

DRAFT PROPOSAL
By Colorado HOA Forum, www.coloradohaforum.com

Proposal to reform HOA document disclosure and access

This Bill proposal is mostly administrative and will not impose any measurable costs on businesses, homeowners or HOAs. Most requirements involve information dissemination between an HOA and homeowners, buyers, Realtors and the public that is already available. Any funding to implement will not require taxpayer general funds. Funding requirements to be collected through HOA registration fees of no more than a one-time start-up fee of \$25 per HOA and no more than \$10-15 per year per HOA (about ten cents per HOA homeowner per year) to maintain these requirements post implementation. These items can be consolidated but we provide a more in-depth explanation in this document to ensure the understanding of this proposal. The processes and procedures in this document should be standardized among all registered HOAs. These requirements will provide the first and only comprehensive data base on HOAs and insurance. These information dissemination requirements will result in less complaints and infractions of covenants and a more informative home buying experience to mitigate post-purchase issues.

Summary of Proposal:

- 1) Improve upon disclosure and transparency during the home closing process on the issues of maintenance responsibilities, insurance needs of the community *HOA) and individual homeowners insurance policies, Metro Districts, condominium specifics, CCR's (covenants, controls and restrictions), Home Sale Transfer fee details, approved and planned capital improvement projects and other issues.
- 2) Require both the home buyer and their buyer's agent (if any) to confirm the receipt of information mentioned in item "1", that the home buyer read and understands the HOA documentation and that all home buyer questions were answered concerning HOA governance.
- 3) Requires that the HOA registration process to include confirmation by the HOA that it conducted topical presentations on the items listed in "1" above at a regularly scheduled community meeting.
- 4) Requires HOAs to conduct educational presentations at a community meeting once a year on topics in "1" above.
- 5) Requires HOAs to review and update HOA documentation, insurance policies, CCR's, maintenance responsibilities, disaster plan and rules at least once a year to ensure compliance with CCIOA and notify homeowners of any changes via email and post on the HOA website.
- 6) Requires HOA's to include in their presentations at community meetings a minimum curriculum developed by DORA and to document questionnaire responses and post them on the HOA website and mail to all homeowners.
- 7) Requires DORA to develop presentation curriculums on the issues in item "1" above and distribute to all registered HOAs.
- 8) The name of the State HOA Information and Resource Center to State HOA Office
- 9) Requires the State to develop an HOA central data base.
- 10) Requires HOAs to maintain only one official data base for posting on their website to meet HOA documentation requests.
- 11) Precludes HOA's or any entity maintaining HOA records charging for information requests except for mailing and delivery charges. Special requests considered unique and extraordinary to prepare information requests can be approved by the home buyer and billed as a separate transaction to be reimbursed by the requestor to the HOA.
- 12) DORA is granted authority to add topics to HOA presentations and home closing issues, modify HOA registration requirements, add-to HOA disclosure requirements and information to be transmitted and related update requirements from the HOA to the State-wide HOA data base
- 13) All funding, if any, to implement this proposal to be raised through HOA registration fees.

Details of Proposal:

1. HOA's will conduct a yearly community insurance presentation to apprise homeowners of insurance coverage (what it covers and what is not from the homeowner's perspective), the cost of such insurance and the last asset valuation study completed by the HOA for insurance purposes under the HOA's community insurance policy (Master Association Policy). The presentation will also and provide recommendations to homeowners on insurance coverage, adequacy, types and options and their financial obligations in the event of a major claim in which the HOA deductible must be funded by homeowners through a special assessment. The minimum curriculum of insurance issues for this presentation will be developed by the State HOA Office, posted on their website and emailed to all registered HOAs. HOAs will document their response to all items on the curriculum, present it to homeowners at a community meeting, post this document on their website and email to all homeowners. Any changes in the Master Association Insurance Policy will require the HOA to inform homeowners at the next scheduled community meeting, post the updated policy on the website and apprise homeowners through email on how this impacts the HOA including the cost of coverage of the modified policy and the impact on personal insurance policies. DORA will annually review/update the curriculum and email a copy to all registered HOAs. Completion of this task to be confirmed during the HOA's annual registration process.
2. The community insurance policy will be available to all homeowners at no cost (except for mailing and delivery charges) through the community website or upon an individual homeowner request. Completion of this requirement to be confirmed during the HOA's annual registration process.
3. HOAs will confirm through the HOA registration process what type of insurance coverage they have procured: liability, property, fidelity, Director and Officer insurance, flood coverage, workers compensation, third-party bodily injury and employment practices liability coverage and other insurance types as identified by DORA. HOAs will also acknowledge through registration if they self-fund any insurance requirement or maintain an insurance deduction fund to pay for deductibles on claims.
4. An HOA will annually complete an inspection and valuation report of HOA assets and community property report for insurance coverage and any reserve fund planning. At a minimum the inspection will include a list of community assets, current condition and functionality of assets, repair and replacement plans and related funding needs. The template for this report to be developed by DORA, posted on their website and emailed to all registered HOAs. The HOAs completed report will be presented to homeowner at a schedule community meeting, posted on the HOA website and emailed to all homeowners. Confirmation of completion to be made during the HOA registration process.
5. HOA's will prepare a community association disaster plan, post it on their website, email it to all homeowners, review and update the plan yearly and present the plan during a scheduled community meeting. DORA will develop and post to their website a template for use by HOAs in developing a minimum

