

Summary Of 2022 HOA Legislation

By Colorado HOA Forum, May 3, 2022

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Note, the Summary of the Bill presented on the first page(s) of these Bills may not be accurate as to what is in the Bill. Verify Summary information by reading the Bill.

Proposed HOA Bills 2022: these are the highlights

22-1040: Use of common areas **passed**: sets guidelines on how common areas within the HOA are to be used or restricted.

22-059: Proxy voting restrictions **passed-watered down** Sets effective duration of a proxy ballot to no greater than 11 months. Our recommendations to preclude/limit proxy hoarding, to restrict defaulting of any proxy or votes in an election to any Board member and to restrict Board members from being assigned proxy votes were left out of the Bill.

22-060: limits dues/fees increases to 10% per year: **failed**

22-1139 Limits HOAs from regulating public-rights-of-way: **passed** reinforces current law and emphasizes that HOAs are not to get involved in writing, restricting or interfering with public-rights-of-way (which are not HOA property)

22-1239 CAM Licensing pending: **lost** Attempts to reinstate the HOA property management licensing Bill

22-1137 Fees, Fines, Foreclosure reform and using small claims court: **pending, expected to be signed into law**. This provides some HOA foreclosure reform but a long way to the end of the road. Interest rates on debt imposed by the HOA limited to 8%, a foreclosure can't be completed based solely on fines and fees, and improved notification procedures between the HOA and homeowner in debt collection and foreclosure action. A few other items of benefit with foreclosures.

The Bill also made a first attempt at developing an affordable, accessible and timely dispute resolution process for complaints between homeowners and their HOA. The Bill suggests using Small Claims court for all homeowner complaints and extending the Small Claims Court authority to award injunctive relief to a homeowner: directing the HOA to do something to correct a violation. However, we feel this is not clear in the Bill and will be challenged. Even if this is the case, the Small Claims process will still be very costly. A simple dispute in Court could still cost a homeowner several thousand dollars: who has the money for that? This Bill did not do anything to limit attorney fees in debt collection, foreclosure or court costs which was a major issue to be resolved but eliminated.

22-1387 Reserve fund and special assessments pending: This addresses issues concerning requirements of the Declarant/Developer in transitioning the HOA from its control to the homeowner: apprising the homeowners of all existing contract and financial obligations they inherit, providing a current reserve fund study, etc. Also, mandates that HOAs conduct reserve fund studies and the type of such study on a schedule basis as identified in this Bill. However, we fail to see how this will be enforced and by whom and it appears that HOAs that complete their own in-house reserve fund studies “may” not meet this Bill’s requirements.

We suggested that smaller HOAs be able to complete such studies in-house; that the HOA registration process require confirmation of completing a reserve fund study and date last completed; and to clear up ambiguities on or if the findings in the Reserve Fund study must be implemented; deadline for the HOA to complete its’ Study; and if an assessment is implemented notices should be given to homeowners no less than 60 days prior: all ignored. Also, if the result of any Reserve Fund Study requires increases in monthly assessments of more than 20% or a special assessment such increases in obligations to homeowners requires a homeowner vote of approval (also not considered)