

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 24-0298.01 Jennifer Berman x3286

HOUSE BILL 24-1091

HOUSE SPONSORSHIP

Brown and Titone,

SENATE SPONSORSHIP

Cutter and Jaquez Lewis,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING RESTRICTIONS ON THE USE OF**
102 **FIRE-HARDENED BUILDING MATERIALS IN RESIDENTIAL REAL**
103 **PROPERTY.**

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://leg.colorado.gov>.)

The bill generally prohibits covenants and other restrictions that disallow the installation, use, or maintenance of fire-hardened building materials in residential real property, including in common interest communities. However, the bill allows a unit owners' association of a common interest community to develop reasonable standards regarding

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

HOUSE
Amended 2nd Reading
February 2, 2024

the design, dimensions, placement, or external appearance of fire-hardened building materials used for fencing within the community.

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-30-168, **add** (5)
3 as follows:

4 **38-30-168. Unreasonable restrictions on renewable energy**
5 **generation devices or fire-hardened building materials - definitions.**

6 (5) (a) A COVENANT, RESTRICTION, OR CONDITION CONTAINED IN ANY
7 DEED, CONTRACT, SECURITY INSTRUMENT, OR OTHER INSTRUMENT
8 AFFECTING THE TRANSFER OR SALE OF, OR ANY INTEREST IN, REAL
9 PROPERTY THAT EXPLICITLY OR EFFECTIVELY PROHIBITS OR RESTRICTS THE
10 INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING
11 MATERIALS IS VOID AND UNENFORCEABLE. THIS SUBSECTION (5) DOES NOT
12 APPLY TO BONA FIDE SAFETY REQUIREMENTS REQUIRED BY AN APPLICABLE
13 BUILDING CODE FOR THE PROTECTION OF PERSONS AND PROPERTY.

14 (b) NOTHING IN THIS SUBSECTION (5):

15 (I) PROHIBITS OR RESTRICTS A UNIT OWNERS' ASSOCIATION FROM:

16 (A) ADOPTING AND ENFORCING REASONABLE STANDARDS
17 REGARDING THE DESIGN, DIMENSIONS, PLACEMENT, OR EXTERNAL
18 APPEARANCE OF FIRE-HARDENED BUILDING MATERIALS USED FOR FENCING
19 AT A UNIT OWNER'S PROPERTY IN ACCORDANCE WITH SECTION
20 38-33.3-106.5 (3)(c); OR

21 (B) ADOPTING BONA FIDE SAFETY REQUIREMENTS THAT ARE
22 CONSISTENT WITH APPLICABLE BUILDING CODES OR NATIONALLY
23 RECOGNIZED SAFETY STANDARDS; OR

24 (II) CONFERS UPON A PROPERTY OWNER, UNIT OWNER, OR LESSEE
25 THE RIGHT TO CONSTRUCT OR PLACE FIRE-HARDENED BUILDING

1 MATERIALS ON PROPERTY THAT IS:

2 (A) OWNED BY ANOTHER PERSON;

3 (B) LEASED, EXCEPT WITH PERMISSION OF THE LESSOR; OR

4 (C) A LIMITED COMMON ELEMENT OR GENERAL COMMON ELEMENT
5 OF A COMMON INTEREST COMMUNITY.

6 (c) AS USED IN THIS SUBSECTION (5):

7 (I) "COMMON ELEMENT" MEANS "COMMON ELEMENTS" AS DEFINED
8 IN SECTION 38-33.3-103 (5).

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

11 (III) "FIRE-HARDENED BUILDING MATERIALS" HAS THE MEANING
12 SET FORTH IN SECTION 38-33.3-106.5 (3)(e)(I).

13 (IV) "UNIT OWNER" HAS THE MEANING SET FORTH IN SECTION
14 38-33.3-103 (31).

15 (V) "UNIT OWNERS' ASSOCIATION" MEANS AN "ASSOCIATION" AS
16 DEFINED IN SECTION 38-33.3-103 (3).

17 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-106.5, **add**
18 (3) as follows:

19 **38-33.3-106.5. Prohibitions contrary to public policy -**
20 **patriotic, political, or religious expression - public rights-of-way - fire**
21 **prevention - renewable energy generation devices - affordable**
22 **housing - drought prevention measures - child care - fire-hardened**
23 **building materials - definitions.** (3) (a) EXCEPT AS PROVIDED IN
24 SUBSECTION (3)(c) OF THIS SECTION, ANY PROVISION IN THE
25 DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF AN ASSOCIATION
26 ON THE EFFECTIVE DATE OF THIS SUBSECTION (3) THAT PROHIBITS THE
27 INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING

1 MATERIALS ON A UNIT OWNER'S PROPERTY IS VOID AND UNENFORCEABLE.

2 (b) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3),
3 EXCEPT AS PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, AN
4 ASSOCIATION SHALL NOT:

5 (I) PROHIBIT THE INSTALLATION, USE, OR MAINTENANCE OF
6 FIRE-HARDENED BUILDING MATERIALS ON A UNIT OWNER'S PROPERTY; OR

7 (II) ADOPT ANY PROVISION IN THE DECLARATION, BYLAWS, OR
8 RULES AND REGULATIONS OF THE ASSOCIATION THAT PROHIBITS THE
9 INSTALLATION, USE, OR MAINTENANCE OF FIRE-HARDENED BUILDING
10 MATERIALS ON A UNIT OWNER'S PROPERTY.

