The Colorado HOA Information and Resource Center

HOA Forum - Friday, October 24, 2025

HB25-1043: Colorado HOA Collections and Foreclosures

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Thank you for joining. We will begin momentarily...

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What the HOA Center does

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

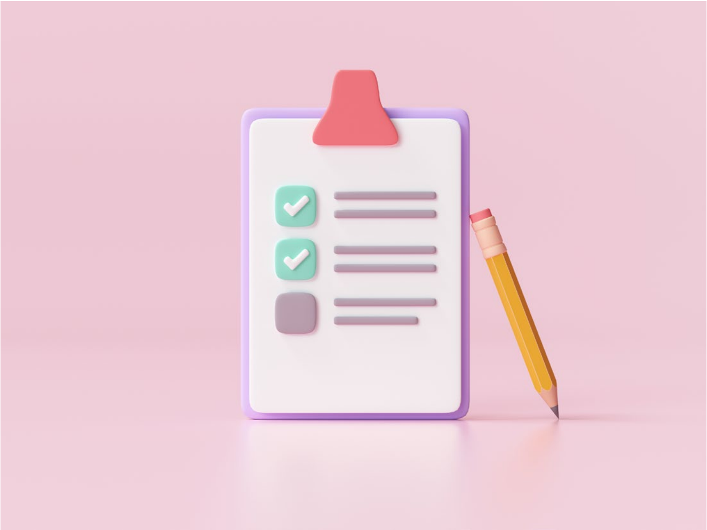
What the HOA Center does not do

- Does not mediate or arbitrate on behalf of homeowners, board members, or community association managers.
- Does not act as a regulatory program.
- Does not provide legal advice.
- Does not investigate or intervene in disputes that arise between homeowners or associations.
- Does not act as an advocate.
- Does not assess fines or penalties.
- Does not enforce an HOA's failure to register.

Disclaimer

The information in this presentation is not intended to be construed as legal advice. It is for educational purposes only.

Polls



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House Bill 25-1043

Owner Equity Protection in Homeowners' Association Foreclosure Sales

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HB25-1043: “Concerning the protection of unit owners in relation to enforcement actions by unit owners' associations.”

Prime Sponsors:

- Representative Naquetta Ricks
- Representative Jennifer Bacon
- Senator Tony Exum

Introduced: January 8, 2025

Became Law: June 4, 2025

Effective Date: October 1, 2025

Key Provisions of the Bill and Talking Points

1. Determining reasonable attorney's fees and the notion of strict vs. substantial compliance
2. HOA Collection enforcement procedural modifications
3. Enforcement changes
4. Foreclosure sales (non-CCIOA related changes to Colorado law)
5. HOA Information & Resource Center to collect new registration data

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1. Determining Reasonable Attorney’s Fees and the Notion of Strict vs. Substantial Compliance

IMPORTANT!

- If an association wants to collect money owed to it, collections costs, or reasonable attorney's fees through foreclosure of an association's lien, then the association MUST strictly comply with the Colorado Common Interest Ownership Act ("CCIOA"), and any applicable lien or foreclosure provisions of the association's declaration, bylaws, articles, and rules and regulations.

IMPORTANT! (con't)

- If a court determines an association is not in <u>strict</u> compliance with applicable law, then the court may stay the foreclosure proceedings to grant the association a reasonable period of time to come into strict compliance with the law.
- During the stay in proceedings, the association shall not assess or accrue late fees, interest, or other delinquency charges against the unit owner.

See section 38-33.3-123(3), C.R.S.

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Factors a court <u>may</u> consider in determining reasonable attorney’s fees relating to the foreclosure of a lien against a unit owner for unpaid assessments (new House Bill 25-1043 provision is #4 in blue)

1. The amount of the unpaid assessments
2. Whether the amount of the attorney fees requested exceeds the amount of the unpaid assessments;
3. Whether the amount of time spent or fees incurred by the attorney are disproportionate to the needs of the case, considering the complexity of the case or the efforts required to obtain the unpaid assessments;

Factors a court may consider in determining reasonable attorney's fees relating to the foreclosure of a lien against a unit owner for unpaid assessments (new House Bill 25-1043 provision is #4 in blue) (con't)

4. Whether the association incurred inflated or duplicative attorney fees due to a stay in court proceedings pursuant to subsection (3) of this section for the association to come into strict compliance with applicable lien or foreclosure provisions of this title 38;

5. Whether the foreclosure action was contested or required the association to respond to unmeritorious defenses; and

6. Other factors typically considered in determining an award of attorney fees.

See 38-33.3-123(1)(f), C.R.S.

