

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0200.02 Chelsea Princell x4335

HOUSE BILL 25-1123

HOUSE SPONSORSHIP

Ricks and Joseph,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ALTERNATIVE DISPUTE RESOLUTION FOR DISPUTES THAT**
102 **ARISE BETWEEN A UNIT OWNER AND A UNIT OWNERS'**
103 **ASSOCIATION.**

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 current law, common interest communities are encouraged to use mediation prior to filing a complaint with the court. The bill requires a dispute between a unit owner and a unit owners' association to go through an internal dispute resolution process and mediation before the parties can file a complaint with the court. If the parties are unable to

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.

reach a mediation agreement, the bill allows the parties to undergo arbitration or commence a legal proceeding.

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


2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 38-33.3-124 as follows:

4 **38-33.3-124. Mandatory mediation - legislative declaration -**
5 **purpose - definitions.** (1) THE GENERAL ASSEMBLY FINDS AND DECLARES
6 THAT THE PURPOSE OF THIS SECTION IS TO PROVIDE AN EFFICIENT, FAIR,
7 AND COST-EFFECTIVE PROCESS FOR RESOLVING DISPUTES BETWEEN A UNIT
8 OWNER AND A UNIT OWNERS' ASSOCIATION WHILE PRESERVING THE
9 INTEGRITY OF COMMUNITY RELATIONSHIPS AND MINIMIZING THE BURDEN
10 ON THE JUDICIAL SYSTEM.

11 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) "ARBITRATION" MEANS A BINDING PROCESS IN WHICH AN
14 ARBITRATOR HEARS THE FACTS OF THE DISPUTE AND ISSUES A FINAL
15 DECISION THAT IS ENFORCEABLE BY LAW.

16 (b) "DISPUTE" MEANS ANY CONFLICT, CLAIM, OR DISAGREEMENT
17 BETWEEN A UNIT OWNER AND A UNIT OWNERS' ASSOCIATION REGARDING
18 THE INTERPRETATION, ENFORCEMENT, OR APPLICATION OF THE COMMON
19 INTEREST COMMUNITY'S GOVERNING DOCUMENTS, POLICIES, OR ACTIONS.
20 "DISPUTE" DOES NOT INCLUDE A CONFLICT, CLAIM, OR DISAGREEMENT
21 FILED PURSUANT TO PART 8 OF ARTICLE 20 OF TITLE 13, OR DISAGREEMENT
22 THAT INVOLVES A DECLARANT OR AN AFFILIATE OF A DECLARANT.

23 
24 (c) "MEDIATION" MEANS A PROCESS THROUGH WHICH PARTIES
25 INVOLVED IN A DISPUTE CONCERNING MATTERS ARISING UNDER THIS

1 ARTICLE 33.3 MEET WITH A MEDIATOR TO DISCUSS THE MATTER, DEFINING
2 AND ARTICULATING THE ISSUES AND THEIR POSITIONS ON THE ISSUES, WITH
3 A GOAL OF RESOLVING THE DISPUTE.

4 (d) "MEDIATOR" MEANS AN INDIVIDUAL WHO IS TRAINED TO ASSIST
5 THE PARTIES IN REACHING A MUTUALLY ACCEPTABLE RESOLUTION OF THE
6 PARTIES' DISPUTES THROUGH THE IDENTIFICATION AND EVALUATION OF
7 ALTERNATIVES.

8 (3) A DISPUTE BETWEEN A UNIT OWNER AND A UNIT OWNERS'
9 ASSOCIATION MUST UNDERGO MEDIATION PRIOR TO THE COMMENCEMENT
10 OF A LAWSUIT OR, IF APPLICABLE, ARBITRATION.

11 (4) (a) IN THE EVENT OF A DISPUTE BETWEEN A UNIT OWNER AND
12 A UNIT OWNERS' ASSOCIATION, THE UNIT OWNERS' ASSOCIATION MUST
13 SUBMIT A WRITTEN REQUEST TO THE UNIT OWNER REQUESTING
14 RESOLUTION. THE WRITTEN REQUEST MUST INCLUDE:

15 (I) A BRIEF DESCRIPTION OF THE DISPUTE BETWEEN THE PARTIES;

16 (II) A NOTICE THAT THE PARTY RECEIVING THE REQUEST FOR
17 RESOLUTION MUST RESPOND WITHIN THIRTY DAYS AFTER RECEIPT OR THE
18 REQUEST WILL BE DEEMED REJECTED;

19 (III) A COPY OF THIS SECTION; AND

20 (IV) A PROPOSED DATE, TIME, AND LOCATION FOR AN INFORMAL
21 MEETING TO DISCUSS A POSSIBLE RESOLUTION OF THE DISPUTE.

22 (b) SERVICE OF THE REQUEST DESCRIBED IN SUBSECTION (4)(a) OF
23 THIS SECTION MUST BE MADE THROUGH PERSONAL SERVICE
24 PURSUANT TO THE COLORADO RULES OF CIVIL PROCEDURE.

25 (c) (I) ALL COMMUNICATIONS DURING THE INFORMAL MEETING
26 DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION ARE CONFIDENTIAL AND
27 PROTECTED COMMUNICATIONS CONSISTENT WITH RULE 408 OF THE

1 COLORADO RULES OF EVIDENCE AND SECTION 13-22-307.

2 (II) IF RESOLUTION CANNOT BE REACHED DURING THE INFORMAL
3 MEETING DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION, THE PARTIES
4 MUST AGREE ON A DATE AND LOCATION FOR MEDIATION AND THE
5 IDENTITY OF THE MEDIATOR WITHIN FOURTEEN DAYS AFTER THE INFORMAL
6 MEETING.

