

## Second Regular Session

### Sixty-ninth General Assembly

## STATE OF COLORADO

REVISED

LLS NO. 14-0686.02 Duane Gall x4335

HOUSE BILL 14-1254

### Bill Summary

The bill requires a licensed community association manager who performs services for a homeowners' association (HOA) through employees or subcontractors to fully disclose to the HOA, during contract negotiations and annually thereafter, all fees and charges that the manager will bill to the HOA for services performed by those employees or subcontractors.

### A BILL FOR AN ACT

CONCERNING A REQUIREMENT TO DISCLOSE FEES CHARGED TO A UNIT OWNERS' ASSOCIATION BY A COMMUNITY ASSOCIATION MANAGER.

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

SECTION 1. In Colorado Revised Statutes, add 12-61-1004.5 as follows:

12-61-1004.5. Fees and charges for contracted services and home sales - disclosure required. (1) EVERY MANAGER, AND EVERY AGENT OR OTHER PERSON WHO REPRESENTS OR NEGOTIATES ON BEHALF OF A MANAGER, SHALL DISCLOSE TO THE EXECUTIVE BOARD OF EACH HOA FOR WHICH IT PROVIDES OR OFFERS TO PROVIDE SERVICES, DURING CONTRACT NEGOTIATIONS AND THEREAFTER ON AN ANNUAL BASIS, ALL FEES AND OTHER AMOUNTS THAT THE MANAGER CHARGES OR WILL CHARGE TO THE COMMON INTEREST COMMUNITY, UNIT OWNERS, AND PURCHASERS OF UNITS IN THE COMMON INTEREST COMMUNITY FOR OR AS A

RESULT OF ANY SERVICE, PRODUCT, TRANSACTION, OR ITEM OF VALUE PROVIDED BY THE MANAGER, ANY EMPLOYEE OR CONTRACTOR OF THE MANAGER, OR ANY OTHER INDIVIDUAL OR ENTITY WITH WHOM THE MANAGER ASSOCIATES IN THE PERFORMANCE OF COMMUNITY ASSOCIATION MANAGEMENT SERVICES.

(2) (a) NEITHER A MANAGER NOR ANY AGENT OF A MANAGER MAY ENFORCE ANY FEE OR CHARGE, INCLUDING A TRANSFER FEE, AGAINST THE HOA OR ANY BUYER OR SELLER OF PROPERTY SERVED BY THE HOA UNLESS THE FEE OR CHARGE IS:

(I) EXPLICITLY DISCLOSED IN THE MANAGER'S CONTRACT WITH THE HOA OR AN ADDENDUM TO THE CONTRACT; OR

(II) DOCUMENTED BY A CLEARLY IDENTIFIED LINE ITEM ON A REAL ESTATE CLOSING SETTLEMENT STATEMENT.

(3) IN ADDITION TO MAKING THE DISCLOSURES REQUIRED UNDER SUBSECTIONS (1) AND (2) OF THIS SECTION, A MANAGER SHALL DISCLOSE TO THE EXECUTIVE BOARD ALL REMUNERATION THE MANAGER OR ANY SUBSIDIARY, AFFILIATE, OR RELATED PERSON OR ENTITY RECEIVES OR WILL RECEIVE, DIRECTLY OR INDIRECTLY, IN CONNECTION WITH ITS RELATIONSHIP WITH THE COMMON INTEREST COMMUNITY.

(4) THE DIVISION MAY REGULATE, INVESTIGATE, AND TAKE DISCIPLINARY ACTION AGAINST ANY MANAGER OR PRINCIPAL THEREOF FOR A VIOLATION OF THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 12-61-1010, add (1) (1.5) as follows:

12-61-1010. Investigation - revocation - actions against licensee. (1) The director, upon the director's own motion, may, and, upon the complaint in writing of any person, shall, investigate the activities of any community association manager or any person who assumes to act in such capacity within the state. The director, after holding a hearing in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., may impose an administrative fine not to exceed two thousand five hundred dollars for each separate offense, censure a licensee, place the licensee on probation and set the terms of probation, or temporarily suspend or permanently revoke a license when the licensee has performed, is performing, or is attempting to perform any of the following acts and is guilty of:

(1.5) FAILING TO MAKE A FULL AND TRUE DISCLOSURE OF FEES, CHARGES, AND  
REMUNERATION AS REQUIRED BY SECTION 12-61-1004.5;

SECTION 3. Act subject to petition - effective date. This act takes effect January 1, 2015; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on January 1, 2015, or on the date of the official declaration of the vote thereon by the governor, whichever is later.