

Construction Defect Attorneys
1301 Washington Avenue, Suite 300
Golden, Colorado 80401
Tel: (720) 898-9680
www.bensonpc.com

S.B. 100—Summary of Changes

1. Expansion of Xeriscape Protections. An association may not restrict xeriscaping. C.R.S. § 37-60-126(11) (effective 6/6/2005).

2. Flags, Political Signs, Emergency Vehicles, and Fire Protection.

(a) An association may not prohibit display of an American flag. An association may adopt rules regarding the placement and manner of display.

(b) An association may not prohibit display of a military service flag. An association may adopt rules regarding the size and manner of display.

(c) An association may not prohibit display of political signs from 45 days before to 7 days after an election. An association may regulate the size and number of signs, but may not be more restrictive than any city, town, or county ordinance.

(d) An association must permit the parking of official marked fire department or emergency service if the vehicle is necessary for an owner's employment.

(e) An association must permit an owner to remove landscaping around a unit for fire mitigation

(f) Homeowners may replace flammable roofing material with nonflammable materials for fire prevention purposes. An association may regulate the type of materials, but may not require materials that are more expensive than the original materials. C.R.S. § 38-33.3-106.5 (effective 6/6/2005).

3 & 4. Colorado Common Interest Ownership Act Expanded to Cover Older Associations. CCIOA will govern older associations for all events occurring on or after January 1, 2006. C.R.S. § 38-33.3-117 (effective 1/1/2006).

5. Collections. An association may collect attorney fees and costs connected with assessment collections. An owner who prevails in court against an association on a claim that the owner violated CCIOA or the governing documents may collect costs and attorney fees. If an association prevails, it may not be awarded costs and attorney fees. C.R.S. § 38-33.3-123 (effective 1/1/2006).

6. Alternative Dispute Resolution. Associations are encouraged to mediate or arbitrate claims against owners. C.R.S. § 38-33.3-124 (effective 1/1/2006).

7 & 19. Disclosures and Responsible Governance.

(a) An association must maintain meeting minutes, names and addresses of homeowners, governing documents, written communications with homeowners within the past 3 years, its most recent annual report, and audits or reviews conducted within the past 3 years.

(b) An association must provide annual disclosures to unit owners regarding management.

(c) Association records must be made available during normal business hours, upon 5 business day's notice if request is made in good faith and for a proper purpose.

(d) Records may be made available by posting on the Internet.

(e) An association may charge actual cost for copies.

(f) Association accounting records must use GAAP.

(g) Associations must adopt policies regarding collections, conflicts of interest, meeting conduct, rule enforcement, access to records, investment of reserve funds, and procedures for the adoption and amendment of policies, procedures, and rules.

(h) Associations may pay for relevant board member education and must provide annual homeowner education. C.R.S. §§ 38-33.3-209.4, 209.5, 209.6, 209.7, 38-33.3-317 (effective 1/1/2006).

8. Amendment of the Declaration. If a higher percentage is specified in the declaration, an association may amend its declaration with a 67% vote. If the declaration requires first mortgagees to approve the change, first mortgagees shall be deemed to approve the change if they receive notice by first-class mail and by publication. C.R.S. § 38-33.3-217 (effective 6/6/2005).

10 & 19. Disclosures to Buyers. A seller must provide a buyer with a statutory disclosure statement, the governing documents, party wall agreements, minutes of the most recent homeowner meeting, and the association's budget, income and expense statement, and balance sheet. The seller's disclosure must be made at least 10 days before closing in the case of "for sale by owner" and 10 days before the title deadline in the case of a brokered transaction. The seller shall provide a signed acknowledgement of these disclosures to the association. The buyer has a right to terminate the purchase agreement on or before the deadline for objections to the governing documents. C.R.S. §§ 38-33.3-223, 38-35.7-102 (effective 1/1/2006).

12. Manager's Contract is Terminable for Cause. An association's contract with its manager can be terminated for cause without penalty to the association. C.R.S. § 38-33.3-302 (effective 1/1/2006).

13. Audit of Books. An association's books are subject to an audit or review at least once every two years. An audit must take place when the association has annual revenue or expenses of at least \$250,000 and 1/3 of the homeowners request an audit. The audit or review must be made available to homeowners upon request within 30 days of completion. C.R.S. § 38-33.3-303 (effective 1/1/2006).

14. Meetings. Notices of homeowner meetings must be posted in a conspicuous place. If specifically requested by a homeowner, an association must give notice of homeowner or board meetings by e-mail. E-mail notice of special meetings shall be given at least 24 hours in advance. Homeowner and board meetings shall be open to all homeowners or their representatives. This section also contains arguably conflicting provisions regarding homeowner's right to speak at meetings, but seems to require at least some opportunity for homeowner participation. C.R.S. § 38-33.3-308 (effective 1/1/2006).

15. Elections. Elections of executive board members shall be done by secret ballot. Ballots shall be counted by a neutral third party selected at random. C.R.S. § 38-33.3-310 (effective 1/1/2006).

16. Conflicts of Interest. Board members must disclose conflicts of interest. After such disclosure, the board member may deliberate, but may not vote on the issue. C.R.S. § 38-33.3-310.5 (effective 1/1/2006).

20. Homeowner's Insurance. Homeowners can make a claim against an association's insurance company as if they were an additional named insured. C.R.S. § 10-4-110.8 (effective 1/1/2006).