- requirements disaster plan and email a copy of the template to all registered HOAs. Confirmation of completion will be part of the HOA registration process.
6. HOAs will create a document on maintenance responsibilities of the HOA and homeowners, post it on the HOA website, email it to all homeowners once a year noting any changes and present the document at a scheduled HOA community meeting. This requirement can't be met by posting the HOA Declaration or HOA rules on the website. At a minimum, the document will include maintenance, repair and replacement responsibilities of the HOA and homeowner addressing these issues: mold, sidewalks, driveways, trees and shrubbery, water mains, sprinkler system, painting, roofs, chimney, decks, parking lots, clubhouse, swimming pool, exterior walls of home units, streets, water damages related to flooding, breaks in water delivery systems, water mains to the home and plumbing issues resulting in water damages. Confirmation of completion will be part of HOA registration process.
 7. HOAs will not be required to fund an Insurance Contingency Account to pay for future insurance deductibles or claims. If this fund has not been created it can be implemented at any time by a majority vote of the HOA Board at a community meeting and vetoed at such meeting if a majority in attendance votes against the measure. Prior to any vote at a meeting to approve this measure: homeowners will be provided a notice by email and posting to the community website of the date and time of such meeting at which the proposal will be presented and voted upon by the Board; the notice will include an explanation of what is to be accomplished by such a fund and the impact if any on assessments; and that unless a majority of those in attendance vote against the proposal it will be immediately effective. This same process can be used to inactivate the contingency fund with any balance of funds transferred to operational accounts. Confirmation of the existence or not of this fund is confirmed with the annual HOA registration
 8. The Contract to Buy and Sell Real Estate (referred to below as Contract) will include separate line items on HOA disclosure documentation to be provided to the home buyer: 1) HOA insurance information outlined in this proposal; 2) HOA disaster plan 3) the summary document of HOA and homeowner maintenance responsibilities as defined in item 4 4) information described in this proposal concerning Metro Districts 5) the home sellers current account statement, also referred to as a Status Letter, that includes but not limited to: amount and frequency of HOA assessments and if paid up-to-date, all other active financial obligations to the HOA and indication if payments are current or delinquent; indicate any delinquency on assessment payments related to payment plans; any active HOA liens or foreclosure actions on the property; active HOA liens or foreclosure actions in the HOA and the number of rental units and a clear statement as to whether rental units are allowed and the number of units with outstanding assessments and fines and related amounts; outstanding fines and unresolved violations; any active special assessments; a specific statement on what financial actions an HOA Board may complete without home owner approval (Unless precluded under State law or in the HOAs Declaration) such as developing a budget, determining HOA assessments, special assessments, special assessments related to capital expenditures, and policy on changing the HOAs Declaration. The method of presentation of this information will be determined by DORA and noted in the Contract. There is no charge to the home

seller for this information and requests for this information can be requested at any time except for mailing and delivery costs. This requirement can be completed by request to the HOA from the homeowner or by the homeowner and/or their agent. HOAs will facilitate Contract information needs to the home seller such that regardless if the homeowner or HOA completes the information can be considered the most current, complete and official information with all pages dated with an as of date and date prepared satisfying the seller's obligation to provide information to the buyer and/or Title company. 6) a summary document created by the HOA and posted on their website of HOA covenants, controls and restrictions pertaining to architectural and landscaping restrictions, parking rules and other covenants mentioned in the HOA Declaration and rules: DORA will provide a template to complete this item 8) if purchasing a condominium the buyer will be provided the latest "envelope study" and any plans the HOA has to respond to issues of concern in the study 9) a statement of all approved but not started capital improvement projects and how and when funding begins and impact on assessments. NOTE: This information is already available to the HOA and requires no new work effort to create other than a process to present this to the home seller through the website or upon personal request in a format developed by DORA. This is mostly a one-time cost to the HOA.

