

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

PREAMENDED

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

LLS NO. 19-1001.01 Pierce Lively x2059

HOUSE BILL 19-1309

HOUSE SPONSORSHIP

Hooton and McCluskie,

SENATE SPONSORSHIP

Fenberg,

House Committees

Transportation & Local Government
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF MOBILE HOME PARKS, AND, IN**
102 **CONNECTION THEREWITH, GRANTING COUNTIES THE POWER TO**
103 **ENACT ORDINANCES FOR MOBILE HOME PARKS, EXTENDING THE**
104 **TIME TO MOVE OR SELL A MOBILE HOME AFTER EVICTION**
105 **PROCEEDINGS, ██████ CREATING THE "MOBILE HOME PARK**
106 **DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM", AND**
107 **MAKING AN 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>.)

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.

The bill provides protections for mobile home owners by:

- ! Granting counties the power to enact certain ordinances for mobile home parks;
- ! Extending the time period between the notice of nonpayment of rent and the termination of any tenancy or other estate at will or lease in a mobile home park; and
- ! Extending the time a mobile home owner has to vacate a mobile home park after a court enters an eviction order.

The bill also creates the "Mobile Home Park Dispute Resolution and Enforcement Program" (program). The program authorizes the division of housing of the department of local affairs to:

- ! Register mobile home parks;
- ! Collect a registration fee from mobile home parks;
- ! Collect and annually report upon data related to disputes and violations of the "Mobile Home Park Act" (act);
- ! Produce and distribute educational materials concerning the act and the program;
- ! Create and maintain a database of mobile home parks;
- ! Create and maintain a database to manage the program; and
- ! Take complaints, conduct investigations, make determinations, impose penalties, and participate in administrative dispute resolutions when there are alleged violations of the act.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Mobile homes, manufactured housing, and factory-built
5 housing are important and effective ways to meet Colorado's affordable
6 housing needs;

7 (b) As of 2018, more than 100,000 Coloradans live in
8 manufactured homes;

9 (c) As of 2015, the median income for Coloradans living in
10 manufactured homes is \$39,000;

11 (d) The department of regulatory agencies' 2018 "Sunrise Review:

1 Manufactured Housing Community Owners and Managers" found that:
2 "Clearly, harm is occurring in manufactured housing communities...The
3 harm largely stems from the lack of enforcement of existing laws, bad
4 actors exploiting a relatively loose regulatory structure, and the inevitable
5 tension that arises when the house belongs to one person but the land
6 beneath it belongs to someone else."

7 (e) Moving mobile homes is costly and it is challenging to find an
8 alternative mobile home park with vacancies willing to accept a mobile
9 home. In some instances, a mobile home owner may not be able to move
10 their mobile home because of the mobile home's age and condition. A
11 mobile home owner may be forced to sell their home for an unreasonably
12 low price due to the abbreviated timeline to move it or the inability to do
13 so. Extending the time to vacate, move, or sell the home provides
14 adequate time for home owners to sell or move their homes without
15 experiencing a needless loss of property or equity.

16 (f) Both mobile home owners who rent a space for their mobile
17 home in a mobile home park and mobile home landlords have important
18 rights and responsibilities under the "Mobile Home Park Act", part 2 of
19 article 12 of title 38, Colorado Revised Statutes;

20 (g) Although mobile home owners and mobile home park
21 landlords may pursue litigation to contest a violation of the "Mobile
22 Home Park Act", the litigation process can be expensive, cumbersome,
23 and more time consuming than an administrative regulatory and dispute
24 resolution process; and

25 (h) Local communities, both home rule and statutory, play an
26 important role in ensuring that the "Mobile Home Park Act" is upheld, but
27 counties lack the power to enact the ordinances necessary to adequately

1 fulfill this role.

2 (2) Therefore, it is the intent of the general assembly to:

3 (a) Provide mobile home owners additional time to either sell or
4 move their mobile homes by extending the time a mobile home owner has
5 to vacate a mobile home park after a court enters an eviction order;

6 (b) Allow counties to play a similar role as home rule cities in
7 ensuring that the "Mobile Home Park Act" is upheld by granting county
8 boards of commissioners additional permissive authority to regulate and
9 enforce regulations of mobile home parks throughout the counties'
10 unincorporated areas; and

11 (c) Support better communication and promote mutual
12 understanding between mobile home landlords, management, and home
13 owners by creating the "Mobile Home Park Act Dispute Resolution and
14 Enforcement Program".

15 **SECTION 2.** In Colorado Revised Statutes, 24-32-705, **add**
16 (1)(u) as follows:

17 **24-32-705. Functions of division.** (1) The division has the
18 following functions:

19 (u) TO ENFORCE THE PROVISIONS OF THE "MOBILE HOME PARK
20 ACT" CREATED IN PART 2 OF ARTICLE 12 OF TITLE 38 AND THE "MOBILE
21 HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM"
22 CREATED IN PART 9 OF ARTICLE 12 OF TITLE 38, AND THE RULES AND
23 REGULATIONS ADOPTED PURSUANT TO SECTION 38-12-904 (2)(j).

24 **SECTION 3.** In Colorado Revised Statutes, **add** 30-11-128 as
25 follows:

26 **30-11-128. Mobile home parks - definition.** (1) THE BOARD OF
27 COUNTY COMMISSIONERS OF EACH COUNTY HAS THE POWER TO ADOPT,

1 ADMINISTER, AND ENFORCE ORDINANCES AND RESOLUTIONS TO PROVIDE
2 FOR THE SAFE AND EQUITABLE OPERATION OF MOBILE HOME PARKS
3 THROUGHOUT THE UNINCORPORATED AREAS OF THE COUNTY. THESE
4 ORDINANCES AND RESOLUTIONS MAY BE ENACTED WITHIN THE SCOPE OF
5 THE "MOBILE HOME PARK ACT", PART 2 OF ARTICLE 12 OF TITLE 38, AND
6 FURTHER AS THE BOARD DEEMS NECESSARY TO PROTECT HOME OWNERS'
7 EQUITY IN THE SAFE USE AND ENJOYMENT OF THE MOBILE HOMES AND
8 MOBILE HOME LOTS, INCLUDING BUT NOT LIMITED TO THE IMPOSITION OF
9 PENALTIES OR ADOPTION OF A LOCAL REGISTRATION SYSTEM.

