

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0500.02 Kate Meyer

HOUSE BILL 11-1124

HOUSE SPONSORSHIP

Williams A.,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CONFLICTS OF INTEREST OF MEMBERS OF THE
102 EXECUTIVE BOARD OF A UNIT OWNERS' ASSOCIATION, AND, IN
103 CONNECTION THEREWITH, REQUIRING SUCH MEMBERS TO
104 RECUSE THEMSELVES FROM VOTING WHEN A CONFLICT OF
105 INTEREST EXISTS AND PROHIBITING SUCH MEMBERS FROM
106 SERVING CONCURRENTLY ON THE BOARD OF DIRECTORS FOR A
107 METROPOLITAN DISTRICT.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

http://www.leg.state.co.us/bills/summaries.)

The bill pertains to conflicts of interest of members of the executive board (executive board) of a unit owners' association (association).

In 2006, the law pertaining to conflicts of interest of executive board members was amended to import and apply conflict of interest provisions contained in the "Colorado Revised Nonprofit Corporation Act". The bill restores the original executive board conflict of interest provisions, which require an executive board member to disclose a conflict of interest and abstain from voting on an issue from which the member or a member of the member's family would financially benefit. Any action taken by the executive board in violation of these requirements is void.

The bill also prohibits a person from serving concurrently on the board of directors for a metropolitan district and the executive board of an association located within that district. The following are exempt from this provision:

- ! Small cooperatives and small limited expense planned communities; and
- ! Executive board members appointed or elected during a period of declarant control over the association; except that, the number of members so exempted are not permitted to exceed the number of declarant-appointed members allowed to serve during a period of declarant control under current law. This exemption ends upon termination of the period of declarant control.

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

2 **SECTION 1.** 38-33.3-310.5, Colorado Revised Statutes, is
3 amended to read:

4 **38-33.3-310.5. Executive board - conflicts of interest.**

5 (1) ~~Section 7-128-501, C.R.S., shall apply to members of the executive~~
6 ~~board; except that, as used in that section:~~

7 (a) ~~"Corporation" or "nonprofit corporation" means the~~
8 ~~association.~~

9 (b) ~~"Director" means a member of the association's executive~~
10 ~~board.~~

1 ~~(c) "Officer" means any person designated as an officer of the~~
2 ~~association and any person to whom the board delegates responsibilities~~
3 ~~under this article, including, without limitation, a managing agent,~~
4 ~~attorney, or accountant employed by the board.~~ IF ANY CONTRACT,
5 DECISION, OR OTHER ACTION TAKEN BY OR ON BEHALF OF THE EXECUTIVE
6 BOARD WOULD FINANCIALLY BENEFIT ANY MEMBER OF THE EXECUTIVE
7 BOARD OR ANY PERSON WHO IS A PARENT, GRANDPARENT, SPOUSE, CHILD,
8 OR SIBLING OF A MEMBER OF THE EXECUTIVE BOARD OR A PARENT OR
9 SPOUSE OF ANY OF THOSE PERSONS, THAT MEMBER OF THE EXECUTIVE
10 BOARD SHALL DECLARE A CONFLICT OF INTEREST FOR THAT ISSUE. THE
11 MEMBER SHALL DECLARE THE CONFLICT IN AN OPEN MEETING, PRIOR TO
12 ANY DISCUSSION OR ACTION ON THAT ISSUE. AFTER MAKING SUCH
13 DECLARATION, THE MEMBER MAY PARTICIPATE IN THE DISCUSSION BUT
14 SHALL NOT VOTE ON THAT ISSUE.

15 (2) ANY CONTRACT ENTERED INTO OR ACTION TAKEN IN
16 VIOLATION OF THIS SECTION IS VOID AND UNENFORCEABLE.

17 (3) THIS SECTION DOES NOT INVALIDATE ANY PROVISION OF THE
18 DECLARATION, BYLAWS, OR OTHER DOCUMENTS THAT MORE STRICTLY
19 DEFINES CONFLICTS OF INTEREST OR CONTAINS FURTHER LIMITS ON THE
20 PARTICIPATION OF EXECUTIVE BOARD MEMBERS WHO MAY HAVE
21 CONFLICTS OF INTEREST.

22 (4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
23 SUBSECTION (4), A PERSON WHO IS A MEMBER OF A BOARD OF DIRECTORS
24 FOR A METROPOLITAN DISTRICT ORGANIZED PURSUANT TO PART 3 OF
25 ARTICLE 1 OF TITLE 32, C.R.S., IN WHICH AN ASSOCIATION IS LOCATED
26 SHALL NOT CONCURRENTLY SERVE ON THE EXECUTIVE BOARD OF THAT
27 ASSOCIATION.

1 (b) PARAGRAPH (a) OF THIS SUBSECTION (4) DOES NOT APPLY TO:

2 (I) COMMON INTEREST COMMUNITIES EXEMPTED UNDER SECTION
3 38-33.3-116; OR

4 (II) EXECUTIVE BOARD MEMBERS APPOINTED OR ELECTED DURING
5 A PERIOD OF DECLARANT CONTROL OF AN ASSOCIATION; EXCEPT THAT:

6 (A) AT NO TIME SHALL THE NUMBER OF MEMBERS EXEMPTED
7 PURSUANT TO THIS SUBPARAGRAPH (II) EXCEED THE MAXIMUM NUMBER
8 OF DECLARANT-APPOINTED MEMBERS PERMITTED TO SERVE PURSUANT TO
9 SECTION 38-33.3-303 (6); AND

10 (B) ANY MEMBER APPOINTED OR ELECTED AFTER THE PERIOD OF
11 DECLARANT CONTROL TERMINATES IS SUBJECT TO PARAGRAPH (a) OF THIS
12 SUBSECTION (4).

13 **SECTION 2. Applicability.** This act shall apply to members
14 elected or appointed to the executive board of a unit owners' association
15 on or after the effective date of this act.

16 **SECTION 3. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.