

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0614.01 Jane Ritter x4342

SENATE BILL 21-173

SENATE SPONSORSHIP

Gonzales and Moreno, Fenberg, Kolker, Pettersen, Story, Winter, Buckner, Danielson,
Jaquez Lewis, Rodriguez

HOUSE SPONSORSHIP

Caraveo and Gonzales-Gutierrez, Duran, Jackson, Lontine, Michaelson Jenet, Roberts,
Sirota, Woodrow

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

Business Affairs & Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING RIGHTS RELATED TO RESIDENTIAL RENTAL**
102 **AGREEMENTS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill addresses the following items related to landlord and tenant rights in residential rental agreements:

- When a landlord removes or excludes a tenant from a dwelling without resorting to proper court procedures, it is an unfair or deceptive trade practice for the purposes of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 3rd Reading
April 14, 2021

SENATE
Amended 2nd Reading
April 13, 2021

- "Colorado Consumer Protection Act";
- After a complaint is filed by a landlord, the clerk of the court or the attorney for the plaintiff shall issue a summons, including information concerning filing an answer and legal aid. A court shall not enter a default writ of restitution before the close of business on the date upon which an appearance is due.
- Provides additional details regarding the defendant's answer, including that a defendant does not waive any defense related to proper notice by filing an answer; that the court shall set a date for trial no sooner than 7 days after the answer is filed, unless the defendant agrees to waive this provision and schedule the trial for an earlier date; and in the time after an answer is filed and before a trial occurs, the court shall order that the landlord provide any documentation related to the tenancy or the current action that the defendant requests;
- Repeals language requiring the defendant, in an appeal from a judgment of a county court, to deposit with the court the amount of rent found due;
- When a court has issued a writ of restitution in a residential forcible entry and wrongful detainer (FED) proceeding, a tenant may pay any rent that is still owed to the landlord at any point up to 48 hours after a court has ordered a writ of restitution;
- Eliminates the bond requirement for the warranty of habitability and allows the tenant to assert an alleged breach of the warranty of habitability as an affirmative defense;
- Establishes allowable court procedures and remedies in cases of an alleged breach of warranty of habitability;
- Bans liquidated damage clauses that assign a cost to a party stemming from a rental violation or an eviction action;
- Prohibits rental agreements that contain one-way fee-shifting clauses that award attorney fees and court costs only to one party; and
- Guarantees parties to a residential FED dispute the right to a trial by jury.

The bill prohibits a landlord of a mobile home park or a residential premises (landlord) from:

- Charging a tenant or mobile home owner (tenant) a late fee for late payment of rent unless the rent payment is late by at least 14 calendar days;
- Charging a tenant a late fee in an amount that exceeds the greater of:

- \$20; or
- 2.5% of the amount of the rent obligation that remains past due;
- Requiring a tenant to pay a late fee unless the late fee is disclosed in the rental agreement;
- Removing, excluding, or initiating eviction procedures against a tenant solely as a result of the tenant's failure to pay one or more late fees;
- Terminating a tenancy or other estate at will or a lease in a mobile home park because the tenant fails to pay one or more late fees to the landlord;
- Imposing a late fee on a tenant for the late payment or nonpayment of any portion of the rent that a rent subsidy provider, rather than the tenant, is responsible for paying;
- Imposing a late fee more than once for each late payment;
- Requiring a tenant to pay interest on late fees;
- Recouping any amount of a late fee from a rent payment made by a tenant; or
- Charging a tenant a late fee unless the landlord provided the tenant written notice of the late fee within 180 days after the date upon which the rent payment was due.

A landlord who commits a violation must pay a \$20 penalty to an aggrieved tenant for each violation. Otherwise, a landlord who commits a violation has 7 days to cure the violation, which 7 days begins when the landlord receives notice of the violation. If a landlord fails to timely cure a violation, the tenant may bring a civil action to seek one or more of the following remedies:

- Compensatory damages for injury or loss suffered;
- A penalty of at least \$500 but not more than \$2,000 for each violation, payable to the tenant;
- Costs, including reasonable attorney fees if the tenant is the prevailing party; and
- Other equitable relief the court finds appropriate.

The attorney general may investigate and prosecute alleged violations. A violation that is not timely cured or that was committed by a landlord in bad faith is an unfair or deceptive trade practice for the purposes of the "Colorado Consumer Protection Act".

