

## 2013 Legislation

### Registering HOA's and Identifying an Optimal Dispute Resolution Process

[House Bill 1134 \(HB 1134\)](#) requires HOAs (including pre-CCIOA communities) to register with the State and requires the Division of Real Estate to conduct a study to assess options, costs and the need for the Division of Real Estate to identify an optimal dispute resolution process and improved means for oversight of HOA governance to be completed by December 31, 2013.

### HOA Debt Collection Bill

#### [House Bill 1276 \(HB 1276\)](#)

##### ***Collection Policy***

HB 1276 requires that the Collection Policy which all HOAs are required to have under CCIOA must include at a minimum:

- The date on which assessments must be paid to the association and when an assessment is considered past due;
- Any late fees and interest the association is entitled to charge on a delinquent account;
- Any returned-check charges the association is entitled to charge;
- The circumstances under which a delinquent owner is entitled to enter into a payment plan and the minimum terms of the payment plan; and
- Before the association turns over a delinquent account to an attorney or collections agency, the association must send the delinquent owner a written notice specifying:
  - The total amount of the arrearage, with an accounting of how the total arrearage is determined;
  - Whether the opportunity to enter into a payment plan exists and instructions for contacting the association to enter into the payment plan;
  - The name and contact information for the individual the owner may contact to request a copy of the owner's ledger to verify the amount of the debt; and
  - That action is required to cure the delinquency and failure to do so within 30 days may result in the account being turned over to a collection agency, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the owner's property and other remedies available under Colorado law.

Third-party purchasers of an association's debt or lien must also adopt this Collection Policy and comply with the terms of it prior to taking action to foreclose on the lien or collect on the debt.

##### ***Foreclosure***

An association, or the assignee of the association's lien, may only proceed to foreclosure if the total amount secured by the lien would equal or exceed 6 months of assessments. Also, the board of an association must vote to proceed with foreclosure on any given delinquent account. Boards are not permitted to delegate their responsibility to authorize a foreclosure action to an attorney, insurer, manager or any other person.

### ***Payment Plan***

Delinquent owners have a one-shot opportunity at a payment plan to bring their delinquent account current. The payment plan must be for a minimum of six months but can be longer if the association so wishes. The delinquent owner must make the scheduled payment as required by their payment plan and pay their current month assessment obligations. If they fail to make these payments, the association may immediately proceed with collections.

This one-time opportunity to enter into a payment plan does not extend to lenders who take title to the property as a result of a default on a mortgage or flippers.

Note: Third-party purchasers of an association's debt must also comply with the payment plan provisions.

### **Licensing HOA Property Managers**

#### **[House Bill 1277 \(HB 1277\)](#)**

Beginning on July 1, 2015, community association managers, management company CEOs and executives of management companies who directly supervise managers will be required to be licensed in Colorado.

To obtain a license, these individuals must hold one or more of the following credentials: (1) the Certified Manager of Community Associations (CMCA) certification awarded by the National Board of Certification for Community Association Managers; (2) the Association Management Specialist (AMS) designation awarded by Community Associations Institute; (3) the Professional Community Association Manager (PCAM) designation awarded by Community Associations Institute or (4) any ***other credential identified by the Director of the Division of Real Estate.***

In addition to holding one or more of the credentials outlined above, the manager must take a course and pass an examination relating to Colorado law and the governing documents of associations.

Prior to obtaining their license, the managers must pass a criminal background check. In addition, licensed managers may be subject to discipline by the Division of Real Estate for a variety of offenses. Depending upon the severity of the offense, the discipline may include: (1) an administrative fine not to exceed \$2,500; (2) censure of a licensee; (3) place the licensee on probation and set the terms of probation; (4) temporarily suspend a license; or (5) revoke a license.

Managers and management company executives will not be required to hold a license until July 1, 2015.

### **Xeriscaping Bill**

[Senate Bill 183 \(SB 183\)](#) addresses the severe drought conditions in Colorado and to ensure that HOAs are not unnecessarily requiring homeowners to install water-guzzling turf grass as part of their landscapes.

- For the installation of new landscapes or when receiving requests to modify existing landscapes, associations cannot require that any turf grass must be installed in the landscape.
- Turf grass is defined as “continuous plant coverage consisting of nonnative grasses or grasses *that have not been hybridized for arid conditions* which, when regularly mowed, form a dense growth of leaf blades and roots.
- If owners ask their associations for permission to install turf grass, associations can permit the installation. Associations just ***cannot require*** the installation of any turf grass in a landscape.
- In enforcing covenants, associations are not permitted to require owners to water their landscapes in violation of water use restrictions. However, associations may require proof from owners that they are watering their landscape or vegetation in a manner that is consistent with the maximum water permitted by the watering restrictions which are in place.
- Associations are permitted to adopt and enforce design or aesthetic guidelines that: (1) require the installation of drought-tolerant vegetative landscapes; (2) regulate the type, number and placement of drought-tolerant plantings; and (3) regulate the hardscapes which an owner may install.