

CHAPTER 255

PROPERTY

HOUSE BILL 23-1105

BY REPRESENTATIVE(S) Parenti and Titone, Amabile, Bacon, Boesenecker, Brown, English, Froelich, Gonzales-Gutierrez, Hamrick, Jodeh, Lieder, Lindsay, Marshall, Ricks, Sharbini, Sirota, Valdez, Vigil, Weissman, Willford, Woodrow, Dickson, Kipp, Mabrey, Michaelson Jenet, Snyder, Story;
also SENATOR(S) Cutter and Fields, Bridges, Gonzales, Jaquez Lewis, Kolker, Marchman, Moreno, Priola, Rodriguez.

AN ACT

CONCERNING THE CREATION OF TASK FORCES TO EXAMINE ISSUES AFFECTING CERTAIN HOMEOWNERS' RIGHTS, AND, IN CONNECTION THEREWITH, CREATING THE HOA HOMEOWNERS' RIGHTS TASK FORCE AND THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS TASK FORCE, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 12-10-226.3 and 12-10-226.5 as follows:

12-10-226.3. HOA homeowners' rights task force - creation - membership - duties - reporting - definitions - repeal. (1) AS USED IN THIS SECTION AND IN SECTION 12-10-226.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMMON INTEREST COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (8).

(b) "DEVELOPER" MEANS ANY PERSON THAT OWNS A SUBDIVISION OR IS A DESIGNEE OF THE OWNER OF A SUBDIVISION.

(c) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b).

(d) "EXECUTIVE BOARD" HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (16).

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) "HOA HOMEOWNER" MEANS A "UNIT OWNER" AS DEFINED IN SECTION 38-33.3-103 (31).

(f) "HOMEOWNERS' ASSOCIATION" OR "ASSOCIATION" MEANS AN "ASSOCIATION" AS DEFINED IN SECTION 38-33.3-103 (3).

(g) "SUBDIVISION" HAS THE MEANING SET FORTH IN SECTION 12-10-501 (3)(a).

(h) "TASK FORCE" MEANS THE HOA HOMEOWNERS' RIGHTS TASK FORCE CREATED IN SUBSECTION (2) OF THIS SECTION.

(2) THE HOA HOMEOWNERS' RIGHTS TASK FORCE IS CREATED IN THE DEPARTMENT OF REGULATORY AGENCIES, CREATED IN SECTION 24-34-101 (1)(a), TO EXAMINE ISSUES CONFRONTING COMMUNITIES THAT ARE GOVERNED BY THE EXECUTIVE BOARD OF AN ASSOCIATION.

(3) (a) THE HOA HOMEOWNERS' RIGHTS TASK FORCE CONSISTS OF THE FOLLOWING:

(I) EX OFFICIO MEMBERS:

(A) THE DIRECTOR OF THE DIVISION OF REAL ESTATE CREATED IN SECTION 12-10-207 (1) OR THE DIRECTOR'S DESIGNEE;

(B) THE STATE DIRECTOR OF THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS APPOINTED PURSUANT TO SECTION 24-32-704 (1) OR THE STATE DIRECTOR'S DESIGNEE; AND

(C) THE HOA INFORMATION OFFICER APPOINTED PURSUANT TO SECTION 12-10-801 (1);

(II) MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, IN CONSULTATION WITH THE CHAIRS OF THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING COMMITTEE:

(A) TWO HOA HOMEOWNERS IN THE STATE, AT LEAST ONE OF WHOM RESIDES IN A COMMON INTEREST COMMUNITY LOCATED IN A DISPROPORTIONATELY IMPACTED COMMUNITY AND AT LEAST ONE OF WHOM SERVES ON THE EXECUTIVE BOARD OF THE HOA HOMEOWNER'S HOA;

(B) A REPRESENTATIVE OF AN ORGANIZATION THAT ADVOCATES FOR HOA HOMEOWNERS IN THE STATE;

(C) AN ATTORNEY LICENSED IN THE STATE WHO PRIMARILY REPRESENTS HOMEOWNERS IN LEGAL PROCEEDINGS AGAINST COMMON INTEREST COMMUNITIES;

(D) A MEMBER OF THE HOUSE OF REPRESENTATIVES; AND

(E) A MEMBER OF THE SENATE; AND

(III) MEMBERS APPOINTED BY THE GOVERNOR:

(A) AN ATTORNEY LICENSED IN THE STATE WHO SPECIALIZES IN COMMON INTEREST COMMUNITY LAW;

(B) A REPRESENTATIVE OF A DEVELOPER REGISTERED PURSUANT TO SECTION 12-10-503 (1); AND

(C) AN ACCREDITED COMMUNITY ASSOCIATION MANAGER.

