

An Act

HOUSE BILL 20-1201

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also SENATOR(S) Moreno and Ginal, Coram, Crowder, Danielson, Donovan, Fenberg, Gonzales, Hansen, Lee, Pettersen, Priola, Tate, Todd, Williams A., Winter, Garcia.

CONCERNING PROVIDING HOME OWNERS IN A MOBILE HOME PARK THE OPPORTUNITY TO PURCHASE THE PARK UNDER SPECIFIED CIRCUMSTANCES.

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

SECTION 1. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) More than 100,000 Coloradans currently live in manufactured housing, including mobile homes, and that number is increasing;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) Mobile homes, manufactured housing, and factory-built housing are important, unsubsidized, and effective ways to meet Colorado's affordable housing needs;

(c) Because many people living in mobile home parks own their home but not the land upon which it sits, park owners can wield significant power over housing security. If a park owner pursues redevelopment of the park property, mobile home owners are at risk of losing their investment. The scarcity of vacancies in other parks and the high costs of relocating a mobile home make relocation of a mobile home nearly impossible. When a mobile home park closes, mobile home owners can find themselves pushed into poverty.

(d) The department of regulatory agencies' "2018 Sunrise Review: Manufactured Housing Community Owners and Managers" states: "Clearly, harm is occurring in manufactured housing communities ... The harm largely stems from the lack of enforcement of existing laws, bad actors exploiting a relatively loose regulatory structure, and the inevitable tension that arises when the house belongs to one person but the land beneath it belongs to someone else ... Conditions for Colorado owners of manufactured homes could be improved by ... promoting opportunities for homeowners to purchase the communities they live in; and increasing political engagement at the local and the state level.";

(e) Existing statutory provisions requiring notice to mobile home owners of a pending sale or change in use of a mobile home park represent a positive step toward reducing the amount of economic disruption experienced by mobile home owners in these circumstances; and

(f) Building on these provisions by also giving mobile home owners an opportunity to purchase the property, in accordance with this act, can help to promote home ownership while preserving the benefits of mobile home parks as affordable housing.

SECTION 2. In Colorado Revised Statutes, **repeal and reenact, with amendments, 38-12-217** as follows:

38-12-217. Notice of change of use - notice of sale or closure of park - opportunity for home owners to purchase - procedures - exemptions. (1) EXCEPT AS SPECIFIED IN SUBSECTION (12) OF THIS

SECTION:

(a) A MOBILE HOME PARK OWNER SHALL NOTIFY THE OWNERS OF ALL MOBILE HOMES IN THE PARK AND THE MUNICIPALITY IN WHICH THE PARK IS SITUATED OR, IF NONE, THE COUNTY IN WHICH THE PARK IS SITUATED OF THE PARK OWNER'S INTENT TO CHANGE THE USE OF THE LAND COMPRISING THE PARK OR TO SELL THE PARK.

(b) IF A MOBILE HOME PARK OWNER INTENDS TO CHANGE THE USE OF THE LAND COMPRISING THE MOBILE HOME PARK, THE MOBILE HOME PARK OWNER SHALL GIVE WRITTEN NOTICE TO EACH HOME OWNER AT LEAST TWELVE MONTHS BEFORE THE CHANGE IN USE WILL OCCUR. THE MOBILE HOME PARK OWNER SHALL MAIL THE WRITTEN NOTICE TO EACH HOME OWNER AT THE HOME OWNER'S MOST RECENT ADDRESS AND SHALL POST A COPY OF THE NOTICE IN A CONSPICUOUS PLACE ON THE MOBILE HOME OR AT THE MAIN POINT OF ENTRY TO THE LOT.

