

HOUSE COMMITTEE OF REFERENCE REPORT

February 23, 2023

Chair of Committee

Date

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

HB23-1105 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, **add** 24-31-117 and
4 24-31-118 as follows:

5 **24-31-117. HOA homeowners' rights task force - creation -**
6 **membership - duties - facilitation - reporting - definitions - repeal.**

7 (1) AS USED IN THIS SECTION AND IN SECTION 24-31-118, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (a) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET
10 FORTH IN SECTION 38-33.3-103 (8).

11 (b) "DEVELOPER" MEANS ANY PERSON THAT OWNS A SUBDIVISION
12 OR IS A DESIGNEE OF THE OWNER OF A SUBDIVISION.

13 (c) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
14 MEANING SET FORTH IN SECTION 24-4-109 (2)(b).

15 (d) "EXECUTIVE BOARD" HAS THE MEANING SET FORTH IN SECTION
16 38-33.3-103 (16).

17 (e) "FACILITATOR" MEANS THE THIRD-PARTY TASK FORCE
18 FACILITATOR HIRED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION
19 AND PURSUANT TO SECTION 24-31-118 (3)(a).

20 (f) "HOA HOMEOWNER" MEANS A "UNIT OWNER" AS DEFINED IN
21 SECTION 38-33.3-103 (31).

22 (g) "HOMEOWNERS' ASSOCIATION" OR "ASSOCIATION" MEANS AN
23 "ASSOCIATION" AS DEFINED IN SECTION 38-33.3-103 (3).

24 (h) "SUBDIVISION" HAS THE MEANING SET FORTH IN SECTION
25 12-10-501 (3)(a).

26 (i) "TASK FORCE" MEANS THE HOA HOMEOWNERS' RIGHTS TASK
27 FORCE CREATED IN SUBSECTION (2) OF THIS SECTION.

1 (2) THE HOA HOMEOWNERS' RIGHTS TASK FORCE IS CREATED IN
2 THE DEPARTMENT OF LAW, CREATED IN SECTION 24-1-113 (1), TO EXAMINE
3 ISSUES CONFRONTING COMMUNITIES THAT ARE GOVERNED BY THE
4 EXECUTIVE BOARD OF AN ASSOCIATION.

5 (3)(a) THE HOA HOMEOWNERS' RIGHTS TASK FORCE CONSISTS OF
6 THE FOLLOWING:

7 (I) EX OFFICIO MEMBERS:

8 (A) A REPRESENTATIVE OF THE DEPARTMENT OF LAW, AS
9 APPOINTED BY THE ATTORNEY GENERAL;

10 (B) THE DIRECTOR OF THE DIVISION OF REAL ESTATE CREATED IN
11 SECTION 12-10-207 (1) OR THE DIRECTOR'S DESIGNEE;

12 (C) THE STATE DIRECTOR OF THE DIVISION OF HOUSING IN THE
13 DEPARTMENT OF LOCAL AFFAIRS APPOINTED PURSUANT TO SECTION
14 24-32-704 (1) OR THE STATE DIRECTOR'S DESIGNEE; AND

15 (D) THE HOA INFORMATION OFFICER APPOINTED PURSUANT TO
16 SECTION 12-10-801 (1); AND

17 (II) MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
18 REPRESENTATIVES, IN CONSULTATION WITH THE CHAIRS OF THE HOUSE OF
19 REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT
20 COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING
21 COMMITTEE:

22 (A) TWO HOA HOMEOWNERS IN THE STATE, AT LEAST ONE OF
23 WHOM RESIDES IN A COMMON INTEREST COMMUNITY LOCATED IN A
24 DISPROPORTIONATELY IMPACTED COMMUNITY AND AT LEAST ONE OF
25 WHOM SERVES ON THE EXECUTIVE BOARD OF THE HOA HOMEOWNER'S
26 HOA;

27 (B) AN ATTORNEY LICENSED IN THE STATE WHO SPECIALIZES IN
28 COMMON INTEREST COMMUNITY LAW;

29 (C) A REPRESENTATIVE OF AN ORGANIZATION THAT ADVOCATES
30 FOR HOA HOMEOWNERS IN THE STATE;

31 (D) A REPRESENTATIVE OF A DEVELOPER REGISTERED PURSUANT
32 TO SECTION 12-10-503 (1);

33 (E) AN ACCREDITED COMMUNITY ASSOCIATION MANAGER;

34 (F) AN ATTORNEY LICENSED IN THE STATE WHO PRIMARILY
35 REPRESENTS HOMEOWNERS IN LEGAL PROCEEDINGS AGAINST COMMON
36 INTEREST COMMUNITIES;

37 (G) A MEMBER OF THE HOUSE OF REPRESENTATIVES; AND

38 (H) A MEMBER OF THE SENATE.