(b) (I) MEMBERS OF THE TASK FORCE SHALL BE DESIGNATED OR APPOINTED TO THE TASK FORCE PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION ON OR BEFORE AUGUST 1, 2023.

(II) MEMBERS APPOINTED TO THE TASK FORCE SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITIES. THE APPOINTING AUTHORITIES MAY APPOINT A NEW MEMBER TO THE TASK FORCE TO REPLACE A MEMBER WHO CAN NO LONGER SERVE ON THE TASK FORCE.

(III) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(III)(B) OF THIS SECTION, MEMBERS OF THE TASK FORCE SERVE WITHOUT COMPENSATION.

(B) LEGISLATIVE MEMBERS APPOINTED TO THE TASK FORCE PURSUANT TO SUBSECTIONS (3)(a)(II)(D) AND (3)(a)(II)(E) OF THIS SECTION ARE COMPENSATED PURSUANT TO SECTION 2-2-307.

(IV) THE TASK FORCE SHALL MEET AS EARLY AS PRACTICABLE AFTER ALL MEMBERS HAVE BEEN DESIGNATED OR APPOINTED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION. THE DIRECTOR OF THE DIVISION OF REAL ESTATE OR THE DIRECTOR'S DESIGNEE SERVING ON THE TASK FORCE IS THE CHAIR OF THE TASK FORCE. THE CHAIR SHALL CONVENE AS MANY MEETINGS OF THE TASK FORCE AS THE CHAIR DEEMS NECESSARY.

(V) AN ASSOCIATION SHALL NOTIFY ITS UNIT OWNERS ABOUT THE TASK FORCE BEFORE THE TASK FORCE HOLDS ITS FIRST MEETING.

(c) (I) THE TASK FORCE SHALL EXAMINE ISSUES CONFRONTING HOA HOMEOWNERS' RIGHTS, INCLUDING THE FOLLOWING AUTHORITY AND PRACTICES OF ASSOCIATIONS:

(A) FINING AUTHORITY AND PRACTICES;

(B) FORECLOSURE PRACTICES;

(C) COMMUNICATIONS WITH HOA HOMEOWNERS REGARDING ASSOCIATION PROCESSES AND HOA HOMEOWNERS' RIGHTS AND RESPONSIBILITIES; AND

(D) FOR EACH ASSOCIATION IN A REPRESENTATIVE SAMPLE OF ASSOCIATIONS IN THE STATE THAT THE TASK FORCE SELECTS, THE AVAILABILITY OF AND METHOD OF MAKING AVAILABLE TO HOA HOMEOWNERS IN THE ASSOCIATION: THE DECLARATION; COVENANTS; BYLAWS; ARTICLES OF INCORPORATION IF THE

ASSOCIATION IS A CORPORATION OR OTHER ORGANIZATIONAL DOCUMENTS IF THE ASSOCIATION IS ANOTHER TYPE OF ENTITY; RULES AND REGULATIONS; RESPONSIBLE GOVERNANCE POLICIES ADOPTED PURSUANT TO SECTION 38-33.3-209.5; ANY OTHER POLICIES THAT THE EXECUTIVE BOARD OF THE HOA ADOPTS; FINANCIAL STATEMENTS AS DESCRIBED IN SECTION 7-136-106; THE MOST RECENT RESERVE STUDY, IF THE ASSOCIATION HAS CONDUCTED A RESERVE STUDY; AND RECORDS OF THE EXECUTIVE BOARD'S ACTIONS RELATED TO COLLECTIONS ACTIVITY OR LEGAL ACTION TAKEN AGAINST A UNIT OWNER.

