

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction

LLS NO. 10-0877.01 Duane Gall **HOUSE BILL 10-1290**

House Committees	Senate Committees
Local Government	

A BILL FOR AN ACT

**CONCERNING PROCEDURES FOR SMALL PLANNED COMMUNITIES TO ELECT TO
EXEMPT THEMSELVES FROM CERTAIN PROVISIONS OF THE "COLORADO
COMMON INTEREST OWNERSHIP ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows a small common interest community to exempt itself from most of the provisions of the "Colorado Common Interest Ownership Act" (CCIOA), upon a vote of the members or shareholders or, if there are no members or shareholders entitled to vote, upon a vote of the community's executive board. This option only applies to communities that:

- Have no more than 20 units;
- Do not impose common interest expense assessments of over \$400 per year (adjusted for inflation); or
- Have annual revenues or expenses of less than \$250,000.

The bill allows a community that has exempted itself to reverse this decision and accept full coverage under CCIOA, but requires at least 2 years between the effective dates of the elections.

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

1.SECTION Article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-33.3-118.5. Election for limited exemption from coverage under act - small and limited expense planned communities - qualifications - procedure - subsequent elections. (1) A PLANNED COMMUNITY THAT MEETS ANY OF THE CRITERIA SET FORTH IN SUBSECTION (2) OF THIS SECTION MAY ELECT TO BECOME SUBJECT ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107, AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE, BY FOLLOWING THE PROCEDURES SET FORTH IN THIS SECTION.

(2) THIS SECTION APPLIES ONLY TO A PLANNED COMMUNITY THAT:

(a) CONTAINS NO MORE THAN TWENTY UNITS;

(b) DOES NOT IMPOSE ANNUAL AVERAGE COMMON EXPENSE ASSESSMENTS IN EXCESS OF THE AMOUNTS SET FORTH IN SECTION 38-33.3-116 (2) AND (3); OR

(c) HAS ANNUAL REVENUES OR EXPENDITURES OF LESS THAN ONE HUNDRED FIFTY THOUSAND DOLLARS.

(3) (a) IF THERE ARE MEMBERS OR STOCKHOLDERS ENTITLED TO VOTE ON THE RESOLUTION, THE BOARD OF DIRECTORS MAY ADOPT A RESOLUTION RECOMMENDING THAT THE PLANNED COMMUNITY ELECT TO SO EXEMPT ITSELF AND DIRECTING THAT THE QUESTION OF SUCH ELECTION BE SUBMITTED TO A VOTE AT A

MEETING OF THE MEMBERS OR STOCKHOLDERS ENTITLED TO VOTE THEREON, WHICH MAY BE EITHER AN ANNUAL OR SPECIAL MEETING. THE QUESTION SHALL ALSO BE SUBMITTED WHENEVER ONE-TWENTIETH OF THE MEMBERS OR STOCKHOLDERS ENTITLED TO VOTE THEREON SO REQUEST. WRITTEN NOTICE STATING THAT THE PURPOSE, OR ONE OF THE PURPOSES, OF THE MEETING IS TO CONSIDER ELECTING TO BE SUBJECT ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107, AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE, TOGETHER WITH A COPY OF THIS ARTICLE, SHALL BE GIVEN TO EACH PERSON ENTITLED TO VOTE AT THE MEETING WITHIN THE TIME AND IN THE MANNER PROVIDED IN THE ARTICLES OF INCORPORATION, DECLARATION, BYLAWS, OR OTHER GOVERNING DOCUMENTS FOR THE PLANNED COMMUNITY FOR THE GIVING OF NOTICE OF MEETINGS TO MEMBERS. THE ELECTION SHALL REQUIRE FOR ADOPTION OF THE RESOLUTION AT LEAST SIXTY-SEVEN PERCENT OF THE VOTES THAT THE PERSONS PRESENT AT THE MEETING IN PERSON OR BY PROXY ARE ENTITLED TO CAST.

(b) IF THERE ARE NO PERSONS ENTITLED TO VOTE ON THE RESOLUTION, THE ELECTION MAY BE MADE AT A MEETING OF THE BOARD OF DIRECTORS PURSUANT TO A MAJORITY VOTE OF THE DIRECTORS IN OFFICE.