10 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AN
11 ORDINANCE OR RESOLUTION ENACTED BY A COUNTY'S BOARD OF COUNTY
12 COMMISSIONERS IS ONLY ENFORCEABLE WITHIN THE UNINCORPORATED
13 AREA OF THE COUNTY.

14 (3) ONE OR MORE CONTIGUOUS COUNTIES AND ANY MUNICIPALITY
15 OR TOWN WITHIN EACH COUNTY MAY ENTER INTO INTERGOVERNMENTAL
16 AGREEMENTS TO EXTEND THE APPLICABILITY OF ANY ORDINANCE OR
17 RESOLUTION ADOPTED UNDER THIS SECTION TO AND THROUGHOUT ANY
18 PARTICIPATING COUNTY, MUNICIPALITY, OR TOWN.

19 (4) FOR PURPOSES OF THIS SECTION, "HOME OWNER", "LANDLORD",
20 "MOBILE HOME", "MOBILE HOME LOT", AND "MOBILE HOME PARK" HAVE
21 THE SAME MEANING AS THEY ARE DEFINED IN SECTION 38-12-201.5.

22 **SECTION 4.** In Colorado Revised Statutes, 38-12-201.5, **amend**
23 the introductory portion as follows:

24 **38-12-201.5. Definitions.** As used in this part 2 AND IN PART 9 OF
25 THIS TITLE 38, unless the context otherwise requires:

26 **SECTION 5.** In Colorado Revised Statutes, 38-12-204, **amend**
27 (1) as follows:

1 **38-12-204. Nonpayment of rent - notice required for rent**
2 **increase.** (1) Any tenancy or other estate at will or lease in a mobile
3 home park may be terminated upon the landlord's written notice to the
4 home owner requiring, in the alternative, payment of rent or the removal
5 of the home owner's unit from the premises, within a period of not less
6 than ~~five~~ TEN days after the date notice is served or posted, for failure to
7 pay rent when due.

8 **SECTION 6.** In Colorado Revised Statutes, 38-12-204.3, **amend**
9 (2) as follows:

10 **38-12-204.3. Notice required for termination.** (2) The notice
11 required under this section ~~shall~~ MUST be in at least ten-point type and
12 ~~shall~~ MUST read as follows:

13 **IMPORTANT NOTICE TO THE HOME OWNER:**
14 This notice and the accompanying notice to quit/notice of
15 nonpayment of rent are the first steps in the eviction process. Any dispute
16 you may have regarding the grounds for eviction should be addressed
17 with your landlord or the management of the mobile home park or in the
18 courts if an eviction action is filed. Please be advised that the "Mobile
19 Home Park Act", part 2 of article 12 of title 38, Colorado Revised
20 Statutes, may provide you with legal protection:

21 NOTICE TO QUIT: The landlord or management of a mobile
22 home park must serve to a home owner a notice to quit in order to
23 terminate a home owner's tenancy. The notice must be in writing and
24 must contain certain information, including:

- 25 ! The grounds for the termination of the tenancy;
- 26 ! Whether or not the home owner has a right to cure under
- 27 the "Mobile Home Park Act"; and

1 ! That the home owner has ~~a right to~~ THE OPTION OF
2 mediation pursuant to section 38-12-216, Colorado Revised
3 Statutes, of the "Mobile Home Park Act.

4 NOTICE OF NONPAYMENT OF RENT: The landlord or
5 management of a mobile home park must serve to a home owner a notice
6 of nonpayment of rent in order to terminate a home owner's tenancy. The
7 notice must be in writing and must require that the home owner either
8 make payment of rent and any applicable fees due and owing or remove
9 the owner's unit from the premises, within a period of not less than five
10 TEN days after the date the notice is served or posted, for failure to pay
11 rent when due.

12 CURE PERIODS: If the home owner has a right to cure under the
13 "Mobile Home Park Act", the landlord or management of a mobile home
14 park cannot terminate a home owner's tenancy without first providing the
15 home owner with a time period to cure the noncompliance. "Cure" refers
16 to a home owner remedying, fixing, or otherwise correcting the situation
17 or problem that caused the tenancy to be terminated pursuant to sections
18 38-12-202, 38-12-203, or 38-12-204, Colorado Revised Statutes.

19 COMMENCEMENT OF LEGAL ACTION TO TERMINATE
20 THE TENANCY: After the last day of the notice period, a legal action
21 may be commenced to take possession of the space leased by the home
22 owner. In order to evict a home owner, the landlord or management of the
23 mobile home park must prove:

24 ! The landlord or management complied with the notice
25 requirements of the "Mobile Home Park Act";

26 ! The landlord or management provided the home owner
27 with a statement of reasons for termination of the tenancy;

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and
! The reasons for termination of the tenancy are true and
valid under the "Mobile Home Park Act".

