

Recent Legislative Changes In the Year 2022 (Part 2)



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Thank you for joining us, the presentation will begin shortly.

Recent Legislative Changes In The Year 2022 (Part 2)



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The purpose of this presentation is to discuss the legislative changes implemented by the Colorado General Assembly during the last legislative session.



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HOA Information & Resource Center

Presented By:

Nick Altmann, HOA Information Officer

David L. Donnelly, Education, Communication & Policy Manager

Amanda Lopez, HOA Information Support Specialist

1560 Broadway, Ste. 925, Denver, Colorado 80202

Disclaimer:

The information provided during this presentation is for educational purposes only and is not meant to provide, nor should it be construed as legal advice.

Any legal questions should be directed to a qualified attorney licensed in Colorado.



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What Is the HOA Information & Resource Center?

◆ What the HOA Information & Resource Center does:

- ◆ Provides information to homeowners regarding their basic rights and responsibilities under the Colorado Common Interest Ownership Act (“CCIOA”).
- ◆ Gathers, analyzes, and reports information through complaints and HOA registrations.
- ◆ Creates resource materials.
- ◆ Provides education and forums.
- ◆ Provides a website with information for the public.
- ◆ Registers HOAs pursuant to §38-33.3-401(1), C.R.S.
- ◆ Provides an Annual Report to the Legislature.

◆ What the HOA Information & Resource Center does not do:

- ◆ Is **not** a regulatory program.
- ◆ Does **not** mediate/arbitrate.
- ◆ **Cannot** provide legal advice.
- ◆ Does **not** act as an advocate.
- ◆ **Cannot** assess fines or penalties.
- ◆ Does **not** enforce an HOA’s failure to register.



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“Is This HOA Forum About HB22-1137?”

- ◆ For those of you that viewed the December HOA Forum, we covered HB22-1137 in detail great then. Therefore, we are not going to discuss that bill further in this presentation.
- ◆ For more information on that bill, you can view the slides or the recording at:

<https://dre.colorado.gov/recent-hoa-forums>

Step 1: Visit:

<https://dre.colorado.gov/hoa-center>

Step 2: Under ‘Education and Outreach Opportunities’, select ‘Recent HOA Forums’.



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- Board Members
- Community Association Managers
- Home Owners

Future HOA Forum Topics?

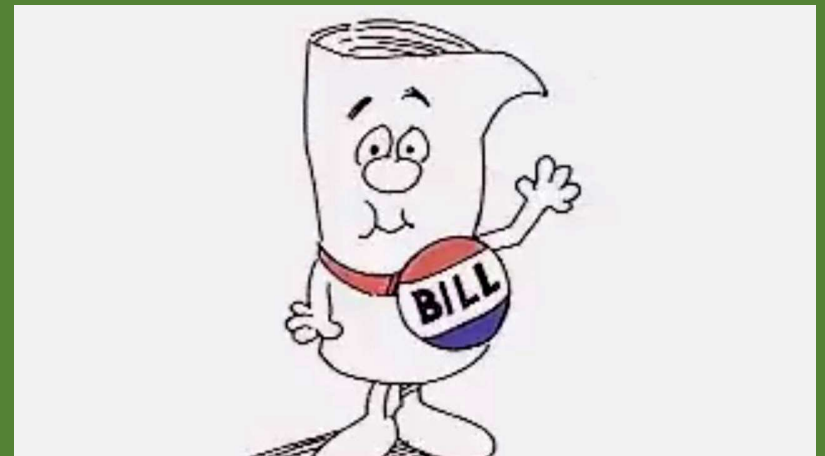
- ◆ Before we get started, the HOA Information & Resource Center wants your input.
- ◆ We are always interested in knowing what you, the public, want to learn more about.
- ◆ As you are listening to our presentation today, please think about any future HOA Forum topics that you would like to learn more about and *share your thoughts in the Chat*.



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How Does A Bill Becomes A Law?

- ◆ This Presentation is not designed to be a comprehensive education about how a bill becomes a law.
- ◆ There are significant resources available online and otherwise, both here in Colorado and also nationally which discuss the topic of how a bill becomes a law.
- ◆ The most enjoyable is Schoolhouse Rocks! Visit <https://youtu.be/OgVKvqTltto> for three (3) minutes well spent.



*Image Credit: ABC Schoolhouse Rock!



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COLORADO GENERAL ASSEMBLY

The second regular session of the seventy-third General Assembly convened on January 12, 2022 and was adjourned on May 11, 2022,.

