

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Mary Michael Whitefield and Nancy Herrington
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: April 2, 2024
SUBJECT: Proposed initiative measure 2023-2024 #268, concerning Limits on Senior Housing Costs

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purposes

The major purpose of the proposed initiative appears to be:

1. Limiting increases in housing-related rental costs for individuals 65 years of age and older to increases of not more than the lesser of 3% annually or 30% of an individual's social security cost of living adjustment.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5) of the Colorado constitution and section 1-40-102 of the Colorado Revised Statutes require the proponents to submit for review and comment the full text of the measure being proposed, which, if passed, becomes the actual language of the constitution or statutes. The proponents have submitted an idea, rather than the actual language that would be added to the Colorado constitution or Colorado Revised Statutes. Please amend your proposal to include the actual text of your proposed constitutional or statutory change.
2. Under article V, section 1 (2) of the Colorado constitution, proposed initiatives amend either the Colorado constitution or state law (i.e., the Colorado Revised Statutes). Is the proposed initiative intended to amend the Colorado constitution or the Colorado Revised Statutes? The Colorado constitution and the Colorado Revised Statutes are accessible from the General Assembly's website, here: <https://leg.colorado.gov/laws>.
3. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado". To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
4. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
5. What entities are meant to be covered by the limits stated in the proposed initiative? These covered entities are referred to as "land lords and alike entities that provide housing, lot rental, land leases and alike services" or, alternatively, as "land lords and alike entities that provide housing, trailer lot rentals, and leases and alike services."
6. What entities are meant to be excluded from the limits stated in the proposed initiative? These excluded entities are referred to as "joint or multitenant housing and assisted living, retirement homes or alike housing."
7. Are only "entities" subject to the limits stated in the proposed initiative or would an individual human being who is a land lord also be subject to those limitations?

8. What housing-related costs are meant to be included in the limits stated in the proposed initiative? These housing-related costs are referred to as "rent, lot fees and alike payments."
9. What is meant by the term "medical related care cost increases" as used in the proposed initiative?
10. How will the limits in the proposed initiative be enforced?
11. What will be the effective date of the proposed initiative?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., SECTION 1., SECTION 2.).
For example:

SECTION 1. In the constitution of the state of Colorado, **add** article XXX as follows:
2. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In Colorado Revised Statutes, **amend** section __ as follows:".
3. Each section in the Colorado Revised Statutes and the Colorado constitution has a headnote. Headnotes briefly describe the content of the section.
4. The Colorado Revised Statutes are divided into sections, and each section may contain subsections, paragraphs, subparagraphs, and sub-subparagraphs as follows:

X-X-XXXX. Headnote. (1) Subsection.
(a) Paragraph
(I) Subparagraph
(A) Sub-subparagraph

(B) Sub-subparagraph

(II) Subparagraph

(b) Paragraph

(2) Subsection

(3) Subsection

5. It is standard drafting practice when referencing statutory sections to include the word "section" before the number. For example, "section 24-35-204.5."
6. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears as ~~stricken type~~, to show language being removed from the Colorado constitution or the Colorado Revised Statutes.
7. Although the text of the proposed initiative should be in SMALL CAPITAL LETTERS, use an uppercase letter to indicate capitalization where appropriate. The following should be large-capitalized:
 - a. The first letter of the first word of each sentence;
 - b. The first letter of the first word of each entry of an enumeration paragraphed after a colon; and
 - c. The first letter of proper names.
8. It is standard drafting practice to use the Oxford comma after the second-to-last item in a series.
9. For purposes of this statutory initiative, the word "shall" is defined in section 2-4-401 (13.7), Colorado Revised Statutes, and it means "that a person has a duty." The related word "must," which is defined in section 2-4-401 (6.5), Colorado Revised Statutes, "means that a person or thing is required to meet a condition for a consequence to apply." Furthermore, "'must' does not mean that a person has a duty."
10. It appears that the following word in the proposed initiative is misspelled: "whit in" should be spelled "within."