A home owner must appear in court to defend against an eviction
action. If the court rules in favor of the landlord or management of the
mobile home park, the home owner ~~will have~~ HAS not less than ~~48 hours~~
~~THIRTY~~ DAYS from the time of the ruling to EITHER remove OR SELL the
mobile home and to vacate the premises. ~~If a tenancy is being terminated~~
~~pursuant to section 38-12-203 (1)(f), Colorado Revised Statutes, the home~~
~~owner shall have not less than 48 hours from the time of the ruling to~~
~~remove the home and vacate the premises. In all other circumstances, If~~
~~the home owner wishes to extend such period beyond 48 hours~~ THIRTY
DAYS but not more than ~~thirty~~ SIXTY days from the date of the ruling, the
home owner shall prepay to the landlord an amount equal to any total
amount declared by the court to be due to the landlord, as well as a pro
rata share of rent for each day following the court's ruling that the mobile
home owner will remain on the premises. All prepayments ~~shall be paid~~
~~by certified check, by cashier's check, or by wire transfer and shall be~~
~~paid no later than 48 hours~~ THIRTY DAYS after the court ruling.
ALTERNATIVELY, IF A HOME OWNER CHOOSES TO REMAIN ON THE
PREMISES FOR MORE THAN THIRTY DAYS, A HOME OWNER MAY ALLOW THE
LANDLORD TO PLACE A LIEN ON THE HOME OWNER'S MOBILE HOME THAT
IS EQUAL IN VALUE TO THE PRO RATA SHARE OF RENT FOR EACH DAY
FOLLOWING THE COURT'S RULING THAT THE HOME OWNER REMAINS ON
THE PREMISES. REMOVAL OF A MOBILE HOME OR ONE OR MORE MOBILE
HOME OWNERS OR OCCUPANTS FROM THE MOBILE HOME PARK IF A MOBILE
HOME OWNER VIOLATES ARTICLE 3, 4, 6, 7, 9, 10, 12, OR 18 OF TITLE 18 OR

1 SECTION 16-13-303.

2 SECTION 7. In Colorado Revised Statutes, 38-12-208, **amend**
3 (1)(b) as follows:

4 **38-12-208. Remedies.** (1)(b) The notice of judgment ~~shall~~ MUST
5 state that, at a specified time not less than ~~forty-eight hours~~ THIRTY DAYS
6 from the entry of judgment, if a tenancy is being terminated pursuant to
7 section ~~38-12-203~~ (1)(f) and, in all other instances, not less than
8 ~~forty-eight hours from the entry of judgment~~, which may be extended to
9 not more than ~~thirty~~ SIXTY days after the entry of judgment if the home
10 owner has prepaid by ~~certified check, by cashier's check, or by wire~~
11 ~~transfer~~ no later than ~~forty-eight hours~~ THIRTY DAYS after the court ruling
12 to the landlord an amount equal to any total amount declared by the court
13 to be due to the landlord, as well as a pro rata share of rent for each day
14 following the court's ruling that the mobile home owner will remain on
15 the premises, OR, IF A HOME OWNER CHOOSES TO REMAIN ON THE
16 PREMISES FOR MORE THAN THIRTY DAYS, A HOME OWNER MAY ALLOW THE
17 LANDLORD TO PLACE A LIEN ON THE HOME OWNER'S MOBILE HOME THAT
18 IS EQUAL IN VALUE TO THE PRO RATA SHARE OF RENT FOR EACH DAY
19 FOLLOWING THE COURT'S RULING THAT THE HOME OWNER REMAINS ON
20 THE PREMISES, IN INSTANCES WHERE THE MOBILE HOME MUST BE
21 REMOVED FROM THE MOBILE HOME LOT, the sheriff ~~will~~ SHALL return to
22 serve a writ of restitution and superintend the peaceful and orderly
23 removal of the mobile home under that order of court. The notice of
24 judgment ~~shall~~ MUST also advise the home owner, IN INSTANCES WHERE
25 THE MOBILE HOME MUST BE REMOVED FROM THE MOBILE HOME LOT, to
26 prepare the mobile home for removal from the premises by removing the
27 skirting, disconnecting utilities, attaching tires, and otherwise making the

1 mobile home safe and ready for highway travel.

2 **SECTION 8.** In Colorado Revised Statutes, **add** part 9 to article
3 12 of title 38 as follows:

4 PART 9

5 MOBILE HOME PARK ACT DISPUTE

6 RESOLUTION AND ENFORCEMENT PROGRAM

7 **38-12-901. Short title.** THE SHORT TITLE OF THIS PART 9 IS THE
8 "MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT
9 PROGRAM".

10 **38-12-902. Legislative declaration.** (1) THE GENERAL ASSEMBLY
11 HEREBY FINDS AND DECLARES THAT:

12 (a) THERE ARE FACTORS UNIQUE TO THE RELATIONSHIP BETWEEN
13 MOBILE HOME OWNERS AND MOBILE HOME PARK LANDLORDS;

14 (b) ONCE OCCUPANCY HAS COMMENCED, A MOBILE HOME OWNER
15 MAY BE SUBJECT TO VIOLATIONS OF THE "MOBILE HOME PARK ACT", PART
16 2 OF THIS ARTICLE 12, WITHOUT AN ADEQUATE REMEDY AT LAW BECAUSE
17 THE DIFFICULTY AND EXPENSE IN MOVING AND RELOCATING A MOBILE
18 HOME CAN AFFECT THE OPERATION OF MARKET FORCES AND LEAD TO AN
19 INEQUALITY OF THE BARGAINING POSITION OF THE PARTIES;

20 (c) TAKING LEGAL ACTION AGAINST A MOBILE HOME PARK
21 LANDLORD FOR VIOLATIONS OF THE "MOBILE HOME PARK ACT" CAN BE
22 A COSTLY AND LENGTHY PROCESS, AND MANY MOBILE HOME OWNERS
23 CANNOT AFFORD TO PURSUE A COURT PROCESS TO VINDICATE STATUTORY
24 RIGHTS. MOBILE HOME PARK LANDLORDS WILL ALSO BENEFIT BY HAVING
25 ACCESS TO A PROCESS THAT RESOLVES DISPUTES QUICKLY AND
26 EFFICIENTLY.

27 (2) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO

1 PROVIDE AN EQUITABLE AS WELL AS A LESS COSTLY AND MORE EFFICIENT
2 WAY FOR MOBILE HOME OWNERS AND MOBILE HOME PARK LANDLORDS TO
3 RESOLVE DISPUTES, AND TO PROVIDE A MECHANISM FOR STATE
4 AUTHORITIES TO QUICKLY LOCATE MOBILE HOME PARK LANDLORDS.

