

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

INTRODUCED

LLS NO. 21-0389.01 Conrad Imel x2313

HOUSE BILL 21-1121

HOUSE SPONSORSHIP

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House Committees
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A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR RESIDENTIAL TENANTS RELATED TO**
102 **ACTIONS BY LANDLORDS.**

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 existing law, certain residential landlords must give 10 days' notice to tenants prior to starting eviction proceedings for failure to pay rent or for a first or subsequent violation of any other condition or covenant other than a substantial violation. The bill requires landlords to give 14 days' notice in those situations.

Under existing law, the clerk of the court or the attorney for 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.

plaintiff may issue a summons to a defendant in an eviction action. The bill requires that the clerk of the court issue the summons in a residential eviction action. The bill extends the period for which the summons must be issued from 7 days before the court appearance to 14 days before the court appearance.

Under existing law, in certain circumstances, a person may serve a notice to quit or summons to the tenant by posting a copy of the notice or summons and the complaint in a conspicuous place upon the premises and a person may serve a notice to quit by leaving it with a member of the tenant's family who is at least 15 years old. The bill removes those provisions for service in residential tenancy actions and requires that the notice to quit or summons be served in the same manner as any other civil action.

Under existing law, if a landlord wins judgment in an eviction action, the court cannot issue a writ of restitution, which directs the county sheriff to assist the landlord in removing the tenant, until 48 hours after judgment. The bill extends the period for residential evictions to 14 days after judgment.

The bill prohibits residential landlords from increasing rent more than one time in a 12-month period of tenancy.

The bill extends the notice period for nonpayment of rent for a home owner in a mobile home park from 10 days to 14 days.

Under existing law, for a tenancy of one month or longer but less than 6 months in which there is no written agreement between the landlord and tenant, a landlord must give 21 days' written notice to the tenant prior to increasing the rent. For a residential tenancy, the bill extends the notice period to 60 days and makes it apply to a tenancy of any duration without a written agreement. The bill prohibits a landlord from terminating a residential tenancy in which there is no written agreement with the primary purpose of increasing a tenant's rent without providing 60 days' notice.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-40-104, **amend**
3 (1)(d), (1)(e), (1)(e.5)(II), and (5)(b) as follows:

4 **13-40-104. Unlawful detention defined.** (1) Any person is guilty
5 of an unlawful detention of real property in the following cases:

6 (d) When such tenant or lessee holds over without permission of
7 the tenant's or lessee's landlord after any default in the payment of rent

1 pursuant to the agreement under which the tenant or lessee holds, and, ~~ten~~
2 FOURTEEN days' notice in writing has been duly served upon the tenant or
3 lessee holding over, requiring in the alternative the payment of the rent or
4 the possession of the premises; except that, for a nonresidential agreement
5 or an employer-provided housing agreement, three days' notice is required
6 pursuant to this section, and for an exempt residential agreement, five
7 days' notice is required pursuant to this section. No such agreement shall
8 contain a waiver by the tenant of the notice requirement of this subsection
9 (1)(d). It is not necessary, in order to work a forfeiture of such agreement
10 for nonpayment of rent, to make a demand for such rent on the day on
11 which the same becomes due; but a failure to pay such rent upon demand,
12 when made, works a forfeiture.

13 (e) When such tenant or lessee holds over, without such
14 permission, contrary to any other condition or covenant of the agreement
15 under which such tenant or lessee holds, and ~~ten~~ FOURTEEN days' notice
16 in writing has been duly served upon such tenant or lessee requiring in the
17 alternative the compliance with such condition or covenant or the delivery
18 of the possession of the premises so held; except that, for a nonresidential
19 agreement or an employer-provided housing agreement, three days' notice
20 is required pursuant to this section, and for an exempt residential
21 agreement, five days' notice is required pursuant to this section.

22 (e.5) (II) A tenancy pursuant to a residential agreement may be
23 terminated at any time pursuant to this subsection (1)(e.5) on the basis of
24 a subsequent violation of the same condition or covenant of the
25 agreement. The termination of a residential tenancy is effective ten
26 FOURTEEN days after service of written notice to quit. Notwithstanding
27 any other provision of this subsection (1)(e.5)(II), a tenancy pursuant to

1 a nonresidential agreement, an exempt residential agreement, or an
2 employer-provided housing agreement may be terminated at any time
3 pursuant to this subsection (1)(e.5) on the basis of a subsequent violation.
4 The termination of a nonresidential tenancy or an employer-provided
5 housing tenancy is effective three days after service of written notice to
6 quit, and the termination of a tenancy pursuant to an exempt residential
7 agreement is effective five days after service of written notice to quit.

8 (5) As used in this section, unless the context otherwise requires:

9 (b) "Exempt residential agreement" means a residential agreement
10 leasing a single family home by a landlord who owns five or fewer single
11 family rental homes and who provides notice in the agreement that a
12 ~~ten-day~~ FOURTEEN-DAY notice period required pursuant to this section
13 does not apply to the tenancy entered into pursuant to the agreement.

14 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-40-108 as
15 follows:

16 **13-40-108. Service of notice to quit.** (1) A NOTICE TO QUIT OR
17 DEMAND FOR POSSESSION OF REAL PROPERTY MUST BE SERVED TO A
18 RESIDENTIAL TENANT BY PERSONAL SERVICE AS IN ANY CIVIL ACTION.

19 (2) A notice to quit or demand for possession of real property may
20 be served TO A NONRESIDENTIAL TENANT by delivering a copy thereof to
21 the tenant or other person occupying such premises, ~~or by leaving such~~
22 ~~copy with some person, a member of the tenant's family above the age of~~
23 ~~fifteen years residing on or in charge of the premises~~ or, in case no one is
24 on the premises at the time service is attempted, by posting such copy in
25 some conspicuous place on the premises.

26 **SECTION 3.** In Colorado Revised Statutes, 13-40-110, **amend**
27 (2) as follows:

1 **13-40-110. Action - how commenced.** (2) In an action for
2 termination of a tenancy in a mobile home park, the complaint, in addition
3 to the requirements of subsection (1) of this section, must specify the
4 reasons for termination as the reasons are stated in section 38-12-203. The
5 complaint must specify the approximate time, place, and manner in which
6 the tenant allegedly committed the acts giving rise to the complaint. If the
7 action is based on the mobile home or mobile home lot being out of
8 compliance with the rules and regulations adopted pursuant to section
9 38-12-214, the complaint must specify that the home owner was given
10 ninety days after the date of service ~~or posting~~ of the notice to quit to cure
11 the noncompliance, that ninety days have passed, and the noncompliance
12 has not been cured.

13 **SECTION 4.** In Colorado Revised Statutes, 13-40-111, **amend**
14 (1) as follows:

15 **13-40-111. Issuance and return of summons.** (1) (a) Upon
16 filing the complaint as provided in section 13-40-110, the clerk of the
17 court or the attorney for the plaintiff shall issue a summons; EXCEPT THAT
18 IN ANY ACTION CONCERNING A RESIDENTIAL TENANCY, THE ATTORNEY
19 FOR THE PLAINTIFF MAY NOT ISSUE THE SUMMONS. The summons ~~shall~~
20 MUST command the defendant to appear before the court at a place named
21 in ~~such~~ THE summons and at a time and on a day which ~~shall~~ MUST be not
22 less than seven days nor more than fourteen days ~~from~~ AFTER the day of
23 issuing the same to answer the complaint of plaintiff; EXCEPT THAT IN AN
24 ACTION CONCERNING A RESIDENTIAL TENANCY, THE APPEARANCE DAY
25 LISTED IN THE SUMMONS MUST BE AT LEAST FOURTEEN DAYS AFTER THE
26 DAY THE CLERK OF COURT ISSUED THE SUMMONS.

27 (b) The summons ~~shall~~ MUST also contain a statement addressed

1 to the defendant stating: "~~If you fail to file with the court, at or before the~~
2 ~~time for appearance specified in the summons, an answer to the complaint~~
3 ~~setting forth the grounds upon which you base your claim for possession~~
4 ~~and denying or admitting all of the material allegations of the complaint,~~
5 ~~judgment by default may be taken against you for the possession of the~~
6 ~~property described in the complaint, for the rent, if any, due or to become~~
7 ~~due, for present and future damages and costs, and for any other relief to~~
8 ~~which the plaintiff is entitled. If you are claiming that the landlord's~~
9 ~~failure to repair the residential premises is a defense to the landlord's~~
10 ~~allegation of nonpayment of rent, the court will require you to pay into the~~
11 ~~registry of the court, at the time of filing your answer, the rent due less~~
12 ~~any expenses you have incurred based upon the landlord's failure to repair~~
13 ~~the residential premises."~~ "IF YOU DO NOT RESPOND TO THE LANDLORD'S
14 COMPLAINT BY FILING A WRITTEN ANSWER WITH THE COURT ON OR BEFORE
15 THE DATE AND TIME IN THIS SUMMONS OR APPEARING IN COURT AT THE
16 DATE AND TIME IN THIS SUMMONS, THE JUDGE MAY ENTER A DEFAULT
17 JUDGMENT AGAINST YOU IN FAVOR OF YOUR LANDLORD FOR POSSESSION.
18 A DEFAULT JUDGMENT FOR POSSESSION MEANS THAT YOU WILL HAVE TO
19 MOVE OUT, AND IT MAY MEAN THAT YOU WILL HAVE TO PAY MONEY TO
20 THE LANDLORD. IN YOUR ANSWER TO THE COURT, YOU CAN STATE WHY
21 YOU BELIEVE YOU HAVE A RIGHT TO REMAIN IN THE PROPERTY, WHETHER
22 YOU ADMIT OR DENY THE LANDLORD'S FACTUAL ALLEGATIONS AGAINST
23 YOU, AND WHETHER YOU BELIEVE YOU WERE GIVEN PROPER NOTICE OF
24 THE LANDLORD'S REASONS FOR TERMINATING YOUR TENANCY BEFORE YOU
25 GOT THIS SUMMONS. WHEN YOU FILE YOUR ANSWER, YOU MUST PAY A
26 FILING FEE TO THE CLERK OF THE COURT. IF YOU ARE CLAIMING THAT THE
27 LANDLORD'S FAILURE TO REPAIR A RESIDENTIAL PREMISES IS A DEFENSE TO

1 THE LANDLORD'S ALLEGATION OF NONPAYMENT OF RENT, THE COURT WILL
2 REQUIRE YOU TO PAY INTO THE REGISTRY OF THE COURT, AT THE TIME OF
3 FILING YOUR ANSWER, THE RENT DUE LESS ANY EXPENSES YOU HAVE
4 INCURRED BASED UPON THE LANDLORD'S FAILURE TO REPAIR THE
5 RESIDENTIAL PREMISES."

6 **SECTION 5.** In Colorado Revised Statutes, 13-40-112, **amend**
7 (2) and (3) as follows:

8 **13-40-112. Service.** (2) If personal service cannot be had upon
9 the defendant IN AN ACTION CONCERNING A NONRESIDENTIAL TENANCY by
10 a person qualified under the Colorado rules of civil procedure to serve
11 process, after having made diligent effort to make such personal service,
12 such person may make service by posting a copy of the summons and the
13 complaint in some conspicuous place upon the premises. In addition
14 thereto, the plaintiff shall mail, no later than the next business day
15 following the day on which he or she files the complaint, a copy of the
16 summons, or, in the event that an alias summons is issued, a copy of the
17 alias summons, and a copy of the complaint to the defendant at the
18 premises by postage prepaid, first-class mail.

19 (3) ~~Personal service or service by posting shall~~ SERVICE MUST be
20 made at least seven days before the day for appearance specified in ~~such~~
21 THE summons, and the time and manner of ~~such~~ THE service shall be
22 endorsed upon ~~such~~ THE summons by the person making service thereof;
23 EXCEPT THAT IN AN ACTION TO TERMINATE A RESIDENTIAL TENANCY,
24 SERVICE MUST BE MADE AT LEAST FOURTEEN DAYS BEFORE THE
25 APPEARANCE DATE SPECIFIED IN THE SUMMONS.