(II) THE TASK FORCE SHALL ALSO REVIEW HOA HOMEOWNERS' COMPLAINTS, AS REPORTED TO THE HOA INFORMATION AND RESOURCE CENTER CREATED IN SECTION 12-10-801 (1) OR TO HOMEOWNERS' ADVOCACY GROUPS IN THE STATE.

(III) AS PART OF THE TASK FORCE'S EXAMINATION, THE TASK FORCE SHALL REVIEW:

(A) THE "COLORADO COMMON INTEREST OWNERSHIP ACT", ARTICLE 33.3 OF TITLE 38, AND ANY OTHER LAWS IN THE STATE REGARDING COMMON INTEREST COMMUNITIES;

(B) OTHER STATES' LAWS REGARDING COMMON INTEREST COMMUNITIES; AND

(C) THE UNIFORM COMMON INTEREST OWNERSHIP ACT OF 2021, AS PROMULGATED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

(IV) THE EXECUTIVE BOARD OF AN ASSOCIATION SHALL COOPERATE WITH ANY REQUEST FROM THE TASK FORCE FOR INFORMATION REGARDING THE ASSOCIATION, INCLUDING ANY REQUEST FOR THE ASSOCIATION'S GOVERNING DOCUMENTS, FINANCIAL STATEMENTS, RESERVE STUDIES, OR RECORDS RELATED TO COLLECTIONS ACTIVITY OR LEGAL ACTIONS. AN ASSOCIATION SUBMITTING DOCUMENTATION TO THE TASK FORCE SHALL REMOVE ALL PERSONAL IDENTIFYING INFORMATION FROM THE DOCUMENTATION BEFORE SUBMITTING IT. THE TASK FORCE MAY ONLY REPORT ON INFORMATION RECEIVED FROM AN ASSOCIATION IN A MANNER THAT PROTECTS AGAINST THE PUBLICATION OF ANY PERSONAL IDENTIFYING INFORMATION OF HOA HOMEOWNERS.

(4) THE TASK FORCE MAY SEEK AND ASSIGN MEMBERS OF THE PUBLIC TO SERVE ON AN ADVISORY COMMITTEE TO ASSIST THE TASK FORCE IN ITS WORK.

(5)(a) ON OR BEFORE THE SECOND MEETING OF THE TASK FORCE, THE TASK FORCE SHALL DETERMINE THE AREAS OF FOCUS FOR LEGISLATIVE RECOMMENDATIONS FOR THE 2024 LEGISLATIVE SESSION AS PART OF THE TASK FORCE'S INITIAL WRITTEN FINDINGS AND CONCLUSIONS.

(b) ON OR BEFORE APRIL 15, 2024, THE TASK FORCE SHALL PREPARE A FINAL REPORT OF ITS FINDINGS AND CONCLUSIONS REGARDING MATTERS THE TASK FORCE EXAMINES PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION.

(c) THE DEPARTMENT SHALL PUBLISH THE TASK FORCE'S INITIAL FINDINGS AND CONCLUSIONS, INCLUDING THE LEGISLATIVE RECOMMENDATIONS, AND FINAL REPORT

ON THE DEPARTMENT'S WEBSITE AND SUBMIT COPIES OF THE FINDINGS AND CONCLUSIONS AND THE FINAL REPORT TO:

(I) THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS TASK FORCE CREATED IN SECTION 12-10-226.5 (1)(a);

(II) THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING COMMITTEE, OR THEIR SUCCESSOR COMMITTEES; AND

(III) THE GOVERNOR.

(6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

12-10-226.5. Metropolitan district homeowners' rights task force - creation - membership - duties - reporting - definition - repeal. (1) (a) THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS TASK FORCE IS CREATED IN THE DEPARTMENT OF REGULATORY AGENCIES, CREATED IN SECTION 24-34-101 (1)(a), TO EXAMINE ISSUES CONFRONTING COMMUNITIES THAT ARE GOVERNED BY THE BOARD OF A METROPOLITAN DISTRICT.