5 **38-12-903. Definitions.** AS USED IN THIS PART 9, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "ACT" MEANS THE "MOBILE HOME PARK ACT" CREATED IN
8 PART 2 OF THIS ARTICLE 12.

9 (2) "COMPLAINANT" MEANS A LANDLORD OR HOME OWNER WHO
10 HAS FILED A COMPLAINT ALLEGING A VIOLATION OF THE ACT OR THE
11 COMPLAINANT'S AGENT, EMPLOYEE, OR REPRESENTATIVE AUTHORIZED TO
12 ACT ON THE COMPLAINANT'S BEHALF.

13 (3) "DIVISION" MEANS THE DIVISION OF HOUSING OF THE
14 DEPARTMENT OF LOCAL AFFAIRS.

15 (4) "FUND" MEANS THE MOBILE HOME PARK ACT DISPUTE
16 RESOLUTION AND ENFORCEMENT PROGRAM FUND CREATED IN SECTION
17 38-12-910.

18 (5) "PENALTY" MEANS A MONETARY PENALTY LEVIED AGAINST A
19 COMPLAINANT OR RESPONDENT BECAUSE OF A VIOLATION OF EITHER THE
20 ACT OR THE PROGRAM.

21 (6) "PROGRAM" MEANS THE "MOBILE HOME PARK ACT DISPUTE
22 RESOLUTION AND ENFORCEMENT PROGRAM" CREATED IN THIS PART 9.

23 (7) "RESPONDENT" MEANS A LANDLORD OR HOME OWNER,
24 ALLEGED TO HAVE COMMITTED A VIOLATION OF THE ACT, OR THE
25 RESPONDENT'S AGENT, EMPLOYEE, OR REPRESENTATIVE AUTHORIZED TO
26 ACT ON THE RESPONDENT'S BEHALF.

27 **38-12-904. Dispute resolution program - creation - division of**

1 **housing - duties - report - rules.** (1) THE "MOBILE HOME PARK ACT
2 DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM" IS HEREBY
3 CREATED.

4 (2) THE DIVISION SHALL:

5 (a) PRODUCE EDUCATIONAL MATERIALS REGARDING THE ACT AND
6 THE PROGRAM. THESE MATERIALS MUST BE IN BOTH ENGLISH AND
7 SPANISH AND MUST INCLUDE A NOTICE IN A FORMAT THAT A LANDLORD
8 CAN REASONABLY POST IN A MOBILE HOME PARK. THE NOTICE MUST
9 SUMMARIZE HOME OWNER RIGHTS AND RESPONSIBILITIES, PROVIDE
10 INFORMATION ON HOW TO FILE A COMPLAINT WITH THE DIVISION,
11 DESCRIBE THE PROTECTIONS AFFORDED HOME OWNERS UNDER SECTION
12 38-12-905 (13), AND PROVIDE A TOLL-FREE TELEPHONE NUMBER AND
13 WEBSITE THAT LANDLORDS AND HOME OWNERS CAN USE TO SEEK
14 ADDITIONAL INFORMATION AND COMMUNICATE COMPLAINTS SPECIFIC TO
15 THE PROGRAM;

16 (b) DISTRIBUTE THE EDUCATIONAL MATERIALS DESCRIBED IN
17 SUBSECTION (2)(a) OF THIS SECTION TO ALL KNOWN LANDLORDS AND, AS
18 REQUESTED, TO ANY COMPLAINANTS OR RESPONDENTS;

19 (c) ENSURE THAT LANDLORDS POST THE NOTICE PROVIDED IN
20 SUBSECTION (2)(a) OF THIS SECTION IN A CLEARLY VISIBLE LOCATION IN
21 COMMON AREAS OF MOBILE HOME PARKS, INCLUDING ANY COMMUNITY
22 HALL OR RECREATION HALL;

23 (d) ENFORCE A PENALTY IF THE DIVISION DISCOVERS THAT THE
24 LANDLORD HAS NOT APPROPRIATELY POSTED THE NOTICE PROVIDED IN
25 SUBSECTION (2)(a) OF THIS SECTION IN ACCORDANCE WITH THE
26 REQUIREMENTS OF SUBSECTION (2)(c) OF THIS SECTION;

27 (e) CREATE AND MAINTAIN A REGISTRATION DATABASE OF MOBILE

1 HOME PARKS;

2 (f) CREATE AND MAINTAIN A DATABASE OF MOBILE HOME PARKS
3 THAT HAVE HAD COMPLAINTS FILED AGAINST THEM UNDER THE PROGRAM;

4 (g) PROVIDE AN ANNUAL REPORT TO THE TRANSPORTATION AND
5 LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
6 ITS SUCCESSOR COMMITTEE, AND THE LOCAL GOVERNMENT COMMITTEE OF
7 THE SENATE, OR ITS SUCCESSOR COMMITTEE, AND PUBLISH THAT ANNUAL
8 REPORT ON THE DIVISION'S OFFICIAL WEBSITE;

9 (h) RECEIVE COMPLAINTS AND PERFORM DISPUTE RESOLUTION
10 ACTIVITIES RELATED TO THE PROGRAM, INCLUDING INVESTIGATIONS,
11 NEGOTIATIONS, DETERMINATIONS OF VIOLATIONS, AND IMPOSITION OF
12 PENALTIES AS DESCRIBED IN SECTION 38-12-905;

13 (i) ISSUE SUBPOENAS;

14 (j) PROMULGATE SUCH RULES AS ARE NECESSARY TO IMPLEMENT
15 THE PROVISIONS OF THE PROGRAM CREATED IN THIS PART 9 AND TO
16 CLARIFY THE REQUIREMENTS OF THE "MOBILE HOME PARK ACT", PART 2
17 OF THIS ARTICLE 12. SUCH RULES SHALL BE PROMULGATED IN
18 ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

19 (3) THE PROGRAM MUST BE FUNDED BY THE PENALTIES AND FEES
20 DEPOSITED IN THE FUND AND ANY OTHER RESOURCES DIRECTED TO THE
21 PROGRAM.

