

Suggested Changes to HB 20-1200
Sunset Homeowners' Association Information and Resource Center
Provided by: Colorado HOA Forum www.coloradohoaforum.com

HB 20-1200 is a clone of the DRAFT Bill crafted by DORA officials as a result of the Sunset Review of the State's HOA Office. It is not intended to be rubber-stamped by legislative sponsors without consideration of content. The sponsors don't have authority to change the content of the DRAFT Bill prior to having it assigned an official Bill number. The sponsors are to be advocates for the Bill, scrub the Bill of any troubled requirements and contentious language, improve as applicable for optimal probability of success while retaining the intended benefits and offer changes during Committee hearings. The Bill, HB 20-1200, is vulnerable to criticism that could prompt negative votes in the legislature and even kill the Bill. Note, prior efforts on dispute resolution and expanding the productive value of this Office have failed for far less reasons.

Two main issues are addressed in this Bill and be part of any Bill that is introduced to the legislature: continuation of the HOA Office and implementation of an out of court dispute process for HOA home owner complaints with their HOA. The Bill does not address the licensing or oversight of HOA property management companies.

Homeowner advocates don't want to see a repeat of the ill-fated Bill to continue the property manager licensing program that was vetoed by the Governor due to the lack of consumer focus and benefit to the public and businesses. Our comments are provided to: 1) positively ward off negative attacks by the opposition by removing/modifying erroneous and potentially alarming verbiage 2) improve the content of the Bill to justify and exemplify the Office's continuation with emphasis on expanding at no cost to the taxpayer its' mission to improve HOA governance, homeowner rights, and serve the otherwise unavailable/inadequate HOA information needs of homeowners, businesses, and government entities and 3) include, clarify and define cost savings initiative to the user community. This Bill represents the most important HOA reform in 25 years. The Bill deserves serious work to make it effective and acceptable and void of obvious flaws to optimize legislative support and benefit the sixty percent of homeowners living under HOA governance:

1. Amend the Bill with the below changes. The below comments have already been negatively mentioned during a Committee hearing on this Bill and must be addressed to ward off challenges and negative sentiment.
2. Remove the clutter and unrelated verbiage concerning property managers (page after page). This is not a Bill to address problems with property managers, defining their roles or allowing dispute resolution with property managers. This Office has zero to do with property managers. Example, "(b) CREATE AND MAINTAIN A DATABASE OF ASSOCIATIONS AND 13 MANAGERS THAT

HAVE HAD COMPLAINTS FILED AGAINST THEM UNDER THE 14 PROGRAM”, program doesn’t even exist, it was ended in June 2019!

3. Mention of the \$5,000 and other fines for non-compliance is in this Bill: penalties should avoid monetary damages; penalties of such magnitude penalize all homeowners and serve no particular purpose; and repeat offenses with more fines for non-compliance and more costs to homeowners (this could bankrupt an HOA) resolve little with dysfunctional Boards. Punitive action should involve removing a Board member, injunctive relief, or refund of fines and fees, reduction of fines or fees imposed, etc. The mention of these extreme fines will not be acceptable to many legislators and even the Governor may object and veto. This could tank the Bill.
4. The word “Act” in the Bill refers to CCIOA. This Bill needs to mention, not assume, that the Office will enforce not only CCIOA but subsequent HOA Bills passed and an HOA’s governing documents. This needs to be clear as otherwise too many holes are in the enforcement process. Let’s make this clear to homeowners so they can reference their governing documents in violations. It should not imply that violations also include that of subsequent Bills and HOA governing documents it should specifically state this!
5. The registration process mentioned in the Bill **“THE REGISTRATION FORMS PROVIDED BY THE DIVISION MUST REQUIRE INFORMATION NECESSARY TO ASSIST THE DIVISION IN IDENTIFYING AND LOCATING AN ASSOCIATION AND OTHER INFORMATION THAT MAY BE USEFUL IN ADMINISTERING THIS PART 8, INCLUDING, AT A MINIMUM ,,,,,,,,,,,,,,,,,,,,,, ”**
This is where a brief change in text should be made to show this Bills improves upon the State registration process; the usefulness and purpose of data collected; and the overall purpose and service of this Office to the public: **THE REGISTRATION PROCESS AND FORMS PROVIDED BY THE DIVISION MUST REQUIRE INFORMATION NECESSARY TO ASSIST THE DIVISION IN IDENTIFYING AND LOCATING AN ASSOCIATION AND THAT IS USEFUL IN ADMINISTERING, EVALUATING, REGISTERING, AND REPORTING ON THE HOA INDUSTRY AND IMPROVING UPON ACCESSIBILITY OF INFORMATION WITHIN THE HOA OFFICE AND IN SERVING THE INFORMATION NEEDS OF THE PUBLIC, BUSINESSES, HOME OWNERS AND BUYERS, AND GOVERNMENTAL ENTITIES INCLUDING AT A MINIMUM BUT MAY BE EXPANDED AT THE DISCRETION OF THE HEAD OF THE HOA OFFICE.**

Add verbiage stating that as a requirement in registering an HOA all governing documents and information required to be provided a home buyer in the Contract to Buy and Sell Real Estate be downloaded to the State HOA Office and made available to the public.

6. Funding the program. This was mentioned in hearings. In several areas of the Bill as appropriate, indicate a complaint filing fee will be charged of \$50 and such fee deposited in the State HOA Office funds account. This will help fund the program and mitigate the number of frivolous complaints and thereby expenses to operate the program. Other States impose such a filing fee. Refutes some of the criticism of the cost of the program. Mention should also be made that all revenue collected and expenses incurred by the HOA Office be accounted for separately and not co-mingled with other DORA programs. (12-10-215. Fee adjustments - cash fund created.)
7. Add a registration requirement that an HOA must certify that all Board members have read their own governing documents. This is short of formal educational requirements and exhibit a first step in improving the knowledge of a Board member in executing their duties: positive for those voting on the Bill.
8. Consider a proposal to change the name of this Office to simply: Colorado State HOA Office.

These suggestions should not be left to the discretion of the DORA as that has proven highly ineffective in the past in protecting homeowner's rights. Fiscal notes concerning funding must be reviewed for reasonableness and indicate the estimated cost per household to implement new requirements and note offsetting cost savings to HOAs and homeowners.