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

2



3

SECTION 1. In Colorado Revised Statutes, 13-40-111, **amend**

4

(1); and **add** (5) and (6) as follows:

1 **13-40-111. Issuance and return of summons.** (1) Upon filing
2 the complaint as ~~provided~~ REQUIRED in section 13-40-110, the clerk of the
3 court or the attorney for the plaintiff shall issue a summons. The
4 summons ~~shall~~ MUST command the defendant to appear before the court
5 at a place named in ~~such~~ THE summons and at a time and on a day ~~which~~
6 ~~shall be~~ not less than seven days ~~nor~~ BUT NOT more than fourteen days
7 from the day of issuing the same to answer the complaint of plaintiff. A
8 COURT SHALL NOT ENTER A DEFAULT JUDGMENT FOR POSSESSION BEFORE
9 THE CLOSE OF BUSINESS ON THE DATE UPON WHICH AN APPEARANCE IS
10 DUE. The summons ~~shall~~ MUST also contain a statement addressed to the
11 defendant stating: "If you fail to file with the court, at or before the time
12 for appearance specified in the summons, an answer to the complaint
13 setting forth the grounds upon which you base your claim for possession
14 and denying or admitting all of the material allegations of the complaint,
15 judgment by default may be taken against you for the possession of the
16 property described in the complaint, for the rent, if any, due or to become
17 due, for present and future damages and costs, and for any other relief to
18 which the plaintiff is entitled." ~~If you are claiming that the landlord's~~
19 ~~failure to repair the residential premises is a defense to the landlord's~~
20 ~~allegation of nonpayment of rent, the court will require you to pay into the~~
21 ~~registry of the court, at the time of filing your answer, the rent due less~~
22 ~~any expenses you have incurred based upon the landlord's failure to repair~~
23 ~~the residential premises."~~

24 (5) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO
25 CONTAIN A LIST OF AVAILABLE RESOURCES WITH A WEBSITE LINK AND
26 PHONE NUMBER FOR RESIDENTIAL TENANTS TO OBTAIN CIVIL LEGAL AID
27 AND RENTAL ASSISTANCE. THE DEPARTMENT OF LOCAL AFFAIRS SHALL

1 MAKE AVAILABLE AND KEEP CURRENT THE LIST OF RESOURCES
2 AVAILABLE. LOCAL GOVERNMENT ENTITIES MAY ALSO PROVIDE OR
3 SUPPLEMENT THE LIST OF RESOURCES AND PROVIDE SUCH RESOURCES TO
4 THE DEPARTMENT OF LOCAL AFFAIRS FOR PUBLICATION ON ITS WEBSITE.

5 (6) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO
6 CONTAIN:

7 (a) A COPY OF A BLANK ANSWER FORM REQUIRED PURSUANT TO
8 SECTION 13-40-113; AND

9 (b) A FORM THAT ALLOWS EITHER PARTY TO REQUEST ALL
10 DOCUMENTS IN THE LANDLORD'S AND TENANT'S POSSESSION RELEVANT TO
11 THE CURRENT ACTION.

12 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-40-113 as
13 follows:

14 **13-40-113. Answer of defendant - additional and amended**
15 **pleadings.** (1) The defendant shall file with the court, at or before the
16 time DAY specified for ~~his~~ THE DEFENDANT'S appearance in the summons,
17 an answer in writing. ~~setting~~ THE DEFENDANT'S ANSWER MUST SET forth
18 the grounds on which ~~he~~ THE DEFENDANT bases ~~his~~ THE DEFENDANT'S
19 claim for possession, ~~and~~ admitting or denying all of the material
20 allegations of the complaint, and presenting every defense which then
21 exists and upon which ~~he~~ THE DEFENDANT intends to rely, either by
22 including the same in ~~his~~ THE DEFENDANT'S answer or by ~~filing~~
23 ~~simultaneously therewith~~ SIMULTANEOUSLY FILING motions setting forth
24 every such defense.

25 (2) The court for good cause may permit the filing of additional
26 and amended pleadings ~~where such~~ IF IT will not result in A delay
27 prejudicial to the defendant.

1 (3) A DEFENDANT DOES NOT WAIVE ANY DEFENSE RELATED TO
2 PROPER NOTICE BY FILING AN ANSWER PURSUANT TO THIS SECTION. A
3 DEFENDANT CAN RAISE A DEFENSE RELATED TO PROPER NOTICE IN THE
4 DEFENDANT'S ANSWER OR BY FILING A MOTION PREHEARING. A
5 DEFENDANT CANNOT RAISE THIS DEFENSE FOR THE FIRST TIME AT THE
6 HEARING IF THE DEFENDANT FAILED TO RAISE IT IN THE DEFENDANT'S
7 ANSWER OR IN A PREHEARING MOTION.