22 **38-12-905. Dispute resolution program - complaint process.**

23 (1) BEGINNING MAY 1, 2020, ANY AGGRIEVED PARTY MAY FILE A
24 COMPLAINT WITH THE DIVISION ALLEGING A VIOLATION OF THE ACT OR
25 THIS PART 9.

26 (2) AFTER RECEIVING A COMPLAINT UNDER THIS PART 9, THE
27 DIVISION SHALL INVESTIGATE THE ALLEGED VIOLATIONS AT THE DIVISION'S

1 DISCRETION AND, IF APPROPRIATE, FACILITATE NEGOTIATIONS BETWEEN
2 THE COMPLAINANT AND THE RESPONDENT.

3 (3) (a) COMPLAINANTS AND RESPONDENTS SHALL COOPERATE
4 WITH THE DIVISION IN THE COURSE OF AN INVESTIGATION BY RESPONDING
5 TO SUBPOENAS ISSUED BY THE DIVISION. THE SUBPOENAS MAY SEEK
6 ACCESS TO PAPERS OR OTHER DOCUMENTS AND PROVIDE SITE ACCESS TO
7 THE MOBILE HOME PARKS RELEVANT TO THE INVESTIGATION.
8 COMPLAINANTS AND RESPONDENTS MUST RESPOND TO THE DIVISION'S
9 SUBPOENAS WITHIN TEN DAYS OF THE DIVISION SENDING THE SUBPOENAS.

10 (b) FAILURE TO COOPERATE WITH THE DIVISION IN THE COURSE OF
11 AN INVESTIGATION IS A VIOLATION OF THIS PART 9.

12 (4) (a) IF, AFTER AN INVESTIGATION, THE DIVISION DETERMINES
13 THAT THE PARTIES ARE UNABLE TO COME TO AN AGREEMENT, THE
14 DIVISION SHALL MAKE A WRITTEN DETERMINATION ON WHETHER A
15 VIOLATION OF THE ACT HAS OCCURRED.

16 (b) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
17 VIOLATION OF THE ACT HAS OCCURRED, THE DIVISION SHALL DELIVER A
18 WRITTEN NOTICE OF VIOLATION BY CERTIFIED MAIL TO BOTH THE
19 COMPLAINANT AND THE RESPONDENT. THE NOTICE OF VIOLATION MUST
20 SPECIFY THE BASIS FOR THE DIVISION'S DETERMINATION, THE VIOLATION,
21 THE ACTION REQUIRED TO CURE THE VIOLATION, THE TIME WITHIN WHICH
22 THAT ACTION MUST BE TAKEN, THE PENALTIES THAT WILL BE IMPOSED IF
23 THAT ACTION IS NOT TAKEN WITHIN THE SPECIFIED TIME PERIOD, AND THE
24 PROCESS FOR CONTESTING THE DETERMINATION, REQUIRED ACTION, AND
25 PENALTIES BY MEANS OF AN ADMINISTRATIVE HEARING.

26 (c) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
27 VIOLATION OF THE ACT HAS NOT OCCURRED, THE DIVISION SHALL DELIVER

1 A WRITTEN NOTICE OF NONVIOLATION TO BOTH THE COMPLAINANT AND
2 THE RESPONDENT BY CERTIFIED MAIL. THE NOTICE OF NONVIOLATION
3 MUST INCLUDE THE BASIS FOR THE DIVISION'S DETERMINATION AND THE
4 PROCESS FOR CONTESTING THE DETERMINATION INCLUDED IN THE NOTICE
5 OF NONVIOLATION BY MEANS OF AN ADMINISTRATIVE HEARING.

6 (5) THE RESPONDENT MUST COMPLY WITH THE REQUIREMENTS OF
7 A NOTICE OF VIOLATION FROM THE DIVISION WITHIN SEVEN DAYS OF THE
8 NOTICE OF VIOLATION BECOMING A FINAL AGENCY ORDER UNDER EITHER
9 SUBSECTION (7)(b) OR (9)(b) OF THIS SECTION, EXCEPT AS REQUIRED
10 OTHERWISE BY THE DIVISION, UNLESS THE RESPONDENT HAS SUBMITTED
11 A TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING TO CONTEST THE
12 NOTICE UNDER SUBSECTION (7) OF THIS SECTION. IF A RESPONDENT FAILS
13 TO COMPLY WITH THE REQUIREMENTS OF A NOTICE OF VIOLATION WITHIN
14 THE REQUIRED TIME PERIOD AND THE DIVISION HAS NOT RECEIVED A
15 TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING, THE DIVISION MAY
16 IMPOSE A PENALTY, UP TO A MAXIMUM OF FIVE THOUSAND DOLLARS PER
17 VIOLATION PER DAY, FOR EACH DAY THAT A VIOLATION REMAINS
18 UNCORRECTED. WHEN DETERMINING THE AMOUNT OF THE PENALTY TO
19 IMPOSE ON A RESPONDENT, THE DIVISION SHALL CONSIDER THE SEVERITY
20 AND DURATION OF THE VIOLATION AND THE IMPACT OF THE VIOLATION ON
21 OTHER COMMUNITY RESIDENTS. IF THE RESPONDENT SHOWS, UPON TIMELY
22 APPLICATION TO THE DIVISION, THAT A GOOD FAITH EFFORT TO COMPLY
23 WITH THE REQUIREMENTS OF THE NOTICE OF VIOLATION HAS BEEN MADE
24 AND THAT THE RESPONDENT HAS NOT COMPLIED BECAUSE OF MITIGATING
25 FACTORS BEYOND THE RESPONDENT'S CONTROL, THE DIVISION MAY DELAY
26 THE IMPOSITION OF A PENALTY.

