Proposed Colorado Real Estate Bills

Welcome to our discussion. Glad to be here. Yeah, we are absolutely thrilled to have you joining us today.

The title for this particular conversation is Another Round of Bills That May Impact Real Estate. And it is quite a round. It really is.

Now, before we open up the main stack of sources we've prepared for you today, there's a really quick but honestly critical legislative update we need to get out of the way. Right, the HOA bill. Exactly.

So, if you've been tracking HB 26-1201, that's the Homeowners Preferred Language Notice to Homeowners Association bill, it was just postponed indefinitely. Which, in the language of the State House, means that bill is officially dead. Dead in the water.

Yeah, and that's such an important update to put right at the top of our discussion today. When a committee votes to postpone a bill indefinitely, it's essentially just a polite, procedural way of killing it for the session. Right.

It really highlights for you, the listener, just how rapidly the landscape can shift when the legislature is actively in session. What looks like an absolute sure thing on Monday can just completely evaporate by Friday. Which brings us perfectly to our overarching mission for today.

We're going to take a rapid-fire but highly detailed look at the 2026 Colorado legislative session. Specifically, we're looking at the slate of bills that might fundamentally change the structure of real estate, housing, and property management for you. Right, because whether you rent, own, or manage property, there are structural shifts being proposed right now that you really need to be aware of.

Definitely. And the material we're pulling from today comes directly from the Colorado General Assembly Bill Digest, as well as some industry updates provided by Apex Real Estate School. Great sources.

Yeah. And actually, just as a quick casual aside, just in case it comes up, or you're wondering while utilizing real estate schools to maybe further your own career, education records are not public. That is a very good factual nugget to keep in your back pocket.

Privacy is always paramount. But, you know, before we start pulling apart the specific mechanics of these proposed laws, we really have to lay down some crucial ground rules for you. Please do.

All the bills we are analyzing in this discussion are currently under consideration. They're actively working their way through the legislative process. Right.

That means none of these are signed acts yet. They are proposals. They may still be heavily amended.

They could be killed in committee, or they might fail on the floor of one of the chambers in the statehouse long before they ever reach the governor's desk. So things can change. Exactly.

Our goal today is simply to report on what is contained within the current text of these bills entirely and partially. We aren't taking any political sides here. We're just here to help you understand the ideas being debated.

You have our promise on that. And we will absolutely return with a future discussion dedicated exclusively to the bills that actually survive this gauntlet and become signed law. Looking forward to it.

But for now, we need to look at what's actively making its way through the building. So let's start with our first major category, tenant rights and landlord operations. This is a big one.

It is. There are some incredibly significant changes proposed regarding how tenant data and utility billing are handled. Let's look first at H.E. 26-1196.

The tenant data information bill. Right. If you have ever applied for an apartment, you know it can feel like you're just handing over a black box of personal information and hoping to the best.

Yeah, it's very one-sided. This bill attempts to change that dynamic. Before a landlord even attempts to obtain information about a prospective tenant for a background screening, they would be required to provide a written notice.

Or post it conspicuously. Exactly. Telling the tenant exactly what specific data they're accessing and precisely what criteria would result in a denial of the application.

The transparency aspect of that is definitely interesting. Yeah. But if we connect this to the broader financial picture, the operational requirements that kick in once a lease is actually signed are fascinating.

We call the rent reporting. Yes. This bill dictates that landlords who manage five or more dwelling units or who receive certain types of financial assistance must offer something called positive rent reporting to at least one consumer reporting agency.

And they have to do this right up front. Right. They have to offer this to the prospective tenant right before entering into the lease.

And if the tenant declines it initially, the landlord is still obligated to offer it again every single time that lease comes up for renewal. I want to pause on that because I think the implications are huge for you if you're a renter. Traditionally, paying a mortgage builds your credit score.

But paying rent, which is often someone's largest monthly expense, does absolutely nothing to build your credit profile. Unless you miss a payment. Right.

Unless you miss a payment and get sent to collections. Precisely. Positive rent reporting changes that entire paradigm.

If the tenant opts in, the landlord must send the tenant's rental payment information, including their full name and the date of the payment, to the credit reporting agency every time the rent is paid. Which is great for the renter. It allows renters to actively build a positive credit history.

But here's the most crucial part for you to understand regarding the mechanics of this bill. It must be a completely free option for the tenant. Oh, wow.

Free? Yes. Landlords are strictly prohibited from charging a fee for this reporting. And they cannot implicitly pass the administrative cost onto the tenant by raising the base rent to cover it.