7 (III) MEDIATION MUST TAKE PLACE WITHIN THIRTY DAYS AFTER
8 THE INFORMAL MEETING.

9 (5) (a) THE MEDIATOR ASSIGNED TO CARRY OUT THE MEDIATION
10 MUST BE AN IMPARTIAL THIRD PARTY AND MUST BE APPROVED BY BOTH
11 PARTIES.

12 (b) (I) IF THE PARTIES CANNOT REACH A MEDIATION AGREEMENT
13 WITHIN FOURTEEN DAYS AFTER MEDIATION BEGINS, THE MEDIATION
14 PROCESS IS CONSIDERED UNSUCCESSFUL AND THE PARTIES MAY
15 INITIATE LITIGATION OR, IF APPLICABLE, DEMAND ARBITRATION.

16 (II) IF MEDIATION IS UNSUCCESSFUL, THE MEDIATOR MUST SIGN A
17 MEDIATION CERTIFICATE STATING THAT THE PARTIES ATTENDED A
18 MEDIATION CONFERENCE ON THE DATE IDENTIFIED ON THE CERTIFICATE
19 BUT WERE UNABLE TO REACH A RESOLUTION OR THAT ONE OR MORE
20 PARTIES DID NOT ATTEND THE MEDIATION CONFERENCE.

21 (III) THE PARTY FILING A COMPLAINT OR DEMANDING
22 ARBITRATION MUST INCLUDE A COPY OF THE MEDIATION CERTIFICATE
23 WITH THE COMPLAINT OR DEMAND FOR ARBITRATION.

24 (IV) IF THE PARTY FILING THE COMPLAINT OR DEMAND FOR
25 ARBITRATION FAILS TO ATTACH A COPY OF THE MEDIATION CERTIFICATE,
26 THE COURT, ARBITRATOR, OR ARBITRATION PANEL MUST DISMISS THE CASE
27 WITHOUT PREJUDICE.

1 (c) IF A MEDIATION AGREEMENT IS REACHED, THE TERMS OF THE
2 MEDIATION AGREEMENT MUST BE IN WRITING AND SIGNED BY BOTH
3 PARTIES AND THE MEDIATION AGREEMENT IS ENFORCEABLE AS A
4 CONTRACT.

5 (d) THE COST OF MEDIATION MUST BE SHARED EQUALLY BETWEEN
6 THE UNIT OWNER AND THE ASSOCIATION, UNLESS OTHERWISE AGREED
7 UPON BY THE PARTIES.

8 (6) THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO THE
9 FOLLOWING:

10 (a) A DISPUTE INVOLVING A VIOLATION OF LOCAL, STATE, OR
11 FEDERAL LAW;

12 (b) A DISPUTE INVOLVING A CLAIM OF DISCRIMINATION,
13 HARASSMENT, OR OTHER CIVIL RIGHTS VIOLATION;

14 (c) A CASE IN WHICH ONE PARTY SEEKS EMERGENCY RELIEF OR
15 INJUNCTIVE RELIEF FROM THE COURT; ■

16 (d) A DISPUTE THAT HAS ALREADY BEEN ADJUDICATED IN COURT
17 OR THROUGH ARBITRATION; OR

18 (e) A DISPUTE IN WHICH THE INITIAL COMPLAINT SEEKS ONLY THE
19 COLLECTION OF PAST-DUE ASSESSMENTS CLAIMED BY AN ASSOCIATION
20 AGAINST A UNIT OWNER.

21 (7) A UNIT OWNERS' ASSOCIATION SHALL, ON AN ANNUAL BASIS,
22 PROVIDE A COPY OF THIS SECTION AND A COPY OF THE UNIT OWNERS'
23 ASSOCIATION'S WRITTEN POLICIES REGARDING DISPUTE RESOLUTION TO
24 EACH OF ITS UNIT OWNERS.

25 (8) THE STATUTE OF LIMITATIONS APPLICABLE TO A CLAIM,
26 CROSS-CLAIM, OR COUNTERCLAIM THAT IS THE SUBJECT MATTER OF
27 MEDIATION IS TOLLED FOR THE PERIOD OF THE MEDIATION, WITH THE

1 TOLLING PERIOD BEGINNING ON THE DATE THE WRITTEN REQUEST FOR
2 RESOLUTION IS RECEIVED BY THE UNIT OWNER, PURSUANT TO SUBSECTION
3 (4) OF THIS SECTION, AND ENDING SEVEN DAYS AFTER THE MEDIATOR
4 SIGNS THE MEDIATION CERTIFICATE.

5 (9) A UNIT OWNERS' ASSOCIATION MUST UPDATE THE
6 ASSOCIATION'S WRITTEN POLICIES TO COMPLY WITH REQUIREMENTS OF
7 THIS SECTION AND PROVIDE A COPY OF THE UPDATED WRITTEN POLICY TO
8 ITS UNIT OWNERS WITHIN FOURTEEN DAYS AFTER UPDATING THE WRITTEN
9 POLICIES.

10 **SECTION 2. Safety clause.** The general assembly finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety or for appropriations for
13 the support and maintenance of the departments of the state and state
14 institutions.