27 (6) THE DIVISION MAY ISSUE AN ORDER REQUIRING THE

1 RESPONDENT TO CEASE AND DESIST FROM AN UNLAWFUL PRACTICE. THE
2 DIVISION MAY ALSO ISSUE AN ORDER REQUIRING THE RESPONDENT TO
3 TAKE ACTIONS THAT IN THE JUDGMENT OF THE DIVISION WILL CARRY OUT
4 THE PURPOSES OF THIS PART 9. THE ACTIONS MAY INCLUDE, BUT ARE NOT
5 LIMITED TO:

6 (a) REFUNDS OF RENT INCREASES, IMPROPER FEES, AND CHARGES
7 COLLECTED IN VIOLATION OF THIS PART 9;

8 (b) FILING DOCUMENTS THAT CORRECT A STATUTORY OR RULE
9 VIOLATION; AND

10 (c) TAKING ACTION NECESSARY TO CORRECT A STATUTORY OR
11 RULE VIOLATION.

12 (7) (a) A COMPLAINANT OR RESPONDENT MAY REQUEST AN
13 ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE TO
14 CONTEST:

15 (I) A NOTICE OF VIOLATION ISSUED UNDER SUBSECTION (4)(b) OF
16 THIS SECTION OR A NOTICE OF NONVIOLATION ISSUED UNDER SUBSECTION
17 (4)(c) OF THIS SECTION;

18 (II) A PENALTY IMPOSED UNDER SUBSECTION (5) OF THIS SECTION;
19 OR

20 (III) AN ORDER TO CEASE AND DESIST OR AN ORDER TO TAKE
21 ACTIONS UNDER SUBSECTION (6) OF THIS SECTION.

22 (b) IF THE COMPLAINANT OR RESPONDENT REQUESTS AN
23 ADMINISTRATIVE HEARING PURSUANT TO SUBSECTION (7)(a) OF THIS
24 SECTION, THE COMPLAINANT OR RESPONDENT MUST FILE THE REQUEST
25 WITHIN FIFTEEN BUSINESS DAYS OF RECEIPT OF A NOTICE OF VIOLATION,
26 NOTICE OF NONVIOLATION PENALTY, ORDER, OR ACTION. IF AN
27 ADMINISTRATIVE HEARING IS NOT REQUESTED WITHIN THIS TIME PERIOD,

1 THE NOTICE OF VIOLATION OR NOTICE OF NONVIOLATION CONSTITUTES A
2 FINAL AGENCY ORDER OF THE DIVISION AND IS NOT SUBJECT TO REVIEW BY
3 ANY COURT OR AGENCY.

4 (8) HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE COURTS
5 MUST BE CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
6 UNLESS OTHERWISE SPECIFIED IN THIS SECTION.

7 (9) (a) AN APPOINTED ADMINISTRATIVE LAW JUDGE SHALL:

8 (I) HEAR AND RECEIVE PERTINENT EVIDENCE AND TESTIMONY;

9 (II) DECIDE WHETHER THE EVIDENCE SUPPORTS THE DIVISION'S
10 FINDING BY A PREPONDERANCE OF THE EVIDENCE; AND

11 (III) ENTER AN APPROPRIATE ORDER WITHIN THIRTY DAYS AFTER
12 THE COMPLETION OF THE HEARING AND IMMEDIATELY SEND COPIES OF THE
13 ORDER TO THE AFFECTED PARTIES.

14 (b) AN ORDER ENTERED BY AN ADMINISTRATIVE LAW JUDGE
15 CONSTITUTES THE FINAL AGENCY ORDER OF THE DIVISION AND IS SUBJECT
16 TO JUDICIAL REVIEW PURSUANT TO ARTICLE 4 OF TITLE 24. AN ORDER
17 ENTERED BY AN ADMINISTRATIVE LAW JUDGE MAY BE APPEALED BY THE
18 RESPONDENT AND THE DIVISION.

19 (10) WHEN THE DIVISION IMPOSES ANY PENALTY AGAINST A
20 RESPONDENT LANDLORD UNDER THIS PART 9, THE RESPONDENT MAY NOT
21 SEEK ANY RECOVERY OR REIMBURSEMENT OF THE PENALTY FROM A
22 COMPLAINANT OR FROM ANY OTHER HOME OWNER.

23 (11) ALL MONEY COLLECTED FROM THE IMPOSITION OF ANY
24 PENALTIES IMPOSED UNDER THIS SECTION OTHER THAN ANY PORTION OF
25 THE PENALTIES REQUIRED TO BE PAID TO A COMPLAINANT MUST BE
26 DEPOSITED IN THE FUND.

27 (12) THIS SECTION DOES NOT PROVIDE AN EXCLUSIVE REMEDY AND

1 DOES NOT LIMIT THE RIGHT OF LANDLORDS OR HOME OWNERS TO TAKE
2 LEGAL ACTION AGAINST ANOTHER PARTY AS PROVIDED IN THE ACT OR
3 OTHERWISE. EXHAUSTION OF THE ADMINISTRATIVE REMEDY PROVIDED IN
4 THIS SECTION IS NOT REQUIRED BEFORE A LANDLORD OR HOME OWNER
5 MAY BRING A LEGAL ACTION.

6 (13) A LANDLORD MAY NOT TAKE ANY RETALIATORY ACTIONS
7 AGAINST A HOME OWNER FOR EXPRESSING AN INTENTION TO FILE A
8 COMPLAINT UNDER THIS PROGRAM OR FILING A COMPLAINT UNDER THIS
9 PROGRAM. IF THE DIVISION DETERMINES THAT A LANDLORD HAS
10 RETALIATED AGAINST A HOME OWNER, THE DIVISION MAY IMPOSE A FINE
11 OF UP TO TEN THOUSAND DOLLARS ON THE LANDLORD.