The 74th General Assembly opened on January 9, 2023. Stay tuned to the Colorado General Assembly's website for updates:

<https://leg.colorado.gov/>



The 73rd General Assembly and Common Interest Communities

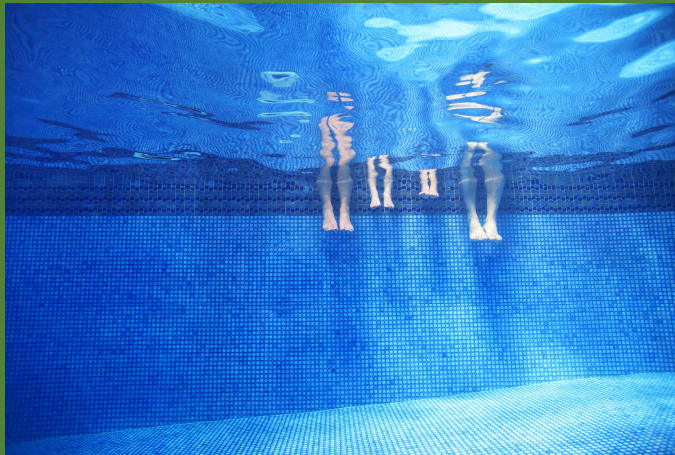
- ◇ In 2022, five bills which affect association life became law:
 - ◇ HB22-1040 Home Owners' Reasonable Access To Common Areas
 - ◇ HB22-1137 Homeowners' Association Board Accountability And Transparency
 - ◇ HB22-1139 Home Owners' Associations Cannot Regulate Use Of Public Rights-of-way
 - ◇ HB22-1314 Towing Carrier Nonconsensual Tows
 - ◇ SB22-059 Home Owners' Association Voting Proxy Limitations



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HB22-1040 Home Owners' Reasonable Access To Common Areas

- Passed by the legislature.
- Signed by the Governor on April 12, 2022.
- Effective August 10, 2022.



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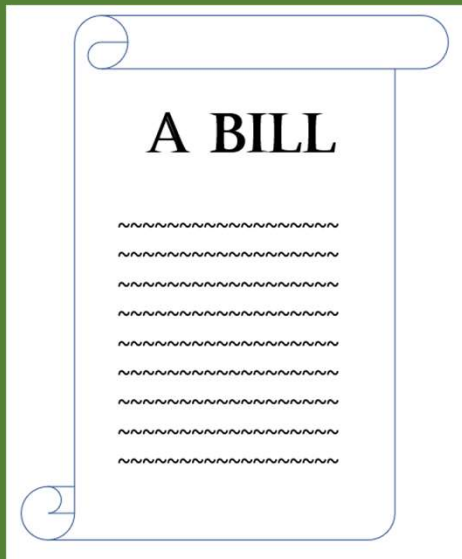
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Prime Sponsors for the HB22-1040

- Representative Janice Rich
- Representative Edie Hooton
- Senator Tammy Story
- Senator Chris Holbert



HB22-1040 Purpose

- Purpose: to preserve and protect unit owners' ability to use and enjoy common elements. An HOA shall not unreasonably restrict or prohibit unit owners' access to, or enjoyment of, any common element, including during the maintenance, repair, replacement or modification of a common element.
- The association may restrict or prohibit access to a common element “only to the extent and for the length of time necessary to (a) protect the safety of any individuals, including unit owners, and individuals performing the maintenance, repair, replacement, or modification of the common element; or (b) preserve the structural integrity or condition of a repair, replacement, or modification.”



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Written Notice Pursuant to HB22-1040

- Notice is required if the restriction will last more than seventy-two (72) hours.
- Notice may be either electronic or written.
- Notice shall include: (a) a simple explanation of the reason for the restriction or prohibition; and (b) an indication of the estimated time or date upon which the restriction or prohibition will no longer exist.
- In addition to the notice referenced above, the HOA must post a ***visible and clearly legible notice*** at any physical access point to the common element and the notice must remain posted for the duration of the restriction or prohibition.



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HB22-1139 Home Owners' Associations Cannot Regulate Use Of Public Rights-of-way

- Passed by the legislature.
- Signed by the Governor on May 6, 2022.
- Effective August 10, 2022.



