

SB 100 Clean Up Bill Signed Into Law: CAI/CLAC

Unless you have been out of the State for the past two years, you most likely know that the Colorado General Assembly has taken a keen interest in the activities of community associations. In the 2005 session, the state legislature approved a major overhaul of the Colorado Common Interest Ownership Act (CCIOA), the law that governs community associations.

SB 100 was a comprehensive bill that dealt with a range of issues from turf regulation to proxy voting, and had more than 100 amendments during the legislative process. Given the complexity and breadth of SB 100, it was inevitable that some objectionable provisions were adopted as part of the larger package

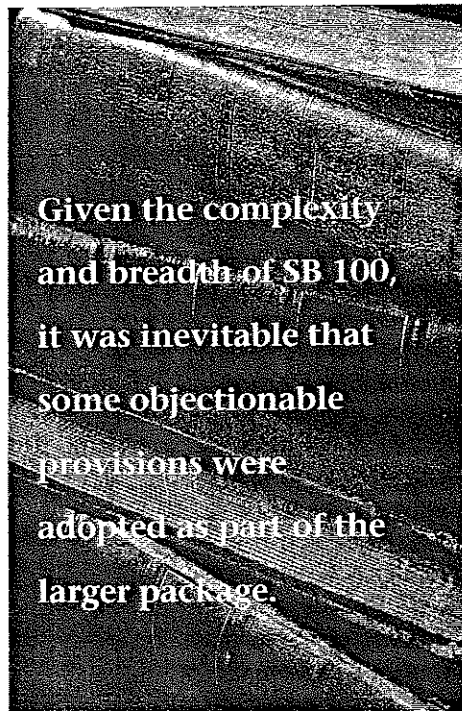
In response to concerns brought forward by our members and other key stakeholders in the association community, CAI/CLAC initiated legislation in the 2006 session to rectify problems and concerns with SB 100. SB 89 was crafted to address problem areas that have created difficulty, confusion and questions on implementation of SB100.

Beginning in the summer of 2005, CAI/CLAC was at the helm of a very involved process to draft SB 89. Months of meetings took place to garner input from membership and other parties as well as the legislative sponsors. As a result, SB 89 represents consensus on outstanding issues of concern to multiple parties, including stakeholders such as the Homebuilders, Title Companies, Real Estate professionals, the Bar Association and the Society of CPA's. Specifically, Key policy areas addressed in SB 89 include the following:

- ◆ SB 06-89 has a key change from SB 05-100 in that it now requires a homeowner to first inquire with the association regarding an insurance claim before contacting the association insurance company, and requires the association to respond in writing in a timely fashion. Insurance costs were expected to increase as owners exercised their rights as additional insured's under SB 05-100 to make direct claims, inquires,

etc. to the association insurance agent or company. This could have been counted negatively against the association and result in increased premiums. The association would have lost its ability to manage those claims, and through that management, preserve its ability to obtain and maintain insurance required under the community's governing documents or under CCIOA.

- ◆ SB 06-89 revises the attorney fee mandate for lawsuits to be more in line with typical statutory and contract fee shifting provisions. The "claim by claim" award of fees set out in SB 05-100 could have overly complicated a court hearing for attorney fees and led to unfair or unanticipated results.



- ◆ Ensures the requirement to use secret ballots in a contested election is practical, and does not apply to a delegate system or an uncontested election.
- ◆ Changes disclosure of HOA information from closing to sales contract and narrows scope of damages to be sought by an injured buyer. The SB 05-100 schedule for buyer disclosure statement could have put a sale in jeopardy and the damage allowed

for inadequate disclosure was overly broad.

- ◆ Enhances the dispute resolution provision of SB 05-100 by requiring community associations to have a written policy on dispute resolution and to make such policy available to the community.
- ◆ Provides flexibility on the deadline for an association's audit/review.
- ◆ Based on input from professionals in the accounting industry, provides associations with options to maintain their financial records.
- ◆ Makes the conflict of interest requirements consistent with the Colorado Nonprofit Code.
- ◆ Clarifies the situations and process for use of a secret ballot for association action.
- ◆ Prohibits an association from requiring shake shingle roofs but allows the association to determine what products may be used instead.
- ◆ Narrows SB 05-100 language that could have allowed for the "disenfranchising" of unit owners in common interest communities in which one large owner controls more than 67% of the votes of the association.

A more detailed analysis of SB 89 may be found at the Colorado CAI chapter website under the CLAC link.

CLAC efforts on SB 89 with the legislators and other stakeholders have established the organization as the voice and go-to organization on community association issues at the state capitol! The CAI/CLAC approach on SB 89 resulted in overwhelming support for the measure which passed out of the House 64 -1 and Senate 35-0.

On the Horizon: What to Expect in the 2007 session

As detailed in the May/June 2006 cover story of *Common Grounds* magazine, so-called homeowner "advocates" who were once an isolated but vocal minority are using technology to expand and increase their influence. The advent of the internet, list serves and blogs are making it incredibly easy to spread the gospel of fear and loathing of community associations to more people. And, to get