12 (14) ANY PENALTY LEVIED AGAINST A LANDLORD UNDER THIS
13 PART 9 SHALL BE A LIEN AGAINST THE LANDLORD'S MOBILE HOME PARK
14 UNTIL THE LANDLORD PAYS THE PENALTY.

15 **38-12-906. Registration of mobile home parks - process - fees.**

16 (1) THE DIVISION SHALL REGISTER ALL MOBILE HOME PARKS ON AN
17 INDIVIDUAL BASIS AND RENEW THIS REGISTRATION ANNUALLY.

18 (2) THE DIVISION SHALL SEND REGISTRATION NOTIFICATIONS
19 AND INFORMATION PACKETS TO ALL KNOWN LANDLORDS OF
20 UNREGISTERED MOBILE HOME PARKS. THESE INFORMATION PACKETS MUST
21 INCLUDE:

22 (a) REGISTRATION FORMS THAT SATISFY ALL OF THE
23 REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION;

24 (b) INFORMATION ABOUT THE DIFFERENT METHODS OF
25 REGISTRATION;

26 (c) INFORMATION ABOUT THE SINGLE, STATEWIDE TOLL-FREE
27 TELEPHONE NUMBER DESCRIBED IN SUBSECTION (11) OF THIS SECTION;

1 (d) REGISTRATION ASSESSMENT INFORMATION, INCLUDING
2 REGISTRATION DUE DATES AND LATE FEES, AND THE COLLECTIONS
3 PROCEDURES, LIENS, AND CHARGING COSTS TO HOME OWNERS; AND

4 (e) A DESCRIPTION OF THE PROTECTIONS AFFORDED HOME OWNERS
5 UNDER SECTION 38-12-905 (13).

6 (3) THE DIVISION SHALL ANNUALLY SEND REGISTRATION RENEWAL
7 NOTIFICATIONS AND INFORMATION PACKETS TO ALL REGISTERED MOBILE
8 HOME PARKS.

9 (4) A LANDLORD MUST FILE FOR REGISTRATION OR REGISTRATION
10 RENEWAL BY SUBMITTING TO THE DIVISION, EITHER THROUGH THE
11 DIVISION'S WEBSITE, BY MAIL, OR IN PERSON, A REGISTRATION OR
12 REGISTRATION RENEWAL FORM PROVIDED BY THE DIVISION AND PAY A
13 REGISTRATION FEE AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

14 (5) A LANDLORD MUST NOTIFY THE DIVISION WITHIN THIRTY DAYS
15 OF A CHANGE IN THE OWNERSHIP OF THE LANDLORD'S MOBILE HOME PARK
16 SO THAT THE DIVISION MAY UPDATE THE MOBILE HOME PARK'S
17 REGISTRATION INFORMATION.

18 (6) THE DIVISION SHALL MAKE AVAILABLE ON THE DIVISION'S
19 WEBSITE ELECTRONIC FORMS TO REGISTER A MOBILE HOME PARK. THESE
20 FORMS MUST BE AVAILABLE IN BOTH ENGLISH AND SPANISH AND SATISFY
21 ALL OF THE REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION.

22 (7) THE REGISTRATION FORMS PROVIDED BY THE DIVISION MUST
23 REQUIRE INFORMATION NECESSARY TO ASSIST THE DIVISION IN
24 IDENTIFYING AND LOCATING A MOBILE HOME PARK AND OTHER
25 INFORMATION THAT MAY BE USEFUL TO THE STATE INCLUDING, AT A
26 MINIMUM:

27 (a) THE NAME AND ADDRESS OF THE LANDLORD;

- 1 (b) THE NAME AND ADDRESS OF THE MOBILE HOME PARK;
- 2 (c) THE NUMBER OF LOTS WITHIN THE MOBILE HOME PARK;
- 3 (d) THE NUMBER OF MOBILE HOMES WITHIN THE MOBILE HOME
- 4 PARK; AND
- 5 (e) THE ADDRESS OF EACH MOBILE HOME WITHIN THE MOBILE
- 6 HOME PARK.

7 (8) FOR THE 2020 CALENDAR YEAR, THE DIVISION SHALL CHARGE
8 EACH LANDLORD A TWENTY-FOUR DOLLAR REGISTRATION FEE FOR EACH
9 MOBILE HOME INDEPENDENTLY OWNED ON RENTED LAND WITHIN THE
10 LANDLORD'S MOBILE HOME PARK. EACH YEAR THEREAFTER, THE DIVISION
11 SHALL ESTABLISH BY RULE A FEE THAT EACH LANDLORD SHALL PAY TO
12 THE DIVISION AS AN ANNUAL REGISTRATION FEE FOR EACH MOBILE HOME
13 INDEPENDENTLY OWNED ON RENTED LAND WITHIN THE LANDLORD'S
14 MOBILE HOME PARK. A LANDLORD MAY CHARGE A HOME OWNER NOT
15 MORE THAN HALF OF THE FEE. THE REGISTRATION FEE FOR EACH MOBILE
16 HOME MUST BE DEPOSITED INTO THE FUND. THE DIVISION SHALL REVIEW
17 THE ANNUAL REGISTRATION FEE AND, IF NECESSARY, ADJUST THE ANNUAL
18 REGISTRATION FEE THROUGH RULE-MAKING TO ENSURE IT CONTINUES TO
19 REASONABLY RELATE TO THE COST OF ADMINISTERING THE PROGRAM.

