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

HB24-1011: Concerning Mortgage Servicers, And, In Connection Therewith, Requiring Mortgage Servicers To Take Certain Actions Regarding The Disbursement Of Insurance Proceeds To Borrowers

Prime Sponsors: Representative Kyle Brown, Representative Judy Amabile, Senator Lisa Cutter, and Senator Janice Marchman

Introduced: January 10, 2024

Signed: May 17, 2024

Effective Date: May 17, 2024

Summary: Mortgage Loan Originators should be aware of the changes implemented by HB24-1011. In the case of a loss, insurance holders need to understand the specific conditions of which a mortgage servicer will disburse insurance proceeds to the borrower. This is important to ensure prompt repairs or replacement if a property is damaged or destroyed.

A borrower should develop a repair plan or a rebuild plan with the borrower's contractor and submit that plan to the mortgage servicer for approval or denial within 30 days of receipt by the mortgage servicer. Any plan should have distinct milestones.

Depending on the amount of insurance proceeds, the bill sets forth disbursement requirements:

(1) If equal to or less than $40,000.00, the mortgage servicer should disburse the entire amount.

(2) If more than $40,000.00, the mortgage servicer should disburse an amount of $40,000.00 or one-third of the proceeds, whichever is greater.

The mortgage servicer is required to hold proceeds in an interest-bearing account.

Finally, HB24-1011 creates a cause of action for a debtor in the event of the borrower has incurred damages.

Tags: MLOs, Consumers

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

HB24-1094: Concerning Earnest Money Deposits Received After The Real Estate Commission Has Approved A Developer's Subdivision Registration, And, In Connection Therewith, Allowing The Use Of Developer Subdivision Earnest Money Deposits By Accredited Investors

Prime Sponsors: Representative Meghan Lukens, Representative Matt Soper, Senator Dylan Roberts, and Senator Perry Will

Introduced: January 24, 2024

Signed: May 28, 2024

Effective Date: August 7, 2024

Summary: Under certain circumstances, subdivision developers are required to obtain approval from the Colorado Real Estate Commission (the "Commission") to market and sell real property. Those circumstances are governed by the Subdivision Developer's Act (sections 12-10-501, *et seq.*, C.R.S.) and applicable Rules (4 CCR 725-6).

Upon approval by the Commission, the Developer may enter into binding purchase contracts with prospective buyers and accept earnest money deposits. HB24-1094 defines exceptions to when that earnest money must be held in trust by an independent third party.

Specifically, a developer may receive earnest money deposits from an Accredited Investor and use some or all of those funds towards the development of a subdivision, but only if the purchase contract or other written disclosure contains a clear statement setting forth:

(1) To whom the funds will be delivered,

(2) When the delivery of the funds will occur,

(3) How the funds will be used, and

(4) Any restrictions on the use of the funds.

For purposes of this exception, the term Accredited Investor is defined to have the same meaning as Rule 501 of Regulation D, 17 CFR 230.501(a) by the Securities and Exchange Commission.

Tags: Subdivision Developers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1098: Concerning Protections For Residential Tenants, And, In Connection Therewith, Requiring Cause For The Eviction Of A Residential Tenant

Prime Sponsors: Representative Javier Mabrey, Representative Monica Duran, Senator Julie Gonzales, and Senator Nick Hinrichsen

Introduced: January 24, 2024

Signed: April 19, 2024

Effective Date: April 19, 2024

Summary: The Colorado General Assembly has repeatedly sought to prevent the arbitrary displacement of tenants in Colorado and protect safety and prompt public health. In carrying out these goals, the General Assembly passed, and the Governor signed HB24-1098 into law.

To begin with, it is important to clarify that this law does not apply to the "management or landlord of a mobile home park unless" (a) both the mobile home space and the mobile home are being rented to a mobile home resident or (b) the mobile home park resident is NOT residing in the mobile home park under a lease-to-own agreement. In these situations, a manager or landlord of a mobile home park is subject to the new law.