39 (b) (I) MEMBERS OF THE TASK FORCE SHALL BE DESIGNATED OR
40 APPOINTED TO THE TASK FORCE PURSUANT TO SUBSECTION (3)(a) OF THIS
41 SECTION ON OR BEFORE JULY 15, 2023.

42 (II) MEMBERS APPOINTED TO THE TASK FORCE SERVE AT THE
43 PLEASURE OF THE APPOINTING AUTHORITIES. THE APPOINTING

1 AUTHORITIES MAY APPOINT A NEW MEMBER TO THE TASK FORCE TO
2 REPLACE A MEMBER WHO CAN NO LONGER SERVE ON THE TASK FORCE.

3 (III) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(III)(B) OF
4 THIS SECTION, MEMBERS OF THE TASK FORCE SERVE WITHOUT
5 COMPENSATION.

6 (B) LEGISLATIVE MEMBERS APPOINTED TO THE TASK FORCE
7 PURSUANT TO SUBSECTIONS (3)(a)(II)(G) AND (3)(a)(II)(H) OF THIS
8 SECTION ARE COMPENSATED PURSUANT TO SECTION 2-2-307.

9 (IV) THE TASK FORCE SHALL MEET AS EARLY AS PRACTICABLE
10 AFTER ALL MEMBERS HAVE BEEN DESIGNATED OR APPOINTED PURSUANT
11 TO SUBSECTION (3)(a) OF THIS SECTION. THE REPRESENTATIVE OF THE
12 DEPARTMENT OF LAW SERVING ON THE TASK FORCE IS THE CHAIR OF THE
13 TASK FORCE. THE CHAIR SHALL CONVENE AS MANY MEETINGS OF THE
14 TASK FORCE AS THE CHAIR DEEMS NECESSARY.

15 (c) (I) THE TASK FORCE SHALL EXAMINE ISSUES CONFRONTING
16 HOA HOMEOWNERS' RIGHTS, INCLUDING THE FOLLOWING AUTHORITY AND
17 PRACTICES OF ASSOCIATIONS:

18 (A) FINING AUTHORITY AND PRACTICES;

19 (B) FORECLOSURE PRACTICES;

20 (C) COMMUNICATIONS WITH HOA HOMEOWNERS REGARDING
21 ASSOCIATION PROCESSES AND HOA HOMEOWNERS' RIGHTS AND
22 RESPONSIBILITIES; AND

23 (D) FOR EACH ASSOCIATION IN A REPRESENTATIVE SAMPLE OF
24 ASSOCIATIONS IN THE STATE THAT THE TASK FORCE SELECTS, THE
25 AVAILABILITY OF AND METHOD OF MAKING AVAILABLE TO HOA
26 HOMEOWNERS IN THE ASSOCIATION: THE DECLARATION; COVENANTS;
27 BYLAWS; ARTICLES OF INCORPORATION IF THE ASSOCIATION IS A
28 CORPORATION OR OTHER ORGANIZATIONAL DOCUMENTS IF THE
29 ASSOCIATION IS ANOTHER TYPE OF ENTITY; RULES AND REGULATIONS;
30 RESPONSIBLE GOVERNANCE POLICIES ADOPTED PURSUANT TO SECTION
31 38-33.3-209.5; ANY OTHER POLICIES THAT THE EXECUTIVE BOARD OF THE
32 HOA ADOPTS; FINANCIAL STATEMENTS AS DESCRIBED IN SECTION
33 7-136-106; THE MOST RECENT RESERVE STUDY, IF THE ASSOCIATION HAS
34 CONDUCTED A RESERVE STUDY; AND RECORDS OF THE EXECUTIVE BOARD'S
35 ACTIONS RELATED TO COLLECTIONS ACTIVITY OR LEGAL ACTION TAKEN
36 AGAINST A UNIT OWNER.

37 (II) THE TASK FORCE SHALL ALSO REVIEW HOA HOMEOWNERS'
38 COMPLAINTS, AS REPORTED TO THE HOA INFORMATION AND RESOURCE
39 CENTER CREATED IN SECTION 12-10-801 (1) OR TO HOMEOWNERS'
40 ADVOCACY GROUPS IN THE STATE.