(c) NO EARLIER THAN THIRTY DAYS AFTER GIVING THE NOTICE REQUIRED BY THIS SUBSECTION (1) OR SUBSECTION (2) OF THIS SECTION, A MOBILE HOME PARK OWNER MAY POST INFORMATION IN A PUBLIC SPACE IN THE MOBILE HOME PARK DESCRIBING THE METHOD FOR PROVIDING A SIGNED WRITING TO THE MOBILE HOME PARK OWNER RELATED TO THE OPPORTUNITY TO PURCHASE. THE POSTING MAY INCLUDE STANDARD FORMS RELATED TO THE OPPORTUNITY TO PURCHASE, INCLUDING A FORM FOR PROVIDING NOTICE THAT A HOME OWNER DOES NOT WISH TO PARTICIPATE IN EFFORTS TO PURCHASE A COMMUNITY. IF, NO EARLIER THAN THIRTY DAYS AFTER A MOBILE HOME PARK OWNER PROVIDES THE NOTICE REQUIRED BY THIS SUBSECTION (1) OR SUBSECTION (2) OF THIS SECTION, AT LEAST FIFTY PERCENT OF THE HOME OWNERS WHO RESIDE IN THE PARK PROVIDE SIGNED WRITINGS TO THE MOBILE HOME PARK OWNER EXPRESSING NO INTEREST IN PURCHASING THE PARK, THEN THE OPPORTUNITY TO PURCHASE PROVIDED BY SUBSECTION (4) OF THIS SECTION SHALL TERMINATE EVEN IF THE NINETY-DAY PERIOD PROVIDED FOR IN SUBSECTION (4)(a) OF THIS SECTION HAS NOT YET ELAPSED.

(d) A MOBILE HOME PARK OWNER SHALL NOT SOLICIT OR REQUEST A HOME OWNER'S INTENTION OR A SIGNED WRITING RELATED TO THE OPPORTUNITY TO PURCHASE DURING THE INITIAL THIRTY DAYS AFTER GIVING NOTICE PURSUANT TO THIS SUBSECTION (1) OR SUBSECTION (2) OF THIS SECTION. AT NO TIME DURING THE TIME PERIOD FOR CONSIDERING AN

OPPORTUNITY TO PURCHASE SHALL A MOBILE HOME PARK OWNER ATTEMPT TO COERCE OR PROVIDE ANY FINANCIAL OR IN-KIND INCENTIVES TO A HOME OWNER TO INFLUENCE THE HOMEOWNER'S DECISION. ANY COMPLAINTS ALLEGING VIOLATION OF THIS SUBSECTION (1) MAY BE RESOLVED UNDER PART 11 OF THIS ARTICLE 12.

(2) **Notice - when required.** IN ADDITION TO THE NOTICE SPECIFIED IN SUBSECTION (1) OF THIS SECTION, AND EXCEPT AS SPECIFIED IN SUBSECTION (12) OF THIS SECTION:

(a) A LANDLORD SHALL GIVE NOTICE TO EACH HOME OWNER IN THE MOBILE HOME PARK UPON ANY OF THE FOLLOWING TRIGGERING EVENTS:

(I) THE LANDLORD LISTS THE PARK FOR SALE;

(II) THE LANDLORD INTENDS TO MAKE A FINAL, UNCONDITIONAL ACCEPTANCE OF AN OFFER FOR THE SALE OR TRANSFER OF THE PARK; OR

(III) THE LANDLORD RECEIVES:

(A) A NOTICE OF ELECTION AND DEMAND OR LIS PENDENS RELATED TO FORECLOSURE OF THE PARK PURSUANT TO PART 1 OF ARTICLE 38 OF THIS TITLE 38; OR

(B) NOTICE THAT A CERTIFICATE OF LEVY HAS BEEN FILED RELATED TO THE PARK PURSUANT TO SECTION 13-56-101.

(b) WITHIN FOURTEEN DAYS AFTER THE DATE ON WHICH ANY OF THE EVENTS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION OCCUR, THE LANDLORD SHALL MAIL THE NOTICE REQUIRED BY THIS SECTION BY CERTIFIED MAIL TO:

(I) EACH HOME OWNER, USING THE MOST RECENT ADDRESS OF THE HOME OWNER, AND SHALL POST A COPY OF THE NOTICE IN A CONSPICUOUS PLACE ON THE MOBILE HOME OR AT THE MAIN POINT OF ENTRY TO THE LOT;

(II) THE MUNICIPALITY OR, IF THE PARK IS IN AN UNINCORPORATED AREA, THE COUNTY WITHIN WHICH THE PARK IS LOCATED;

(III) THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL

AFFAIRS; AND

(IV) EACH HOME OWNERS' ASSOCIATION, RESIDENTS' ASSOCIATION, OR SIMILAR BODY THAT REPRESENTS THE RESIDENTS OF THE PARK.