8 (4) AFTER AN ANSWER IS PROVIDED TO THE COURT PURSUANT TO
9 THIS SECTION:

10 (a) THE COURT SHALL SET A DATE FOR TRIAL NO SOONER THAN
11 SEVEN, BUT NOT MORE THAN TEN, DAYS AFTER THE ANSWER IS FILED,
12 UNLESS THE DEFENDANT REQUESTS A WAIVER OF THIS REQUIREMENT IN
13 THE DEFENDANT'S ANSWER OR AFTER FILING AN ANSWER; EXCEPT THAT A
14 COURT MAY EXTEND BEYOND TEN DAYS IF EITHER PARTY DEMONSTRATES
15 GOOD CAUSE FOR AN EXTENSION OR IF THE COURT OTHERWISE FINDS
16 JUSTIFICATION FOR THE EXTENSION. THE REQUIREMENT SET FORTH IN THIS
17 SUBSECTION (4)(a) DOES NOT APPLY TO A FORCIBLE ENTRY AND DETAINER
18 PETITION THAT ALLEGES A SUBSTANTIAL VIOLATION, AS DEFINED IN
19 SECTION 13-40-107.5 (3), OR TERMINATES A TENANCY PURSUANT TO
20 SECTION 38-12-203 (1)(f).

21 (b) IN THE TIME AFTER AN ANSWER IS FILED AND BEFORE A TRIAL
22 OCCURS, THE COURT SHALL ORDER THAT THE LANDLORD OR TENANT
23 PROVIDE ANY DOCUMENTATION RELEVANT TO THE CURRENT ACTION THAT
24 EITHER PARTY REQUESTS PURSUANT TO SECTION 13-40-111 (6)(b).

25 **SECTION 3.** In Colorado Revised Statutes, 13-40-115, **amend**
26 **(2); and add (4) and (5) as follows:**

27 **13-40-115. Judgment - writ of restitution - right to trial by**

1 **jury - cure period.** (2) ~~Upon such~~ A trial or further hearing ~~under this~~
2 ~~article~~ PURSUANT TO THIS ARTICLE 40 after personal service ~~is had~~ HAS
3 BEEN MADE upon the defendant in accordance with section 13-40-112 (1),
4 if the court or jury has not already tried the issue of unlawful detainer, it
5 may do so. ~~and, if it~~ IF THE COURT finds that the defendant has committed
6 an unlawful detainer, the court shall enter judgment for the plaintiff to
7 have restitution of the premises and shall issue a writ of restitution. In
8 addition to ~~such~~ THE judgment for restitution, the court or jury shall
9 further find the amount of rent, if any, due to the plaintiff from the
10 defendant at the time of trial; the amount of damages, if any, sustained by
11 the plaintiff to the time of the trial on account of the unlawful detention
12 of the property by the defendant; and damages sustained by the plaintiff
13 to the time of trial on account of injuries to the property. ~~and judgment~~
14 THE COURT shall enter JUDGMENT for such amounts, together with ANY
15 reasonable ~~attorney's~~ ATTORNEY fees and costs ~~upon which judgment~~
16 ~~execution shall issue~~ as in other civil actions. ~~Nothing in~~ This section
17 ~~shall be construed to~~ DOES NOT permit the entry of judgment in excess of
18 the COURT'S jurisdictional limit. ~~of the court.~~

19
20 (4) A LANDLORD WHO PROVIDES A TENANT WITH PROPER NOTICE
21 OF NONPAYMENT SHALL ACCEPT PAYMENT OF THE TENANT'S FULL
22 PAYMENT OF ALL AMOUNTS DUE ACCORDING TO THE NOTICE, AS WELL AS
23 ANY RENT THAT REMAINS DUE UNDER THE RENTAL AGREEMENT, AT ANY
24 TIME UNTIL A JUDGE ISSUES A JUDGMENT FOR POSSESSION PURSUANT TO
25 SUBSECTION (1) OR (2) OF THIS SECTION. A TENANT MAY PAY THIS
26 AMOUNT TO EITHER THE LANDLORD OR TO THE COURT. ONCE A COURT HAS
27 CONFIRMATION THAT THE FULL AMOUNT HAS BEEN TIMELY PAID, THE

1 COURT SHALL:

2 (a) VACATE ANY JUDGMENTS THAT HAVE BEEN ISSUED; AND

3 (b) DISMISS THE ACTION WITH PREJUDICE.

4 (5) THE RIGHTS PROVIDED IN SUBSECTION (4) OF THIS SECTION
5 MAY NOT BE WAIVED BY ANY WRITTEN AGREEMENT.

6 **SECTION 4.** In Colorado Revised Statutes, 13-40-117, **amend**
7 (3) as follows:

8 **13-40-117. Appeals.** (3) If the appellee believes that ~~he~~ THE
9 APPELLEE may suffer serious economic harm during the pendency of the
10 appeal, ~~he~~ THE APPELLEE may petition the court taking the appeal to ~~order~~
11 ~~that an~~ REQUIRE THE APPELLANT TO HAVE AN additional undertaking ~~be~~
12 ~~required of the appellant~~ to cover the anticipated harm. The court shall
13 order such undertaking only after a hearing and upon a finding that the
14 appellee has shown a substantial likelihood of suffering such economic
15 harm during the pendency of the appeal and that ~~he~~ THE APPELLEE will not
16 BE adequately ~~be~~ protected under the appeals bond and the other
17 requirements for appeal pursuant to sections ~~13-40-118~~, 13-40-120 and
18 13-40-123.

