COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1007: Concerning Residential Occupancy Limits

Prime Sponsors: Representative William Lindstedt, Representative Shannon Bird, Senator Jeff Bridges, Senator Faith Winter

Introduced: January 10, 2024

Signed: April 15, 2024

Effective Date: April 15, 2024

Summary: Nicknamed "HOME", the Harmonizing Occupancy Measures Equitably Act, this bill is designed to address housing availability across the entire state of Colorado. Previously, some local governments limited the number of people living together in a single dwelling based on familial relationships. HB24-1107 prohibits this practice as of the effective date, July 1, 2024, except in the following circumstances where local governments retain the authority, including:

1. Demonstrated health and safety standards like international building code standards, fire code regulations, wastewater management, water quality standards), and
2. Affordable housing program guidelines.

Common Interest Communities (HOAs, POAs, Condominiums, Cooperatives) are considered private entities (not "Local Governments"). Therefore, this act DOES NOT apply to HOAs. An HOA may still enforce these types of restrictions on occupancy if they are provided for in the association's governing documents.

Tags: HOA Center, Property Management

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1051: Concerning The Regulation Of Businesses That Obtain A Permit From The Public Utilities Commission To Tow Motor Vehicle, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Representative Andrew Boesenecker, Representative Tisha Mauro, Senator Julie Gonzales, and Senator Kevin Priola

Introduced: January 10, 2024

Signed: May 30, 2024

Effective Date: August 7, 2024

Summary: In 2022, the Colorado General Assembly significantly revised the laws governing towing carriers in the State of Colorado. This bill further clarifies some of those changes. Relevant to Common Interest Communities (HOAs, POAs, Condominiums, Cooperatives), associations were no longer allowed to tow a vehicle from a common parking area just because the vehicle had expired tags. Associations were also prohibited from towing a vehicle from a common parking area with less than twenty-four (24) hours-notice after posting a notice.

The Colorado General Assembly now has clarified that a towing carrier may NOT tow a vehicle without the consent of the vehicle owner ("nonconsensually"), unless the towing carrier has received documented permission. Documented permission MAY NOT BE:

(1) Automated

(2) Preapproved

Furthermore, the documented permission MUST be:

(1) For each individual tow

(2) Signed by a person with authority on a form to be created by the Public Utilities Commission. The towing carrier MUST retain completed forms for a period of 3 years and MUST provide a copy of the signed form to the vehicle owner upon request.

Signage requirements have been set forth to adequately disclose nonconsensual towing from property. Those requirements include signage that:

(1) Is not less than two square feet in size

(2) Has lettering not less than one inch in height

(3) Has lettering that must sharply contrast with the background color of the sign and must sharply contrast with the structure on which the signage is placed

(4) Contains information in the following order:

a. The restriction or prohibition on parking

b. The times of the day and days that the restriction is applicable, but, if the restriction applies 24 hours a day, 7 days a week, the sign must say "Authorized Parking Only".

c. The name and telephone number of the towing carrier

(5) Is printed in English and Spanish

(6) Is permanently mounted both:

a. At the entrance to the private property so that the sign faces outward toward the street in a manner that makes it visible before and upon entering the private property

b. Inside the private property so that the sign faces outward toward the parking area

(7) Is not obstructed from view or that is placed in a manner that prevents direct visibility

(8) Is not placed higher than 10 feet or lower than 3 feet from the surface closest to the sign's placement

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1091: Concerning Prohibiting Restrictions On The Use Of Fire-Hardened Building Materials In Residential Real Property

Prime Sponsors: Senator Lisa Cutter, Senator Sonya Jaquez Lewis, Representative Kyle Brown, Representative Brianna Titone

Introduced: January 22, 2024

Signed: March 12, 2024

Effective Date: March 12, 2024

Summary: Colorado has seen its fair share of wildfires and wildfire destruction. On December 30, 2021, the most destructive fire in Colorado history, the Marshall Fire, burned through the town of Superior, the neighboring city of Louisville, and parts of unincorporated Boulder County. Homes and businesses were damaged and destroyed, and significant portions of the surrounding environment, including the Marshall Mesa and Davidson Mesa, were substantially altered.

