

CHAPTER 260

COURTS

HOUSE BILL 94-1147

BY REPRESENTATIVES Jerke, Armstrong, Moellenberg, Owen, Berry, and Epps;
also SENATORS Mutzebaugh, Blickensderfer, Norton, R. Powers, and Ruddick.

AN ACT

CONCERNING REMEDIES FOR UNLAWFUL DETENTION OF PROPERTY, AND, IN CONNECTION THEREWITH, ALLOWING EXPEDITED EVICTION OF TENANTS WHO COMMIT CRIMES OR ENDANGER OTHER PERSONS.

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

SECTION 1. 13-40-104 (1), Colorado Revised Statutes, 1987 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-40-104. Unlawful detention defined - exception. (1) Any person is guilty of an unlawful detention of real property in the following cases:

(d.5) WHEN SUCH TENANT OR LESSEE HOLDS OVER, WITHOUT THE PERMISSION OF THE LANDLORD, CONTRARY TO ANY CONDITION OR COVENANT THE VIOLATION OF WHICH IS DEFINED AS A SUBSTANTIAL VIOLATION IN SECTION 13-40-107.5, AND NOTICE IN WRITING HAS BEEN DULY SERVED UPON SUCH TENANT OR LESSEE IN ACCORDANCE WITH SECTION 13-40-107.5;

SECTION 2. Article 40 of title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

13-40-107.5. Termination of tenancy for substantial violation - definition - legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) VIOLENT AND ANTISOCIAL CRIMINAL ACTS ARE INCREASINGLY COMMITTED BY PERSONS WHO BASE THEIR OPERATIONS IN RENTED HOMES, APARTMENTS, AND COMMERCIAL PROPERTIES;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) SUCH PERSONS OFTEN LEASE SUCH PROPERTY FROM OWNERS WHO ARE UNAWARE OF THE DANGEROUS NATURE OF SUCH PERSONS UNTIL AFTER THE PERSONS HAVE TAKEN POSSESSION OF THE PROPERTY;

(c) UNDER TRADITIONAL LANDLORD AND TENANT LAW, SUCH PERSONS MAY HAVE ESTABLISHED THE TECHNICAL, LEGAL RIGHT TO OCCUPY THE PREMISES FOR A FIXED TERM WHICH CONTINUES LONG AFTER THEY HAVE DEMONSTRATED THEMSELVES UNFIT TO COEXIST WITH THEIR NEIGHBORS AND CO-TENANTS; FURTHERMORE, SUCH PERSONS OFTEN RESIST EVICTION AS LONG AS POSSIBLE;

(d) IN CERTAIN CASES IT IS NECESSARY TO CURTAIL THE TECHNICAL, LEGAL RIGHT OF OCCUPANCY OF SUCH PERSONS IN ORDER TO PROTECT THE EQUAL OR GREATER RIGHTS OF NEIGHBORS AND CO-TENANTS, THE INTERESTS OF PROPERTY OWNERS, THE VALUES OF TRUST AND COMMUNITY WITHIN NEIGHBORHOODS, AND THE HEALTH, SAFETY, AND WELFARE OF ALL THE PEOPLE OF THIS STATE.

(2) IT IS DECLARED TO BE AN IMPLIED TERM OF EVERY LEASE OF REAL PROPERTY IN THIS STATE THAT THE TENANT SHALL NOT COMMIT A SUBSTANTIAL VIOLATION WHILE IN POSSESSION OF THE PREMISES.

(3) AS USED IN THIS SECTION, "SUBSTANTIAL VIOLATION" MEANS:

(a) ANY ACT OR SERIES OF ACTS BY THE TENANT OR ANY GUEST OR INVITEE OF THE TENANT WHICH, WHEN CONSIDERED TOGETHER:

(I) OCCURS ON OR NEAR THE PREMISES AND ENDANGERS THE PERSON OR WILLFULLY AND SUBSTANTIALLY ENDANGERS THE PROPERTY OF THE LANDLORD, ANY CO-TENANT, OR ANY PERSON LIVING ON OR NEAR THE PREMISES; OR

(II) OCCURS ON OR NEAR THE PREMISES AND CONSTITUTES A VIOLENT OR DRUG-RELATED FELONY PROHIBITED UNDER ARTICLE 3, 4, 6, 7, 9, 10, 12, OR 18 OF TITLE 18, C.R.S.

(4) (a) A TENANCY MAY BE TERMINATED AT ANY TIME ON THE BASIS OF A SUBSTANTIAL VIOLATION. THE TERMINATION SHALL BE EFFECTIVE THREE DAYS AFTER SERVICE OF WRITTEN NOTICE TO QUIT.

(b) THE NOTICE TO QUIT SHALL DESCRIBE THE PROPERTY, THE PARTICULAR TIME WHEN THE TENANCY WILL TERMINATE, AND THE GROUNDS FOR TERMINATION. THE NOTICE SHALL BE SIGNED BY THE LANDLORD OR BY THE LANDLORD'S AGENT OR ATTORNEY.

(5) (a) IN ANY ACTION FOR POSSESSION UNDER THIS SECTION, THE LANDLORD HAS THE BURDEN OF PROVING THE OCCURRENCE OF A SUBSTANTIAL VIOLATION BY A PREPONDERANCE OF THE EVIDENCE.

(b) IN ANY ACTION FOR POSSESSION UNDER THIS SECTION, IT SHALL BE A DEFENSE THAT:

(I) THE TENANT IS A VICTIM OF DOMESTIC VIOLENCE THAT HAS BEEN DOCUMENTED BY THE FILING OF A POLICE REPORT OR THE ISSUANCE OF A RESTRAINING ORDER AND

THE DOMESTIC VIOLENCE IS THE BASIS FOR THE TERMINATION NOTICE; OR

(II) THE TENANT DID NOT KNOW OF, AND COULD NOT REASONABLY HAVE KNOWN OF OR PREVENTED, THE COMMISSION OF A SUBSTANTIAL VIOLATION BY A GUEST OR INVITEE BUT IMMEDIATELY NOTIFIED A LAW ENFORCEMENT OFFICER OF HIS KNOWLEDGE OF THE SUBSTANTIAL VIOLATION.

SECTION 3. Effective date - applicability. This act shall take effect upon passage, and shall apply to leases executed on or after said date and to leases in effect on such date when a substantial violation occurs on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1994