

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 SPONSORSHIP**

**Stephens,**

**SENATE SPONSORSHIP**

**(None),**

---

**House Committees**  
Local Government

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING PROCEDURES FOR SMALL PLANNED COMMUNITIES TO**  
102 **ELECT TO EXEMPT THEMSELVES FROM CERTAIN PROVISIONS OF**  
103 **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

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.*

HOUSE  
Amended 2nd Reading  
March 1, 2010

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.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*  
2           **SECTION 1.** Article 33.3 of title 38, Colorado Revised Statutes,  
3 is amended BY THE ADDITION OF A NEW SECTION to read:  
4           **38-33.3-118.5. Election for limited exemption from coverage**  
5 **under act - small and limited expense planned communities -**  
6 **qualifications - procedure - subsequent elections.** (1) A PLANNED  
7 COMMUNITY THAT MEETS ANY OF THE CRITERIA SET FORTH IN SUBSECTION  
8 (2) OF THIS SECTION MAY ELECT TO BECOME SUBJECT ONLY TO SECTIONS  
9 38-33.3-105 TO 38-33.3-107, AND EXEMPT FROM ALL OTHER PROVISIONS  
10 OF THIS ARTICLE, BY FOLLOWING THE PROCEDURES SET FORTH IN THIS  
11 SECTION.  
12           (2) THIS SECTION APPLIES ONLY TO A PLANNED COMMUNITY THAT:  
13           (a) CONTAINS NO MORE THAN TWENTY UNITS;  
14           (b) DOES NOT IMPOSE ANNUAL AVERAGE COMMON EXPENSE  
15 ASSESSMENTS IN EXCESS OF THE AMOUNTS SET FORTH IN SECTION  
16 38-33.3-116 (2) AND (3); OR  
17           (c) HAS ANNUAL REVENUES OR EXPENDITURES OF LESS THAN ONE  
18 HUNDRED FIFTY THOUSAND DOLLARS.  
19           (3) (a) IF THERE ARE MEMBERS OR STOCKHOLDERS ENTITLED TO  
20 VOTE ON THE RESOLUTION, THE BOARD OF DIRECTORS MAY ADOPT A

1 RESOLUTION RECOMMENDING THAT THE PLANNED COMMUNITY ELECT TO  
2 SO EXEMPT ITSELF AND DIRECTING THAT THE QUESTION OF SUCH ELECTION  
3 BE SUBMITTED TO A VOTE AT A MEETING OF THE MEMBERS OR  
4 STOCKHOLDERS ENTITLED TO VOTE THEREON, WHICH MAY BE EITHER AN  
5 ANNUAL OR SPECIAL MEETING. THE QUESTION SHALL ALSO BE SUBMITTED  
6 WHENEVER ONE-TWENTIETH OF THE MEMBERS OR STOCKHOLDERS  
7 ENTITLED TO VOTE THEREON SO REQUEST. WRITTEN NOTICE STATING  
8 THAT THE PURPOSE, OR ONE OF THE PURPOSES, OF THE MEETING IS TO  
9 CONSIDER ELECTING TO BE SUBJECT ONLY TO SECTIONS 38-33.3-105 TO  
10 38-33.3-107, AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE,  
11 TOGETHER WITH A COPY OF THIS ARTICLE, SHALL BE GIVEN TO EACH  
12 PERSON ENTITLED TO VOTE AT THE MEETING WITHIN THE TIME AND IN THE  
13 MANNER PROVIDED IN THE ARTICLES OF INCORPORATION, DECLARATION,  
14 BYLAWS, OR OTHER GOVERNING DOCUMENTS FOR THE PLANNED  
15 COMMUNITY FOR THE GIVING OF NOTICE OF MEETINGS TO MEMBERS. THE  
16 ELECTION SHALL REQUIRE FOR ADOPTION OF THE RESOLUTION AT LEAST  
17 SIXTY-SEVEN PERCENT OF THE VOTES THAT THE PERSONS PRESENT AT THE  
18 MEETING IN PERSON OR BY PROXY ARE ENTITLED TO CAST.

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

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

1 (a) THE NAME OF THE PLANNED COMMUNITY;

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

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

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

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

19 (f) IF THERE WERE NO PERSONS ENTITLED TO VOTE THEREON BUT  
20 A PLANNED COMMUNITY HAS BEEN CREATED BY VIRTUE OF COMPLIANCE  
21 WITH SECTION 38-33.3-103 (8), THAT THE DECLARANT DESIRES FOR THE  
22 PLANNED COMMUNITY TO BE SUBJECT ONLY TO SECTIONS 38-33.3-105 TO  
23 38-33.3-107 AND EXEMPT FROM ALL OTHER PROVISIONS OF THIS ARTICLE.

24 (5) THE ORIGINAL STATEMENT OF ELECTION TO BECOME SUBJECT  
25 ONLY TO SECTIONS 38-33.3-105 TO 38-33.3-107 AND EXEMPT FROM ALL  
26 OTHER PROVISIONS OF THIS ARTICLE SHALL BE DULY RECORDED IN THE  
27 OFFICE OF THE CLERK AND RECORDER FOR THE COUNTY IN WHICH THE

1 PLANNED COMMUNITY IS LOCATED, AND SHALL BE EFFECTIVE AS OF THE  
2 DATE OF RECORDING; EXCEPT THAT THE ELECTION:

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

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

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

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

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

19 (b) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, ANY  
20 SUBSEQUENT ELECTION PURSUANT TO THIS SECTION SHALL NOT BECOME  
21 EFFECTIVE BEFORE THE EXPIRATION OF TWO YEARS AFTER THE RECORDING  
22 OF THE STATEMENT OF ELECTION PURSUANT TO SUBSECTION (4) OF THIS  
23 SECTION.

24 **SECTION 2. Act subject to petition - effective date.** This act  
25 shall take effect at 12:01 a.m. on the day following the expiration of the  
26 ninety-day period after final adjournment of the general assembly (August  
27 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the  
2 state constitution against this act or an item, section, or part of this act  
3 within such period, then the act, item, section, or part shall not take effect  
4 unless approved by the people at the general election to be held in  
5 November 2010 and shall take effect on the date of the official  
6 declaration of the vote thereon by the governor.