To help empower homeowners of common-interest communities ("HOAs") and to safeguard and protect their properties, the Governor signed House Bill 24-1091 into law on Tuesday, March 12, 2024.

House Bill 24-1091 generally prohibits covenants and other restrictions that disallow the installation, use, or maintenance of fire-hardened building materials in residential real property, including in common interest communities.

"Fire-hardened building material" means any material(s) that meet one of the following three (3) criteria:

1. 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;

2. 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

3. *The requirements for a wildfire-prepared home established by the IBHS.*

See section 38-33.3-106.5(3), C.R.S.

"NFPA" is defined as the National Fire Protection Association (or its successor organization), and "IBHS" is defined as the Insurance for Business and Home Safety (or its successor organization).

This new law also permits a unit owners' association to adopt and enforce reasonable standards regarding the design, dimensions, placement, and external appearance of a fire-hardened building material used for fencing at a unit owner's property so long as the standards do not:

1. Increase the cost of the fencing by more than ten (10) percent compared to other fire-hardened building materials used for fencing; or

2. Require a period of review and approval that exceeds sixty (60) days after the date on which the application for review is filed.

See section 38-33.3-106.5(3)(c), C.R.S.

The individual (or group of individuals) in the common-interest community charged with reviewing and deciding such applications by a unit owner for fire-hardened building materials should ensure any approval or denial of such application is not done arbitrarily or capriciously.

According to this new law, the association may also adopt bona fide safety requirements that are consistent with applicable safety codes or nationally recognized safety standards.

In addition, a unit owner does not have a right to construct or place fire-hardened building materials on property that is: (1) owned by another person, (2) leased (except with permission of the lessor), or (3) considered a limited common element or general common element of the common-interest community.

With the passage of this law, homeowners residing within common-interest communities in Colorado should have greater flexibility and freedom in selecting fire-resistant materials that may help protect their property from destructive wildfires.

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1108: Concerning A Study Of The Market For Property And Casualty Insurance Policies Issued To Certain Entities In Colorado, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Representative Julie McCluskie, Representative Judy Amabile, and Senator Dylan Roberts

Introduced: January 26, 2024

Signed: May 31, 2024

Effective Date: August 7, 2024

Summary: Across the State of Colorado, homeowners, business owners, and Common Interest Communities (HOAs, POAs, Condominiums, Cooperatives) have witnessed increasing difficulties associated with insurance coverage. Accordingly, the General Assembly has directed the Division of Insurance to conduct a study to seek input from insurers, consumer groups, and other interested parties. A report will be prepared on or before January 1, 2026.

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1152: Concerning Increasing The Number Of Accessory Dwelling Units, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Representative Judy Amabile, Representative Ron Weinberg, Senator Kyle Mullica, and Senator Tony Exum

Introduced: January 30, 2024

Signed: May 13, 2024

Effective Date: May 13, 2024

Summary: The language of HB24-1152 establishes extensive legislative findings that accessory dwelling units ("ADUs") can offer compact and relatively affordable housing which should have minimal impacts on infrastructure, and which provide numerous other benefits to Coloradans.

As such, HB24-1152 allows single ADU use as an accessory to a single-unit detached dwelling by June 30, 2025. Such ADUs may be subject to an administrative approval process of a subject jurisdiction. By the same date, the subject jurisdiction may NOT require:

(1) New off-street parking, as long as there is an existing driveway, garage, tandem parking space, or other off-street parking space or a parking space is required by an applicable zoning district.
(2) The ADU or other dwelling on the same lot to be owner-occupied.
(3) A restrictive design or dimension standard

In addition to the appropriation of funds to further the goals of this law, the bill also expressly amends the Colorado Common Interest Ownership Act ("CCIOA").

