

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

HOUSE BILL 09-1359

BY REPRESENTATIVE(S) Kerr A., Peniston, Waller;  
also SENATOR(S) Boyd.

CONCERNING THE GOVERNANCE OF COMMON INTEREST COMMUNITIES  
UNDER THE "COLORADO COMMON INTEREST OWNERSHIP ACT".

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

**SECTION 1.** 38-33.3-209.5 (1) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**38-33.3-209.5. Responsible governance policies - due process for imposition of fines.** (1) To promote responsible governance, associations shall:

(b) Adopt policies, procedures, and rules and regulations concerning:

(IX) WHEN THE ASSOCIATION HAS A RESERVE STUDY PREPARED FOR THE PORTIONS OF THE COMMUNITY MAINTAINED, REPAIRED, REPLACED, AND IMPROVED BY THE ASSOCIATION; WHETHER THERE IS A FUNDING PLAN FOR ANY WORK RECOMMENDED BY THE RESERVE STUDY AND, IF SO, THE PROJECTED SOURCES OF FUNDING FOR THE WORK; AND WHETHER THE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

RESERVE STUDY IS BASED ON A PHYSICAL ANALYSIS AND FINANCIAL ANALYSIS. FOR THE PURPOSES OF THIS SUBPARAGRAPH (IX), AN INTERNALLY CONDUCTED RESERVE STUDY SHALL BE SUFFICIENT.

**SECTION 2.** 38-33.3-303 (1) and (3), Colorado Revised Statutes, are amended to read:

**38-33.3-303. Executive board members and officers - powers and duties - reserve funds - reserve study - audit.** (1) (a) Except as provided in the declaration, the bylaws, or subsection (3) of this section or any other provisions of this article, the executive board may act in all instances on behalf of the association.

(b) NOTWITHSTANDING ANY PROVISION OF THE DECLARATION OR BYLAWS TO THE CONTRARY, ALL MEMBERS OF THE EXECUTIVE BOARD SHALL HAVE AVAILABLE TO THEM ALL INFORMATION RELATED TO THE RESPONSIBILITIES AND OPERATION OF THE ASSOCIATION OBTAINED BY ANY OTHER MEMBER OF THE EXECUTIVE BOARD. THIS INFORMATION SHALL INCLUDE, BUT IS NOT NECESSARILY LIMITED TO, REPORTS OF DETAILED MONTHLY EXPENDITURES, CONTRACTS TO WHICH THE ASSOCIATION IS A PARTY, AND COPIES OF COMMUNICATIONS, REPORTS, AND OPINIONS TO AND FROM ANY MEMBER OF THE EXECUTIVE BOARD OR ANY MANAGING AGENT, ATTORNEY, OR ACCOUNTANT EMPLOYED OR ENGAGED BY THE EXECUTIVE BOARD TO WHOM THE EXECUTIVE BOARD DELEGATES RESPONSIBILITIES UNDER THIS ARTICLE.

(3) (a) The executive board may not act on behalf of the association to amend the declaration, to terminate the common interest community, or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

(b) COMMITTEES OF THE ASSOCIATION SHALL BE APPOINTED PURSUANT TO THE GOVERNING DOCUMENTS OF THE ASSOCIATION OR, IF THE GOVERNING DOCUMENTS CONTAIN NO APPLICABLE PROVISIONS, PURSUANT TO SECTION 7-128-206, C.R.S. THE PERSON APPOINTED AFTER AUGUST 15, 2009, TO PRESIDE OVER ANY SUCH COMMITTEE SHALL MEET THE SAME QUALIFICATIONS AS ARE REQUIRED BY THE GOVERNING DOCUMENTS OF THE ASSOCIATION FOR ELECTION OR APPOINTMENT TO THE EXECUTIVE BOARD OF

THE ASSOCIATION.

**SECTION 3.** 38-33.3-117 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**38-33.3-117. Applicability to preexisting common interest communities.** (1) Except as provided in section 38-33.3-119, the following sections shall apply to all common interest communities created within this state before July 1, 1992, with respect to events and circumstances occurring on or after July 1, 1992:

(i.7) 38-33.3-303 (1) (b) AND (3) (b);

**SECTION 4.** 38-33.3-117 (1.5) (h), Colorado Revised Statutes, is amended, and the said 38-33.3-117 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**38-33.3-117. Applicability to preexisting common interest communities.** (1.5) Except as provided in section 38-33.3-119, the following sections shall apply to all common interest communities created within this state before July 1, 1992, with respect to events and circumstances occurring on or after January 1, 2006:

(h) ~~38-33.3-303 (4) (b)~~ 38-33.3-303 (1) (b), (3) (b), AND (4) (b);

(1.7) EXCEPT AS PROVIDED IN SECTION 38-33.3-119, SECTION 38-33.3-209.5 (1) (b) (IX) SHALL APPLY TO ALL COMMON INTEREST COMMUNITIES CREATED WITHIN THIS STATE BEFORE JULY 1, 1992, WITH RESPECT TO EVENTS AND CIRCUMSTANCES OCCURRING ON OR AFTER JULY 1, 2010.

**SECTION 5. Act subject to petition - effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by

proclamation of the governor.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO