

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

April 18, 2023  
Date

Committee on Transportation, Housing & Local Government.

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

SB23-178 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 2, strike line 3 and substitute "**amend**  
2 (1)(i)(I)(A); and **add** (1)(i.5) as follows:".

3 Page 2, strike line 11 and substitute:

4 " (i) (I) (A) The use of xeriscape, nonvegetative turf grass, or  
5 drought-tolerant vegetative landscapes to provide ground covering to  
6 property for which a unit owner is responsible, including a limited  
7 common element or property owned by the unit owner. Associations may  
8 adopt and enforce design or aesthetic guidelines or rules that apply to  
9 nonvegetative turf grass and drought-tolerant vegetative landscapes or  
10 regulate the type, number, and placement of drought-tolerant plantings  
11 and hardscapes that may be installed on a unit owner's property or on a  
12 limited common element or other property for which the unit owner is  
13 responsible. An association may restrict the installation of nonvegetative  
14 turf grass to rear yard locations only. THIS SUBSECTION (1)(i)(I)(A), AS  
15 AMENDED BY SENATE BILL 23-178, ENACTED IN 2023, APPLIES ONLY TO  
16 A UNIT THAT IS A SINGLE-FAMILY HOME THAT SHARES ONE OR MORE  
17 WALLS WITH ANOTHER UNIT AND DOES NOT APPLY TO A UNIT THAT IS A  
18 DETACHED SINGLE-FAMILY HOME.

19 (i.5) (I) THE USE OF XERISCAPE, NONVEGETATIVE TURF GRASS, OR  
20 DROUGHT-TOLERANT OR NONVEGETATIVE LANDSCAPES TO PROVIDE  
21 GROUND COVERING TO PROPERTY FOR WHICH A UNIT OWNER IS  
22 RESPONSIBLE, INCLUDING A LIMITED COMMON ELEMENT OR PROPERTY  
23 OWNED BY THE UNIT OWNER AND ANY RIGHT-OF-WAY OR TREE LAWN THAT  
24 IS THE UNIT OWNER'S RESPONSIBILITY TO MAINTAIN. ASSOCIATIONS MAY  
25 ADOPT AND ENFORCE DESIGN OR AESTHETIC GUIDELINES OR RULES THAT  
26 APPLY TO DROUGHT-TOLERANT VEGETATIVE OR NONVEGETATIVE

1 LANDSCAPES OR TO VEGETABLE GARDENS OR THAT REGULATE THE TYPE,  
2 NUMBER, AND PLACEMENT OF DROUGHT-TOLERANT PLANTINGS AND  
3 HARDSCAPES THAT MAY BE INSTALLED ON".

4 Page 3, strike lines 1 through 12.

5 Page 3, line 24, strike "(1)(i)," and substitute "(1)(i.5),".

6 Page 4, line 1, strike "(1)(i)," and substitute "(1)(i.5),".

7 Page 4, line 20, strike "(1)(i)(IV)" and substitute "(1)(i.5)(IV)".

8 Page 4, line 22, strike "(1)(i)," and substitute "(1)(i.5),".

9 Page 4, line 27, strike "(1)(i)(III)" and substitute "(1)(i.5)(III)".

10 Page 5, strike lines 4 to 10 and substitute:

11 "(V) NOTHING IN THIS SUBSECTION (1)(i.5) SHALL BE CONSTRUED".

12 Page 5, line 21, strike "(VIII)" and substitute "(VI)".

13 Page 5, line 22, strike "(1)(i)" and substitute "(1)(i.5)".

14 Page 6, strike line 1 and substitute "(11)(b)(IV); and **add** (11)(a)(III) and  
15 (11)(a.5) as follows:".

16 Page 6, strike lines 5 through 23 and substitute:

17 "**repeal.** (11) (a) (III) THIS SUBSECTION (11)(a), AS AMENDED BY SENATE  
18 BILL 23-178, ENACTED IN 2023, APPLIES ONLY TO A UNIT THAT IS A  
19 SINGLE-FAMILY HOME THAT SHARES ONE OR MORE WALLS WITH ANOTHER  
20 UNIT AND DOES NOT APPLY TO A UNIT THAT IS A DETACHED SINGLE-FAMILY  
21 HOME.

22 (a.5) (I) ANY SECTION OF A RESTRICTIVE COVENANT OR OF THE  
23 DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF A COMMON  
24 INTEREST COMMUNITY, ALL AS DEFINED IN SECTION 38-33.3-103, AND ANY  
25 RULE OR POLICY OF A SPECIAL DISTRICT, AS DEFINED IN SECTION 32-1-103  
26 (20), THAT PROHIBITS OR LIMITS XERISCAPE, PROHIBITS OR LIMITS THE  
27 INSTALLATION OR USE OF DROUGHT-TOLERANT VEGETATIVE OR  
28 NONVEGETATIVE LANDSCAPES, REQUIRES CULTIVATED VEGETATION TO  
29 CONSIST WHOLLY OR PARTIALLY OF TURF GRASS, OR PROHIBITS THE USE OF  
30 NONVEGETATIVE TURF GRASS IN THE BACKYARD OF A RESIDENTIAL

1 PROPERTY IS HEREBY DECLARED CONTRARY TO PUBLIC POLICY AND, ON  
2 THAT BASIS, IS UNENFORCEABLE. THIS SUBSECTION (11)(a.5) DOES NOT  
3 PROHIBIT COMMON INTEREST COMMUNITIES OR SPECIAL DISTRICTS FROM  
4 ADOPTING AND ENFORCING DESIGN OR AESTHETIC GUIDELINES OR RULES  
5 THAT APPLY TO DROUGHT-TOLERANT VEGETATIVE OR NONVEGETATIVE  
6 LANDSCAPES OR REGULATE THE TYPE, NUMBER, AND PLACEMENT OF  
7 DROUGHT-TOLERANT PLANTINGS AND HARDSCAPES THAT MAY BE  
8 INSTALLED ON PROPERTY THAT IS SUBJECT TO THE GUIDELINES OR RULES;  
9 EXCEPT THAT THE GUIDELINES OR RULES MUST:

10 (A) NOT PROHIBIT THE USE OF NONVEGETATIVE TURF GRASS IN  
11 THE BACKYARD OF A RESIDENTIAL PROPERTY;"

12 Page 7, line 6, strike "(11)(a)(II)(D)," and substitute "(11)(a.5)(II)(D),".

13 Page 7, strike lines 10 to 12 and substitute:

14 "(II) THIS SUBSECTION (11)(a.5) DOES NOT APPLY TO:

15 (A) A UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION  
16 38-33.3-103 (3), THAT INCLUDES TIME SHARE UNITS, AS DEFINED IN  
17 SECTION 38-33-110 (7); OR

18 (B) A UNIT, AS DEFINED IN SECTION 38-33.3-103 (30), THAT IS A  
19 SINGLE-FAMILY HOME THAT SHARES ONE OR MORE WALLS WITH ANOTHER  
20 UNIT."

21 Page 7, strike lines 20 to 24.

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