Specifically, in Common Interest Communities, no provision of a Declaration, Bylaw, or Rule may restrict the creation of an ADU as an accessory use to any single-unit detached dwelling. If any such provision was passed/implemented, whether before the effective date of HB24-1152 or after the effective date of HB24-1152, such restriction is void as a matter of public policy. The placement of this provision in CCIOA at section 38-33.3-106.5, C.R.S. is important because this section of CCIOA applies to all Common Interest Communities in Colorado: CCIOA communities, pre-CCIOA communities, and limited expense communities.

Although each association may impose Reasonable Restrictions, the law is written in a manner to allow the installation of ADUs in single-unit detached dwelling situations. It defines Reasonable Restrictions as a "substantive condition or requirement that does not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct an Accessory Dwelling Unit."

Tags: Brokers, Property Management, HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1173: Concerning Streamlining The Process For Permitting Electric Motor Vehicle Charging Systems

Prime Sponsors: Senator Kevin Priola, Senator Sonya Jaquez Lewis, Representative Alex Valdez

Introduced: January 31, 2024

Signed: May 21, 2024

Effective Date: August 7, 2024

Summary: The State of Colorado has ambitious goals of leading the nation in the electrification of vehicles and the reduction of greenhouse gas emissions. According to the U.S. Department of Energy, an electric vehicle produces, on average, less than 25% of the average emissions of a motor vehicle powered by an internal combustion engine over its lifetime.

With that, the Colorado General Assembly has found there to be a significant shortage of electric vehicle (EV) charging stations in the state to take advantage of this promising technology. Accordingly, House Bill 24-1173 streamlines the permitting process of counties and municipalities so that more EV charging systems may be constructed at reduced time and cost.

Without inundating the reader with too much information, this bill seeks to accomplish seven (7) items with respect to those counties and municipalities engaged in the EV-charger permitting process:

1) Provide a list of industry-specific definitions including definitions for "Electric Motor Vehicle Charging System" and "County/Municipal Permitting Agency"
2) Provide instructions for adopting codes and ordinances related to EV-charger permits
3) Require the Colorado Energy Office to publish an EV-charger permitting model code that contains guidelines for the adoption of EV-charger permit standards and permitting processes
4) Impose certain requirements related to the approval, conditional approval, or denial of an application for an EV-charger permit
5) Require a checklist be provided to all prospective applicants of EV-charging stations containing all required items that must be included in the application
6) Direct the Colorado Energy Office to provide technical assistance to assist in complying with the requirements of this bill, including providing assistance with developing and adopting codes and training staff with interpreting EV-charger permit standards and processes
7) Impose notice requirements related to the determination of an EV-charger permit

With this bill, additional funds have been appropriated to the Colorado Energy Office for use in awarding grants to state agencies, public universities, public transit agencies, local governments, landlords of multifamily apartment buildings, private nonprofit or for-profit organizations, and **unit owners' associations of common interest communities**. Importantly, the Colorado Energy Office will also provide analysis and technical support to applicants related to the development and permitting of EV-charging stations.

HOA Call to Action: Boards of homeowner associations are encouraged to contact the Colorado Energy Office to see if the association is eligible for grant-funding for the construction of electric-vehicle charging stations on the association's property.

COLORADO
Department of Regulatory Agencies
Division of Real Estate

Tags: HOA Center, Metropolitan Districts, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1233: Concerning Modifications To Certain Procedural Requirements With Which A Unit Owners' Association Must Comply When Seeking Payment of Delinquent Amounts Owed By A Unit Owner

Prime Sponsors: Representative Don Wilson, Representative Marc Snyder, Senator Dylan Roberts, and Senator Bob Gardner

Introduced: February 12, 2024

Signed: June 3, 2024

Effective Date: August 7, 2024

Summary: During the 2022 Legislative Session, a large and comprehensive bill, HB22-1137, was passed into law. This new law, HB24-1233, builds on HB22-1137 and amends certain aspects of the Colorado Common Interest Ownership Act ("CCIOA"). Specifically, section 38-33.3.209.5, C.R.S. of CCIOA requires an association to adopt policies, procedures, and rules and regulations concerning multiple areas of association governance. There are currently nine required policies and HB24-1233 mandates that associations update one of these policies, the Collection Policy, to reflect the following changes:

(1) The association must first contact the unit owner of a unit delinquency before taking action.
(2) The association must maintain a record of the efforts to contact the unit owner.
(3) Any contact with the unit owner must be provided to the unit owner and another person who has been identified by the unit owner as a Designated Contact.