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21 **SECTION 5.** In Colorado Revised Statutes, **amend** 13-40-120 as
22 follows:

23 **13-40-120. Appellate review.** Appellate review of the judgment
24 of the district courts of this state, in proceedings ~~under this article~~
25 PURSUANT TO THIS ARTICLE 40, is allowed as provided by law and the
26 Colorado appellate rules. ~~In cases of appeal from judgments founded~~
27 ~~upon causes of action embraced in section 13-40-104 (1)(d), the deposit~~

1 of rent money during pendency of appeal shall be made, or judgment of
2 affirmance shall be entered, in the manner provided in section 13-40-118.

3 **SECTION 6.** In Colorado Revised Statutes, 13-54-102, **amend**
4 (1)(r) as follows:

5 **13-54-102. Property exempt - definitions - repeal.** (1) The
6 following property is exempt from levy and sale under writ of attachment
7 or writ of execution:

8 (r) For purposes of garnishment proceedings pursuant to ~~the~~
9 ~~provisions of~~ article 54.5 of this ~~title~~ TITLE 13, any amount held by a third
10 party as a security deposit, as defined in ~~section 38-12-102 (2), C.R.S.~~
11 SECTION 38-12-102 (6), or any amount held by a third party as a utility
12 deposit to secure payment for utility goods or services used or consumed
13 by the debtor or ~~his~~ THE DEBTOR'S dependents;

14 **SECTION 7.** In Colorado Revised Statutes, **amend** 38-12-101 as
15 follows:

16 **38-12-101. Legislative declaration.** ~~The provisions of~~ This part
17 1 shall be liberally construed to implement the intent of the general
18 assembly to ~~insure~~ ENSURE the proper administration of security deposits
19 AND LATE FEES and protect the interests of tenants, MOBILE HOME
20 OWNERS, and landlords.

21 **SECTION 8.** In Colorado Revised Statutes, **amend** 38-12-102 as
22 follows:

23 **38-12-102. Definitions.** As used in this part 1, unless the context
24 otherwise requires:

25

26 (1) "HOME OWNER" HAS THE MEANING SET FORTH IN SECTION
27 38-12-201.5 (2).

1 (2) "LANDLORD" MEANS A LANDLORD, AS DEFINED IN SECTION
2 38-12-502 (5), OR THE MANAGEMENT OR LANDLORD OF A MOBILE HOME
3 PARK, AS DEFINED IN SECTION 38-12-201.5 (3).

4 (3) "LATE FEE" MEANS A MONETARY SUM THAT A LANDLORD
5 CHARGES A TENANT OR HOME OWNER AS A RESULT OF THE TENANT'S OR
6 HOME OWNER'S FAILURE TO TIMELY PAY RENT AND THAT IS DETERMINED
7 PURSUANT TO A RENTAL AGREEMENT BETWEEN THE LANDLORD AND THE
8 TENANT OR HOME OWNER.

9 (1) (4) "Normal wear and tear" means ~~that~~ deterioration ~~which~~
10 THAT occurs, based upon the use for which ~~the~~ A rental unit OR MOBILE
11 HOME SPACE, AS DEFINED IN SECTION 38-12-201.5(7), is intended, without
12 negligence, carelessness, accident, or abuse of the premises or equipment
13 or chattels by the tenant OR HOME OWNER or members of ~~his~~ THE
14 TENANT'S OR HOME OWNER'S household, or their invitees or guests.

15 (5) "RENT SUBSIDY PROVIDER" MEANS A PUBLIC OR PRIVATE
16 ENTITY, INCLUDING A PUBLIC HOUSING AUTHORITY, THAT PROVIDES
17 ONGOING FINANCIAL ASSISTANCE TO A LANDLORD FOR THE PURPOSE OF
18 SUBSIDIZING RENT.

19 (2) (6) "Security deposit" means any advance or deposit of money,
20 regardless of its denomination, the primary function of which is to secure
21 the performance of a rental agreement for A residential premises or any
22 part ~~thereof~~ OF A RESIDENTIAL PREMISES.

23 (7) "TENANT" HAS THE MEANING SET FORTH IN SECTION 38-12-502
24 (9).