41 (III) AS PART OF THE TASK FORCE'S EXAMINATION, THE TASK
42 FORCE SHALL REVIEW:

43 (A) THE "COLORADO COMMON INTEREST OWNERSHIP ACT",

1 ARTICLE 33.3 OF TITLE 38, AND ANY OTHER LAWS IN THE STATE
2 REGARDING COMMON INTEREST COMMUNITIES;

3 (B) OTHER STATES' LAWS REGARDING COMMON INTEREST
4 COMMUNITIES; AND

5 (C) THE UNIFORM COMMON INTEREST OWNERSHIP ACT OF 2021, AS
6 PROMULGATED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON
7 UNIFORM STATE LAWS.

8 (IV) THE EXECUTIVE BOARD OF AN ASSOCIATION SHALL
9 COOPERATE WITH ANY REQUEST FROM THE TASK FORCE FOR INFORMATION
10 REGARDING THE ASSOCIATION, INCLUDING ANY REQUEST FOR THE
11 ASSOCIATION'S GOVERNING DOCUMENTS, FINANCIAL STATEMENTS,
12 RESERVE STUDIES, OR RECORDS RELATED TO COLLECTIONS ACTIVITY OR
13 LEGAL ACTIONS. AN ASSOCIATION SUBMITTING DOCUMENTATION TO THE
14 TASK FORCE SHALL REMOVE ALL PERSONAL IDENTIFYING INFORMATION
15 FROM THE DOCUMENTATION BEFORE SUBMITTING IT. THE TASK FORCE MAY
16 ONLY REPORT ON INFORMATION RECEIVED FROM AN ASSOCIATION IN A
17 MANNER THAT PROTECTS AGAINST THE PUBLICATION OF ANY PERSONAL
18 IDENTIFYING INFORMATION OF HOA HOMEOWNERS.

19 (4) (a) THE DEPARTMENT OF LAW SHALL HIRE A THIRD-PARTY
20 FACILITATOR TO GUIDE THE WORK OF THE TASK FORCE.

21 (b) THE TASK FORCE MAY SEEK OUT AND ASSIGN MEMBERS OF THE
22 PUBLIC TO SERVE ON AN ADVISORY COMMITTEE TO ASSIST THE TASK FORCE
23 IN ITS WORK.

24 (5) (a) ON OR BEFORE OCTOBER 15, 2023, THE TASK FORCE SHALL
25 PREPARE AN INTERIM REPORT OF ITS INITIAL FINDINGS AND CONCLUSIONS
26 REGARDING MATTERS THE TASK FORCE EXAMINES PURSUANT TO
27 SUBSECTION (3)(c) OF THIS SECTION. THE DEPARTMENT OF LAW SHALL
28 PUBLISH THE INTERIM REPORT ON ITS WEBSITE AND SUBMIT A COPY OF THE
29 INTERIM REPORT TO THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS
30 TASK FORCE CREATED IN SECTION 24-31-118 (1)(a).

31 (b) ON OR BEFORE JANUARY 15, 2024, THE TASK FORCE SHALL
32 PREPARE A FINAL REPORT OF ITS FINDINGS AND CONCLUSIONS REGARDING
33 MATTERS THE TASK FORCE EXAMINES PURSUANT TO SUBSECTION (3)(c) OF
34 THIS SECTION. THE DEPARTMENT OF LAW SHALL PUBLISH THE FINAL
35 REPORT ON ITS WEBSITE AND SUBMIT COPIES OF THE REPORT TO:

36 (I) THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS TASK
37 FORCE CREATED IN SECTION 24-31-118 (1)(a);

38 (II) THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING,
39 AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE LOCAL
40 GOVERNMENT AND HOUSING COMMITTEE, OR THEIR SUCCESSOR
41 COMMITTEES; AND

42 (III) THE GOVERNOR.