(b) (I) AS USED IN THIS SECTION, "METROPOLITAN DISTRICT" MEANS A SPECIAL DISTRICT THAT IS OPERATED IN COMPLIANCE WITH SECTION 32-1-1004 AND CREATED TO FINANCE INFRASTRUCTURE TO SUPPORT A HOUSING SUBDIVISION.

(II) DEFINITIONS SET FORTH IN SECTION 12-10-226.3 (1) ALSO APPLY TO THE TERMS AS THEY ARE USED IN THIS SECTION.

(2) (a) THE METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS TASK FORCE CONSISTS OF THE FOLLOWING:

(I) EX OFFICIO MEMBERS:

(A) THE STATE DIRECTOR OF THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS APPOINTED PURSUANT TO SECTION 24-32-704 (1) OR THE DIRECTOR'S DESIGNEE; AND

(B) THE DIRECTOR OF THE DIVISION OF REAL ESTATE CREATED IN SECTION 12-10-207 (1) OR THE DIRECTOR'S DESIGNEE;

(II) MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, IN CONSULTATION WITH THE CHAIRS OF THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING COMMITTEE:

(A) TWO HOMEOWNERS RESIDING IN A METROPOLITAN DISTRICT IN THE STATE, AT LEAST ONE OF WHOM RESIDES IN A METROPOLITAN DISTRICT LOCATED IN A DISPROPORTIONATELY IMPACTED COMMUNITY AND AT LEAST ONE OF WHOM SERVES ON THE BOARD OF THE METROPOLITAN DISTRICT IN WHICH THE HOMEOWNER RESIDES;

(B) AN ELECTED CITY COUNCIL MEMBER, AS RECOMMENDED BY A STATEWIDE ORGANIZATION THAT REPRESENTS MUNICIPALITIES;

(C) AN ATTORNEY LICENSED IN THE STATE WHO PRIMARILY REPRESENTS HOMEOWNERS IN LEGAL PROCEEDINGS AGAINST METROPOLITAN DISTRICTS;

(D) A REPRESENTATIVE OF A NONPROFIT ORGANIZATION THAT REPRESENTS THE AFFORDABLE HOUSING COMMUNITY;

(E) A MEMBER OF THE HOUSE OF REPRESENTATIVES; AND

(F) A MEMBER OF THE SENATE; AND

(III) MEMBERS APPOINTED BY THE GOVERNOR:

(A) AN ATTORNEY LICENSED IN THE STATE WHO SPECIALIZES IN METROPOLITAN DISTRICT LAW, AS RECOMMENDED BY A STATEWIDE ORGANIZATION THAT REPRESENTS SPECIAL DISTRICTS;

(B) AN ELECTED COUNTY COMMISSIONER, AS RECOMMENDED BY A STATEWIDE ORGANIZATION THAT REPRESENTS COUNTIES;

(C) A REPRESENTATIVE OF A DEVELOPER REGISTERED PURSUANT TO SECTION 12-10-503 (1) THAT HAS ONE OR MORE SUBDIVISIONS LOCATED WITHIN A METROPOLITAN DISTRICT; AND

(D) A REPRESENTATIVE RECOMMENDED BY A STATEWIDE NONPROFIT ORGANIZATION THAT REPRESENTS METROPOLITAN DISTRICT EDUCATION IN A COALITION.

(b) (I) MEMBERS OF THE TASK FORCE SHALL BE DESIGNATED OR APPOINTED TO THE TASK FORCE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION ON OR BEFORE NOVEMBER 1, 2023.

(II) MEMBERS APPOINTED TO THE TASK FORCE SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITIES. THE APPOINTING AUTHORITIES MAY APPOINT A NEW MEMBER TO THE TASK FORCE TO REPLACE A MEMBER WHO CAN NO LONGER SERVE ON THE TASK FORCE.

(III) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(b)(III)(B) OF THIS SECTION, MEMBERS OF THE TASK FORCE SERVE WITHOUT COMPENSATION.

(B) LEGISLATIVE MEMBERS APPOINTED TO THE TASK FORCE PURSUANT TO SUBSECTIONS (2)(a)(II)(E) AND (2)(a)(II)(F) OF THIS SECTION ARE COMPENSATED PURSUANT TO SECTION 2-2-307.