(4) Any contact with the unit owner must be provided to the unit owner in a language identified by the unit owner. If the unit owner does not identify a language other than English, contact can be made in English.

(5) The unit owner and the Designated Contact must receive the same correspondence and notices any time communications are sent out, except that any unit owner that has identified a preferred language other than English must receive communications and notices in that preferred language.

(6) Communications and notices must be sent by certified mail, return receipt requested AND two of the following methods:

a. Telephone, including leaving a voice message, if possible.
b. Text message.
c. Email
d. NOTE: For the last two years, associations were required to physically post a copy of the correspondence or notice on the property. HB24-1233 removed this requirement.

(7) The association is expressly permitted to charge the actual cost of the certified mail, but the fee may not exceed the actual cost of certified mail.

Finally, this bill clarifies that section 38-33.3-209.5 does not apply to timeshares.

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1337: Concerning The Rights Of A Unit Owner In A Common Interest Community In Relation To The Collection Of Amounts Owed By The Unit Owner To The Common Interest Community

Prime Sponsors: Representative Iman Jodeh, Representative Jennifer Bacon, Senator James Coleman, Senator Tony Exum

Introduced: February 26, 2024

Signed: June 05, 2024

Effective Date: August 7, 2024

Summary: In staying true to his state housing affordability goals, Governor Polis signed House Bill 24-1337 on June 5th, 2024. With this new law, Colorado homeowners residing within common interest communities (HOAs) will be better protected from foreclosure action on their units resulting from an HOA homeowner's failure to pay delinquent assessments, fines, and other HOA charges.

Perhaps most significantly, this bill limits the reimbursement amount for attorney fees the HOA may seek to collect from a unit owner who is delinquent on assessments to 1) $5,000, or 2) 50% of the original money owed, whichever is less.

The same monetary restriction of attorney fees applies for any association attempting to defend or enforce its rules or bylaws in court and when the association prevails in the same matter.

In determining reasonable attorney fees, a court must also consider relevant factors including:

- the amount of the unpaid assessments;
- whether foreclosure action was contested; and
- whether the attorney fees incurred are disproportionate to the needs of the case.

Other important elements of the bill include restrictions on when an association may foreclose on a lien, and the creation of a right of redemption for 180 days following a foreclosure sale.

Per the new bill, an association may only foreclose on a lien as long as the association has performed one of the three (3) following functions:

1) Obtained a personal judgment against the unit owner in a civil action; or
2) Attempted to bring a civil action against the unit owner but was prevented by the death of or incapacity of the unit owner; or
3) Attempted to bring a civil action against the unit owner but the association was unable to serve the unit owner within 180 days.

Additionally, an association has authority to foreclose on a lien if the unit owner is in a bankruptcy civil action. It is important to note the association may **not** foreclose on a lien if the unit owner is in compliance with a payment plan offered by the association in accordance with 38-33.3-209.5, C.R.S.

The new bill also establishes a right of redemption for 180 days following a foreclosure sale. In general, the procedures for the bill's right of redemption are based on the procedures in current law. A person wanting to redeem the unit under the bill must file a notice of intent to redeem within 30 days after the foreclosure sale. The following people have the right of redemption in order of priority:

1. The unit owner
2. A tenant of the unit
3. A nonprofit entity whose primary purpose is the development or preservation of affordable housing
4. A community land trust
5. A cooperative housing corporation
6. The state of Colorado or a political subdivision of the state of Colorado

If two (2) or more people with the right of redemption attempt to redeem the property, the person with the highest priority is awarded the property and the lower priority rights of redemption are extinguished.

