

LEGALLY REQUIRED NOTICE

HOA Foreclosure

Denver Homeowner Rights & Resources

Beginning on Aug. 30, 2022, a homeowners' association (HOA), or assignee of the HOA's debt, must provide this notice at least 30 days prior to seeking to foreclose on a lien.¹ The HOA shall maintain a record of such notice, including the date and time the notice was provided, and what the notice stated.

This notice summarizes some of the rights and obligations of homeowners and HOAs in Denver, Colorado. This notice does not represent a complete analysis of homeowner, HOA, or foreclosure law, does not constitute legal advice, and the information in this notice can change at any time. The most current version of this notice can be found on the Denver Department of Housing Stability's website denvergov.org/housing. This notice merely serves as a general rights and resources guide, and though it outlines those principles generally, it does not cover every law or exception that may apply in a particular situation.

Homeowner Resources

There are a number of resources and additional information to help you navigate a foreclosure and even prevent it from happening. This can include mortgage or utility assistance, housing counseling and legal services, fraud protection, and more. Some resources are listed on the following pages, and you can visit denvergov.org/housing to learn more.



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¹ D.R.M.C. 27-240(c)

Housing Counseling

Free housing counseling is available to homeowners seeking to maintain and retain their home in the City and County of Denver.

 You can contact any of the following housing counseling services:

- **Brothers Redevelopment**
brothersredevelopment.org | 1-844-926-6632
- **Colorado Housing Assistance Corporation (CHAC)**
chaconline.org | 303-572-9445
- **Denver Housing Authority (DHA)**
denverhousing.org | 720-932-3000
- **NEWSED Community Development Corporation**
newsed.org | 303-534-8342
- **Northeast Denver Housing Center**
nedenverhousing.org | 303-377-3334
- **Del Norte Neighborhood Development**
delnortenc.org | 303-477-4774

Emergency Mortgage Assistance Program

The Colorado Emergency Mortgage Assistance Program (EMAP) provides financial assistance on behalf of income-eligible homeowners who have experienced a financial hardship associated with the COVID-19 health crisis. (These funds are for a limited time and may not be available past summer 2022.)

Households are eligible to receive EMAP assistance if they:

1. Attest that they experienced a financial hardship after Jan. 21, 2020 associated with the COVID-19 pandemic,
2. Provide income documentation and have household incomes equal to or less than 100% of the Area Median Income for their county,
3. Currently own and occupy a primary residence in Colorado, and
4. Their original loan was not a Jumbo loan at the time of purchase or most recent refinance.

 Learn more at cdola.colorado.gov/emergency-mortgage-assistance

Bank on Denver

In partnership with the City and County of Denver Office of Financial Empowerment and Protection (OFEP), Bank On Denver has resources available for Denver residents that have suffered financial setbacks as a result of the COVID-19 pandemic.

 Visit bankondenver.com/grant-application

Fair Housing Education and Enforcement

Free fair housing education and enforcement is available for low- and moderate-income households.

 For information on fair housing rights, responsibilities, and remedies under fair housing laws or to report potential fair housing discrimination, call Denver Metro Fair Housing Center at **720-279-4291** or visit dmfhc.org.

Home Repair, Rehabilitation, and Accessibility Modifications

Denver Urban Renewal Authority (DURA) offers loans and grants for home repair, rehabilitation, and accessibility modifications for low- and moderate-income homeowners.

 For more information, call **303-534-3872** or visit renewdenver.org

Property Tax Relief

Denver Human Services offers the Denver Property Tax Relief Program, which provides a partial refund of property taxes paid to qualifying Denver residents.

 For more information, call **720-944-4347** or visit denvergov.org/propertytaxrelief

Housing Questions

If you have a housing question that does not require legal advice, contact the free Colorado Housing Connects helpline to find answers. Colorado Housing Connects can help you navigate housing information and resources.

 Call **1-844-926-6632** or visit coloradohousingconnects.org

Colorado State Laws on Owners Rights

In Colorado, HOA communities are primarily regulated by State law, as opposed to city or county laws and ordinances.

 Colorado residents who live in an HOA community should visit the Colorado HOA Information and Resource Center (“Resource Center”) on the Department of Regulatory Agencies’ website at dre.colorado.gov/hoa-center.

The Resource Center includes information about how to get involved in your HOA by attending meetings, participating in elections, or serving as a board member. There are also helpful tools and resources to help understand HOA operations and responsibilities, as well as how local, state, and federal laws may apply to HOA communities.