25 **SECTION 9.** In Colorado Revised Statutes, **add** 38-12-105 as
26 follows:

27 **38-12-105. Late fees charged to tenants and mobile home**

1 **owners - maximum late fee amounts - prohibited acts - penalties -**
2 **period to cure violations - remedies - unfair or deceptive trade**
3 **practice.** (1) A LANDLORD SHALL NOT TAKE ANY OF THE FOLLOWING

4 ACTIONS OR DIRECT ANY AGENT TO TAKE ANY OF THE FOLLOWING ACTIONS
5 ON THE LANDLORD'S BEHALF:

6 (a) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS A
7 RENT PAYMENT IS LATE BY AT LEAST SEVEN CALENDAR DAYS; ==

8 (b) CHARGE A TENANT OR HOME OWNER A LATE FEE IN AN AMOUNT
9 THAT EXCEEDS THE GREATER OF:

10 (I) FIFTY DOLLARS; OR

11 (II) FIVE PERCENT OF THE AMOUNT OF THE PAST DUE RENT
12 PAYMENT;

13 (c) REQUIRE A TENANT OR HOME OWNER TO PAY A LATE FEE
14 UNLESS THE LATE FEE IS DISCLOSED IN THE RENTAL AGREEMENT;

15 (d) REMOVE OR EXCLUDE A TENANT FROM A DWELLING OR
16 INITIATE A COURT PROCESS FOR THE REMOVAL OR EXCLUSION OF A
17 TENANT FROM A DWELLING BECAUSE THE TENANT FAILS TO PAY ONE OR
18 MORE LATE FEES TO THE LANDLORD;

19 (e) TERMINATE A TENANCY OR OTHER ESTATE AT WILL OR A LEASE
20 IN A MOBILE HOME PARK BECAUSE A TENANT OR HOME OWNER FAILS TO
21 PAY ONE OR MORE LATE FEES TO THE LANDLORD;

22 (f) IMPOSE A LATE FEE ON A TENANT OR HOME OWNER FOR THE
23 LATE PAYMENT OR NONPAYMENT OF ANY PORTION OF THE RENT THAT A
24 RENT SUBSIDY PROVIDER, RATHER THAN THE TENANT OR HOME OWNER, IS
25 RESPONSIBLE FOR PAYING;

26 (g) IMPOSE A LATE FEE MORE THAN ONCE FOR EACH LATE
27 PAYMENT, EXCEPT THAT A LANDLORD MAY IMPOSE A LATE FEE MORE THAN

1 ONCE FOR A LATE PAYMENT IF THE TOTAL AMOUNT OF SUCH LATE FEES
2 DOES NOT EXCEED THE AMOUNT DESCRIBED IN SUBSECTION (1)(b) OF THIS
3 SECTION;

4 (h) REQUIRE A TENANT OR HOME OWNER TO PAY ANY AMOUNT OF
5 INTEREST ON A LATE FEE;

6 (i) RECOUP ANY AMOUNT OF A LATE FEE FROM A RENT PAYMENT
7 MADE TO THE LANDLORD BY A TENANT OR HOME OWNER; OR

8 (j) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS THE
9 LANDLORD PROVIDED THE TENANT OR HOME OWNER WRITTEN NOTICE OF
10 THE LATE FEE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE UPON
11 WHICH THE RENT PAYMENT WAS DUE.

12 (2) A PROVISION OF A LEASE OF A LANDLORD OR PERSON ACTING
13 ON BEHALF OF A LANDLORD THAT DOES NOT COMPLY WITH THE
14 PROVISIONS OF SUBSECTION (1) OF THIS SECTION IS VOID AND
15 UNENFORCEABLE. A TENANT WHO IS AGGRIEVED BY AN ACTION TAKEN BY
16 A LANDLORD OR PERSON ACTING ON BEHALF OF THE LANDLORD IN
17 VIOLATION OF SUBSECTION (1) OF THIS SECTION MAY BRING AN ACTION
18 FOR INJUNCTIVE RELIEF PURSUANT TO SUBSECTION (5) OF THIS SECTION.

19 (3) A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION
20 SHALL PAY TO AN AGGRIEVED TENANT OR HOME OWNER A PENALTY IN THE
21 AMOUNT OF FIFTY DOLLARS FOR EACH VIOLATION.

22 (4) EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION,
23 AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE
24 CONTRARY, A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION
25 HAS SEVEN DAYS TO CURE THE VIOLATION, WHICH SEVEN DAYS BEGINS
26 WHEN THE LANDLORD RECEIVES WRITTEN OR ELECTRONIC NOTICE OF THE
27 VIOLATION.

1 (5) IF A LANDLORD VIOLATES SUBSECTION (1) OF THIS SECTION
2 AND FAILS TO TIMELY CURE THE VIOLATION AS DESCRIBED IN SUBSECTION
3 (4) OF THIS SECTION, A TENANT OR HOME OWNER MAY BRING A CIVIL
4 ACTION TO SEEK ONE OR MORE OF THE FOLLOWING REMEDIES:

- 5 (a) COMPENSATORY DAMAGES FOR INJURY OR LOSS SUFFERED;
- 6 (b) A PENALTY OF AT LEAST ONE HUNDRED FIFTY DOLLARS BUT
7 NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION, PAYABLE
8 TO THE TENANT OR HOME OWNER;
- 9 (c) COSTS, INCLUDING REASONABLE ATTORNEY FEES TO THE
10 PREVAILING PARTY; AND
- 11 (d) OTHER EQUITABLE RELIEF THE COURT FINDS APPROPRIATE.