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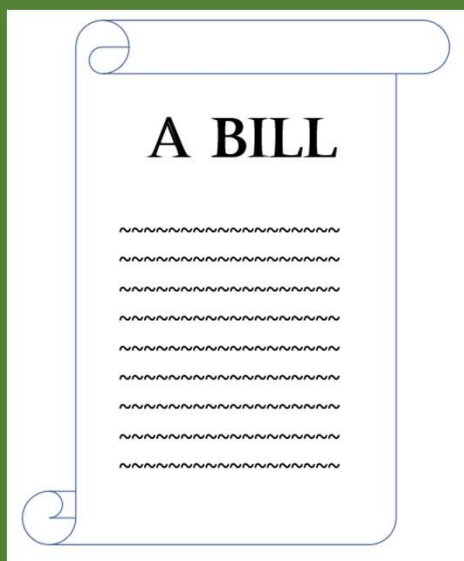
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Prime Sponsors for the HB22-1139

- Representative Tim Geitner
- Representative Edie Hooton
- Senator Jeff Bridges
- Senator Dennis Hisey



Use of Public Rights-of-Way After HB22-1139

- 38-33.3-106.5(1)(d.5), C.R.S. now clarifies that associations shall not enforce those restrictions or require that a public right-of-way be used in a certain manner any longer.
- Now, rather than associations, any “local government’s ordinance, resolution, rule, franchise, license or charter provision” controls.



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Limitations on HB22-1139

- Boards must determine if there are public rights-of-way in the community. If so, the board must refrain from any enforcement on those public rights-of-way.
- The law **DOES NOT** apply to enforcing parking in lots, on yards, or in driveways.



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HB22-1314 Towing Carrier Nonconsensual Tows

- Passed by the legislature.
- Signed by the Governor on June 7, 2022.
- Effective August 10, 2022.



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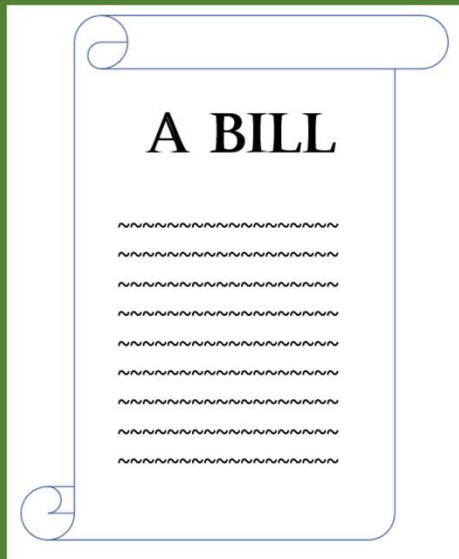
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Prime Sponsors for the HB22-1314

- Representative Naquetta Ricks
- Representative Edie Hooton
- Senator Julie Gonzales
- Senator Jerry Sonnenberg



HB22-1314 Towing Carrier Nonconsensual Tows

- HB22-1314 is a long and complex bill which overhauls the requirements for Towing Carriers across the state.
- The Public Utilities Commission, a division of the Department of Regulatory Agencies (“DORA”), is primarily responsible for the implementation and enforcement of the law.
- The vast majority of the provisions in the law apply directly to Towing Carriers and NOT to associations.



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HB22-1314 At The PUC



TOP CONSUMER TAKEAWAYS FROM COLORADO'S NEW TOWING LEGISLATION AND MORE...

- The new legislation is effective August 10, 2022 and is **not** retroactive.
- Carriers can't tow for expired registration and plates, except upon order from law enforcement.
- Carriers must give 24-hour notice for vehicles located on residential property, with limited exceptions.
- Carriers must release a vehicle, at no charge and upon request, if the vehicle is still on the private property.
- Towing carriers must release towed motor vehicles upon payment of 15% of the overall fees, not to exceed \$60. [Link to Towed Vehicle Release Notice.](#)
- Carriers must release the contents (i.e., personal property) of vehicles towed from private property, upon request, within 30 days of statutory notice.

For more information and details on the statute, please click here: [HB22-1314](#)

HB22-1314 and Associations

- Requires towing carriers to photograph the condition of the motor vehicle and the reason for the tow PRIOR to hookup.
- Requires signage on private property.
- Requires towing carriers to release motor vehicles upon payment of 15% of the overall fees, not to exceed \$60.00, subject to the signing of a form that affirms the remaining balance is still owed to the towing carrier.
- Prohibits drop charges, but towing carriers are still required to release motor vehicles, upon request, if the motor vehicle has not yet been removed from the private property.
- *Prohibits the towing of motor vehicles for reason of expired registration/plates, unless directed by law enforcement.*
- *Requires 24 hours notice for nonconsensual tows, with limited exceptions (such as a motor vehicle parked in or effectively obstructing a designated and marked fire zone).*



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HB22-1314 At The PUC

If you have specific questions about signage or Towing Carrier licensure, contact the PUC for more information. The PUC's website includes:

- A link to the final language of the new towing legislation.
- The applicable towing rules found at 4 CCR 723-6500.
- A link to a PUC-prepared outline of the significant changes under the bill:
<https://drive.google.com/file/d/1THbI5jDdgy5ibj06nLphxS72-2GULwn9/view>
- Contact information for the PUC for consumer assistance and if you would like to file a complaint against a towing carrier.