In addition, the new law does not apply to:

(1) Short-term rental property
(2) A residential premises occupied and maintained by the owner
(3) A residential premises adjacent to property occupied and maintained by the owner

(4) A mobile home space occupied pursuant to a lease-to-own agreement, purchase option, or similar agreement
(5) A residential premises leased pursuant to an employer-provided housing agreement
(6) A residential tenant of less than 12 months (at the premises)
(7) A residential tenant who is not known to the landlord to be the tenant

For (2) and (3) above, the residential premises must be (a) a single-family home, with or without an accessory dwelling unit on the same lot, (b) a duplex, (c) a triplex, or (d) NOT be a multifamily property of four or more dwelling units.

A landlord is not permitted to serve a notice to terminate unless there is cause for the eviction. Cause for eviction is expressly defined in the bill as:

(1) Entry is made without right or title into any vacant or unoccupied lands or tenements.
(2) Entry is made wrongfully to certain public lands, tenements, mining claims or other possessions.
(3) When a tenant holds over and continues in possession of the premises after the expiration of the term or has been terminated by either party.
(4) Nonpayment of rent.
(5) Substantial violation of the lease.
(6) Material violation of the lease.
(7) Repeat violation of the lease after receipt of proper notice of a violation.
(8) Possession after a legal sale.
(9) Possession after sale under judgment or decree, after the expiration of the time of redemption and after the purchaser demands the property.
(10) When an heir or devisee continues possession after sale by a personal representative.
(11) When an agreement to purchase lands or tenements fails but possession is maintained.

(12) When a tenant creates a nuisance or disturbance which interferes with the quiet enjoyment of the landlord or other tenants

(13) When the tenant is negligently damaging the property.

With certain conditions, the following additional scenarios constitute grounds for a no-fault eviction of a tenant:

(1) Demolition or conversion of residential premises to a short-term rental property.

(2) Substantial repairs or renovations.

(3) The landlord or a family member of the landlord assumes occupancy within 3 months after the tenant vacates the premises.

(4) Withdrawal from rental market for the purpose of selling the residential premises.

(5) The tenant refuses to sign a new lease with reasonable terms.

(6) The tenant has a history of nonpayment of rent or late payment more than 2 times.

During the negotiation of a lease or rental agreement, landlord and tenant may not waive or modify the provisions set forth in this law. Any effort to do so is void and unenforceable.

If a landlord proceeds with an eviction in violation of the law, the tenant may seek relief as described in section 38-12-510, C.R.S. Similarly, if a landlord does not comply with the law, the tenant may assert the landlord's failure to do so as an affirmative defense in the eviction proceeding and the Court can dismiss the eviction proceeding.

Overall, the law demonstrates that efforts to circumvent the requirements of the law are problematic. An example is that the landlord cannot increase tenant's rent in a discriminatory, retaliatory, or unconscionable manner to circumvent the requirements.

A written notice is required and must include a statement of the legal and factual basis for the landlord's no-fault eviction. If the tenant receives supplemental security income, social security disability insurance, or cash assistance through the Colorado works program, the notice MUST also include a statement that the tenant has the right to mediation prior to the landlord filing an eviction complaint. In addition, a demand or notice must be written in the primary language of the tenant (English, Spanish, or any other language that the landlord knows or has reason to know is spoken by the tenant).

In the case of a periodic tenancy, written notices to terminate the tenancy may be provided by the landlord before the end of the period or fixed term. The notice must describe the property, the particular date when the tenancy will terminate, and be signed. The timing of the notice is also imperative. Timing requirements are as follows:

(1) For a tenancy for one year or longer, at least 91 days
(2) For a tenancy of 6 months or longer, but less than a year, at least 28 days
(3) For a tenancy of 1 month or longer but less than 6 months, at least 21 days
(4) For a tenancy of 1 week or longer but less than 1 month, at least 3 days
(5) For a tenancy at will, at least 3 days
(6) For a tenancy for less than 1 week, at least 1 day

Finally, the notifications required by section 38-33-112 do not permit a landlord from terminating a lease prior to the expiration without the consent of both the tenant and the landlord. In the case that the lease term is set to expire less than ninety days from the date of notification or if there is no written lease, a tenancy may not be terminated less than 90 days after the date of the notice. The act states that return receipt is evidence of the date and evidence of receipt of the notice.