And what if they do? Or what if they just refuse to offer it? If a covered landlord fails to comply with any of these positive rent reporting requirements, the bill classifies that failure as an unfair and deceptive trade practice. Oof. Which carries its own set of very severe legal consequences.

That is a massive shift in how tenant financial data is leveraged. Okay, let's transition from how landlords track data to how they track actual resource consumption. Specifically, water.

Yes, water. HB 26-1284 sets up strict new requirements for tenant utility billing. And unlike some bills that leave things sort of open-ended, there's a hard deadline written into this one.

January 1st, 2027. You got it. Starting January 1st, 2027, all new residential construction must have individual sub-meters installed for each individual unit to measure water consumption.

So, under this proposal, a tenant's water bill would be calculated based exclusively on what their specific unit consumed. It makes perfect logical sense for new construction. I mean, it encourages individual water conservation.

But you have to immediately ask, what happens to the older existing properties? Right, because retrofitting plumbing is not cheap. Retrofitting individual plumbing sub-meters into a 50-year-old apartment complex is often financially and structurally impossible. So, for those existing properties, or for utility services other than water, landlords typically rely on what the industry calls a ratio utility billing system.

Right, and for anyone who hasn't encountered that term, a ratio utility billing system, often just called RUBS, is where the property manager takes the total utility bill for the entire building and allocates the costs among the tenants based on a formula. Usually, it's based on the square footage of your specific unit or how many people are living in it. Exactly.

But here is the friction point this bill addresses. If you live in a multifamily complex, that total water bill doesn't just include what tenants use in their bathrooms and kitchens. It includes the water used to keep the community courtyard grass green.

Or to fill the shared swimming pool. Exactly. So, under this new bill, if a landlord or an association utilizes a ratio utility billing system, they must first deduct at least 10% from the total utility service bill to account for those common areas.

Okay, that makes sense. Only after that 10% is removed can they allocate the remaining costs to the individual tenants. You really shouldn't be paying to water the landscaping out of your personal utility ratio.

But what happens if a landlord simply ignores this? What if they just pass the full 100% of the bill onto the tenants anyway? The enforcement mechanisms drafted into this bill have some real teeth. If a landlord or a unit owner or an association violates these billing provisions, the aggrieved tenant is empowered to file a civil action in court. And if the judge rules in the tenant's favor, they don't just get their money back.

They can recover their actual damages from the utility overages, plus an additional penalty of up to 25% of those overages, plus all their attorney fees and court costs. So they're really trying to make noncompliance far more expensive than simply following the deduction rule. Yes, the financial risk for property managers cutting corners would be immense.

Okay, let's move into our second major theme for today, property modifications and HOAs. Always a popular topic. Oh, always.

We're moving away from the rental market and looking at the hidden costs and strict rules of owning a home and managing residential communities. First up is HB 26-1099, which is explicitly designed to protect the financial condition of homeowners' associations. Yes.

This bill places a very heavy front-end requirement on developers who are referred to in legal terms as declarants. Right, the declarant is the entity that creates the community and holds all the power before enough units are sold to hand control over to a homeowner-elected board. And one of the biggest nightmare scenarios for a new condo owner is taking over an HOA, only to discover the reserves are entirely empty and the roof needs replacing.

It happens more than you'd think. It does. To combat this, the bill requires that before selling or conveying the very first unit of a new planned community or condominium, the developer must obtain a 30-year reserve study.

And a reserve study is essentially a massive financial forecast, right? Right. It estimates the projected costs of maintaining, repairing, or replacing all the common elements like roofs, private roads, and elevators over a three-decade horizon. That is correct.

It quantifies the future liabilities. But the bill doesn't stop at just identifying the costs. It actually demands action.

Before the developer can formally hand control over to the HOA, they're required to pay the association 1.5% of the total amount required to fully fund those long-term reserves. So it acts as seed money. Exactly.

It ensures the community isn't starting its financial life at absolute zero. That protects the community at the very beginning of its life. But the bill also addresses a major pain point

that happens later on, right? The friction that occurs when an established HOA decides to fire its management company and hire a new one.

Yes. And this is a notoriously difficult process behind the scenes. When a management company loses a contract, they historically haven't had much financial incentive to rapidly pack up all the files and hand them over.

They can drag their feet. Exactly. This proposal changes that dynamic entirely.

Under this bill, a former association management company will have exactly 45 days to hand over all property, records, money, bank accounts, and informational data to the new management company or directly to the association. And they must do this at no charge? At no charge. And if they drag their feet because they're bitter about losing the contract? The penalties are incredibly steep.