 The Resource Center’s frequently asked questions are a great place to start: dre.colorado.gov/hoa-frequently-asked-questions

During General Assembly’s 2022 legislative session, the following changes to state law were enacted:

- The homeowner has the right to request communication be made available in a language other than English.
- The homeowner may designate another person as the contact for the property.
- HOAs are required to contact the homeowner to notify them of the delinquency in writing by certified mail and posting a notice on the property, and by one of the following means: email, first-class mail or a text message.
- The HOA is required to keep records of these contact attempts.
- The HOA cannot refer the delinquent account to a collection agency or an attorney without a majority vote of the HOA’s Board of Directors.
- HOAs cannot impose daily fines for violations of the declaration, bylaws, covenant, or other HOA governing document.
- HOAs must provide homeowners a period to cure the violation of any HOA documents before a fine can be given to a homeowner.

- Except for violations that threaten the public safety of health, two 30-day periods to cure the violation must be provided to homeowners before an HOA is authorized to take any legal action against the homeowner.
- Any action the HOA takes regarding threats to public safety or health must provide a minimum of 72 hours-notice before the HOA can fine the homeowner.
- For violations other than a violation that threatens the public safety or health, the maximum fine that may be imposed is \$500.00.
- HOAs may not charge interest on unpaid assessments, fees, or fines in an amount greater than 8% annually.
- Monthly, HOAs are required to send to all homeowners that have an outstanding balance an itemized list of all assessments, fines, fees, and charges owed.
- HOAs cannot create a fee or other charge for providing homeowners with a statement for the amount due.
- To impose a fine, HOAs must adopt a policy that requires notice to homeowners regarding any alleged violations, the actions a homeowner must take to cure the alleged violation and a timeline for a fair and impartial hearing on the alleged violation.
- A notice of delinquency sent by an HOA must specify wither the delinquency concerns unpaid assessments; unpaid fines, fees, or charges; or both; and include a description of the steps the HOA must take before legal action can be taken against the homeowner, and a description of the types of legal action an HOA is authorized to take against the homeowner.
- The HOA must offer a monthly payment plan to a homeowner before the HOA can initiate a foreclosure action, but the payments must be at least \$25 a month. The HOA can move forward with a foreclosure action if the homeowner:
 - Declines the payment plan offer; or
 - Accepts the offer but fails to make at least three monthly payments within 15 days after installment payments were due.
- HOAs may file small claims against a homeowner if the delinquent amount due is less than \$7,500 without interest and costs.
- An HOA may not initiate a foreclosure action if a homeowners' unpaid balance consists only of one or both of the following: (1) fines; or (2) collection costs or attorneys' fees that the HOA has incurred that are only associated with assessed fines.

In addition, the executive board of an HOA is authorized to conduct a disciplinary hearing or determine whether to refer a delinquency in executive session, but the unit owner who is the subject of the disciplinary hearing or referral of delinquency may request and receive the results of the vote taken on the matter.

A member of an HOA's executive board, an employee of a community association management company representing the HOA, an employee of a law firm representing the HOA, or an immediate family member of an executive board member, a community association management employee, or a law firm employee are expressly prohibited from purchasing a unit on which the HOA has foreclosed its assessment lien.

A homeowner is allowed to file a civil suit against an HOA if the HOA violates any foreclosure laws. The unit owner may be awarded damages in an amount up to \$25,000 plus costs and reasonable attorney fees.

Glossary of Terms and Definitions

Auction: An event in which foreclosed properties are sold to the highest bidder. When a home goes to court for foreclosure, there is a court hearing. If the court awards judgement on behalf of the lender or homeowner association, the home is then auctioned. If the lender filed the foreclosure, the auction is held with the Clerk and Recorder's office. If a homeowners' association (HOA) files the foreclosure, the home is auctioned by the Sheriff's Department.

Bankruptcy: A procedure in which a borrower works with legal representation (which is not required but advisable) to assess, reorganize, and/or discharge debt obligations. Filing for bankruptcy pauses or stays the foreclosure process, depending on the details of the homeowner's situation. Individuals can file Chapter 7 bankruptcy, also known as a liquidation, which is a legal option that can help clear some or all of a person's debt; or Chapter 13 bankruptcy, a legal option that can help get some debt discharged, but allows a person to keep their property and repay debt by completing a repayment plan.

The Colorado Common Interest Ownership Act: The Colorado Common Interest Ownership Act (CCIOA) is a set of laws that govern the formation, management, powers, and operation of common interest communities (such as HOAs) in Colorado.

Foreclosure: The process resulting in the sale of a property to settle a debt.

Homeowner Association (HOA): An organization in a planned housing community that makes and enforces rules about the appearance and maintenance of properties, and that maintains common areas with money from membership fees, dues, or assessments.

Intent to Cure: An intent to cure communicates the homeowner's intent to pay off the outstanding debt. This allows the scheduled auction of the home to be delayed until the payment or arrangements can be made.



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