

CHAPTER 24

PROPERTY

HOUSE BILL 24-1091

BY REPRESENTATIVE(S) Brown and Titone, Amabile, Bacon, Bird, Boesenecker, Daugherty, Duran, Froelich, Hernandez, Herod, Jodeh, Joseph, Kipp, Lindsay, Lindstedt, Mabrey, Marvin, Mauro, McCormick, Ortiz, Parenti, Ricks, Rutinel, Sirota, Snyder, Story, Valdez, Velasco, Vigil, Weissman, Woodrow;
also SENATOR(S) Cutter and Jaquez Lewis, Exum, Ginal, Gonzales, Hansen, Hinrichsen, Michaelson Jenet, Priola, Fenberg.

AN ACT**CONCERNING PROHIBITING RESTRICTIONS ON THE USE OF FIRE-HARDENED BUILDING MATERIALS
IN RESIDENTIAL REAL PROPERTY.**

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

SECTION 1. In Colorado Revised Statutes, 38-30-168, **add (5)** as follows:

38-30-168. Unreasonable restrictions on renewable energy generation devices or fire-hardened building materials - definitions. (5) (a) A COVENANT, RESTRICTION, OR CONDITION CONTAINED IN ANY DEED, CONTRACT, SECURITY INSTRUMENT, OR OTHER INSTRUMENT AFFECTING THE TRANSFER OR SALE OF, OR ANY INTEREST IN, REAL PROPERTY THAT EXPLICITLY OR EFFECTIVELY PROHIBITS OR RESTRICTS THE INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING MATERIALS IS VOID AND UNENFORCEABLE. THIS SUBSECTION (5) DOES NOT APPLY TO BONA FIDE SAFETY REQUIREMENTS REQUIRED BY AN APPLICABLE BUILDING CODE FOR THE PROTECTION OF PERSONS AND PROPERTY.

(b) NOTHING IN THIS SUBSECTION (5):

(I) PROHIBITS OR RESTRICTS A UNIT OWNERS' ASSOCIATION FROM:

(A) ADOPTING AND ENFORCING REASONABLE STANDARDS REGARDING THE DESIGN, DIMENSIONS, PLACEMENT, OR EXTERNAL APPEARANCE OF FIRE-HARDENED BUILDING MATERIALS USED FOR FENCING AT A UNIT OWNER'S PROPERTY IN ACCORDANCE WITH SECTION 38-33.3-106.5 (3)(c); OR

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(B) ADOPTING BONA FIDE SAFETY REQUIREMENTS THAT ARE CONSISTENT WITH APPLICABLE BUILDING CODES OR NATIONALLY RECOGNIZED SAFETY STANDARDS; OR

(II) CONFERS UPON A PROPERTY OWNER, UNIT OWNER, OR LESSEE THE RIGHT TO CONSTRUCT OR PLACE FIRE-HARDENED BUILDING MATERIALS ON PROPERTY THAT IS:

(A) OWNED BY ANOTHER PERSON;

(B) LEASED, EXCEPT WITH PERMISSION OF THE LESSOR; OR

(C) A LIMITED COMMON ELEMENT OR GENERAL COMMON ELEMENT OF A COMMON INTEREST COMMUNITY.

(c) AS USED IN THIS SUBSECTION (5):

(I) "COMMON ELEMENT" MEANS "COMMON ELEMENTS" AS DEFINED IN SECTION 38-33.3-103 (5).

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

(III) "FIRE-HARDENED BUILDING MATERIALS" HAS THE MEANING SET FORTH IN SECTION 38-33.3-106.5 (3)(e)(I).

(IV) "UNIT OWNER" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (31).

(V) "UNIT OWNERS' ASSOCIATION" MEANS AN "ASSOCIATION" AS DEFINED IN SECTION 38-33.3-103 (3).

SECTION 2. In Colorado Revised Statutes, 38-33.3-106.5, **add** (3) as follows:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic, political, or religious expression - public rights-of-way - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures - child care - fire-hardened building materials - definitions. (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, ANY PROVISION IN THE DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF AN ASSOCIATION ON THE EFFECTIVE DATE OF THIS SUBSECTION (3) THAT PROHIBITS THE INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING MATERIALS ON A UNIT OWNER'S PROPERTY IS VOID AND UNENFORCEABLE.