Finally, the bill provides that at least 30 days before initiating legal action to foreclose a lien, an association must provide notice to the unit owner that the unit owner has the right to engage in mediation prior to litigation. This is important because prior to the passage of this bill, there was no state requirement an association offer mediation to the unit owner prior to litigation (except as provided for in an association's governing documents). Mediation is a form of alternative dispute resolution that may save both unit owners and associations time and money.

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1383: Concerning Declarations That Form Common Interest Communities Under The "Colorado Common Interest Ownership Act"

Prime Sponsors: Representative William Lindstedt, Senator Dafna Michaelson Jenet

Introduced: March 25, 2024

Signed: May 15, 2024

Effective Date: August 7, 2024

Summary: House Bill 24-1383 modifies the act of executing and recording a declaration to a common interest community.

Previously, the Colorado Common Interest Ownership Act ("CCIOA") only required a declaration to be executed in the same manner as a deed. In some cases in Colorado, an affiliate of the real estate owner (but not the real estate owner) was allowed to execute a declaration to a common interest community.

With the passage of House Bill 24-1383, the General Assembly has determined this action to be contradictory to state law. Now, a declaration to a common interest community *must* be executed by, or on behalf of, the owner of the real estate. In most cases, the owner of the real estate is the developer of the common interest community (or the "Declarant").

Additionally, House Bill 24-1383 provides that any amendment to a declaration that adds real estate to an existing common interest community must be executed by, or on behalf of, the owner(s) of the real estate to be added, as shown by the records of the county clerk and recorder's office of the county where the real estate is located.

COLORADO
Department of Regulatory Agencies
Division of Real Estate

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-005: Concerning The Conservation Of Water In The State Through The Prohibition Of Certain Landscaping Practices

Prime Sponsors: Senator Dylan Roberts, Senator Cleave Simpson Representative Karen McCormick and Representative Barbara McLachlan

Introduced: January 10, 2024

Signed: May 15, 2024

Effective Date: August 7, 2024

Summary: Over the last several legislative sessions, the Colorado General Assembly has directed numerous efforts to address the impacts of climate change and water supply issues in Colorado and other western United States.

As such, the law states that after January 1, 2026, Common Interest Communities, like HOAs, POAs, condominiums, or Cooperatives, as well as Local Entities, such as cities, counties, special districts and metropolitan districts, shall not install, plant, or place any nonfunctional turf, artificial turf, or invasive species, as part of a new development project or redevelopment project.

Nonfunctional turf is turf that is not functional, including street right-of-way, parking lot, median, or transportation corridor turf.

Artificial turf is synthetic materials developed or designed to resemble natural grass.

Invasive species are defined as plants that are not native to the state and that:

(1) Are introduced into the state accidentally or intentionally

(2) Have no natural competitors or predators in the state because the state is outside of their competitors' or predators' range; and

(3) Have harmful effects on the state's environment or economy or both.

This law is forward looking. It does not prohibit:

(1) The maintenance of nonfunctional turf, artificial turf, or invasive species in place before January 1, 2026.

(2) The installation of grass seed or sod that is a native plant or has been hybridized for arid conditions, like what we find here in Colorado.

(3) The use of artificial turf on athletic fields of play.

Tags: HOA Center, Metropolitan Districts, Subdivision Developers, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-021: Concerning Exempting Certain Small Communities From Certain Requirements Of The "Colorado Common Interest Ownership Act"

Prime Sponsors: Senator Janice Rich, Senator Tony Exum, Representative Matt Soper

Introduced: January 10, 2024

Signed: April 11, 2024

Effective Date: August 7, 2024

Summary: Under current law, certain small homeowner associations ("HOAs") are exempt from various requirements of the Colorado Common Interest Ownership Act ("CCIOA") based on the HOA's creation date, number of residential units, and average annual common expense liability of each unit. Specifically, this bill consolidates these exemptions for small associations by: increasing the number of units allowed from ten (10) to twenty (20) units for associations created between the years 1992 and 1998, and uniformly applying the common expenses threshold and inflation adjustment regardless of when an HOA was created.