(3) **Contents of notice.** THE NOTICE GIVEN PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION MUST INCLUDE NOTICE OF HOME OWNERS' RIGHTS UNDER SUBSECTIONS (4) TO (9) OF THIS SECTION. IF THE TRIGGERING EVENT INVOLVES A SALE, THE NOTICE MUST ALSO INCLUDE A DESCRIPTION OF THE PROPERTY TO BE PURCHASED AND THE PRICE, TERMS, AND CONDITIONS OF AN ACCEPTABLE OFFER THE LANDLORD HAS RECEIVED TO SELL THE MOBILE HOME PARK OR THE PRICE OR TERMS AND CONDITIONS FOR WHICH THE LANDLORD INTENDS TO SELL THE PARK. THE INFORMATION REGARDING THE PROPOSED SALE AND THE PRICE, TERMS, AND CONDITIONS OF AN ACCEPTABLE OFFER MAY BE SHARED FOR THE PURPOSES OF EVALUATING OR OBTAINING FINANCING FOR THE PROSPECTIVE TRANSACTION, BUT ALL PERSONS WHO RECEIVE THE INFORMATION SHALL OTHERWISE KEEP IT CONFIDENTIAL IF THE PARK OWNER OR THE PARK OWNER'S AGENT SO REQUESTS.

(4) **Offer to purchase - who may submit - time limits.** (a) A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES HAVE NINETY DAYS AFTER THE DATE THAT THE LANDLORD MAILS A NOTICE UNDER SUBSECTION (1) OR (2) OF THIS SECTION TO:

(I) SUBMIT TO THE LANDLORD A PROPOSED PURCHASE AND SALE AGREEMENT; AND

(II) OBTAIN A BINDING COMMITMENT FOR ANY NECESSARY FINANCING OR GUARANTEES.

(b) NOTWITHSTANDING SUBSECTION (4)(a) OF THIS SECTION, IF A FORECLOSURE SALE OF THE PARK IS SCHEDULED FOR LESS THAN NINETY DAYS AFTER THE LANDLORD MAILS A NOTICE UNDER SUBSECTION (1) OR (2) OF THIS SECTION, THE OPPORTUNITY GRANTED BY SUBSECTION (4)(a) OF THIS SECTION TERMINATES ON THE DATE OF THE FORECLOSURE SALE.

(c) A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES HAS THE OPPORTUNITY GRANTED BY SUBSECTION (4)(a) OF THIS SECTION IF THE GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES HAVE

THE APPROVAL OF AT LEAST FIFTY-ONE PERCENT OF THE HOME OWNERS IN THE PARK. THE GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES MUST SUBMIT TO THE LANDLORD REASONABLE EVIDENCE THAT THE HOME OWNERS OF AT LEAST FIFTY-ONE PERCENT OF THE OCCUPIED HOMES IN THE PARK HAVE APPROVED THE GROUP OR ASSOCIATION PURCHASING THE PARK.

(5) **Landlord's duty to consider offer.** A LANDLORD THAT RECEIVES AN OFFER PURSUANT TO THIS SECTION SHALL NOT UNREASONABLY REFUSE TO:

(a) PROVIDE DOCUMENTS, DATA, AND OTHER INFORMATION IN RESPONSE TO REASONABLE REQUESTS FOR INFORMATION FROM A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES PARTICIPATING IN THE OPPORTUNITY TO PURCHASE THAT WOULD ENABLE THEM TO PREPARE AN OFFER. THE DOCUMENTS, DATA, AND OTHER INFORMATION PROVIDED MAY BE SHARED FOR THE PURPOSES OF EVALUATING OR OBTAINING FINANCING FOR THE PROSPECTIVE TRANSACTION, BUT ALL PERSONS WHO RECEIVE THE INFORMATION SHALL OTHERWISE KEEP IT CONFIDENTIAL IF THE PARK OWNER OR THE PARK OWNER'S AGENT SO REQUESTS.

(b) NEGOTIATE IN GOOD FAITH WITH A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES; OR

(c) SCHEDULE A CLOSING DATE FOR A PURCHASE AND SALE AGREEMENT.

(6) **Expiration of opportunity to purchase.** (a) IF THE NINETY-DAY PERIOD PROVIDED FOR IN SUBSECTION (4)(a) OF THIS SECTION ELAPSES AND A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES HAVE NOT SUBMITTED A PROPOSED PURCHASE AND SALE AGREEMENT OR OBTAINED A BINDING FINANCIAL COMMITMENT, THE GROUP'S OR ASSOCIATION'S OPPORTUNITIES PROVIDED BY THIS SECTION TERMINATE.