(b) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3), EXCEPT AS PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, AN ASSOCIATION SHALL NOT:

(I) PROHIBIT THE INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING MATERIALS ON A UNIT OWNER'S PROPERTY; OR

(II) ADOPT ANY PROVISION IN THE DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF THE ASSOCIATION THAT PROHIBITS THE INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING MATERIALS ON A UNIT OWNER'S PROPERTY.

(c) AN ASSOCIATION MAY DEVELOP STANDARDS THAT IMPOSE REASONABLE RESTRICTIONS ON THE DESIGN, DIMENSIONS, PLACEMENT, OR EXTERNAL APPEARANCE OF FIRE-HARDENED BUILDING MATERIALS USED FOR FENCING SO LONG AS THE STANDARDS DO NOT:

(I) INCREASE THE COST OF THE FENCING BY MORE THAN TEN PERCENT COMPARED TO OTHER FIRE-HARDENED BUILDING MATERIALS USED FOR FENCING; OR

(II) REQUIRE A PERIOD OF REVIEW AND APPROVAL THAT EXCEEDS SIXTY DAYS AFTER THE DATE ON WHICH THE APPLICATION FOR REVIEW IS FILED. IF AN APPLICATION FOR INSTALLATION OF FIRE-HARDENED BUILDING MATERIALS FOR FENCING IS NOT DENIED OR RETURNED FOR MODIFICATIONS WITHIN SIXTY DAYS AFTER THE APPLICATION IS FILED, THE APPLICATION IS DEEMED APPROVED. THE REVIEW PROCESS MUST BE TRANSPARENT AND THE BASIS FOR DENIAL OF AN APPLICATION MUST BE DESCRIBED IN REASONABLE DETAIL AND IN WRITING. DENIAL OF AN APPLICATION MUST NOT BE ARBITRARY OR CAPRICIOUS.

(d) NOTHING IN THIS SUBSECTION (3):

(I) PROHIBITS OR RESTRICTS A UNIT OWNERS' ASSOCIATION FROM ADOPTING BONA FIDE SAFETY REQUIREMENTS THAT ARE CONSISTENT WITH APPLICABLE BUILDING CODES OR NATIONALLY RECOGNIZED SAFETY STANDARDS; OR

(II) CONFERS UPON A PROPERTY OWNER THE RIGHT TO CONSTRUCT OR PLACE FIRE-HARDENED BUILDING MATERIALS ON PROPERTY THAT IS:

(A) OWNED BY ANOTHER PERSON;

(B) LEASED, EXCEPT WITH PERMISSION OF THE LESSOR; OR

(C) A LIMITED COMMON ELEMENT OR GENERAL COMMON ELEMENT OF A COMMON INTEREST COMMUNITY.

(e) AS USED IN THIS SUBSECTION (3):

(I) "FIRE-HARDENED BUILDING MATERIALS" MEANS MATERIALS THAT MEET:

(A) THE CRITERIA OF IGNITION-RESISTANT CONSTRUCTION SET FORTH IN SECTIONS 504 TO 506 OF THE MOST RECENT VERSION OF THE INTERNATIONAL WILDLAND-URBAN INTERFACE CODE;

(B) THE CRITERIA FOR CONSTRUCTION IN WILDLAND AREAS SET FORTH IN THE MOST RECENT VERSION OF THE NFPA STANDARD 1140, "STANDARD FOR WILDLAND FIRE PROTECTION", AND THE CRITERIA FOR REDUCING STRUCTURE IGNITION HAZARDS FROM WILDLAND FIRE SET FORTH IN THE MOST RECENT VERSION OF THE NFPA STANDARD 1144, "REDUCING STRUCTURE IGNITIONS FROM WILDLAND FIRE"; OR

(C) THE REQUIREMENTS FOR A WILDFIRE-PREPARED HOME ESTABLISHED BY THE IBHS.

(II) "IBHS" MEANS THE INSURANCE INSTITUTE FOR BUSINESS AND HOME SAFETY OR ITS SUCCESSOR ORGANIZATION.

(III) "NFPA" MEANS THE NATIONAL FIRE PROTECTION ASSOCIATION OR ITS SUCCESSOR ORGANIZATION.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: March 12, 2024