The former company would owe the association $250 for every single business day they fail to turn over the property and records past that 45-day mark. Every single business day. Yes.

Furthermore, they would be held liable for any interest or late fees the association incurs because of the delay. For instance, if the HOA can't pay its landscaping vendor because the old company is holding the checkbook? Right. And if the situation devolves into a lawsuit and the court finds that the former management company's delay was a willful violation, they're liable for trouble damages.

That's massive. It means they have to pay three times the amount of the association's actual damages on top of attorney fees and court costs. Right.

It is a crystal clear mandate to ensure clean, timely, and professional handoffs. Let's shift from financial disasters within an HOA to actual physical disasters. That brings us to SB 26049, Homeowner Natural Disaster Mitigation.

Another really practical bill. Yes. If you live anywhere near the foothills or the plains, you know that hail and wildfires are just a reality of property ownership.

This bill adds individuals and HOAs as eligible recipients of assistance from the state's Natural Disaster Mitigation Enterprise Fund. And I thought it was particularly interesting that it specifically calls out the installation of impact-resistant roofing materials as an eligible mitigation effort. The really compelling aspect of this bill for you, the homeowner, is the financial mechanism it seeks to create.

It establishes what is called a Catastrophe Savings Account, or a CSA. A CSA. Okay.

You can think of it a bit like a health savings account, but specifically dedicated to the physical health of your property. A homeowner can use the funds in this savings account to cover the cost of their insurance deductibles for claims stemming from hail, wildfire, or catastrophic wind events. Which is huge, because those deductibles can easily be $5,000 or $10,000 these days.

Exactly. The account can also be used to cover uninsured losses related to those specific weather events, as well as property-specific mitigation actions. Like upgrading to that impact-resistant roof before a storm hits.

Right. And to really sweeten the incentive for homeowners to prepare proactively, the bill creates a state income tax deduction for the contributions you make to this CSA. Furthermore, the interest that your money earns while sitting inside the Catastrophe Savings Account is completely exempt from state income tax.

It's essentially the state using tax code incentives to encourage property owners to self-insure their own deductibles. It's a fascinating approach. Alright, let's unpack our third major section for today.

Zoning, foreclosures, and protections. These are the high-level structural changes that dictate the underlying physics of the real estate market. Definitely.

And the most sweeping proposal in this stack is HB 26114, which addresses allowed minimum lot sizes. This represents a massive shift in local zoning authority. It really does.

Local zoning has historically dictated how dense a neighborhood can be. This bill steps in at the state level and states that on or after October 1, 2031, subject jurisdictions, meaning cities and counties, cannot require a lot to have an area larger than 2,000 square feet if the lot's residential use is limited to a single-family home. Just to visualize that for you, a 2,000-square-foot lot is quite small.

It's a direct legislative attempt to combat urban sprawl and the severe housing shortage by forcing the allowance of higher-density single-family neighborhoods. But my immediate thought when reading this was, couldn't a city just comply with the 2,000-square-foot rule on paper, but then mandate that every house must have a 40-foot front yard? Which would essentially make building a house on a lot that small physically impossible. That is exactly the kind of municipal workaround the drafters of this bill anticipated.

The text explicitly prohibits that kind of maneuvering. It states that jurisdictions cannot use sneaky backdoor regulations like aggressive minimum lot frontage requirements, strict setbacks, arbitrary open space requirements, or maximum lot coverage dimensions that would have the practical effect of preventing the construction of a single-family home on that 2,000-square-foot lot. They really thought of everything.

It is a highly comprehensive effort to force compliance with higher-density single-family zoning without allowing local governments to regulate it out of existence through the backdoor. That's going to be a fascinating battle to watch unfold between state and local authorities. Now, keeping with the theme of the state clarifying the rules of the game, let's look at personal protections.

HB 26-1045 deals with disabilities housing protections. This bill clears up some vital definitions under the Colorado Anti-Discrimination Act. Specifically, it legally separates the term assistance animal from the term emotional support animal.

Property managers have struggled with the ambiguity between those two categories for years. It is always highly impactful when the legislature clarifies definitions like this because ambiguity is the root cause of most fair housing disputes. By separating those definitions and by clarifying the specific definition of a reasonable accommodation as it applies to housing practices, the bill creates a much clearer roadmap.

It specifies the exact relevant factors that must be used to assess what accommodations are actually necessary for an individual with a disability to have an equal opportunity to use and enjoy their housing. And along those same lines of cleaning up the bureaucratic rules, we also have HB 26-1098, which is the Public Justice Act foreclosure procedures bill. Yes.