Types of Legal Compliance

Strict

The association must follow the Colorado Common Interest Ownership Act ("CCIOA"), and its own Declaration, Bylaws, Articles, and Rules and Regulations ***to the letter***. Associations should be aware that even the slightest deviation from CCIOA or its own governing documents could result in legal challenges and financial penalties.

(Possible) Examples of NOT strictly complying with CCIOA:

- The association not recording a formal vote in the meeting minutes to send an owner to collections (section 209.5)
- Requiring an owner to pay more than $25/month on an eighteen-month payment plan (section 209.5)
- The association refusing to send official legal notices to the owner's designated representative or in the owner's stated preferred language (section 209.5)

An association not in strict compliance with CCIOA, its own Declaration, Articles, Rules, and Regulations in pursuing a foreclosure action may be prevented from collecting amounts owed to it.

Substantial

The association may deviate slightly from the Colorado Common Interest Ownership Act ("CCIOA"), and its own Declaration, Bylaws, Articles, and Rules and Regulations, provided the effort was made in good-faith and only minor technical errors were made throughout the process.

(Possible) Examples of substantially complying with CCIOA:

- The association incorporating as a non-profit entity but forgetting to file the required periodic reports with the Colorado Secretary of State's office
- The board sending a legal notice by regular mail instead of certified mail
- Applying payments to fees/fines first prior to assessments

An association in substantial compliance with CCIOA - prior to the passage of HB25-1043 - may have been able to collect amounts owed to it.

2. HOA Collection Enforcement and Procedural Modifications

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ALL common interest communities created in Colorado - regardless of when they were created - MUST have a policy concerning the collection of unpaid assessments.

See section 38-33.3-117(1.5)(c), C.R.S.

This new legislation requires additional information to be included in the policy concerning unpaid assessments; therefore, associations MUST update their collections policies.

What new information must be included in the collections policy? (text in blue indicates new material added as a result of House Bill 25-1043)

- The name and contact information for the individual the unit owner may contact to request a copy of the unit owner's ledger in order to verify the amount of the debt, which copy of the ledger must be provided to the unit owner no later than seven business days after receipt of the unit owner's request. See 38-33.3-209.5(5)(a)(V)(C), C.R.S.

What new information must be included in the collections policy? (text in blue indicates new material added as a result of House Bill 25-1043) (con't)

- That action is required to cure the delinquency and that failure to do so within thirty days may result in the unit owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the unit owner's property, the sale of the unit owner's unit at auction to pay delinquent assessments, which could result in the unit owner losing some or all of the unit owner's equity in the unit, or other remedies available under Colorado law. See 38-33.3-209.5(5)(a)(V)(D), C.R.S.

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What new information must be included in the collections policy? (text in blue indicates new material added as a result of House Bill 25-1043) (con’t 2)

- The availability of, and instructions on how to access, free online information through the HOA Information and Resource Center created in section 12-10-801(1) relating to the collection of assessments by an association, including the association's ability to foreclose an association lien for unpaid assessments and force the sale of the unit owner's home, and the availability of online information from the Federal Department of Housing and Urban Development concerning credit counseling before foreclosure that may be accessed through a link on the Department of Local Affairs' website. See 38-33.3-209.5(5)(a)(V)(E), C.R.S.

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Suggested language to include in the policy for compliance purposes

1. Using a web browser, navigate to https://dre.colorado.gov/hoa-center
2. Scroll down and click on the header entitled “Assessments and Delinquency Info”

The board needs to:

Request periodically from a unit owner a telephone number for phone calls, a cellular number for texts, and an email address for emails to be used for legal/delinquency notices. See 38-33.3-209.5(1)(a.5), C.R.S.

- What is "periodically"? The statute does not define it; however, annually would probably be a good rule-of-thumb.
- Document, and retain with the association's official written records, all board attempts to obtain unit owner contact information.
- Include the request for updated contact information at annual meetings, budget meetings, in newsletters that are mailed out, and other forms of outreach.
- Note: the statute does not REQUIRE owners to provide an email address; only that the association REQUEST one from unit owners.

What if the unit owner does not respond to the request, or refuses to provide certain contact information?

