NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 13-183

BY SENATOR(S) Carroll, Giron, Schwartz, Aguilar, Guzman, Heath, Hodge, Jones, Kefalas, Kerr, Newell, Nicholson, Steadman, Tochtrop, Todd, Morse;
also REPRESENTATIVE(S) Fields, Fischer, Hamner, Labuda, Lebsock, Lee, Mitsch Bush, Moreno, Peniston, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Williams, Young.

CONCERNING WATER CONSERVATION MEASURES IN COMMON INTEREST COMMUNITIES.

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

SECTION 1. In Colorado Revised Statutes, 37-60-126, **amend** (11) (a), (11) (b) (III), (11) (c) introductory portion, (11) (c) (I), and (11) (c) (III); and **add** (11) (b) (II.5) and (11) (d) as follows:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - repeal. (11) (a) Any section of a restrictive covenant OR OF THE DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF A COMMON INTEREST COMMUNITY, ALL AS DEFINED IN SECTION 38-33.3-103, C.R.S., that prohibits or limits xeriscape, prohibits or limits the installation or use of drought-tolerant vegetative

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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

landscapes, or requires cultivated vegetation to consist ~~exclusively or primarily~~ WHOLLY OR PARTIALLY of turf grass is hereby declared contrary to public policy and, on that basis, ~~that section of the covenant shall be~~ IS unenforceable. THIS PARAGRAPH (a) DOES NOT PROHIBIT COMMON INTEREST COMMUNITIES FROM ADOPTING AND ENFORCING DESIGN OR AESTHETIC GUIDELINES OR RULES THAT REQUIRE DROUGHT-TOLERANT VEGETATIVE LANDSCAPES OR REGULATE THE TYPE, NUMBER, AND PLACEMENT OF DROUGHT-TOLERANT PLANTINGS AND HARDSCAPES THAT MAY BE INSTALLED ON THE UNIT OWNER'S PROPERTY OR PROPERTY FOR WHICH THE UNIT OWNER IS RESPONSIBLE.

(b) As used in this subsection (11):

(II.5) "TURF" MEANS A COVERING OF MOWED VEGETATION, USUALLY TURF GRASS, GROWING INTIMATELY WITH AN UPPER SOIL STRATUM OF INTERMINGLED ROOTS AND STEMS.

(III) "Turf grass" means continuous plant coverage consisting of ~~hybridized~~ NONNATIVE grasses ~~that,~~ OR GRASSES THAT HAVE NOT BEEN HYBRIDIZED FOR ARID CONDITIONS WHICH, when regularly mowed, form a dense growth of leaf blades and roots.

(c) Nothing in this subsection (11) ~~shall preclude~~ PRECLUDES the executive board of a common interest community from taking enforcement action against a unit owner who allows his or her existing landscaping to die OR GO DORMANT; except that:

(I) ~~Such~~ NO enforcement action shall ~~be suspended during a period~~ REQUIRE THAT A UNIT OWNER WATER IN VIOLATION of water use restrictions declared by the jurisdiction in which the common interest community is located, in which case the unit owner shall ~~comply with~~ WATER HIS OR HER LANDSCAPING APPROPRIATELY BUT NOT IN EXCESS OF any watering restrictions imposed by the water provider for the common interest community;

(III) ~~Once the drought emergency is lifted,~~ IN ANY ENFORCEMENT ACTION IN WHICH THE EXISTING TURF GRASS IS DEAD OR DORMANT DUE TO INSUFFICIENT WATERING, the unit owner shall be allowed a reasonable and practical opportunity, as defined by the association's executive board, with consideration of applicable local growing seasons or practical limitations,

to reseed and revive turf grass before being required to replace it with new sod.

(d) THIS SUBSECTION (11) DOES NOT SUPERSEDE ANY SUBDIVISION REGULATION OF A COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY.

SECTION 2. In Colorado Revised Statutes, 38-33.3-103, **add** (33) as follows:

38-33.3-103. Definitions. As used in the declaration and bylaws of an association, unless specifically provided otherwise or unless the context otherwise requires, and in this article:

(33) "XERISCAPE" MEANS THE COMBINED APPLICATION OF THE SEVEN PRINCIPLES OF LANDSCAPE PLANNING AND DESIGN, SOIL ANALYSIS AND IMPROVEMENT, HYDRO ZONING OF PLANTS, USE OF PRACTICAL TURF AREAS, USES OF MULCHES, IRRIGATION EFFICIENCY, AND APPROPRIATE MAINTENANCE UNDER SECTION 38-35.7-107 (1) (a) (III) (A).

SECTION 3. In Colorado Revised Statutes, 38-33.3-106.5, **add** (1) (i) as follows:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic and political expression - emergency vehicles - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures - definitions. (1) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not prohibit any of the following:

(i) (I) THE USE OF XERISCAPE OR DROUGHT-TOLERANT VEGETATIVE LANDSCAPES TO PROVIDE GROUND COVERING TO PROPERTY OWNED BY THE UNIT OWNER. ASSOCIATIONS MAY ADOPT AND ENFORCE DESIGN OR AESTHETIC GUIDELINES OR RULES THAT REQUIRE DROUGHT-TOLERANT VEGETATIVE LANDSCAPES OR REGULATE THE TYPE, NUMBER, AND PLACEMENT OF DROUGHT-TOLERANT PLANTINGS AND HARDSCAPES THAT MAY BE INSTALLED ON THE UNIT OWNER'S PROPERTY OR PROPERTY FOR WHICH THE UNIT OWNER IS RESPONSIBLE.

(II) THIS PARAGRAPH (i) DOES NOT SUPERSEDE ANY SUBDIVISION REGULATION OF A COUNTY, CITY AND COUNTY, OR OTHER MUNICIPALITY.

SECTION 4. In Colorado Revised Statutes, 38-33.3-302, **amend** (1) (k) as follows:

38-33.3-302. Powers of unit owners' association. (1) Except as provided in subsections (2) and (3) of this section, and subject to the provisions of the declaration, the association, without specific authorization in the declaration, may:

(k) (I) Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association.

(II) THE ASSOCIATION MAY NOT LEVY FINES AGAINST A UNIT OWNER FOR VIOLATIONS OF DECLARATIONS, BYLAWS, OR RULES OF THE ASSOCIATION FOR FAILURE TO ADEQUATELY WATER LANDSCAPES OR VEGETATION FOR WHICH THE UNIT OWNER IS RESPONSIBLE WHEN WATER RESTRICTIONS OR GUIDELINES FROM THE LOCAL WATER DISTRICT OR SIMILAR ENTITY ARE IN PLACE AND THE UNIT OWNER IS WATERING IN COMPLIANCE WITH SUCH RESTRICTIONS OR GUIDELINES. THE ASSOCIATION MAY REQUIRE PROOF FROM THE UNIT OWNER THAT THE UNIT OWNER IS WATERING THE LANDSCAPE OR VEGETATION IN A MANNER THAT IS CONSISTENT WITH THE MAXIMUM WATERING PERMITTED BY THE RESTRICTIONS OR GUIDELINES THEN IN EFFECT.

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John P. Morse PRESIDENT OF THE SENATE	Mark Ferrandino SPEAKER OF THE HOUSE OF REPRESENTATIVES
Cindi L. Markwell SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO