

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0794.01 Jerry Barry x4341

HOUSE BILL 20-1134

HOUSE SPONSORSHIP

Sandridge,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING APPEALS OF ORDERS RELATING TO RESTITUTION OF
102 PREMISES UNDER FORCIBLE ENTRY AND DETAINER.

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>.)

Under eviction law, a court may enter an order on the issue of restitution of the premises without determining other claims raised in the case. Under current law, it is unclear whether an appellate court can hear an interlocutory appeal of just the order on restitution of the premises. The bill clarifies that appellate courts have jurisdiction to hear the interlocutory appeals. The bill also clarifies that if a tenant is appealing

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 order, the tenant must continue to pay rent due during the appeal.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-40-117, **amend**
3 (1) and (2) as follows:

4 **13-40-117. Appeals.** (1) (a) If either party feels aggrieved by the
5 judgment rendered in such action before the county court, ~~he~~ THE PARTY
6 may appeal to the district court, as in other cases tried before the county
7 court, with the additional requirements provided in this ~~article~~ ARTICLE
8 40.

9 (b) IF EITHER PARTY FEELS AGGRIEVED BY THE JUDGMENT
10 RENDERED IN SUCH ACTION BEFORE THE DISTRICT COURT, THE PARTY MAY
11 APPEAL TO THE COLORADO COURT OF APPEALS, AS IN OTHER CASES TRIED
12 BEFORE THE DISTRICT COURT, WITH THE ADDITIONAL REQUIREMENTS
13 PROVIDED IN THIS ARTICLE 40.

14 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
15 SECTION, upon the court's taking such appeal, all further proceedings in
16 the case ~~shall be~~ ARE stayed and the appellate court shall thereafter issue
17 all needful writs and process to carry out any judgment ~~which~~ THAT may
18 be rendered thereon in the appellate court.

19 (b) NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF LAW
20 OR RULE OF PROCEDURE, IF A COURT ENTERS AN ORDER ONLY ON THE
21 ISSUE OF RESTITUTION OF THE PREMISES, EITHER PARTY MAY
22 IMMEDIATELY APPEAL THE ORDER TO THE APPROPRIATE APPELLATE
23 COURT, SUBJECT TO THE ADDITIONAL REQUIREMENTS OF THIS ARTICLE 40,
24 INCLUDING THAT, IF THE TENANT IS THE APPELLANT OR CROSS-APPELLANT,
25 THE TENANT SHALL CONTINUE TO PAY RENT DURING THE APPEAL AS A

1 CONDITION OF APPEAL REQUIRED BY SECTION 13-40-118. AN APPEAL
2 PURSUANT TO THIS SUBSECTION (2)(b) DOES NOT STAY FURTHER
3 PROCEEDINGS IN THE TRIAL COURT THAT ARE NOT RELATED TO THE ISSUE
4 OF RESTITUTION.

5 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-40-118 as
6 follows:

7 **13-40-118. Deposit of rent.** In all appeals from the judgment of
8 a county court OR A DISTRICT COURT in an action founded upon section
9 13-40-104 (1)(d), the defendant, at the time of the filing thereof, shall
10 deposit with the court the amount of rent found due and specified in such
11 judgment. Unless such deposit is made, the appeal is not perfected and
12 proceedings upon such judgment ~~shall thereupon~~ MUST be had
13 accordingly. If the appeal is perfected, the court shall transmit such
14 deposit to the clerk of the appellate court with the papers in such case,
15 and the appellant thereafter, at the time when the rents become due as
16 specified in the judgment appealed from and as often as the same become
17 due, shall deposit the amount thereof with the clerk of such appellate
18 court. In case the appellant, at any time during the pendency of such
19 appeal and before final judgment therein, neglects or fails to make any
20 deposit of rent, falling due at the time specified in the judgment appealed
21 from, the court in which such appeal is pending, upon such fact being
22 made to appear and upon motion of the appellee, shall affirm the
23 judgment appealed from with costs, and proceedings thereupon ~~shall~~
24 MUST be had as in like cases determined upon the merits.

25 **SECTION 3.** In Colorado Revised Statutes, 13-4-102, **amend** (1)
26 introductory portion as follows:

27 **13-4-102. Jurisdiction.** (1) Any provision of law to the contrary

1 notwithstanding, the court of appeals ~~shall have~~ HAS initial jurisdiction
2 over appeals from final judgments of, and interlocutory appeals of
3 certified questions of law AND APPEALS ON ISSUES UNDER ORDERS OF
4 RESTITUTION OF PREMISES in civil cases pursuant to section 13-4-102.1
5 from, the district courts, the probate court of the city and county of
6 Denver, and the juvenile court of the city and county of Denver, except
7 in:

8 **SECTION 4.** In Colorado Revised Statutes, 13-4-102.1, **add** (1.5)
9 as follows:

10 **13-4-102.1. Interlocutory appeals of determinations of**
11 **questions of law in civil cases - appeals on issue of restitution.**

12 (1.5) THE COURT OF APPEALS HAS INITIAL JURISDICTION OVER AN
13 INTERLOCUTORY APPEAL OF AN ORDER FOR OR DENYING RESTITUTION OF
14 PREMISES PURSUANT TO SECTION 13-40-117 FROM A DISTRICT COURT.

15 **SECTION 5. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect September 1, 2020; except that,
17 if a referendum petition is filed pursuant to section 1 (3) of article V of
18 the state constitution against this act or an item, section, or part of this act
19 within the ninety-day period after final adjournment of the general
20 assembly, then the act, item, section, or part will not take effect unless
21 approved by the people at the general election to be held in November
22 2020 and, in such case, will take effect on the date of the official
23 declaration of the vote thereon by the governor.

24 (2) This act applies to orders for restitution of premises entered on
25 or after the applicable effective date of this act.