20 (9) INITIAL REGISTRATIONS OF MOBILE HOME PARKS MUST BE FILED
21 BEFORE FEBRUARY 1, 2020, AND AFTER THAT DATE WITHIN THREE
22 MONTHS OF THE AVAILABILITY OF MOBILE HOME LOTS FOR RENT WITHIN
23 A NEW PARK. A LANDLORD WHO WAS SENT AN INITIAL REGISTRATION
24 FORM AND WHO MISSED THE DEADLINE FOR REGISTRATION IS SUBJECT TO
25 A DELINQUENCY FEE OF UP TO FIVE THOUSAND DOLLARS. LANDLORDS WHO
26 RECEIVE REGISTRATION RENEWAL NOTIFICATIONS AND DO NOT RENEW
27 THEIR REGISTRATION BY THE EXPIRATION DATE AS ASSIGNED BY THE

1 DIVISION ARE ALSO SUBJECT TO A DELINQUENCY FEE OF UP TO FIVE
2 THOUSAND DOLLARS.

3 (10) REGISTRATION IS EFFECTIVE ON THE DATE DETERMINED BY
4 THE DIVISION, AND THE DIVISION MUST ISSUE A REGISTRATION NUMBER TO
5 EACH REGISTERED MOBILE HOME PARK. THE DIVISION MUST PROVIDE AN
6 EXPIRATION DATE, ASSIGNED BY THE DIVISION, TO EACH REGISTERED
7 MOBILE HOME PARK.

8 (11) THE DIVISION SHALL ESTABLISH A SYSTEM, INCLUDING BUT
9 NOT LIMITED TO A SINGLE, STATEWIDE TOLL-FREE TELEPHONE NUMBER,
10 FOR RESPONDING DIRECTLY TO INQUIRIES ABOUT THE REGISTRATION
11 PROCESS.

12 **38-12-907. Registration information database.** BY FEBRUARY
13 1, 2020, THE DIVISION SHALL CREATE AND MAINTAIN A DATABASE THAT
14 INCLUDES ALL OF THE INFORMATION COLLECTED UNDER SECTION
15 38-12-906.

16 **38-12-908. Mobile home park complaint database.** (1) BY
17 MAY 1, 2020, THE DIVISION SHALL ALSO CREATE AND MAINTAIN A
18 DATABASE OF MOBILE HOME PARKS THAT HAVE HAD COMPLAINTS FILED
19 AGAINST THEM UNDER THE PROGRAM.

20 (2) AT A MINIMUM, THE DATABASE MUST INCLUDE:

- 21 (a) THE NUMBER OF COMPLAINTS RECEIVED;
- 22 (b) THE NATURE AND EXTENT OF THE COMPLAINTS RECEIVED;
- 23 (c) THE VIOLATION OF LAW COMPLAINED OF; AND
- 24 (d) THE OUTCOME OF EACH COMPLAINT.

25 **38-12-909. Mobile home park act dispute resolution and**
26 **enforcement program annual report.** THE DIVISION SHALL PREPARE AN
27 ANNUAL REPORT THAT CONTAINS, AT A MINIMUM, THE NUMBER OF

1 CONSTITUENTS CONTACTED BY THE DIVISION IN REGARD TO THE PROGRAM,
2 THE NUMBER OF COMPLAINTS RECEIVED UNDER THE PROGRAM RECEIVED
3 BY THE DIVISION, THE NUMBER OF COMPLAINTS UNDER THE PROGRAM
4 RESOLVED BY THE DIVISION, A BRIEF SUMMARY OF THE NATURE OF THE
5 COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE DIVISION, HOW THE
6 COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE DIVISION WERE
7 RESOLVED, THE NUMBER OF ADMINISTRATIVE APPEALS UNDER THE
8 PROGRAM, A SUMMARY OF ANY RELEVANT COURT DECISIONS RELATING TO
9 THE PROGRAM, AND A SUMMARY OF RESULTS OF AN ANNUAL CONSTITUENT
10 SURVEY CONDUCTED BY AN INDEPENDENT CONTRACTOR.

11 **38-12-910. Mobile home park act dispute resolution and**
12 **enforcement program fund.** (1) THERE IS HEREBY CREATED IN THE
13 STATE TREASURY THE MOBILE HOME PARK ACT DISPUTE RESOLUTION AND
14 ENFORCEMENT PROGRAM FUND. ALL MONEY COLLECTED PURSUANT TO
15 THE PROGRAM MUST BE DEPOSITED IN THE FUND. THE FUND SHALL BE
16 USED BY THE DIVISION FOR THE COSTS ASSOCIATED WITH ADMINISTERING
17 THE PROGRAM. THE MONEY IN THE FUND SHALL BE CONTINUOUSLY
18 APPROPRIATED FOR ADMINISTERING THE PROGRAM. ALL INTEREST AND
19 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE
20 FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
21 UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL
22 YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
23 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

24 (2) THE DIVISION, BY RULE OR AS OTHERWISE PROVIDED BY LAW,
25 MAY REDUCE THE AMOUNT OF ANY FEE IMPOSED UNDER THIS PART 9 IF
26 NECESSARY PURSUANT TO SECTION 24-75-402 (3) TO REDUCE THE
27 UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF

1 THE FEE IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND
2 ARE SUFFICIENTLY REDUCED, THE DIVISION, BY RULE OR AS OTHERWISE
3 PROVIDED BY LAW, MAY INCREASE THE AMOUNT OF THE FEES IMPOSED
4 UNDER THIS PART 9 AS PROVIDED IN SECTION 24-75-402 (4).

5
6 **SECTION 9. Appropriation.** (1) For the 2019-20 state fiscal
7 year, \$22,073 is appropriated to the department of law. This appropriation
8 is from cash funds received from the department of local affairs and is
9 based on an assumption that the department of law will require an
10 additional 0.1 FTE. To implement this act, the department of law may use
11 this appropriation to provide legal services for the department of local
12 affairs.

13 (2) For the 2019-20 state fiscal year, \$130,065 is appropriated to
14 the office of the governor for use by the office of information technology.
15 This appropriation is from cash funds received from the department of
16 local affairs. To implement this act, the office may use this appropriation
17 to provide information technology services for the department of local
18 affairs.

19 **SECTION 10. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.