If the lease has less than 90 days remaining, the tenant has the right to hold over for the remainder of the 90-day period under the terms and conditions of the lease agreement as long as the tenant makes timely rental payments and performs any other conditions of the lease agreement.

Tags: Property Management

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1107: Concerning Judicial Review Of A Local Land Use Decision

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

Introduced: January 25, 2024

Signed: May 30, 2024

Effective Date: May 30, 2024

Summary: Pursuant to HB24-1107, which took effect on May 30, 2024, a Court shall award reasonable attorney fees to a prevailing governmental entity for judicial review of a local land use decision involving residential use with a net project density of five dwelling units per acre or more. Any such judicial action needs to be brought pursuant to either:

(1) Title 13, Article 51.5, or

(2) Colorado Rule of Civil Procedure Rule 106(a)(4)

Tags: Subdivision Developers

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

HB24-1137: Concerning Implementing The Recommendations Of The Fraudulent Filings Working Group, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Representative Tisha Mauro, Representative Rick Taggart, Senator Faith Winter, and Senator Jeff Bridges

Introduced: January 29, 2024

Signed: June 3, 2024

Effective Date: August 7, 2024

Summary: HB24-1137 is a relevant act for consumers and businesses, including any real estate business or Common Interest Community businesses. A few years ago, the State of Colorado convened a working group to look into issues surrounding Secretary of State filings. Specifically, the group looked at the issue of fraudulent filings: when non-authorized people file documents on a business record.

The working group made several recommendations, and this act adopts them, making the delinquency process, the administrative dissolution process, and restatement process more clear.

For all businesses operating in Colorado, the passage of HB24-1137 is an important opportunity to be reminded of the business's Secretary of State filing. Review of your business's filing for accuracy and completeness is important on a regular basis, but no less than at least once a year. For more information, visit the Secretary of State Database Search page to review your business's status.

Tags: Brokers, Appraisers, Mortgage Loan Originators, 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
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Tags: HOA Center, Metropolitan Districts, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1175: Concerning A Local Government Right Of First Refusal Or Offer To Purchase Qualifying Multifamily Property For The Purpose Of Providing Long-Term Affordable Housing Or Mixed-Income Development

Prime Sponsors: Representative Andrew Boesenecker, Representative Emily Sirota, Senator Faith Winter, and Senator Sonya Jaquez Lewis

Introduced: January 31, 2024

Signed: May 30, 2024

Effective Date: August 7, 2024

Summary: One of the primary overarching goals of the 2024 Legislative Session was housing affordability. As such, HB24-1175 aims to increase available affordable housing stock by creating a right of first refusal for a local government to purchase, in the event that a Qualifying Property is being sold.

A Qualifying Property is defined as a multifamily residential or mixed-use rental property consisting of not less than five units that is existing affordable housing, excluding a mobile home park.

Brokers, whether they are assisting with the listing or the purchasing of qualified properties, should be aware of this right conferred upon local governments, as well as the fact that local governments may opt to waive its right of first refusal by posting notice in a conspicuous location on its website.

Tags: Brokers

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

HB24-1267: Concerning Requiring A Metropolitan District Engaging In Covenant Enforcement Activities To Comply With Certain Policies Related To Covenant Enforcement

Prime Sponsors: Representative Iman Jodeh, Representative Jennifer Bacon, Senator James Coleman, and Senator Chris Hansen

Introduced: February 13, 2024

Signed: April 19, 2024

Effective Date: August 7, 2024

Summary: HB24-1267 limits the authority of a Board of a Metropolitan District to foreclose any lien described in section 32-1-1004.5, requires certain written policies be created by Metropolitan Districts, and imposes other restrictions on Metropolitan Districts while conferring certain rights to unit owners.

Fines Policy: The law requires that Metropolitan Districts must adopt a written policy governing the imposition and schedule of fines if it enforces covenants. The written policy must:

(1) Include a fair and impartial fact-finding process concerning whether an alleged violation actually occurred and, if so, whether a unit owner is responsible for the violation.

(2) Require providing notice to the unit owner regarding the nature of the alleged violation, the action or actions required to cure the alleged violation, and the timeline for the fair and impartial fact-finding process.