(4) A STATEMENT OF ELECTION TO BECOME SUBJECT ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107, AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE, SHALL BE EXECUTED AND ACKNOWLEDGED BY THE PRESIDENT OR VICE-PRESIDENT AND BY THE SECRETARY OR AN ASSISTANT SECRETARY OF A PLANNED COMMUNITY AND SHALL SET FORTH:

(a) THE NAME OF THE PLANNED COMMUNITY;

(b) THAT THE PLANNED COMMUNITY HAS ELECTED TO BECOME SUBJECT ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107, AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE;

(c) WHETHER THERE WERE PERSONS ENTITLED TO VOTE ON THE RESOLUTION, THE DATE OF THE MEETING OF SUCH PERSONS AT WHICH THE ELECTION WAS MADE, THAT A QUORUM WAS PRESENT AT THE MEETING, AND THAT THE ELECTION WAS AUTHORIZED BY AT LEAST SIXTY-SEVEN PERCENT OF THE VOTES THAT THE MEMBERS OR STOCKHOLDERS PRESENT AT THE MEETING IN PERSON OR BY PROXY WERE ENTITLED TO CAST;

(d) WHETHER THERE WERE NO MEMBERS OR STOCKHOLDERS ENTITLED TO VOTE ON THE RESOLUTION, THE DATE OF THE MEETING OF THE BOARD OF DIRECTORS AT WHICH THE ELECTION WAS MADE, THAT A QUORUM WAS PRESENT AT THE MEETING, AND THAT THE ELECTION WAS AUTHORIZED BY A MAJORITY VOTE OF THE DIRECTORS PRESENT AT THE MEETING;

(e) THE NAMES AND RESPECTIVE ADDRESSES OF ITS OFFICERS AND DIRECTORS; AND

(f) IF THERE WERE NO PERSONS ENTITLED TO VOTE THEREON BUT A PLANNED COMMUNITY HAS BEEN CREATED BY VIRTUE OF COMPLIANCE WITH SECTION 38-33.3-103 (8), THAT THE DECLARANT DESIRES FOR THE PLANNED COMMUNITY TO BE SUBJECT ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107 AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE.

(5) THE ORIGINAL STATEMENT OF ELECTION TO BECOME SUBJECT ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107 AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE SHALL BE DULY RECORDED IN THE OFFICE OF THE CLERK AND RECORDER FOR THE COUNTY IN WHICH THE PLANNED COMMUNITY IS LOCATED, AND SHALL BE EFFECTIVE AS OF THE DATE OF RECORDING; EXCEPT THAT THE ELECTION:

(a) APPLIES ONLY WITH RESPECT TO EVENTS AND CIRCUMSTANCES OCCURRING ON OR AFTER THE DATE OF RECORDING;

(b) DOES NOT AFFECT ANY ACTION TAKEN BEFORE THE DATE OF RECORDING; AND

(c) DOES NOT INVALIDATE ANY PROVISION OF THE DECLARATION, BYLAWS, RULES AND REGULATIONS OF THE PLANNED COMMUNITY, OR PLATS OR MAPS IN EXISTENCE BEFORE THE DATE OF RECORDING.

(6) A PLANNED COMMUNITY THAT HAS MADE AN ELECTION PURSUANT TO THIS SECTION MAY LATER ELECT TO BECOME SUBJECT TO THIS ARTICLE AGAIN, USING SUBSTANTIALLY THE SAME PROCEDURE AS SET FORTH IN SECTION 38-33.3-118; EXCEPT THAT:

(a) NOTWITHSTANDING SECTION 38-33.3-118 (4), THE ELECTION PURSUANT TO SECTION 38-33.3-118 SHALL NOT BECOME EFFECTIVE BEFORE THE EXPIRATION OF TWO YEARS AFTER THE RECORDING OF THE STATEMENT OF ELECTION PURSUANT TO SUBSECTION (4) OF THIS SECTION; AND

(b) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, ANY

SUBSEQUENT ELECTION PURSUANT TO THIS SECTION SHALL NOT BECOME EFFECTIVE BEFORE THE EXPIRATION OF TWO YEARS AFTER THE RECORDING OF THE STATEMENT OF ELECTION PURSUANT TO SUBSECTION (4) OF THIS SECTION.

2.SECTION Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); 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 such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.