12 (6) A TENANT OR HOME OWNER MAY RAISE AN ALLEGED
13 VIOLATION OF THIS SECTION AS AN AFFIRMATIVE DEFENSE IN A FORCIBLE
14 ENTRY AND DETAINER PROCEEDING.

15 ■ ■
16 (7) A LATE FEE IS DISTINCT FROM RENT, AND A RENTAL
17 AGREEMENT MAY NOT CLASSIFY A LATE FEE AS RENT FOR THE PURPOSES
18 OF SECTION 13-40-104 (1)(d).

19 ■
20 **SECTION 10.** In Colorado Revised Statutes, 38-12-201.5,
21 **amend** the introductory portion, (1)(d), and (1)(e); and **add** (1)(f) and
22 (2.5) as follows:

23 **38-12-201.5. Definitions.** As used in this part 2 and in part 11 of
24 this ~~title 38~~ ARTICLE 12, unless the context otherwise requires:

- 25 (1) "Entry fee" means any fee paid to or received from an owner
26 of a mobile home park or an agent thereof except for:
 - 27 (d) Utilities; ~~and~~

1 (e) Incidental reasonable charges for services actually performed
2 by the mobile home park owner or the ~~home~~ MOBILE HOME PARK owner's
3 agent and agreed to in writing by the home owner; AND

4 (f) LATE FEES.

5 (2.5) "LATE FEE" HAS THE MEANING SET FORTH IN SECTION
6 38-12-102 (3).

7 **SECTION 11.** In Colorado Revised Statutes, 38-12-213, **amend**
8 (1) introductory portion, (1)(c), (1)(e), and (1)(f) as follows:

9 **38-12-213. Rental agreement - disclosure of terms in writing.**

10 (1) The MANAGEMENT SHALL ADEQUATELY DISCLOSE THE terms and
11 conditions of a tenancy ~~must be adequately disclosed~~ in writing in a rental
12 agreement ~~by the management~~ to any prospective home owner ~~prior to~~
13 BEFORE the rental or occupancy of a mobile home space or lot. ~~Said~~ THE
14 disclosures ~~shall~~ MUST include:

15 (c) The day when unpaid rent ~~shall be~~ IS considered in default FOR
16 THE PURPOSE OF ESTABLISHING A LATE FEE, WHICH DAY MAY NOT BE LESS
17 THAN TEN CALENDAR DAYS AFTER THE DAY RENT IS DUE AND PAYABLE;

18 (e) The name and mailing address where a manager's decision can
19 be appealed; AND

20 (f) All charges to the home owner other than rent, INCLUDING
21 LATE FEES.

22 **SECTION 12.** In Colorado Revised Statutes, **amend** 38-12-220
23 as follows:

24 **38-12-220. Private civil right of action.** ~~Any~~ A home owner ~~who~~
25 ~~owns a home~~ in a ~~mobile home~~ park where the landlord has violated any
26 provision of this ~~article shall have~~ ARTICLE 12 HAS a private civil right of
27 action against the landlord. In any such action, EXCEPT AS DESCRIBED IN

1 SECTION 38-12-105 (4), the home owner ~~shall be~~ IS entitled to actual
2 economic damages and reasonable attorney fees and costs if the home
3 owner is successful in the action.

4 **SECTION 13.** In Colorado Revised Statutes, 38-12-507, **amend**
5 (1)(c) and (1)(d); and **add** (1)(d.5) as follows:

6 **38-12-507. Breach of warranty of habitability - tenant's**
7 **remedies.** (1) If there is a breach of the warranty of habitability as set
8 forth in section 38-12-503 (2):

9 (c) (I) In an action for possession OR COLLECTION based upon
10 nonpayment of rent, in which the tenant asserts a defense to possession
11 based upon the landlord's alleged breach of the warranty of habitability,
12 upon the filing of the tenant's answer the court shall order the tenant to
13 pay into the registry of the court all or part of the rent accrued after due
14 consideration of expenses already incurred by the tenant based upon the
15 landlord's breach of the warranty of habitability. THE TENANT MAY
16 ASSERT, AS AN AFFIRMATIVE DEFENSE, AN ALLEGED BREACH OF THE
17 WARRANTY OF HABITABILITY, PROVIDED THAT THE LANDLORD OR ANY
18 AGENT ACTING ON BEHALF OF THE LANDLORD HAS PREVIOUSLY RECEIVED
19 WRITTEN OR ELECTRONIC NOTICE OF AN ALLEGED BREACH OF THE
20 WARRANTY OF HABITABILITY. IF A COUNTY, DISTRICT, OR APPEALS COURT
21 IS SATISFIED THAT THE DEFENDANT IS UNABLE TO DEPOSIT THE AMOUNT
22 OF RENT SPECIFIED BECAUSE THE DEFENDANT IS FOUND TO BE INDIGENT
23 PURSUANT TO SUBSECTION (1)(c)(II) OF THIS SECTION, UPON A FINDING OF
24 INDIGENCY AND THE FILING OF THE PROPER FILING OF A WARRANTY OF
25 HABITABILITY CLAIM DOCUMENTS, THE CLAIM WILL BE PERFECTED.