Then the association is permitted to send legal/delinquency notices by regular mail.   See 38-33.3-209.5(1.7)(a)(D), C.R.S.

- Regular mail may be utilized ONLY AFTER the association has made an attempt to request contact information from the unit owner.

3. Enforcement Changes

IF an HOA decides to foreclose on an assessment lien…

…THEN a written AND electronic notice must go to the delinquent owner AT LEAST 30 days prior to the action. The notice MUST inform the unit owner that the unit owner has a right to participate in credit counseling and that free information is available on the HOA Information and Resource Center's website related to obtaining free credit counseling and the consequences of foreclosure. See 38-33.3-316(10.3), C.R.S.

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The same notice must also include information on what credit counseling may entail for the owner and that credit counseling as a service could include the following:

1. A discussion of amounts owed to the association in unpaid assessments and related costs;
2. the impact of foreclosure on the unit owner's credit;
3. additional debt that may be incurred by the unit owner if foreclosure by the association is completed;
4. options available to the unit owner to retain title to the unit or to remain in the unit; and
5. any other options that may be available to the unit owner to avoid foreclosure.

See 38-33.3-316(10.3), C.R.S.

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Important to point out…

The HOA Information and Resource Center does not provide credit counseling or housing counseling. Rather, the information provided by the HOA Center is designed to route consumers to appropriate resources and organizations that do provide the intended services.

Unit owners should be aware of the following list of important resources, which may assist in curing delinquency (also found on HOA Center's website)

United States Department of Housing and Urban Development

The US Department of Housing and Urban Development ("HUD") is a federal agency that provides a variety of services across America. HUD maintains a nationwide network of housing counselors specifically trained to help consumers make informed housing decisions. For information on locating a housing counselor, contact HUD:

Toll Free: (800) 569-4287
Internet: https://answers.hud.gov/housingcounseling/s/?language=en_US

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Unit owners should be aware of the following list of important resources, which may assist in curing delinquency (also found on HOA Center's website) (con't 1)

2-1-1 Colorado

2-1-1 Colorado is a confidential and multilingual service in Colorado that focuses on linking residents with essential services through telephone or online channels. Individuals facing homelessness or foreclosure can get immediate help by calling 2-1-1 on a telephone or visiting 2-1-1 Colorado on the internet. This service operates via four Area Information Centers across the state. No matter where you are in Colorado, dialing 2-1-1 gives you access to local resources for food, housing, childcare, counseling, or substance abuse treatment.

Telephone: 211
Internet: https://www.211colorado.org/

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Unit owners should be aware of the following list of important resources, which may assist in curing delinquency (also found on HOA Center's website) (con't 2)

Colorado Housing and Finance Authority

The Colorado Housing and Finance Authority ("CFHA") is an organization that, through various regional offices located throughout the state, strengthens Colorado by investing in affordable housing, business lending, and community development.

Toll Free: (800) 877-2432
Internet: https://www.chfainfo.com/

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Unit owners should be aware of the following list of important resources, which may assist in curing delinquency (also found on HOA Center's website) (con't 3)

Colorado Housing Connects

Colorado Housing Connects offers bilingual assistance to people across the state to connect consumers with housing counseling agencies that could assist homeowners trying to fight off the pressures of rising costs.

Toll Free: (844) 926-6623
Internet: https://coloradohousingconnects.org/

Important to know…

- Be sure to respect a delinquent owner’s desire to communicate through an identified designated contact or in a preferred language. This is required by Colorado law.
    - The law does not contemplate who is responsible for paying for translation services or whether emerging online translation technology is permissible, such as Google Translate or Generative Artificial Intelligence (“GenAI”), which may offer a more cost-effective way to offer translation services.

The Notice of Election and Demand that is filed with the public trustee's office (the "NED") MUST inform the delinquent owner that:

1. the association intends to file a lawsuit against the unit owner's property and that, if the court forecloses on the lien, the court will order the sale of the unit at auction to pay the delinquent assessments due to the association;
2. based on the sale price of the unit at auction, the unit owner could lose some or all of the unit owner's equity in the unit;
3. the unit owner has a right to participate in credit counseling prior to foreclosure;
4. the unit owner has a right to participate in mediation with the association prior to foreclosure; and
5. the owner has access to, and instructions on how to access, free online information through the hoa information and resources center created in section 12-10-801(1) relating to foreclosure by an association.