And while the lot size bill is a massive structural change, this one is largely a procedural cleanup bill. For context, a public trustee is an official whose job is to act as a neutral third party in the foreclosure process, ensuring that the rights of both the borrower and the lender are respected according to the law. This bill clarifies the specific source of funds used to pay a public trustee, and it sets the salary for the public trustee in counties where the county treasurer actually serves in that dual role.

It also cleans up some of the legal jargon, right? Defining what actually constitutes a non-material misstatement during foreclosure procedures so that minor typos don't derail complex legal processes. Exactly. But there is one detail in this cleanup bill that might be of particular interest to you if you follow distressed property sales.

It specifies exactly what happens to unclaimed funds after a foreclosure sale. Oh, this is important. If a property is sold at foreclosure for more than the amount owed to the bank, those excess funds are supposed to go to the homeowner.

But if those funds go unclaimed, this bill specifies that the remaining amount can be transferred to the state treasurer for final disposition, or it can be held by the county treasurer, depending on specific county resolutions. It's ultimately about making the flow of money during an incredibly difficult process much more transparent and legally clear. Exactly.

Which brings us to our final and very narrowly focused topic for today's discussion. The Post-Closing Occupancy Bill, which is SB 26054. Yes.

To really grasp why this bill is necessary, you have to understand the current law. Right now, to protect renters, landlords cannot legally require a tenant to submit a security deposit that is larger than two months of rent. That is a hard statewide cap.

And generally speaking, that is a robust consumer protection. However, SB 26054 creates a very specific surgical exception to this rule for something called post-closing occupancy agreements. Otherwise known as a rent back.

Right. For anyone who hasn't been through this process, a post-closing occupancy agreement happens when a seller and a buyer agree that the seller will stay in the home and occupy it as a tenant for a short period of time after the sale is officially closed. It's pretty common.

Very common. This usually happens when the seller needs the cash from the closing to purchase their next home, but their next home isn't quite ready to move into yet. So momentarily, the seller becomes the tenant and the new buyer becomes the landlord.

But why does the new buyer need a security deposit larger than two months rent? Because the risk profile is entirely different than a standard apartment lease. In a post-closing occupancy, the tenant is occupying an asset that was just purchased for hundreds of thousands, if not millions of dollars. The new buyer needs leverage to ensure the seller actually moves out on the agreed-upon date and doesn't damage the highly valuable property in the process.

That makes total sense. This bill formally allows the security deposit in those specific post-closing transactions to exceed the standard two-month rent limit. Crucially, you should know that these fixes were heavily requested by the real estate industry to solve a massive pain point in the transaction process.

And as a result, it appears highly likely that this bill will go through and pass, right? It does appear that way. And if it does, the exception would take effect on January 1, 2027. It's a perfect example of how a broad rule designed to protect everyday apartment tenants sometimes requires a surgical exception to allow high-value real estate transactions to function smoothly.

Completely agree. And really, if you step back, that is a perfect summary of why this entire slate of legislation matters to you. Whether you're navigating the rental market and need to understand how positive rent reporting can build your credit, or you're a developer trying to figure out how to build on newly-zoned 2,000-square-foot lots, or you're managing a 50-unit complex and calculating the new utility sub-meter rules, these proposed laws dictate the daily flow of money and property rights across the entire state.

They absolutely do. And as we wrap up, we want to provide one final critical reminder. These bills are still making their way through the various legislative chambers and committees.

They are not done yet. None of the language we discussed today is finalized. If and when these proposals do become signed law, the actual enforcement and daily oversight for many of these regulations will fall to regulatory entities like the DRE.

The Division of Real Estate. Exactly. Keeping a very close eye on the legislative finish line is absolutely crucial for anyone who touches this market.

We will certainly be keeping a close eye on it for you. And as promised, we will return with another discussion to cover the signed acts once the legislative session officially wraps up and the dust settles. To leave you with a final provocative thought to ponder as you watch these bills progress over the coming months.

When you look at this entire sweeping slate of legislation from the state standardizing 2,000-square-foot lots over local objections to meticulously regulating water sub-meters and requiring massive 30-year HOA reserve funds, are we witnessing a necessary modernization of real estate to protect consumers and the environment? Or are we quietly

engineering a highly complex market where only the largest, most heavily capitalized developers and landlords can afford to successfully navigate the compliance?

Colorado Broker Podcast from Apex Real Estate School