<https://puc.colorado.gov/>



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SB22-059 Home Owners' Association Voting Proxy Limitations

- Passed by the legislature.
- Signed by the Governor on March 21, 2022.
- Effective August 10, 2022.



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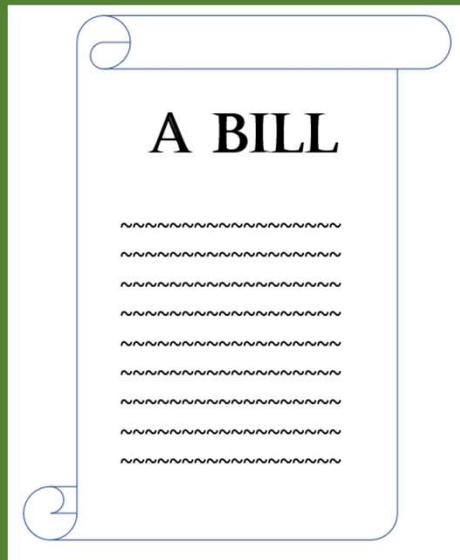
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Prime Sponsors for the SB-059

- Senator Chris Holbert
- Representative Edie Hooton
- Representative Kim Ransom



SB22-059 Home Owners' Association Voting Proxy

Limitations

- This bill amends the language found in the Colorado Common Interest Ownership Act at § 38-33.3-310, C.R.S.
- A proxy is a written instrument that appoints another person (usually a person) to appear and vote on your behalf. For more information, you can review the October 21, 2022 HOA Forum on Voting Procedures and Proxies on the HOA Center's website.
- The bill clarifies that a proxy terminates eleven months after its date unless, the proxy itself indicates an earlier termination date.



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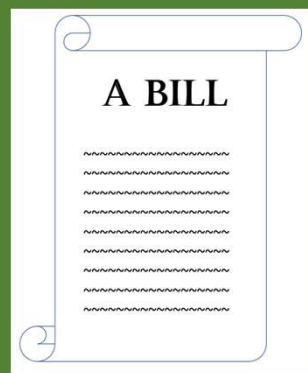
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More Questions?

Review The HOA Center's Legislative Summaries

- ◆ The HOA Information & Resource Center prepares legislative summaries that are designed to provide a synopsis of the new laws. These summaries are available to the public on the Division of Real Estate's website.
- ◆ Check out those summaries here:

<https://dre.colorado.gov/colorado-general-assembly-2022-legislative-updates>



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Pro Tips

1. **Board members:** The HOA Center regularly reminds board members and CAMs to effectively communicate with unit owners. If access to a common element needs to be restricted, let your community know why, when, and for how long. Although HB22-1040 requires notice (1) be delivered and (2) be posted at physical access points, consider discussing the restriction at board meetings and unit owner meetings, reflecting this discussion in Minutes, and issuing a newsletter to the whole community. Nothing restricts you for communicating more than the law requires.
2. **Board members:** Determine if the roads in your community are public rights-of-way so you know what applies in your community. If in doubt, contact your local government (municipality or county).
3. **Homeowners:** If your community has public rights-of-way, contact the city or county to report violations, not the board, as the board does not have authority over these violations.
4. **Board members:** Is the signage in your community clear. Is this a fire lane? Does trash and recycling pick-up prohibit parking near dumpsters? Do you have a contracted Towing Carrier? Does the number on the sign connect to the right company? Get it right the first time so if someone has to be towed after proper notice, they can retrieve their vehicle timely.
5. **Home Owners:** Follow the rules and regulations for parking in the community. If you do not know the rules, contact the board immediately so you can understand them.



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Check Out HOA Resources For Yourself
At:

Web: <https://dre.colorado.gov/hoa-center>

Send Inquiries Via E-mail To:
dora_dre_hoainquiries@state.co.us



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Questions?