9. The only billing to the home seller for status letter information billed by the HOA or its management company or other third party must be for extraordinary and unique costs incurred by the management company due to the sale of the home or for reimbursement of costs incurred by the HOA, management company or other third party that are not already paid for with homeowner assessments or involve special and extraordinary services unique to providing information concerning the home seller debt to the HOA. Status letter home seller financial obligations only involve debt to the HOA. Status Letter preparation, mailing and handling costs completed by other than the HOA's management company or through another third-party vendor for which the HOA didn't approve through a formal contract will not be a cost to the homeowner and can only be billed to a homeowner if it involves unique and special services not defined by DORA in its Status Letter disclosure requirements document.
10. DORA will develop, post to its website and distribute to all registered HOAs a document listing disclosure requirements to satisfy the Status Letter line item on the Contract to Buy and Sell Real Estate.
11. The personal account information of a homeowner can't be accessed by any entity unless specifically approved by the HOA Board.
12. Any charges to a homeowner for Status Letter documentation will be accompanied by a detailed invoice describing what was done, when and line-item cost and indicate that the charges are unique and extraordinary to the sale of a home and not paid for with HOA assessments.
13. Title company requests for HOA documentation and Status Letter can be met by a request from the home seller to the HOA, completed by the home seller or their authorized agent, the HOA management company or other third party that completes Status Letter requirements. Charges to the home seller by the HOA or their management company can't exceed \$25 plus any mailing and delivery costs. Title company special requests to the HOA not satisfied through production of the Status Letter or other items listed on the Contract must be

approved by the HOA Board and with any costs incurred to produce charged to the home seller but such requests must not require the services of a third party or be outside the responsibilities of the HOA. All charges to the home seller for special services will be accompanied by an invoice detailing what work was completed, when and line-item cost. The invoice must be paid prior to or at home closing.

14. The line entry on the **Contract** to Buy and Sell Real Estate for Status Letter should indicate separately Status Letter to home buyer and Status Letter to Title Company.
15. Prior to home closing both the homeowner and their purchasing agent will certify by signature they received, read and understand all HOA documentation identified in the Contract and Status Letter.
16. Yearly, the HOA will make a presentation to homeowners on the topic of HOA Metro District (MD) debt to include at a minimum the total HOA MD debt, how payment of obligations can affect their HOA assessments or property taxes, any scheduled but not yet implemented payment obligations and anticipated start date, who bills and collects MD payments, explain that foreclosure can result in the event of non-payment of MD assessments, indicate how homeowners can obtain a copy of the annual MD report, indicate that MD mill levies are paid through tax bill and not assessments, copy of home seller's latest tax bill showing MD payment, the name and address and contact information for the Metro District(s), MD Service Plan, Metro District web site and other issues included in a curriculum of suggested issues developed by DORA. DORA will post the curriculum on their website and email a copy to all registered HOAs. The HOA's responses to the items on the DORA MD curriculum will be posted on the HOA website, emailed to all homeowners and be used at a meeting to present MD information and be provided to the home buyer in the HOA disclosure requirement in a home sale. The presentation requirement can be completed through a Metro District presentation or by the HOA. Any information posted on an HOA website or presented as part of home closing or in a community meeting will include an explanation that the HOA is not responsible for approving of MD debt to be paid for by HOA homeowners or the collecting of MD debt. Confirmation of completion of this requirement confirmed through the HOA registration process.
17. The Metro District requirement on the Contract can be satisfied by providing the home buyer with MD information including total HOA outstanding MD debt, the current homeowner financial obligation (current payments required of the homeowner), current status of the home seller in their payment obligations and when MD homeowner payments on the current payment schedule will end. This requirement to be fulfilled by either the MD or the HOA if they have such information within their information data base. DORA will develop the list of items to be included to meet MD disclosure, post it on their website and email it to all registered HOAs.
18. There will be no charge to the home seller or their buying agent in the request and delivery of MD documentation or other HOA documentation other than postage and delivery costs.
19. All HOA documentation on the HOA website will be the most current and official version and can be considered as such when used by home sellers, home buyers,