26 (II) A DEFENDANT IS INDIGENT FOR THE PURPOSES OF THIS SECTION
27 IF THE DEFENDANT HAS A NET INCOME THAT IS:

1 (A) FIVE TIMES OR LESS THE ANNUAL RENTAL OF THE DEFENDANT'S
2 PREMISES, AFTER ALLOWING ALL EXEMPTIONS AVAILABLE TO FAMILIES
3 OCCUPYING DWELLINGS IN LOW-RENT HOUSING AUTHORIZED UNDER THE
4 ACT OF THE CONGRESS OF THE UNITED STATES KNOWN AS THE "UNITED
5 STATES HOUSING ACT OF 1937", AS AMENDED. FOR THE PURPOSE OF
6 MAKING AN INDIGENT DETERMINATION IN COMPUTING THE ANNUAL
7 RENTAL, THERE MUST BE INCLUDED IN THE CALCULATION THE AVERAGE
8 ANNUAL COST TO THE DEFENDANT, AS DETERMINED BY THE COURT, OF
9 HEAT, WATER, ELECTRICITY, GAS, AND OTHER NECESSARY SERVICES OR
10 FACILITIES, WHETHER OR NOT THE CHARGE FOR SUCH SERVICES AND
11 FACILITIES IS IN FACT INCLUDED IN THE RENTAL; OR

12 (B) LESS THAN TWO HUNDRED FIFTY PERCENT OF THE FEDERAL
13 POVERTY LINE; EXCEPT THAT, FOR PURPOSES OF CALCULATION, A
14 DEFENDANT'S ASSETS MUST NOT BE TAKEN INTO ACCOUNT.

15 (d) Whether asserted as a claim, ~~or~~ counterclaim, OR AN
16 AFFIRMATIVE DEFENSE, a tenant may recover damages directly arising
17 from a breach of the warranty of habitability, which may include, but are
18 not limited to, any reduction in the fair rental value of the dwelling unit,
19 in any court of competent jurisdiction.

20 (d.5) THE COURT SHALL DETERMINE THE REDUCTION OF THE
21 PREMISE'S RENTAL VALUE IN ITS UNINHABITABLE STATE TO THE DATE OF
22 TRIAL AND SHALL DENY POSSESSION TO THE LANDLORD AND DEEM THE
23 TENANT TO BE THE PREVAILING PARTY, CONDITIONED UPON THE PAYMENT
24 OF THE RENT THAT HAS ACCRUED TO THE DATE OF THE TRIAL, AS
25 ADJUSTED PURSUANT TO THE REDUCTION IN THE RENTAL VALUE CAUSED
26 BY THE BREACH OF THE WARRANTY OF HABITABILITY. THE TENANT SHALL
27 MAKE THIS PAYMENT TO EITHER THE COURT OR THE LANDLORD WITHIN

1 FOURTEEN DAYS FROM THE DATE OF THE COURT'S JUDGMENT. THE COURT
2 MAY ORDER THE LANDLORD TO MAKE REPAIRS AND CORRECT THE
3 CONDITIONS THAT CONSTITUTE A BREACH OF THE LANDLORD'S
4 OBLIGATIONS, SHALL ORDER THAT THE MONTHLY RENT BE LIMITED TO THE
5 PREMISE'S REASONABLE RENTAL VALUE, AS DETERMINED PURSUANT TO
6 THIS SECTION, UNTIL REPAIRS ARE COMPLETED, AND SHALL AWARD THE
7 TENANT COSTS AND ATTORNEY FEES IF PROVIDED BY AND PURSUANT TO
8 ANY STATUTE OR THE CONTRACT OF THE PARTIES. IF THE COURT ORDERS
9 REPAIRS OR CORRECTIONS, OR BOTH, PURSUANT TO THIS SECTION, THE
10 COURT'S JURISDICTION CONTINUES OVER THE MATTER FOR THE PURPOSE
11 OF ENSURING COMPLIANCE. THE COURT SHALL AWARD POSSESSION OF THE
12 PREMISES TO THE LANDLORD IF THE TENANT FAILS TO PAY ALL REDUCED
13 RENT OBLIGATIONS ACCRUED TO THE DATE OF TRIAL WITHIN THE PERIOD
14 PRESCRIBED BY THE COURT PURSUANT TO THIS SUBSECTION (1)(d.5).