11 (c) AN ASSOCIATION MAY DEVELOP STANDARDS THAT IMPOSE
12 REASONABLE RESTRICTIONS ON THE DESIGN, DIMENSIONS, PLACEMENT, OR
13 EXTERNAL APPEARANCE OF FIRE-HARDENED BUILDING MATERIALS USED
14 FOR FENCING SO LONG AS THE STANDARDS DO NOT:

15 (I) INCREASE THE COST OF THE FENCING BY MORE THAN TEN
16 PERCENT COMPARED TO OTHER FIRE-HARDENED BUILDING MATERIALS
17 USED FOR FENCING; OR

18 (II) REQUIRE A PERIOD OF REVIEW AND APPROVAL THAT EXCEEDS
19 SIXTY DAYS AFTER THE DATE ON WHICH THE APPLICATION FOR REVIEW IS
20 FILED. IF AN APPLICATION FOR INSTALLATION OF FIRE-HARDENED
21 BUILDING MATERIALS FOR FENCING IS NOT DENIED OR RETURNED FOR
22 MODIFICATIONS WITHIN SIXTY DAYS AFTER THE APPLICATION IS FILED, THE
23 APPLICATION IS DEEMED APPROVED. THE REVIEW PROCESS MUST BE
24 TRANSPARENT AND THE BASIS FOR DENIAL OF AN APPLICATION MUST BE
25 DESCRIBED IN REASONABLE DETAIL AND IN WRITING. DENIAL OF AN
26 APPLICATION MUST NOT BE ARBITRARY OR CAPRICIOUS.

27 (d) NOTHING IN THIS SUBSECTION (3):

1 (I) PROHIBITS OR RESTRICTS A UNIT OWNERS' ASSOCIATION FROM
2 ADOPTING BONA FIDE SAFETY REQUIREMENTS THAT ARE CONSISTENT WITH
3 APPLICABLE BUILDING CODES OR NATIONALLY RECOGNIZED SAFETY
4 STANDARDS; OR

5 (II) CONFERS UPON A PROPERTY OWNER THE RIGHT TO CONSTRUCT
6 OR PLACE FIRE-HARDENED BUILDING MATERIALS ON PROPERTY THAT IS:

7 (A) OWNED BY ANOTHER PERSON;

8 (B) LEASED, EXCEPT WITH PERMISSION OF THE LESSOR; OR

9 (C) A LIMITED COMMON ELEMENT OR GENERAL COMMON ELEMENT
10 OF A COMMON INTEREST COMMUNITY.

11 (e) AS USED IN THIS SUBSECTION (3):

12 (I) "FIRE-HARDENED BUILDING MATERIALS" MEANS MATERIALS
13 THAT MEET:

14 (A) THE CRITERIA OF IGNITION-RESISTANT CONSTRUCTION SET
15 FORTH IN SECTIONS 504 TO 506 OF THE MOST RECENT VERSION OF THE
16 INTERNATIONAL WILDLAND-URBAN INTERFACE CODE;

17 (B) THE CRITERIA FOR CONSTRUCTION IN WILDLAND AREAS SET
18 FORTH IN THE MOST RECENT VERSION OF THE NFPA STANDARD 1140,
19 "STANDARD FOR WILDLAND FIRE PROTECTION", AND THE CRITERIA FOR
20 REDUCING STRUCTURE IGNITION HAZARDS FROM WILDLAND FIRE SET
21 FORTH IN THE MOST RECENT VERSION OF THE NFPA STANDARD 1144,
22 "REDUCING STRUCTURE IGNITIONS FROM WILDLAND FIRE"; OR

23 (C) THE REQUIREMENTS FOR A WILDFIRE-PREPARED HOME
24 ESTABLISHED BY THE IBHS.

25 (II) "IBHS" MEANS THE INSURANCE INSTITUTE FOR BUSINESS AND
26 HOME SAFETY OR ITS SUCCESSOR ORGANIZATION.

27 (III) "NFPA" MEANS THE NATIONAL FIRE PROTECTION

1 ASSOCIATION OR ITS SUCCESSOR ORGANIZATION.

2 **SECTION 3. Safety clause.** The general assembly finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety or for appropriations for
5 the support and maintenance of the departments of the state and state
6 institutions.