In addition, the bill provides that a cooperative or planned community that may claim the exemption may elect instead to be subject to all of CCIOA by adopting an amendment to its declaration evidencing its election.

Finally, the bill requires the HOA Information Officer in the Department of Regulatory Agencies ("DORA") to provide notice of the bill to cooperatives and planned communities that are affected by the bill, including notice of the option to opt out of the exemption.

COLORADO
Department of Regulatory Agencies
Division of Real Estate

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-058: Concerning Landowner Liability Under The Colorado Recreational Use Statute

Prime Sponsors: Senator Mark Baisley, Senator Dylan Roberts, Representative Brianna Titone, and Representative Shannon Bird

Introduced: January 17, 2024

Signed: March 15, 2024

Effective Date: August 7, 2024

Summary: Colorado's wide variety of recreational options is a commonly cited reason for people moving and traveling to Colorado. As such, the Colorado General Assembly has developed the Colorado Recreational Use Statute which limits owner's liability when lands are used for recreational purposes. Until the passage of SB24-058, the Colorado Recreational Use Statute did not protect an owner's liability for willful or malicious failure to warn against known dangerous conditions.

Now, SB24-058 protects unit owners by explaining that an owner is not committing a willful or malicious failure if:

(1) The owner posts a warning sign at the primary access point where the individual entered the land, which sign satisfies certain criteria.
(2) The owner maintains photographic or other evidence of the sign.
(3) The dangerous condition, use, structure, or activity that caused the injury or death is described by the sign.

In addition to this signage requirement, SB24-058 also expands protections by defining a land Owner to be:

(1) The possessor of a fee interest.

(2) A tenant, lessee, or occupant.

(3) The possessor of any other interest in land, including a possessor or holder of a conservation easement.

Signage must meet specific requirements including language, size, and location. The sign must state:

WARNING!
YOU ARE ENTERING THIS LAND FOR RECREATIONAL PURPOSES. IF YOU LEAVE THE DESIGNATED TRAIL, ROUTE, AREA, OR ROADWAY, YOU WILL BE DEEMED TRESPASSING. THERE ARE INHERENT DANGERS AND RISKS ASSOCIATED WITH USING THIS LAND THAT MAY CAUSE SERIOUS INJURY OR DEATH, INCLUDING CHANGING WEATHER CONDITIONS; OPEN AND OBVIOUS VARIATIONS IN STEEPNESS, SURFACE CONDITIONS, AND CONSISTENCY OF TERRAIN, SUCH AS FOREST GROWTH, ROCKS, STUMPS, WATERWAYS, STREAMBEDS, CLIFFS, EXTREME TERRAIN, AND TREES; WILDLIFE; AND MINING OR AGRICULTURAL ACTIVITIES, STRUCTURES, REMNANTS, EQUIPMENT, OR OPERATIONS.

Signage must also be:

(1) At least 8 inches in width and 10 inches in length or 8 inches in length and 10 inches in width.

(2) Posted in a conspicuous place at the primary access point to the property.

Tags: HOA Center, Metropolitan Districts, Subdivision Developers, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-129: Concerning Protecting The Privacy of Persons Associated With Nonprofit Entities, And, In Connection Therewith, Prohibiting Public Agencies From Taking Certain Actions Relating To The Collection And Disclosure Of Data That May Identify Such Persons

Prime Sponsors: Senator Byron Pelton, Senator Chris Kolker, Representative Chris deGruy Kennedy, and Representative Lisa Frizell

Introduced: February 6, 2024

Signed: May 28, 2024

Effective Date: August 7, 2024

Summary: The State of Colorado has taken the position that member-specific data, including personal identifying information ("PII") needs to be protected. Accordingly, it was found that it is in the public interest to prohibit public agencies from collecting or disclosing member-specific data.