See 38-33.3-316(10.7)(c), C.R.S.

Notification to all lienholders identified in the property records (once foreclosure is initiated) must contain:

1. the right to cure the nonpayment pursuant to section 38-38-104; and
2. the right of the unit owner to file a motion to stay the sale of the property at auction pursuant to section 38-38-109.5.

See 38-33.3-316(11.2), C.R.S.

The word “Assessment” has been defined for purposes of HOA collections:

Assessment: a payment for common expense obligations of unit owners based on a periodic budget adopted by the association under section 38-33.3-315(1), or a payment for limited common elements of unit owners, and includes fees specific to delinquent payments and reasonable collection costs for collecting delinquent payments.

- See 38-33.3-316(14), C.R.S.

Damages available to unit owner

- If an association has violated any foreclosure laws, the unit owner in relation to whom the violation occurred may, within five years after the violation occurred, file civil suit in a court of competent jurisdiction against the association to seek damages. The court may award the unit owner damages in an amount of **up to twenty-five thousand dollars**, plus costs and reasonable attorney fees, if the unit owner proves the violation by a preponderance of the evidence.
- See 38-33.3-316.3(5), C.R.S.

4. Foreclosure Sales (non-CCIOA related changes to Colorado law)

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What changed with Foreclosure Sales as a result of HB25-1043?

- Unit owner has a right to file a motion with the court to stay the foreclosure sale in order to list the property at fair market value.
    - Intended to give the owner an opportunity to preserve the equity they've built up in their home.
- If an owner avails themselves of this right, they must provide notice to the association and to the "Officer" – the public trustee or the sheriff conducting the foreclosure sale.
- The unit owner needs to determine the fair market value of the unit through an appraisal, a market analysis conducted by a licensed real estate broker, or other method.
    - The owner may also submit an "alternate value" for the unit. The association may object to the owner's submitted value of the unit and provide their own estimate of the unit's value to the court.
- The "stay" is good for nine months and may be extended for a showing of good cause or if the sale is imminent.

5. HOA Information and Resource Center to Collect New Registration Data

New Registration Questions

<u>(REQUIRED)</u>

1. In the 12 months immediately preceding the registration or renewal, the number of unit owners that were, at any time during the 12-month period, 6 or more calendar months delinquent in the payment of assessments or special assessments.
2. For the 12-month period immediately preceding the registration or renewal, for unpaid annual assessments or special assessments or related fees or attorney fees, the number of unit owners against whom the association or its designee obtained a judgment.
3. For the 12-month period immediately preceding the registration or renewal, for unpaid annual assessments or special assessments or related fees or attorney fees, the number of payment plans entered into between the association and a unit owner pursuant to section 38-33.3-316.3, C.R.S.
4. For the 12-month period immediately preceding the registration or renewal, for unpaid annual assessments or special assessments or related fees or attorney fees, the number of foreclosure actions filed against unit owners pursuant to section 38-33.3-316, C.R.S.

New Registration Questions (con’t)

(OPTIONAL)

1. The number of board positions identified in your association’s governing documents.
2. The number of vacant board positions on the date of the registration.
3. The current average assessments in your community.
4. The frequency by which assessments are due in your community (e.g. monthly, quarterly, semi-annually, annually, etc.).
5. For the 12-month period immediately preceding the registration or renewal, the percentage change in assessments.
6. For the 12-month period immediately preceding the registration or renewal, identify the number of payment plans offered by the association.
7. For the 12-month period immediately preceding the registration or renewal, identify the number of unit owners on payment plans who satisfied the terms and/or conditions of their payment plan.
8. For the 12-month period immediately preceding the registration or renewal, identify the total amount of late fees and interest collected as a percentage of total revenue.
9. For the 12-month period immediately preceding the registration or renewal, identify the total amount of late fees and interest assessed and waived as a result of a payment plan.

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Key Takeaways

- Ensure you are following proposed legislation during the General Assembly's legislative session. For 2026, the General Assembly convenes on January 14, and generally concludes in the second week of May, pending any special sessions.
- Review the "A Citizen's Guide to Effective Legislative Participation" to learn how to participate in the legislative process. Link: https://leg.colorado.gov/content/citizens-guide-effective-legislative-participation
- Dust off your collections policy and review it to ensure it's meeting the new statutory obligations.
- Consider speaking with a qualified attorney for assistance in updating your policies.
- In the HOA registration and renewal application, there are 4 new required questions (denoted by a red asterisk), and nine new optional questions (no red asterisks on these questions).

