO COMPLY WITH THE
4 REQUIREMENT SET FORTH IN SUBSECTION (9)(a)(I) OF THIS SECTION AND
5 ANY OTHER DAMAGES INCURRED BY THE ASSOCIATION DUE TO THE
6 INABILITY OF THE ASSOCIATION TO ACCESS THE ASSOCIATION'S ACCOUNTS,
7 MONEY, PROPERTY, OR INFORMATION SPECIFIED IN SUBSECTION (9)(a)(I)
8 OF THIS SECTION;

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

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

18 **SECTION 5. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2026 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.