Although the State of Colorado has taken important steps to protect PII, it is incumbent on responsible individuals to take reasonable steps to protect the PII of both board members, officers, and unit owners alike. Particularly in regards to Common Interest Communities, responsible individuals are running a business, sometimes with thousands or hundreds of thousands of dollars in revenue and expenses each year. Protecting financial information and PII is an important consideration for every responsible individual and consumers alike.

Tags: HOA Center, Brokers, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-134: Concerning The Operation Of A Home-Based Business In A Common Interest Community

Prime Sponsors: Senator Jim Smallwood, Senator Tony Exum, Representative Jenny Willford, Representative Ron Weinberg

Introduced: February 7, 2024

Signed: April 19, 2024

Effective Date: August 7, 2024

Summary: In recent years, the advent of remote work has enabled many homeowners to operate, or consider operating, a business from their unit. The year 2024 has been no exception, with Coloradans pursuing passions like blogging, dog grooming, podcasting, and teaching from the comfort of their homes.

Governor Polis signed Senate Bill 24-134 on April 19th, 2024. With ninety-three (93) "Aye" votes and only one (1) "No" vote, the chambers of congress made it abundantly clear the state favors allowing homeowners to operate a home-based businesses in their home, regardless of any HOA covenants or restrictions which may imply the opposite.

Senate Bill 24-134 allows a unit owner (or resident of the unit owner with the unit owner's permission) to operate a home-based business at a unit owner's unit. A homeowners association may no longer seek to enforce any covenant or restriction that would prohibit a unit owner from operating a home-based business.

According to the bill, a “home-based business” means a business for which the main office is located at, or the business operations primarily occur at, a unit.

The home-based business must still comply with, and an association may adopt and enforce, any reasonable and applicable rules and regulations governing architectural control, parking, landscaping, noise, nuisance, or other matters concerning the operation of a home-based business.

The operation of a home-based business in a common interest community must also comply with any applicable noise or nuisance ordinances or resolutions of the municipality or county where the common interest community is located.

HOA Call to Action: Boards and community managers should closely review their association governing documents to ensure the governing documents may not inadvertently (or intentionally) prohibit the operation of a home-based business.

Tags: HOA Center

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-145: Concerning The Enactment Of The "Uniform Unlawful Restrictions In Land Records Act"

Prime Sponsors: Senator Bob Gardner, Representative Marc Snyder, and Representative Manny Rutinel

Introduced: February 7, 2024

Signed: May 1, 2024

Effective Date: August 7, 2024

Summary: While most Common Interest Communities are created with the common benefit of ALL unit owners in mind, historically, this was not always the case. An unfortunate aspect of the history of Common Interest Communities is that certain restrictions were imposed on the land in decades past which were discriminatory on the basis of race, color, religion, national origin, sex, familial status, disability, or other personal characteristics. Unfortunately, some of these restrictions still remain and they are referred to as "unlawful restrictions".

Even before SB24-145, unlawful restrictions have long been unenforceable, however, the offending language still remained in official documents. SB24-145 aims to correct that by creating a method and process by which a unit owner or association can remove the offending language.

For a traditional land owner, the owner may submit to the recorder for recordation an amendment to remove the unlawful restriction, but only as to the owner's property.

For an association, the board and its officers may submit to the recorder for recordation an amendment to the governing documents WITHOUT a vote of the members of the association. In addition, a member of an association (a unit owner) may also request the board to exercise its authority to remove the unlawful restriction. Within 90 days of the member's request, the board shall determine whether the governing document includes an unlawful restriction. If so, the board shall amend the governing document within the next 90 days.

In either case, the amendment must include a conspicuous statement substantially similar to the following language:

> THIS AMENDMENT REMOVES FROM THIS DEED OR OTHER DOCUMENT AFFECTING TITLE TO REAL PROPERTY AN UNLAWFUL RESTRICTION AS DEFINED UNDER THE UNIFORM UNLAWFUL RESTRICTIONS IN LAND RECORDS ACT. THIS AMENDMENT DOES NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF A RESTRICTION THAT IS NOT AN UNLAWFUL RESTRICTION.

Tags: HOA Center, Subdivision Developers, Consumers