

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1157.01 Jennifer Berman x3286

HOUSE BILL 16-1400

HOUSE SPONSORSHIP

Ryden,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROHIBITION OF RETALIATORY ACTION AGAINST A
102 HOMEOWNER IN RELATION TO THE HOMEOWNERS' ASSOCIATION
103 TO WHICH THE HOMEOWNER BELONGS.

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://www.leg.state.co.us/bills summaries>.)

The bill prohibits a homeowners' association or other person from retaliating or discriminating against a homeowner who: files a complaint; otherwise acts in furtherance of a complaint, report, or investigation of an alleged violation of the "Colorado Common Interest Ownership Act" (CCIOA) or a legally enforceable document created under the CCIOA;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

exercises or attempts to exercise any right as a homeowner; or inquires about or provides feedback on a homeowners' association matter.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 38-33.3-125 as
3 follows:

4 **38-33.3-125. Retaliation prohibited - definitions.** (1) AN
5 ASSOCIATION OR ITS BOARD OF DIRECTORS OR MANAGER, ANOTHER UNIT
6 OWNER, OR ANY PERSON ACTING ON BEHALF OF AN ASSOCIATION OR A
7 UNIT OWNER SHALL NOT RETALIATE AGAINST A UNIT OWNER WHO,
8 THROUGH A LAWFUL ACTION DONE IN AN EFFORT TO ADDRESS, PREVENT,
9 OR STOP A VIOLATION:

10 (a) REPORTS AN ALLEGED VIOLATION PURSUANT TO PROCEDURES
11 STATED IN THE ASSOCIATION'S RULES, IF ANY;

12 (b) CAUSES A COMPLAINT OR REPORT OF AN ALLEGED VIOLATION
13 TO BE FILED WITH A COURT OR GOVERNMENTAL AGENCY;

14 (c) PARTICIPATES IN OR COOPERATES WITH AN INVESTIGATION OF
15 A COMPLAINT OR REPORT OF AN ALLEGED VIOLATION FILED WITH A COURT
16 OR GOVERNMENTAL AGENCY;

17 (d) INQUIRES ABOUT OR PROVIDES FEEDBACK OR INPUT ON AN
18 ASSOCIATION MATTER; OR

19 (e) EXERCISES ANY LEGAL RIGHT UNDER:

20 (I) THIS ARTICLE;

21 (II) THE ASSOCIATION'S BYLAWS, ARTICLES, OR RULES AND
22 REGULATIONS;

23 (III) THE DECLARATION; OR

24 (IV) ANY COVENANT OR OTHER LEGALLY ENFORCEABLE
25 DOCUMENT SETTING FORTH THE RIGHTS AND RESPONSIBILITIES OF THE

1 ASSOCIATION, ITS BOARD OF DIRECTORS OR MANAGER, OR THE UNIT
2 OWNER.

3 (2) A UNIT OWNER MAY BRING A CIVIL ACTION IN COUNTY OR
4 DISTRICT COURT ALLEGING A VIOLATION OF THIS SECTION, AND THE
5 PREVAILING PARTY SHALL BE AWARDED REASONABLE ATTORNEY FEES
6 AND COSTS PURSUANT TO SECTION 38-33.3-123 (1) (c). BEFORE BRINGING
7 A CIVIL SUIT UNDER THIS SECTION, THE UNIT OWNER SHALL FOLLOW THE
8 APPLICABLE PROCEDURES SET FORTH IN THE ASSOCIATION'S POLICY
9 ADOPTED PURSUANT TO SECTION 38-33.3-209.5 (1) (b) (VIII) CONCERNING
10 DISPUTE RESOLUTION. IF THE ASSOCIATION'S POLICY DOES NOT INCLUDE
11 A REQUIREMENT THAT THE PARTIES FIRST MEET IN GOOD FAITH TO TRY TO
12 RESOLVE THE DISPUTE BETWEEN THEMSELVES, THE PARTIES SHALL THUS
13 MEET BEFORE FOLLOWING THE ASSOCIATION'S POLICY.

14 (3) (a) AS USED IN THIS SECTION, "RETALIATE" OR "RETALIATION"
15 REFERS TO AN ENFORCEMENT ACTION AGAINST A UNIT OWNER, OR THE
16 SUSPENSION OF SOME OR ALL OF THE UNIT OWNER'S MEMBERSHIP
17 PRIVILEGES, BY THE EXECUTIVE BOARD, WHICH ACTION OR SUSPENSION IS:

- 18 (I) WITHOUT FACTUAL OR LEGAL JUSTIFICATION;
- 19 (II) TAKEN PRIMARILY AS A RESULT OF THE UNIT OWNER'S LAWFUL
20 ACTION TAKEN UNDER SUBSECTION (1) OF THIS SECTION; AND
- 21 (III) UNIQUELY ENFORCED AGAINST THE UNIT OWNER UNDER
22 CIRCUMSTANCES THAT WOULD NOT ORDINARILY RESULT IN AN
23 ENFORCEMENT ACTION OR SUSPENSION OF PRIVILEGES.

24 (b) "VIOLATION" MEANS A VERIFIABLE VIOLATION OF:

- 25 (I) THIS ARTICLE;
- 26 (II) AN ASSOCIATION'S BYLAWS, ARTICLES, OR RULES AND
27 REGULATIONS;

1 (III) A DECLARATION ESTABLISHING A COMMON INTEREST
2 COMMUNITY; OR

3 (IV) ANY COVENANT OR OTHER LEGALLY ENFORCEABLE
4 DOCUMENT SETTING FORTH THE RIGHTS AND RESPONSIBILITIES OF AN
5 ASSOCIATION, ITS BOARD OF DIRECTORS OR MANAGER, OR A UNIT OWNER.

6 **SECTION 2. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.