

HOUSE COMMITTEE OF REFERENCE REPORT

May 20, 2021

Chair of Committee

Date

Committee on Business Affairs & Labor.

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

HB21-1229 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute:
3 "SECTION 1. In Colorado Revised Statutes, 37-60-126, **amend**
4 (11)(a) as follows:
5 **37-60-126. Water conservation and drought mitigation**
6 **planning - programs - relationship to state assistance for water**
7 **facilities - guidelines - water efficiency grant program - definitions -**
8 **repeal.** (11) (a) Any section of a restrictive covenant or of the
9 declaration, bylaws, or rules and regulations of a common interest
10 community, all as defined in section 38-33.3-103, and any rule or policy
11 of a special district, as defined in section 32-1-103 (20), that prohibits or
12 limits xeriscape, prohibits or limits the installation or use of
13 drought-tolerant vegetative landscapes, ~~or~~ requires cultivated vegetation
14 to consist wholly or partially of turf grass, OR PROHIBITS THE USE OF
15 NONVEGETATIVE TURF GRASS IN THE BACKYARD OF A RESIDENTIAL
16 PROPERTY is hereby declared contrary to public policy and, on that basis,
17 is unenforceable. This subsection (11)(a) does not prohibit common
18 interest communities or special districts from adopting and enforcing
19 design or aesthetic guidelines or rules that ~~require~~ APPLY TO
20 drought-tolerant vegetative OR NONVEGETATIVE landscapes or regulate
21 the type, number, and placement of drought-tolerant plantings and
22 hardscapes that may be installed on property that is subject to the
23 guidelines or rules; EXCEPT THAT THE GUIDELINES OR RULES MUST NOT
24 PROHIBIT THE USE OF NONVEGETATIVE TURF GRASS IN THE BACKYARD OF
25 A RESIDENTIAL PROPERTY.

1 **SECTION 2.** In Colorado Revised Statutes, 38-30-168, **amend**
2 (2) introductory portion and (2)(a) as follows:

3 **38-30-168. Unreasonable restrictions on renewable energy**
4 **generation devices - definitions.** (2) Subsection (1) of this section ~~shall~~
5 DOES not apply to:

6 (a) Aesthetic provisions that impose reasonable restrictions on the
7 dimensions, placement, or external appearance of a renewable energy
8 generation device and that do not:

9 (I) ~~Significantly~~ Increase the cost of the device ~~or~~ BY MORE THAN
10 TEN PERCENT;

11 (II) ~~Significantly~~ Decrease ~~its~~ THE performance or efficiency OF
12 THE DEVICE BY MORE THAN TEN PERCENT; OR

13 (III) REQUIRE A PERIOD OF REVIEW AND APPROVAL THAT EXCEEDS
14 SIXTY DAYS AFTER THE DATE OF APPLICATION. IF AN APPLICATION FOR
15 INSTALLATION OF A RENEWABLE ENERGY GENERATION DEVICE IS NOT
16 DENIED OR RETURNED FOR MODIFICATIONS WITHIN SIXTY DAYS, IT IS
17 DEEMED APPROVED. THE REVIEW PROCESS MUST BE TRANSPARENT;
18 DENIAL OF APPROVAL MUST NOT BE ARBITRARY OR CAPRICIOUS; AND THE
19 BASIS FOR ANY DENIAL MUST BE DESCRIBED IN REASONABLE DETAIL.

20 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-106.5,
21 **amend** (1)(c)(I)(A) and (1)(i)(I) as follows:

22 **38-33.3-106.5. Prohibitions contrary to public policy -**
23 **patriotic, political, or religious expression - emergency vehicles - fire**
24 **prevention - renewable energy generation devices - affordable**
25 **housing - drought prevention measures - child care - definitions.**

26 (1) Notwithstanding any provision in the declaration, bylaws, or rules
27 and regulations of the association to the contrary, an association shall not
28 prohibit any of the following:

29 (c) (I) The display of a political sign by the owner or occupant of
30 a unit on property within the boundaries of the unit or in a window of the
31 unit; except that:

32 (A) An association may prohibit the display of political signs
33 earlier than forty-five days before the FIRST day ~~of~~ THAT MAIL-IN BALLOTS
34 FOR an election ARE SENT TO VOTERS and later than seven days after ~~an~~
35 THE OFFICIAL DATE OF THE election; ~~day~~; and