(3) Provide the unit owner an opportunity to be heard before an impartial decision-maker.

In the event that a Metropolitan District does not provide covenant enforcement and does not form a unit owners' association (like an HOA), the Metropolitan District:

(1) Cannot pursue other remedies against property owners to enforce design review requirements.

(2) This type of Metropolitan District is not required to adopt written policies required by this law.

For those Metropolitan Districts that have a written policy, the Board may adjust the policy from time to time. When a fee, rate, toll, fine, penalty or charge is assessed, a perpetual lien on and against the unit for which covenant enforcement and design review services were provided is created, however, a board may not foreclose on any such lien. Without the need to commence a legal proceeding, any unit owner's failure to comply may result in being responsible for the Metropolitan District's collection costs and reasonable attorney fees and costs. If a legal proceeding is commenced, the court shall award reasonable attorney fees and cost to the prevailing party. Importantly, the law has imposed a 1-year limitation on commencing an action (a statute of limitations). The board may not enforce a building restriction more than 1 year after the date the Metropolitan District knew or should have known of the violation.

Dispute Resolution: For Metropolitan Districts that furnish covenant enforcement and design review services, a board must adopt a written policy addressing disputes between the Metropolitan District and one or more unit owners related to the enforcement of an instrument and must post the policy on the Metropolitan District's website or make it available upon request.

The policy may be submitted to mediation by agreement of the parties before commencement of a legal proceeding.

Public Policy Prohibitions: A Metropolitan District may not prohibit the following:

(1) Display of a flag, except for reasonable, content-neutral rules to regulate the number, location, and size of flags and flagpoles.

(2) Display of a sign-The Metropolitan District shall not prohibit or regulate signs on the basis of their subject, matter, message, or content, except that the Metropolitan District may prohibit signs bearing commercial messages and may establish rules to regulate the number, placement, or size.

(3) Parking of a motor vehicle if the vehicle is required to be available at designated periods if certain conditions are met.

(4) Removal by a unit owner of trees, shrubs, or other vegetation to create a defensible space.

(5) Reasonable modifications to a unit to afford an individual with disabilities full use and enjoyment of the unit.

(6) The use of xeriscape, nonvegetative turf grass or drought-tolerant vegetative or nonvegetative landscapes on property for which a unit owner is responsible.

(7) Use of a rain barrel, subject to certain conditions

(8) Operation of a family child care home.

In addition, Energy Efficiency Measure was added to Title 32, the Colorado law that governs Metropolitan Districts. The bill borrows heavily from the language found in the Colorado Common Interest Ownership Act ("CCIOA"). Metropolitan Districts may not prohibit renewable energy generation, may not require cedar shakes or other flammable roofing materials, or the installation of energy efficiency measures, subject to reasonable aesthetic provisions.

Tags: Metropolitan Districts, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1302: Concerning Information To Real Property Owners Regarding Property Taxes, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Representative Jennifer Parenti, Representative Lisa Frizell, and Senator Chris Hansen

Introduced: February 14, 2024

Signed: June 3, 2024

Effective Date: June 3, 2024

Summary: When purchasing a home, many buyers consider the purchase price and the monthly mortgage payment, but another important factor affecting the cost of housing is the tax rate. All properties are required to pay property taxes. HB24-1302 now requires that towns, cities, school districts, special districts, and other taxing authorities disclose each tax levy as a part of their annual certification. The disclosure requires:

(1) The rate of the levy.
(2) The prior year levy and revenue collected from the levy.
(3) The maximum levy that may be levied without further voter approval.
(4) The allowable annual growth in revenue collected from the levy.
(5) The actual growth in revenue collected from the levy over the prior year.
(6) Whether revenue from the levy is allowed to be retained and spent as a voter approved revenue change pursuant to section 20(7)(b) of Article X of the State Constitution.
(7) Whether revenue from the levy is subject to the limit on annual revenue growth in section 29-1-301(1)(a).

(8) Whether the review from the levy is subject to any other limit on annual revenue growth enacted by the taxing authority or other local government.