Realtors, homeowners and others in satisfying home purchase and loan documentation requirements and other transactions. Downloaded or printed or faxed documents will include data indicating the date and time of the transaction, date of last update and other information deemed necessary by DORA. All documents posted on the HOAs web site will be identified by date last updated, today's date and can be considered the most current information. Only one version of this documentation is available for official use at any time. Homeowners can authorize through a request to the HOA Board permission for their home buying agent, a financial institution involved in their home purchase, the home buyer or Title Company to gain access to the HOA web site to acquire HOA governing document and other information available to homeowners including an account statement (Status Letter). All documentation on the HOAs website is available to authorized users at no cost at any time. HOA computer-based data bases will be updated daily by the custodian of the data base to ensure the accuracy and current nature of data. Custodians of data for the HOA will be apprised through their contract with the HOA that all HOA data in their data bases used for information requests, accounting, reporting and used to complete responsibilities under the contract with the HOA will be considered to be current, correct and official to all users and available at no cost other than postage, handling and delivery charges.

20. HOAs will create a separate summary document of HOA controls, covenants and restrictions based on content described in the HOA Declaration and rules. This document will be posted on the HOA website, yearly emailed to homeowners and include a statement(s) what the approval process is for architectural and landscaping projects and penalty for non-compliance. Posting HOA Declaration and rules on the HOA website doesn't satisfy this requirement. Changes to this document due to rules changes and/or changes in the Declaration will require an email notification to all homeowners informing them of the change. The summary document will be presented during a scheduled HOA meeting yearly. Confirmation of completion of this item will be through the HOA registration process.
21. HOAs will yearly review and update their governing documents/rules/information pertaining to insurance coverage, Metro District obligations, disaster planning, covenants and HOA responsibilities on community maintenance, repair and replacement and asset inspection and valuation. Any changes will be sent to homeowners via email and presented during an HOA scheduled meeting. Confirmation of completion of this task will be part of the HOA registration process. DORA will provide all registered HOAs with updated documents of changes and post updated documents on their website.
22. The tasks of documentation and disclosure in this section applies to all HOAs regardless of size (number of homes) with the exception of HOAs considered small by DORA for which separate requirements can be developed.
23. The name of the HOA Information and Resource Center to be changed to the Colorado State HOA Office.
24. The HOA Office will develop capability to receive, store and allow for public access to all HOA governing documents, HOA registration records and content of this (proposed) section to CCIOA excluding any personal, proprietary or private legal information. HOAs will transmit (file transfer) all governing documents requirements to DORA once a year and upon changes to these documents. The

requirements of this proposal to be completed within the State HOA Office using the Office's office space, furniture, equipment, telecommunication, technology and staff. Interfaces with other DORA technology systems will be developed as needed but all HOA services to be owned and maintained by the HOA Office. The cost to implement this total proposal are related to this item.

25. Yearly, DORA will update all templates, curriculum guides and home closing requirements they developed, post on their website and distribute to all HOAs. DORA will not be able to delete or end the requirements in this proposal.
 26. Failure to comply with or provide false information on these requirements in this proposal or as stated in CCIOA (State HOA law) will result in the inability of an HOA to impose liens or fines until corrected.
 27. The HOA Office will modify their registration requirements and form to include confirmation of these information dissemination processes.
 28. HOAs will notify home buyers and owners of the last update to their HOA governing documents
 29. Indicate as appropriate if the HOA is registered with the State HOA Office.
30. **Fiscal Note:** Any additional costs incurred by DORA to implement their responsibilities to be financed via the HOA Registration fee of no more than a \$25 one-time start-up fee and no more than \$15 per year per HOA thereafter. No taxpayer general funds required. HOA increased costs to be minimal first year with subsequent years expenses of no measurable cost or need to increase assessments. Cost savings to home owners in this proposal would conservatively be millions involving avoiding HOA legal and court costs in disputes and no less than \$10-12 million in home seller Transfer Fee costs. HOA management company costs to implement are procedural and administrative involving managing and transmitting data to requestors, completing DORA questionnaires and their involvement, if any, at HOA meetings that most currently attend and are compensated for their time.

Effective Date: Implementation of tasks in this Bill to be completed five months after passage

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