(IV) THE TASK FORCE SHALL MEET AS EARLY AS PRACTICABLE AFTER ALL MEMBERS HAVE BEEN DESIGNATED OR APPOINTED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. THE DIRECTOR OF THE DIVISION OF REAL ESTATE OR THE DIRECTOR'S DESIGNEE SERVING ON THE TASK FORCE IS THE CHAIR OF THE TASK

FORCE. THE CHAIR SHALL CONVENE AS MANY MEETINGS OF THE TASK FORCE AS THE CHAIR DEEMS NECESSARY.

(V) A METROPOLITAN DISTRICT SHALL NOTIFY ITS RESIDENTS ABOUT THE TASK FORCE BEFORE THE TASK FORCE HOLDS ITS FIRST MEETING.

(c) (I) THE TASK FORCE SHALL EXAMINE ISSUES CONFRONTING METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS, INCLUDING THE FOLLOWING AUTHORITY AND PRACTICES OF METROPOLITAN DISTRICT BOARDS:

(A) TAX LEVYING AUTHORITY AND PRACTICES;

(B) FORECLOSURE PRACTICES;

(C) COMMUNICATIONS WITH HOMEOWNERS REGARDING METROPOLITAN DISTRICT PROCESSES AND HOMEOWNERS' RIGHTS AND RESPONSIBILITIES; AND

(D) GOVERNANCE POLICIES, INCLUDING VOTING AND ELECTIONS POLICIES.

(II) THE TASK FORCE SHALL ALSO EXAMINE THE PROCESS BY WHICH A METROPOLITAN DISTRICT COULD TRANSITION FROM A METROPOLITAN DISTRICT THAT ENFORCES COVENANTS AND COLLECTS ASSESSMENTS INTO A COMMON INTEREST COMMUNITY GOVERNED UNDER ARTICLE 33.3 OF TITLE 38.

(III) AS PART OF THE TASK FORCE'S EXAMINATION, THE TASK FORCE SHALL REVIEW THE RECOMMENDATIONS AND REPORT OF THE HOA HOMEOWNERS' RIGHTS TASK FORCE, CREATED IN SECTION 12-10-226.3 (2), TO DETERMINE WHETHER THE FINDINGS AND CONCLUSIONS SET FORTH IN THE RECOMMENDATIONS AND REPORT APPLY TO, AND PROVIDE GUIDANCE FOR, THE TASK FORCE'S OWN FINDINGS AND CONCLUSIONS REGARDING ISSUES CONFRONTING METROPOLITAN DISTRICT HOMEOWNERS' RIGHTS.

(3) THE TASK FORCE MAY SEEK AND ASSIGN MEMBERS OF THE PUBLIC TO SERVE ON AN ADVISORY COMMITTEE TO ASSIST THE TASK FORCE IN ITS WORK.

(4) ON OR BEFORE MARCH 1, 2024, THE TASK FORCE SHALL PREPARE AN INTERIM REPORT AND ON OR BEFORE JUNE 15, 2024, SHALL PREPARE A FINAL REPORT OF ITS FINDINGS AND CONCLUSIONS REGARDING MATTERS THE TASK FORCE EXAMINES PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION. THE DEPARTMENT OF REGULATORY AGENCIES SHALL PUBLISH THE REPORTS ON ITS WEBSITE AND SUBMIT COPIES OF THE REPORTS TO:

(a) THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE LOCAL GOVERNMENT AND HOUSING COMMITTEE, OR THEIR SUCCESSOR COMMITTEES; AND

(b) THE GOVERNOR.

(5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

SECTION 2. Appropriation. (1) For the 2023-24 state fiscal year, \$208,408 is appropriated to the department of regulatory agencies for use by the division of real estate. This appropriation is from the general fund and is based on an assumption that the department will require an additional 2.0 FTE. To implement this act, the department may use this appropriation for the division of real estate.

(2) For the 2023-24 state fiscal year, \$1,887 is appropriated to the legislative department for use by the general assembly. This appropriation is from the general fund. To implement this act, the general assembly may use this appropriation for legislator per diem and travel reimbursement.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 24, 2023