Key Takeaways

- Proactively search for a mediator, and suggest them as a trusted and reliable source, in the event the association needs to offer mediation in a dispute.
- The Colorado Judicial Branch's Office of Dispute Resolution offers affordable access to qualified mediators and has several professionals that specialize in issues related to Common Interest Communities. Link: https://www.coloradojudicial.gov/court-services/mediation-services-and-other-dispute-resolution-options
- The Mediation Association of Colorado also has a "Find-A-Mediator" tool to assist in finding a professional mediator near you that specializes in HOA/Homeowner issues. Link: https://coloradomediation.org/

Thank You!

Contact Us

- The HOA Information and Resource Center (The HOA Office)
  - A program of the Division of Real Estate.
- Email HOA questions to the HOA Office (dora_dre_hoainquiries@state.co.us)
- 1560 Broadway, Suite 925, Denver, CO 80202
- Phone: 303-894-2166 | Toll Free: 800-886-7675

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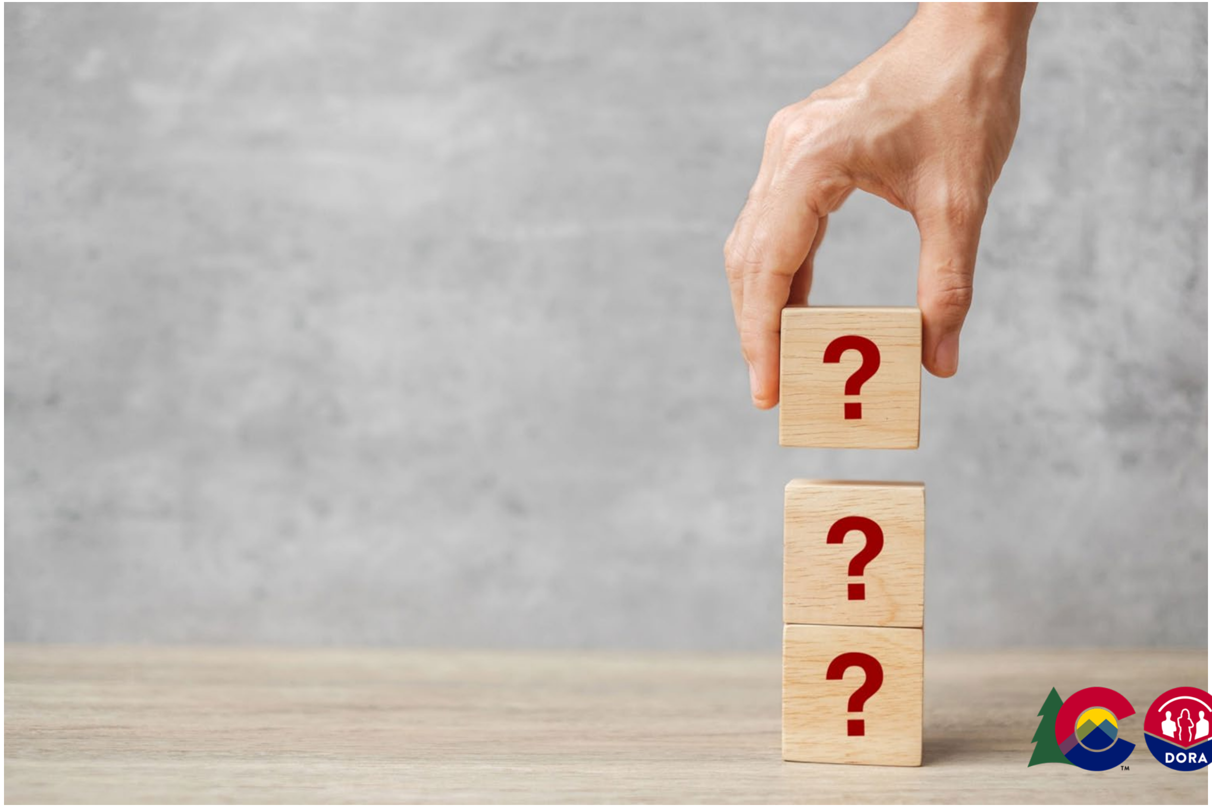
Questions?



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