43 (6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

1 **24-31-118. Metropolitan district homeowners' rights task**
2 **force - creation - membership - duties - facilitation - reporting -**
3 **definition - repeal.** (1) (a) THE METROPOLITAN DISTRICT HOMEOWNERS'
4 RIGHTS TASK FORCE IS CREATED IN THE DEPARTMENT OF LAW, CREATED IN
5 SECTION 24-1-113 (1), TO EXAMINE ISSUES CONFRONTING COMMUNITIES
6 THAT ARE GOVERNED BY THE BOARD OF A METROPOLITAN DISTRICT.
7 (b) (I) AS USED IN THIS SECTION, "METROPOLITAN DISTRICT"
8 MEANS A SPECIAL DISTRICT THAT IS OPERATED IN COMPLIANCE WITH
9 SECTION 32-1-1004 AND CREATED TO FINANCE INFRASTRUCTURE TO
10 SUPPORT A HOUSING SUBDIVISION.
11 (II) DEFINITIONS SET FORTH IN SECTION 24-31-117 (1) ALSO APPLY
12 TO THE TERMS AS THEY ARE USED IN THIS SECTION.
13 (2) (a) THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS TASK
14 FORCE CONSISTS OF THE FOLLOWING:
15 (I) EX OFFICIO MEMBERS:
16 (A) A REPRESENTATIVE OF THE DEPARTMENT OF LAW, AS
17 APPOINTED BY THE ATTORNEY GENERAL;
18 (B) THE STATE DIRECTOR OF THE DIVISION OF HOUSING IN THE
19 DEPARTMENT OF LOCAL AFFAIRS APPOINTED PURSUANT TO SECTION
20 24-32-704 (1) OR THE DIRECTOR'S DESIGNEE; AND
21 (C) THE DIRECTOR OF THE DIVISION OF REAL ESTATE CREATED IN
22 SECTION 12-10-207 (1) OR THE DIRECTOR'S DESIGNEE; AND
23 (II) MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
24 REPRESENTATIVES, IN CONSULTATION WITH THE CHAIRS OF THE HOUSE OF
25 REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT
26 COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING
27 COMMITTEE:
28 (A) TWO HOMEOWNERS RESIDING IN A METROPOLITAN DISTRICT IN
29 THE STATE, AT LEAST ONE OF WHOM RESIDES IN A METROPOLITAN DISTRICT
30 LOCATED IN A DISPROPORTIONATELY IMPACTED COMMUNITY AND AT
31 LEAST ONE OF WHOM SERVES ON THE BOARD OF THE METROPOLITAN
32 DISTRICT IN WHICH THE HOMEOWNER RESIDES;
33 (B) AN ATTORNEY LICENSED IN THE STATE WHO SPECIALIZES IN
34 METROPOLITAN DISTRICT LAW, AS RECOMMENDED BY A STATEWIDE
35 ORGANIZATION THAT REPRESENTS SPECIAL DISTRICTS;
36 (C) AN ELECTED CITY COUNCIL MEMBER, AS RECOMMENDED BY A
37 STATEWIDE ORGANIZATION THAT REPRESENTS MUNICIPALITIES;
38 (D) AN ELECTED COUNTY COMMISSIONER, AS RECOMMENDED BY
39 A STATEWIDE ORGANIZATION THAT REPRESENTS COUNTIES;
40 (E) A REPRESENTATIVE OF A DEVELOPER REGISTERED PURSUANT
41 TO SECTION 12-10-503 (1) THAT HAS ONE OR MORE SUBDIVISIONS
42 LOCATED WITHIN A METROPOLITAN DISTRICT;
43 (F) A REPRESENTATIVE RECOMMENDED BY A STATEWIDE

1 NONPROFIT ORGANIZATION THAT REPRESENTS METROPOLITAN DISTRICT
2 EDUCATION IN A COALITION;

3 (G) AN ATTORNEY LICENSED IN THE STATE WHO PRIMARILY
4 REPRESENTS HOMEOWNERS IN LEGAL PROCEEDINGS AGAINST
5 METROPOLITAN DISTRICTS;

6 (H) A REPRESENTATIVE OF A NONPROFIT ORGANIZATION THAT
7 REPRESENTS THE AFFORDABLE HOUSING COMMUNITY;

8 (I) A MEMBER OF THE HOUSE OF REPRESENTATIVES; AND
9 (J) A MEMBER OF THE SENATE.

10 (b) (I) MEMBERS OF THE TASK FORCE SHALL BE DESIGNATED OR
11 APPOINTED TO THE TASK FORCE PURSUANT TO SUBSECTION (2)(a) OF THIS
12 SECTION ON OR BEFORE NOVEMBER 1, 2023.

