

# **(DRAFT) PROPOSAL to Expand Requirements to Register an HOA To be Administered by the Dept of Regulatory Agencies (DORA)**

**Developed by the Colorado HOA Forum**

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Colorado has effective HOA laws both at the State level (Colorado Common Interest Ownership Act, CCIOA) and within the authority of the HOA. Colorado has a State HOA Office (HOAO) within DORA, Colorado HOA Information and Resource Center. The HOAO administers a state-wide HOA registration process requiring with few exceptions that each HOA register with the State HOA Office (HOAO) on a yearly basis. The registration fee is set and collected by the HOAO. Penalties can be applied against an HOA for not complying with registration mandates such as the authority to impose liens on property. The registration of HOAs provides the only profile of HOA developments in the State.

The mandates for registering an HOA were initially developed with legislation and documented in CCIOA. This proposal expands the requirements and collection of information in the registration process. The additional requirements don't add to the workload or costs of the HOA or costs to homeowners or require imposing any HOA special assessment or monthly HOA assessments (aka dues); no extra costs for HOA management companies and others who manage and/or oversee HOA operations; will not require a fiscal note in legislation or the request for state general funds. The new registration requirements concern HOA responsibilities that should already be in place; prompt HOAs to review their responsibilities under CCIOA and governing documents and to take action for inadequacies and ensure the HOA can register; will promote communication between the HOA and homeowners; ensure homeowner's rights and protections from financial losses are in place; to protect the HOA from financial losses (that can result in special assessments) in the event of a disaster (adequate and proper insurance have been purchased); ensure financial management tasks of the HOA are responsible and in compliance with CCIOA; promote to each HOA that registration requirements should be part of the HOA's management planning; provide a monitoring of HOA management events that if not completed as expected under the law can result in penalties and lawsuits; prompt HOAs to develop compliance plans as part of a recurring event; make registration much more than an administrative task. This proposal is not a dispute resolution process for homeowner complaints but a process to be used by the HOAO to monitor practices and compliance with HOA laws without imposing a financial burden on HOAs or homeowners. This proposal can result in financial savings for HOAs and homeowners by avoiding costly court cases and legal costs that can result when HOAs are not properly managed. This proposal doesn't require the HOAO to investigate the validity of HOA registrations but will add to profiling the HOA industry, improving upon compliance with HOA laws, and identifying areas for improving HOA management.

This proposal doesn't impose any additional financial or personal legal accountability and responsibilities on any HOA Board member: the HOA will be held responsible for any non-compliance issues.

Registration penalties should be expanded to include more non-monetary penalties such as suspending an HOA's ability to impose fines and fees, removal of Board members or other penalties at the liberty of the HOAO. An HOA can avoid penalties for non-compliance or inadequately meeting a requirement by providing the HOAO with a plan to comply. A quarterly report will be provided to the HOAO to inform the HOA of progress or lack thereof with the corrective actions.

The current HOA registration information requirements:

- Name and Contact Information for the HOA's designated agent (DA)
- Certificate of Good Standing from the [Colorado Secretary of State \(CSOS\)](#)
- CSOS ID number from the above certificate
- Physical location and number of units for the HOA
- Relevant CCIOA Information
- Total Revenue for the HOA
- HOA Declaration Information

Additional HOA Registration Requirements: these requirement will not involve any material research or increases in cost except for developing procedures or computer query reports which thereafter can be used to complete the new requirements. Any needed funding should be obtained from registration fees. No fiscal note is required or use of taxpayer general funds.

- Is your registration up to date, if not why not, as of the day this registration is being completed
- Did you experience any recall elections
- Type(s) of insurance coverage and renewal dates
- Last reserve fund audit and plan for compliance
- Last review of HOA governing document for compliance with CCIOA
- Last update of HOA governing documents completed for compliance with CCIOA
- Number of special assessments for the previous year and reason
- Number of liens placed on housing units
- Legal costs for previous year related to foreclosures and collection and compliance with covenants
- Last election of Board members and how completed (vote by mail, at a meeting, using an on-line application or using a combination of methods)
- Last audit of financial records and how completed (accounting firm, by a member of the Board, by an HOA property management company, etc.)
- If you use an HOA management company did you authorize it to directly bill a homeowner for any services and if so what type of service and amount
- Percentage of homeowner assessment that are delinquent accounts
- Are HOA assessment retained by the HOA as intended in governing documents or directly paid to outside parties and if so why and is this stated in your governing documents.
- Does the HOA have and has distributed and posted on your website a document on maintenance responsibilities of the homeowner and HOA.
- At least annually, present at a meeting the HOA's billing and collection policy, changes in insurance coverage and how they may impact the HOA and homeowner, overview of the HOA foreclosure policy and other topics as defined in the HOA's Declaration. This requirement can be met by apprising homeowners of the HOA's website and their educational services on each issue.
- Did you complete any changes to the HOA Declaration and if so were they approved by the homeowners and if so how.
- Last time the HOA uploaded their HOA Declaration, by-laws and rules to the HOA's website.

The HOA will develop procedures to: utilize this new registration information into its' annual report to the legislature; make registration information (including each HOA's Declaration) available to

homeowners and the public by developing a data base accessible via an Internet application with no charge; identify and act upon/enforce HOA non-compliance with registration mandates and HOAO homeowner complaint decisions; and define new penalties as applicable. Information in the data base is the latest provided to the HOAO and will be labeled as such on HOA governing documents and accepted as the active, current and official governing documents of the HOA. The HOA will issue a notification to the HOA each time a request for governing documents is completed through their data base and any other processes developed by the HOAO to ensure document integrity. HOAs will notify the HOAO whenever a change to their Declaration, by-laws or rules are completed. The exception to gaining a copy of the HOA governing documents is when an HOA is fulfilling its' duties in home sale disclosure whereby the home seller or Title company will make a direct request to the HOA.

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