15 **SECTION 14.** In Colorado Revised Statutes, **amend** 38-12-510
16 as follows:

17 **38-12-510. Unlawful removal or exclusion.** (1) It ~~shall be~~ IS
18 unlawful for a landlord to remove or exclude a tenant from a dwelling
19 unit without resorting to court process, unless the removal or exclusion
20 is consistent with ~~the provisions of~~ article 18.5 of title 25 ~~C.R.S.~~, and the
21 rules promulgated by the state board of health for the cleanup of an illegal
22 drug laboratory; ~~or~~ is with the mutual consent of the landlord and tenant;
23 or unless the dwelling unit has been abandoned by the tenant, as
24 evidenced by the return of keys, the substantial removal of the tenant's
25 personal property, notice by the tenant, or the extended absence of the
26 tenant while rent remains unpaid, any of which would cause a reasonable
27 person to believe the tenant had permanently surrendered possession of

1 the dwelling unit. Such Unlawful removal or exclusion includes the
2 willful termination of utilities or the willful removal of doors, windows,
3 or locks to the premises other than as required for repair or maintenance.
4 If the landlord willfully and unlawfully removes the tenant from the
5 premises or willfully and unlawfully causes the termination of heat,
6 running water, hot water, electric, gas, or other essential services, the
7 tenant may seek any remedy available under the law, including this part
8 5.

9 (2) A TENANT AFFECTED BY ANY VIOLATION OF THIS SECTION MAY
10 BRING A CIVIL ACTION TO RESTRAIN FURTHER VIOLATIONS AND TO
11 RECOVER DAMAGES, COSTS, AND REASONABLE ATTORNEY FEES. IN THE
12 CASE OF A VIOLATION, THE TENANT MUST BE AWARDED STATUTORY
13 DAMAGES EQUAL TO THE TENANT'S ACTUAL DAMAGES AND THE HIGHER
14 AMOUNT OF EITHER THREE TIMES THE MONTHLY RENT OR FIVE THOUSAND
15 DOLLARS, AS WELL AS ANY OTHER DAMAGES, ATTORNEY FEES, AND COSTS
16 THAT MAY BE OWED.

17 (3) A COURT MAY ALSO ORDER THAT POSSESSION BE RESTORED TO
18 A TENANT WHO WAS AFFECTED BY A VIOLATION OF THIS SECTION.

19 
20 **SECTION 15.** In Colorado Revised Statutes, 38-12-801, **add** (3)
21 as follows:

22 **38-12-801. Written rental agreement - prohibited clauses -**
23 **copy - tenant.** (3) A WRITTEN RENTAL AGREEMENT MUST NOT INCLUDE:

24 (a) **AN UNREASONABLE** LIQUIDATED DAMAGES CLAUSE THAT
25 ASSIGNS A COST TO A PARTY STEMMING FROM AN EVICTION NOTICE OR AN
26 EVICTION ACTION FROM A VIOLATION OF THE RENTAL AGREEMENT; OR

27 (b) A ONE-WAY, FEE-SHIFTING CLAUSE THAT AWARDS ATTORNEY

1 FEES AND COURT COSTS ONLY TO ONE PARTY. ANY FEE-SHIFTING CLAUSE
2 CONTAINED IN A RENTAL AGREEMENT MUST AWARD ATTORNEY FEES TO
3 THE PREVAILING PARTY IN A COURT DISPUTE CONCERNING THE RENTAL
4 AGREEMENT, RESIDENTIAL PREMISES, OR DWELLING UNIT.

5 (c) ANY CLAUSE IN VIOLATION OF SUBSECTION (3)(a) OR (3)(b) OF
6 THIS SECTION IS NULL AND VOID AND UNENFORCEABLE.

7 **SECTION 16.** In Colorado Revised Statutes, 24-34-501, **amend**
8 (2) as follows:

9 **24-34-501. Definitions.** As used in this part 5, unless the context
10 otherwise requires:

11 (2) "Housing" means any building, structure, vacant land, or part
12 thereof offered for sale, lease, rent, or transfer of ownership. ~~except that~~
13 ~~"housing" does not include any room offered for rent or lease in a~~
14 ~~single-family dwelling maintained and occupied in part by the owner or~~
15 ~~lessee of said dwelling as his household.~~

16 **SECTION 17. Appropriation.** For the 2021-22 state fiscal year,
17 \$21,339 is appropriated to the judicial department. This appropriation is
18 from the general fund and is based on an assumption that the department
19 will require an additional 0.3 FTE. To implement this act, the department
20 may use this appropriation for trial court programs.

21 **SECTION 18. Act subject to petition - effective date.** This act
22 takes effect October 1, 2021; except that, if a referendum petition is filed
23 pursuant to section 1 (3) of article V of the state constitution against this
24 act or an item, section, or part of this act within the ninety-day period
25 after final adjournment of the general assembly, then the act, item,
26 section, or part will not take effect unless approved by the people at the
27 general election to be held in November 2022 and, in such case, will take

- 1 effect on the date of the official declaration of the vote thereon by the
- 2 governor. _____