13 (II) MEMBERS APPOINTED TO THE TASK FORCE SERVE AT THE
14 PLEASURE OF THE APPOINTING AUTHORITIES. THE APPOINTING
15 AUTHORITIES MAY APPOINT A NEW MEMBER TO THE TASK FORCE TO
16 REPLACE A MEMBER WHO CAN NO LONGER SERVE ON THE TASK FORCE.

17 (III) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(b)(III)(B) OF
18 THIS SECTION, MEMBERS OF THE TASK FORCE SERVE WITHOUT
19 COMPENSATION.

20 (B) LEGISLATIVE MEMBERS APPOINTED TO THE TASK FORCE
21 PURSUANT TO SUBSECTIONS (2)(a)(II)(I) AND (2)(a)(II)(J) OF THIS SECTION
22 ARE COMPENSATED PURSUANT TO SECTION 2-2-307.

23 (IV) THE TASK FORCE SHALL MEET AS EARLY AS PRACTICABLE
24 AFTER ALL MEMBERS HAVE BEEN DESIGNATED OR APPOINTED PURSUANT
25 TO SUBSECTION (2)(a) OF THIS SECTION. THE REPRESENTATIVE OF THE
26 DEPARTMENT OF LAW SERVING ON THE TASK FORCE IS THE CHAIR OF THE
27 TASK FORCE. THE CHAIR SHALL CONVENE AS MANY MEETINGS OF THE
28 TASK FORCE AS THE CHAIR DEEMS NECESSARY.

29 (c) (I) THE TASK FORCE SHALL EXAMINE ISSUES CONFRONTING
30 METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS, INCLUDING THE
31 FOLLOWING AUTHORITY AND PRACTICES OF METROPOLITAN DISTRICT
32 BOARDS:

33 (A) TAX LEVYING AUTHORITY AND PRACTICES;
34 (B) FORECLOSURE PRACTICES;
35 (C) COMMUNICATIONS WITH HOMEOWNERS REGARDING
36 METROPOLITAN DISTRICT PROCESSES AND HOMEOWNERS' RIGHTS AND
37 RESPONSIBILITIES; AND
38 (D) GOVERNANCE POLICIES, INCLUDING VOTING AND ELECTIONS
39 POLICIES.

40 (II) THE TASK FORCE SHALL ALSO EXAMINE THE PROCESS BY
41 WHICH A METROPOLITAN DISTRICT COULD TRANSITION FROM A
42 METROPOLITAN DISTRICT THAT ENFORCES COVENANTS AND COLLECTS
43 ASSESSMENTS INTO A COMMON INTEREST COMMUNITY GOVERNED UNDER

1 ARTICLE 33.3 OF TITLE 38.

2 (III) AS PART OF THE TASK FORCE'S EXAMINATION, THE TASK
3 FORCE SHALL REVIEW THE INTERIM AND FINAL REPORTS OF THE HOA
4 HOMEOWNERS' RIGHTS TASK FORCE, CREATED IN SECTION 24-31-117 (2),
5 TO DETERMINE WHETHER THE FINDINGS AND CONCLUSIONS SET FORTH IN
6 THOSE REPORTS APPLY TO, AND PROVIDE GUIDANCE FOR, THE TASK
7 FORCE'S OWN FINDINGS AND CONCLUSIONS REGARDING ISSUES
8 CONFRONTING METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS.

9 (3) (a) THE DEPARTMENT OF LAW SHALL HIRE A THIRD-PARTY
10 FACILITATOR TO GUIDE THE WORK OF THE TASK FORCE.

11 (b) THE TASK FORCE MAY SEEK OUT AND ASSIGN MEMBERS OF THE
12 PUBLIC TO SERVE ON AN ADVISORY COMMITTEE TO ASSIST THE TASK FORCE
13 IN ITS WORK.

14 (4) ON OR BEFORE MARCH 15, 2024, THE TASK FORCE SHALL
15 PREPARE A REPORT OF ITS FINDINGS AND CONCLUSIONS REGARDING
16 MATTERS THE TASK FORCE EXAMINES PURSUANT TO SUBSECTION (2)(c) OF
17 THIS SECTION. THE DEPARTMENT OF LAW SHALL PUBLISH THE REPORT ON
18 ITS WEBSITE AND SUBMIT COPIES OF THE REPORT TO:

19 (a) THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING,
20 AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE LOCAL
21 GOVERNMENT AND HOUSING COMMITTEE, OR THEIR SUCCESSOR
22 COMMITTEES; AND

23 (b) THE GOVERNOR.

24 (5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

25 **SECTION 3. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety."

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