(b) A LANDLORD SHALL GIVE A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES AN ADDITIONAL NINETY DAYS AFTER THE NINETY-DAY PERIOD PROVIDED BY SUBSECTION (4)(a) OF THIS SECTION TO CLOSE ON THE PURCHASE OF THE MOBILE HOME PARK.

(7) **Extension of time.** THE NINETY-DAY PERIODS DESCRIBED IN

SUBSECTIONS (4)(a) AND (6)(b) OF THIS SECTION MAY BE EXTENDED BY WRITTEN AGREEMENT BETWEEN THE LANDLORD AND THE GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES.

(8) Assignment of right to purchase. A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES THAT HAVE THE OPPORTUNITY TO PURCHASE UNDER SUBSECTION (4) OF THIS SECTION MAY ASSIGN THEIR PURCHASE RIGHT TO A LOCAL OR STATE GOVERNMENT, TRIBAL GOVERNMENT, HOUSING AUTHORITY, OR NONPROFIT WITH EXPERTISE RELATED TO HOUSING, OR TO AN AGENCY OF THE STATE, FOR THE PURPOSE OF CONTINUING THE USE OF THE PARK.

(9) Independence of time limits and notice provisions. (a) EACH OCCURRENCE OF A TRIGGERING EVENT LISTED IN SUBSECTION (1) OR (2) OF THIS SECTION CREATES AN INDEPENDENT, NINETY-DAY OPPORTUNITY TO PURCHASE FOR THE GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES. IF A NINETY-DAY OPPORTUNITY TO PURCHASE IS IN EFFECT AND A NEW TRIGGERING EVENT OCCURS, THE ONGOING NINETY-DAY TIME PERIOD TERMINATES AND A NEW NINETY-DAY TIME PERIOD BEGINS ON THE LATEST DATE ON WHICH THE LANDLORD GIVES NOTICE, AS REQUIRED BY SUBSECTION (1) OR (2) OF THIS SECTION, OF THE NEW TRIGGERING EVENT.

(b) A NOTICE REQUIRED UNDER THIS SECTION IS IN ADDITION TO, AND DOES NOT SUBSTITUTE FOR OR AFFECT, ANY OTHER NOTICE REQUIREMENT UNDER THIS PART 2.

(10) A LANDLORD SHALL NOT MAKE A FINAL, UNCONDITIONAL ACCEPTANCE OF ANY OFFER FOR THE SALE OR TRANSFER OF THE PARK UNTIL:

(a) THE LANDLORD HAS CONSIDERED AN OFFER MADE BY A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES PURSUANT TO SUBSECTIONS (4) AND (5) OF THIS SECTION; OR

(b) THE APPLICABLE PERIOD FOR EXERCISE OF THE OPPORTUNITY TO PURCHASE HAS EXPIRED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(11) Failure to complete transaction - affidavit of compliance. IF THE GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES ARE NOT THE SUCCESSFUL PURCHASER OF THE PARK, THE LANDLORD SHALL PROVIDE EVIDENCE OF COMPLIANCE WITH THIS SECTION BY FILING AN

AFFIDAVIT OF COMPLIANCE WITH:

(a) THE MUNICIPALITY OR, IF THE PARK IS IN AN UNINCORPORATED AREA, THE COUNTY, WITHIN WHICH THE PARK IS LOCATED; AND

(b) THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS.

(12) **Exemptions from notice requirement.** NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, A LANDLORD IS NOT REQUIRED TO GIVE NOTICE OR EXTEND AN OPPORTUNITY TO PURCHASE TO A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES IF THE SALE, TRANSFER, OR CONVEYANCE OF THE MOBILE HOME PARK IS:

(a) TO A SPOUSE, A PARTNER IN A CIVIL UNION, OR A PARENT, SIBLING, AUNT, UNCLE, FIRST COUSIN, OR LEGALLY RECOGNIZED CHILD OF THE LANDLORD;

(b) TO A TRUST THE BENEFICIARIES OF WHICH ARE THE SPOUSE, PARTNER IN A CIVIL UNION, OR LEGALLY RECOGNIZED CHILDREN OF THE LANDLORD;

(c) (I) TO A BUSINESS ENTITY OR TRUST THAT THE TRANSFERRING BUSINESS ENTITY OR TRUST CONTROLS, DIRECTLY OR INDIRECTLY.