(9) Whether the levy must be adjusted, or whether a mill levy credit must be allowed, to collect a certain amount of revenue for the tax year end, and, if applicable, that amount of revenue.

(10) Any other information determined necessary by the Department of Local Affairs ("DOLA").

Tags: Brokers, Metropolitan Districts, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

HB24-1313: Concerning Measures To Increase The Affordability Of Housing In Transit-Oriented Communities, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Representative Steven Woodrow, Representative Iman Jodeh, Senator Chris Hansen, and Senator Faith Winter

Introduced: February 20, 2024

Signed: May 13, 2024

Effective Date: May 13, 2024

Summary: HB24-1313 adds a new article, Article 37, to Title 29 of the Colorado Revised Statutes which addresses an important legislative priority: housing affordability. Both cost of housing and availability of housing contribute to housing affordability and furthermore, access to transit systems reinforce the goal, as well as address other issues (traffic, emissions, etc.) that Coloradans face daily.

Developers and brokers representing developers should be aware of available grants for transit-oriented communities. A transit-oriented community shall ensure that the area is composed solely of zoning districts that uniformly allow a net housing density of at least 15 units per acre, but not more than 500 units per acre.

Tags: Brokers, Subdivisions, Consumers

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

HB24-1451: Concerning Protections Against Discrimination Based On Hair Length That Is Associated With One's Race

Prime Sponsors: Representative Leslie Herod, Representative Naquetta Ricks, Senator Janet Buckner, and Senator James Coleman

Introduced: April 15, 2024

Signed: June 3, 2024

Effective Date: June 3, 2024

Summary: During the 2020 Legislative Session, the Colorado General Assembly passed an important law designed to stop discrimination in public education, employment and housing practices, public accommodation, and advertising on the basis of any traits commonly or historically associated with race, such as hair texture, hair type, and protective hairstyles. On June 3, 2024, the Governor signed HB24-1451 into law, adding **hair length** to the list of traits associated with one's race.

Tags: Brokers, Appraisers, Mortgage Loan Originators, HOA Center, Consumers

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

SB24-064: Concerning Requiring The Judicial Department To Make Residential Eviction-Related Information Available To The Public, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Senator Kyle Mullica, Senator Janice Marchman, and Representative Shannon Bird

Introduced: January 19, 2024

Signed: May 31, 2024

Effective Date: May 31, 2024

Summary: The Colorado General Assembly has determined that certain information should be collected regarding evictions in the State of Colorado to better understand the housing situation in the state. As such, the Colorado Judicial Department shall collect Residential Eviction Data. Residential Eviction Data includes:

(1) Date the complaint was filed
(2) The return date
(3) The date of the scheduled hearing
(4) Whether the plaintiff was represented by legal counsel
(5) Whether the tenant was represented by legal counsel
(6) Whether the tenant filed and answer
(7) Any of the following case outcomes: Default Judgment, Judgment for possession, Stipulated agreement, Writ of restitution, or Dismissal
(8) Zip code of the subject property
(9) Whether the action was filed for nonpayment of rent or utilities or other lease violations.

(10) The total amount of unpaid rent or utilities at the time of filing, and any late fees that the plaintiff claims the tenant owes

(11) Whether the tenant elected to participate in person or remotely

(12) Whether the plaintiff elected to participate in person or remotely.

Beginning July 1, 2024, Denver County will collect Residential Eviction Data and beginning January 1, 2025, the Judicial Department will compile and publish Residential Eviction Data.

Tags: Property Management, Brokers, Consumers

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-094: Concerning Safe Housing For Residential Tenants, And, In Connection Therewith, Establishing And Clarifying Procedures Regarding A Tenant's Claim Of Breach Of The Warranty of Habitability

Prime Sponsors: Senator Julie Gonzales, Senator Tony Exum, Representative Mandy Lindsay, and Representative Meg Froelich

Introduced: January 24, 2024

Signed: May 3, 2024

Effective Date: May 3, 2024

Summary: Following through with an overarching goal of improving the quality, safety, and availability of housing, SB24-094 became effective May 3, 2024.

As part of that goal, SB24-094 determines that EVERY rental agreement is deemed to warrant that the residential premises is fit for home habitation at the inception of the occupancy and that the landlord will maintain the residential premises as fit for human habitation.

The Warranty of Habitability is breached if the premises is uninhabitable as defined in section 38-12-505, C.R.S. or a condition on or in the premises materially interferes with the tenant's life, health, or safety AND the landlord has notice of the condition. A landlord has 24 hours to commence remedial action if the condition materially interferes with the tenant's life, health, or safety. If the premises is uninhabitable, as described in section 38-12-505, C.R.S., the landlord has 72 hours to commence remedial action. The landlord has a reasonable time after commencing remedial action to completely remedy or repair the condition.

If the condition materially interferes with the tenant's life, health, or safety, the landlord is responsible for providing tenant:

(1) A comparable dwelling unit, at no cost to the tenant or a hotel room, at no cost to the tenant

(2) The comparable unit or hotel room must have the same number of beds as the premises.

(3) If the duration for the comparable unit or hotel room is greater than 48 hours, the comparable unit or hotel room must include a refrigerator with a freezer and a range stove or oven, or the landlord is responsible for providing the tenant a per diem for meals. The per diem must be at least equal to the Colorado state employee per diem for intrastate travel.

Any attempt to waive or modify the rights, remedies, obligations, or prohibitions of the warranty of habitability are deemed to be void as contrary to public policy.

The bill also grants the landlord the ability to terminate a rental agreement if the premises is damaged as a result of a sudden environmental public health event or a governmental authority's action, as long as the landlord was not already in breach of the warranty of habitability.

Next, beginning January 1, 2025, every rental agreement must include:

(1) A statement in at least 12-Point Bold-Faced Font which states that every tenant is entitled to safe and healthy housing under Colorado's Warranty of Habitability and that a landlord is prohibited by law from retaliating against a tenant in any manner for reporting unsafe conditions in tenant's residential premises, requesting repairs, or seeking to enjoy the tenant's right to safe and healthy housing.

(2) A statement in at least 12-Point Bold-Faced Font in English and Spanish which states an address where the tenant can mail or personally deliver written

notice of an uninhabitable condition and an email address or accessible online portal or platform when a tenant can deliver written notice of an uninhabitable condition.

The bill also identifies a myriad of conditions that interfere with a tenant's life, health, or safety:

(1) Lack of waterproofing or weather protection
(2) Any hazardous condition relate to gas
(3) Inadequate running water, including hot water
(4) Lack of functioning heating facilities
(5) Any hazardous condition of electrical wiring or facilities
(6) Lack of electricity caused by the landlord
(7) Lack of working locks on all exterior doors
(8) Lack of working plumbing or sewage disposal
(9) An infestation of rodents, vermin, pests, or insects
(10) Any inaccessible fire exits of egress
(11) Any missing, damaged, improper, or misaligned chimney or venting of a fuel-fired system
(12) An inoperable elevator when the tenant has a disability.

Tags: Property Management, Brokers, 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

COLORADO
Department of Regulatory Agencies
Division of Real Estate

SB24-174: Concerning State Support For Sustainable Affordable Housing, And, In Connection Therewith, Making An Appropriation

Prime Sponsors: Senator Barbara Kirkmeyer, Senator Rachel Zenzinger, Representative Shannon Bird, and Representative Rose Pugliese

Introduced: March 5, 2024

Signed: May 31, 2024

Effective Date: May 31, 2024

Summary: Like several other bills introduced and passed into law during the 2024 Legislative Session, SB24-174 focuses on availability and affordability of housing across the state. To fulfill this mandate, the Director of the Department of Local Affairs shall develop reasonable methodologies for conducting statement, regional, and local housing needs assessments no later than December 31, 2024. Thereafter, local governments will develop a housing action plan to address housing needs, displacement risks and mitigation efforts for that displacement risk, and a legislative plan, among other topics.

SB24-174 also establishes grant programs for counties and municipalities to support land use planning or housing.

In Common Interest Communities, associations may not prohibit the construction of accessory dwelling units if the local jurisdiction's zoning laws otherwise allow accessory dwelling units.

Tags: Subdivision Developer, HOA Center, Brokers