36 (i) (I) The use of xeriscape, NONVEGETATIVE TURF GRASS, or
37 drought-tolerant vegetative landscapes to provide ground covering to
38 property for which a unit owner is responsible, including a limited
39 common element or property owned by the unit owner. Associations may
40 adopt and enforce design or aesthetic guidelines or rules that **require**
41 APPLY TO NONVEGETATIVE TURF GRASS AND drought-tolerant vegetative

1 landscapes or regulate the type, number, and placement of
2 drought-tolerant plantings and hardscapes that may be installed on a unit
3 owner's property or on a limited common element or other property for
4 which the unit owner is responsible. AN ASSOCIATION MAY RESTRICT THE
5 INSTALLATION OF NONVEGETATIVE TURF GRASS TO REAR YARD LOCATIONS
6 ONLY.

7 **SECTION 4.** In Colorado Revised Statutes, 38-33.3-317, **amend**
8 (4); and **add** (1)(h.5), (1)(h.6), and (4.5) as follows:

9 **38-33.3-317. Association records - rules.** (1) In addition to any
10 records specifically defined in the association's declaration or bylaws or
11 expressly required by section 38-33.3-209.4 (2), the association must
12 maintain the following, all of which shall be deemed to be the sole
13 records of the association for purposes of document retention and
14 production to owners:

15 (h.5) A LIST OF THE CURRENT AMOUNTS OF ALL UNIQUE AND
16 EXTRAORDINARY FEES, ASSESSMENTS, AND EXPENSES THAT ARE
17 CHARGEABLE BY THE ASSOCIATION IN CONNECTION WITH THE PURCHASE
18 OR SALE OF A UNIT, ARE INCURRED DUE TO UNIQUE AND EXTRAORDINARY
19 WORK, AND ARE NOT PAID FOR THROUGH ASSESSMENTS, INCLUDING
20 TRANSFER FEES, RECORD CHANGE FEES, AND THE CHARGE FOR A STATUS
21 LETTER OR STATEMENT OF ASSESSMENTS DUE;

22 (h.6) ALL DOCUMENTATION PERTAINING TO AN HOA OR COMMON
23 INTEREST COMMUNITY THAT SHOULD OR MAY BE PROVIDED TO THE BUYER
24 UNDER THE MOST RECENT STANDARD CONTRACT TO BUY AND SELL REAL
25 ESTATE, AS PROMULGATED BY THE REAL ESTATE COMMISSION CREATED IN
26 SECTION 12-10-206;

27 (4) The association may impose a reasonable charge, which may
28 be collected in advance and may cover the costs of labor and material, for
29 copies of association records. The charge may not exceed the estimated
30 cost of production and reproduction of the records, INCLUDING THE COSTS
31 OF COPYING, MAILING, AND ANY NECESSARY SPECIAL PROCESSING.

32 (4.5) IF THE ASSOCIATION FAILS TO ALLOW INSPECTION OR
33 COPYING OF RECORDS IN ACCORDANCE WITH THIS SECTION WITHIN THIRTY
34 CALENDAR DAYS AFTER RECEIPT OF A WRITTEN REQUEST SUBMITTED BY
35 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND PAYMENT OF ANY FEES
36 REQUIRED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE
37 ASSOCIATION IS LIABLE FOR PENALTIES IN THE AMOUNT OF FIFTY DOLLARS
38 PER DAY, COMMENCING ON THE ELEVENTH BUSINESS DAY AFTER THE
39 ASSOCIATION RECEIVED THE WRITTEN REQUEST, UP TO A MAXIMUM OF
40 FIVE HUNDRED DOLLARS OR THE UNIT OWNER'S ACTUAL DAMAGES
41 SUSTAINED AS A RESULT OF THE REFUSAL, WHICHEVER IS GREATER.



1 **SECTION 5. Act subject to petition - effective date -**
2 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
3 the expiration of the ninety-day period after final adjournment of the
4 general assembly; except that, if a referendum petition is filed pursuant
5 to section 1 (3) of article V of the state constitution against this act or an
6 item, section, or part of this act within such period, then the act, item,
7 section, or part will not take effect unless approved by the people at the
8 general election to be held in November 2022 and, in such case, will take
9 effect on the date of the official declaration of the vote thereon by the
10 governor.
11 (2) This act applies to conduct occurring on or after the applicable
12 effective date of this act."

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