(II) AS USED IN THIS SUBSECTION (12)(c), "CONTROLS" MEANS:

(A) OWNS ENTIRELY AS A SUBSIDIARY;

(B) OWNS A MAJORITY INTEREST IN; OR

(C) OWNS AS LARGE AN OWNERSHIP INTEREST AS ANY OTHER OWNER, WITH A MINIMUM OWNERSHIP INTEREST OF TWENTY-FIVE PERCENT.

(d) TO A FAMILY MEMBER WHO IS INCLUDED WITHIN THE LINE OF INTESTATE SUCCESSION IF THE LANDLORD DIES INTESTATE;

(e) BETWEEN JOINT TENANTS OR TENANTS IN COMMON; OR

(f) PURSUANT TO EMINENT DOMAIN.

(13) TO QUALIFY FOR AN EXEMPTION UNDER SUBSECTION (12) OF THIS SECTION, A TRANSACTION MUST NOT BE MADE IN BAD FAITH, MUST BE MADE FOR A LEGITIMATE BUSINESS PURPOSE OR A LEGITIMATE FAMILIAL PURPOSE CONSISTENT WITH THE EXEMPTIONS LISTED IN SUBSECTION (12) OF THIS SECTION, AND MUST NOT BE MADE FOR THE PRIMARY PURPOSE OF AVOIDING THE OPPORTUNITY-TO-PURCHASE PROVISIONS SET FORTH IN THIS SECTION.

(14) **Triggering events not essential.** (a) A GROUP OR ASSOCIATION OF HOME OWNERS OR THEIR ASSIGNEES MAY SUBMIT AN OFFER TO PURCHASE TO A LANDLORD AT ANY TIME, EVEN IF NONE OF THE EVENTS LISTED IN SUBSECTION (1) OR (2) OF THIS SECTION HAS OCCURRED.

(b) THE LANDLORD SHALL CONSIDER IN GOOD FAITH ANY OFFER MADE IN ACCORDANCE WITH SUBSECTION (14)(a) OF THIS SECTION.

(15) THE DEPARTMENT OF LOCAL AFFAIRS AND THE OFFICE OF ADMINISTRATIVE COURTS DO NOT HAVE THE AUTHORITY TO ISSUE INJUNCTIVE RELIEF IN RESPONSE TO A COMPLAINT ALLEGING A VIOLATION OF THIS SECTION OR TO DELAY A TRANSFER OR TRANSACTION INVOLVING THE PROPERTY, AND FILING AN ADMINISTRATIVE COMPLAINT REFERENCING THIS SECTION SHALL NOT HAVE THE EFFECT OF DOING SO.

SECTION 3. In Colorado Revised Statutes, 38-12-1105, **amend** (1) as follows:


38-12-1105. Dispute resolution program - complaint process.

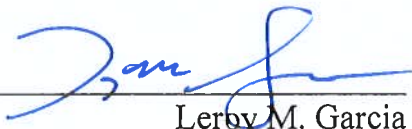
(1) ~~Beginning May 1, 2020,~~ ON THE EFFECTIVE DATE OF THIS SUBSECTION (1), AS AMENDED, any aggrieved party may file a complaint with the division alleging a violation of the act or this part 11, REGARDLESS OF WHETHER THE PROVISION ALLEGEDLY VIOLATED CONTAINS A SPECIFIC REFERENCE TO THIS SECTION.


SECTION 4. Applicability. This act applies to conduct occurring on or after the effective date of this act.


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, or safety.

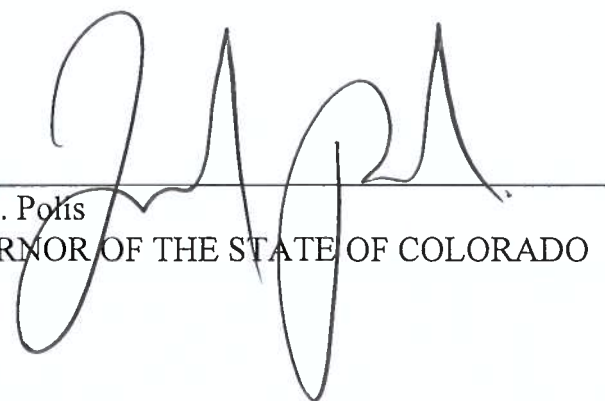

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APPROVED June 30, 2020 at 4:13 pm
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO