

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

Proposal to reform HOA information disclosure, home closing documentation requirements and HOA Registrations

This Bill 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. Funding will not require any taxpayer funding. Funding requirements to be collected through HOA registration fees: 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 per year) to maintain these requirements post implementation. It is understood and accepted that these items can be consolidated.

The content of this proposal is important to ensure compliance and should all remain when converting it to a Bill.

1. HOA's will conduct a yearly community insurance presentation to apprise homeowners of insurance coverage under the HOA's community insurance policy (Master Association Policy) 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. The minimum curriculum of topics for this presentation will be developed by the 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. 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 task 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 obtained: 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.
4. All insurance coverage changes to the HOA Master insurance policy will be communicated to homeowners through posting the most current version of the policy on the website, email notification of the change to all homeowners and at the next scheduled HOA community meeting following the date of change.
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 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. The document content will be reflective of and consistent with information in the governing documents. At a minimum, the document will include maintenance, repair and replacement responsibilities 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 or through a vote of homeowners at a Special Meeting petitioned by homeowners to approve the measure. The same process can be used to inactivate such an account 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 will include separate line items on HOA disclosure documentation to be provided to the home buyer: 1) HOA insurance policy and a copy the HOAs responses to the DORA curriculum referred to in item 1 2) HOA disaster plan 3) the summary document of HOA and homeowner maintenance responsibilities as defined in item 4 4) information described in item 16-17 relating to financial obligations of the homeowner to any Metro District (MD) Metro District information can be provided through the Metro District or HOA as applicable 5) the home sellers current account statement, also referred to as a Status Letter, that includes: amount and frequency of HOA assessments, all active financial obligations to the HOA and indication if payments are current or delinquent; indicate any delinquency on assessment payments; any active HOA liens or foreclosure actions on the property; outstanding fines and unresolved violations; any active special assessments, the total due, payment schedule if current or delinquent; and any other outstanding financial obligations of the home seller to a Metro District for which the HOA is responsible for related billings and collections. 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.. 6) all HOA related items in Section 7 of the Colorado Real Estate Commission-approved Contract to Buy and Sell Real Estate (Residential) 7) 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 8) if purchasing a condominium the buyer will be provided the "envelope study" and the HOA's planning to respond to issues of concern in the study and 9) a statement of all approved but not started capital improvement projects and how and when funding begins. 8) home buyers will be provided information on all existing easements involving the property in the home sale and any associated maintenance or other responsibilities a homeowner would be assigned related to the easement 9) disclosure of any active construction defects litigation and related information as discussed in CCIOA 10) disclosure on any

mold issues with the property to be sold within the past two years, how it was remedied, description of what the issue was and where and the last time the property was inspected for mold, by whom and results 11) amount of delinquent accounts and percentage of delinquent accounts as of release of information 12) for condominium sales the last/latest copy of the envelope inspection study and plans on corrective action

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. Realtors and seller's agents required to inform the seller of their options to complete documentation requirements on the Contract to Buy and Sell Real Estate including: 1) all documents downloaded or printed from the HOA or its' contract management company or other source storing and maintaining such information serves as the official documentation to complete seller's requirements for such documentation 2) informing sellers that HOAs are not to charge for HOA official documentation or Status letter under CCIOA except for mailing, delivery, copying or special requests for delivery 3) all documentation to meet seller's responsibilities and requirements can be completed by: a) download from HOA website b) utilizing a pay for service private company c) by requesting the HOA (normally through its' contracted management company) to complete the pay for service task or d) utilizing any State data repository.
11. DORA will develop, post to its' website and distribute to all registered HOAs, a document listing disclosure requirement to satisfy the Status Letter line item on the Contract to Buy and Sell Real Estate.
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, HOA management company or other third party that completes Status Letter requirements to send such information to the Title company for a charge not to exceed \$25 plus any mailing and delivery costs. Title company special requests to the HOA, HOA management company or other third for information not satisfied through production of the Status Letter will be limited to information and responsibilities under the jurisdiction and control of the HOA and not involve investigative work, credit or personal background checks completed by third parties or require the provider of

the Status Letter to utilize third parties to complete special processing. 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 Status Letter to home buyer and Title Company and the line entries on this document for all HOA documentation will indicate that the home buyer and Title Company to be provided such documentation simultaneous with providing the home seller such information.
15. Prior to home closing both the homeowner and their purchasing agent will certify by signature they received, read and understand the documentation and Status Letter provided to the home buyer in item 7.
16. An HOA will annually complete an inspection and valuation report of HOA assets and community property report for insurance coverage and 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 scheduled community meeting, posted on the HOA website and emailed to all homeowners. Confirmation of completion to be made during the HOA registration process.
17. 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 and how MD payments, explain that foreclosure can result in the event of non-payment of MD assessments 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 in meeting the MD requirement disclosure in a home sale. The presentation requirement can be completed through a Metro District presentation. Confirmation of completion of this requirement confirmed through the HOA registration process.
18. The Metro District requirement (line item) on the Contract to Buy and Sell Real Estate 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 HOA depending on who manages the MD debt repayment process. 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.
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 a page 1 cover letter 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). The homeowner can request of the HOA to allow these same parties gain access to or request a Status Letter to fulfill this requirement under the contract to Buy and Sell Real Estate. 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 and the HOA will be considered to be providing users of such data the most current available and if in compliance with data hosting and maintenance requirements in this section will not be subject to legal challenges or financial damages in the event HOA information provided to users is inaccurate or incomplete.

20. 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.
21. 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.
22. HOAs will yearly review and update their governing documents/rules 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 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.
23. HOAs not complying and confirming their obligations within this Bill through their actions and registration process will be subject to punitive damages as determined by the State HOA Office but such penalties will not include monetary damages. Examples: precluded from assigning liens or pursuing foreclosures, barred from enforcing covenant violations and participating in court actions

- related to homeowner financial obligations or in the case of repeat violations the State HOA Office will move to remove one or more Board members.
24. The tasks of documentation and disclosure in this section provide for no exclusion based on the size of (number of homes) the HOA. The HOA Office may adapt processes, procedures and documentation for those HOAs with less than 30 units.
 25. The name of the HOA Information and Resource Center to be changed to the Colorado State HOA Office.
 26. 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.
 27. 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.
 28. Disclose to home buyers and homeowners the number of delinquent accounts and total of outstanding delinquent accounts, the total number of rental units and any rental restrictions and restrictions concerning age and children. occupancy and use of amenities
 29. Disclosure to mobile home buyers applies to this document.
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

