

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0394.01 Clare Haffner x6137

HOUSE BILL 24-1383

HOUSE SPONSORSHIP

Lindstedt,

SENATE SPONSORSHIP

Michaelson Jenet,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING DECLARATIONS THAT FORM COMMON INTEREST
102 COMMUNITIES UNDER THE "COLORADO COMMON INTEREST
103 OWNERSHIP ACT".

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>.)

Under the "Colorado Common Interest Ownership Act" (CCIOA), every common interest community must be formed by the execution and recording of a declaration. The CCIOA does not state who is required to execute the declaration. The bill clarifies that:

- A declaration that forms a common interest community

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.

- must be executed by or with the express written authorization of the owner or owners of the real estate that is to be included in the common interest community; and
● Any amendment to a declaration that adds real estate to a common interest community must be executed by or with the express written authorization of the owner or owners of the real estate to be added.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) In *FD Interests, LLC v. Fairways At Buffalo Run Homeowners*
5 *Association, Inc.*, 2019 COA 148, 490 P.3d 496, the Colorado court of
6 appeals held that the recording of a declaration executed by an affiliate of
7 the owner of real property that was intended to be included in a common
8 interest community pursuant to section 38-33.3-201, Colorado Revised
9 Statutes, but not executed by the owner of the property, was effective to
10 create the common interest community and to govern the future use and
11 development of the property. In that case, the court of appeals held that
12 the trial court had erred in reforming the recorded declaration to include
13 the owner's signature because the declaration had been validly executed
14 by the owner's affiliate and reformation was unnecessary.

15 (b) With this act, the general assembly intends to clarify, for
16 parties that currently have an interest in real property or that may acquire
17 an interest in real property, that, like other documents purporting to affect
18 title to or use of real property in the absence of specific statutory authority
19 allowing execution by another person, a declaration that creates a
20 common interest community, and any amendment to a declaration that
21 adds real property to an existing common interest community, must be
22 executed by or on behalf of the record owner of the real property to be

1 included in the common interest community. The general assembly
2 further intends to confirm that the equitable remedy of reformation
3 should, in appropriate situations, in accordance with principles of equity,
4 and with due regard for all affected interests, be available to correct errors
5 relating to the execution or contents of documents affecting real property.

6 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-201, **amend**
7 (1) as follows:

8 **38-33.3-201. Creation of common interest communities.**

9 (1) (a) A common interest community may be created pursuant to this
10 ~~article~~ ARTICLE 33.3 only by recording a declaration executed in the same
11 manner as a deed and, in a cooperative, by conveying the real estate
12 subject to that declaration to the association. The declaration must be:

13 (I) EXECUTED BY OR WITH THE EXPRESS WRITTEN AUTHORIZATION
14 OF THE OWNER OR OWNERS OF THE REAL ESTATE THAT IS TO BE INCLUDED
15 IN THE COMMON INTEREST COMMUNITY, AS SHOWN BY THE RECORDS OF
16 THE COUNTY CLERK AND RECORDER'S OFFICE OF THE COUNTY WHERE THE
17 REAL ESTATE IS LOCATED;

18 (II) Recorded in every county in which any portion of the common
19 interest community is located; ~~and must be~~

20 (III) Indexed in the grantee's index in the name of the common
21 interest community and in the name of the association; and

22 (IV) INDEXED in the grantor's index in the name of each person
23 executing the declaration.

24 (b) No common interest community is created until the plat or
25 map for the common interest community is recorded.

26 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-217, **amend**
27 (3) as follows:

1 **38-33.3-217. Amendment of declaration.** (3) ANY AMENDMENT
2 TO A DECLARATION THAT ADDS REAL ESTATE TO A COMMON INTEREST
3 COMMUNITY MUST BE EXECUTED BY OR WITH THE EXPRESS WRITTEN
4 AUTHORIZATION OF THE OWNER OR OWNERS OF THE REAL ESTATE TO BE
5 ADDED, AS SHOWN BY THE RECORDS OF THE COUNTY CLERK AND
6 RECORDER'S OFFICE OF THE COUNTY WHERE THE REAL ESTATE IS LOCATED.
7 Every amendment to the declaration must be recorded in every county in
8 which any portion of the common interest community is located and is
9 effective only upon recordation. An amendment must be indexed in the
10 grantee's index in the name of the common interest community and the
11 association and in the grantor's index in the name of each person
12 executing the amendment.

13 **SECTION 4. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly; except that, if a referendum petition is filed pursuant
17 to section 1 (3) of article V of the state constitution against this act or an
18 item, section, or part of this act within such period, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2024 and, in such case, will take
21 effect on the date of the official declaration of the vote thereon by the
22 governor.

23 (2) This act applies to declarations that are executed or amended
24 on or after the effective date of this act.