26 **SECTION 6.** In Colorado Revised Statutes, 13-40-122, **amend**
27 (1) as follows:

1 **13-40-122. Writ of restitution after judgment.** (1) ~~No~~ A COURT
2 SHALL NOT ISSUE A writ of restitution ~~shall issue~~ upon any judgment
3 entered in any action ~~under the provisions of this article out of any court~~
4 PURSUANT TO THIS ARTICLE 40 CONCERNING A NONRESIDENTIAL TENANCY
5 until ~~after the expiration of forty-eight hours from~~ AFTER the time of the
6 entry of ~~such~~ THE judgment and ~~such writs~~ SHALL NOT ISSUE A WRIT OF
7 RESTITUTION CONCERNING A RESIDENTIAL TENANCY UNTIL FOURTEEN
8 DAYS AFTER THE ENTRY OF THE JUDGMENT. A WRIT OF RESTITUTION shall
9 be executed by the officer having the same only in the daytime and
10 between sunrise and sunset. Any writ of restitution governed by this
11 section may be executed by the county sheriff's office in which the
12 property is located by a sheriff, undersheriff, or deputy sheriff, as
13 described in section 16-2.5-103 (1) or (2), ~~C.R.S.~~, while off duty or on
14 duty at rates charged by the employing sheriff's office in accordance with
15 section 30-1-104 (1)(gg). ~~C.R.S.~~

16 **SECTION 7.** In Colorado Revised Statutes, 38-12-202, **amend**
17 (1)(b), (1)(c), and (3) as follows:

18 **38-12-202. Tenancy - notice to quit.** (1) (b) Service of the notice
19 to quit shall be as specified ~~in section 13-40-108. C.R.S.~~ Service by
20 ~~posting shall be deemed legally sufficient within the meaning of section~~
21 ~~13-40-108, C.R.S., if the notice is affixed to the main entrance of the~~
22 ~~mobile home.~~ FOR A RESIDENTIAL TENANCY IN SECTION 13-40-108 (1).

23 (c) (I) Except as otherwise provided in subsections (1)(c)(II) and
24 (3) of this section, the management shall give a home owner at least
25 ninety days after the date the notice is served ~~or posted~~ to sell the mobile
26 home or remove it from the premises.

27 (II) If management terminates a tenancy on grounds described in

1 section 38-12-203 (1)(f), the management shall give the home owner at
2 least ten days after the date the notice is served ~~or posted~~ to sell the
3 mobile home or remove it from the premises.

4 (3) In any notice provided by the management as required by this
5 section, the management shall specify the reason for the termination, as
6 described in section 38-12-203, of the tenancy that is the subject of the
7 notice. If the management is terminating the tenancy because the mobile
8 home or mobile home lot is out of compliance with local ordinances or
9 state laws or rules relating to mobile homes and mobile home lots, as
10 described in section 38-12-203 (1)(a), or out of compliance with written
11 rules and regulations of the mobile home park, as described in section
12 38-12-203 (1)(c), the notice must include a statement advising the home
13 owner that the home owner has a right to cure the noncompliance within
14 ninety days after the date of service ~~or posting~~ of the notice to quit. This
15 ninety-day period runs concurrently with the ninety-day period to sell the
16 mobile home or remove it from the premises as set forth in subsection
17 (1)(c)(I) of this section. Rent payment and other agreed tenant obligations
18 remain in effect during this ninety-day period, and acceptance of rent by
19 a landlord during this ninety-day period does not constitute a waiver of
20 the landlord's right to terminate the tenancy for any noncompliance
21 described in section 38-12-203 (1)(a) or (1)(c).

22 **SECTION 8.** In Colorado Revised Statutes, 38-12-202.5, **amend**
23 (2) as follows:

24 **38-12-202.5. Action for termination.** (2) Service of summons
25 shall be as specified FOR A RESIDENTIAL TENANCY in section 13-40-112.
26 ~~C.R.S. Service by posting shall be deemed legally sufficient within the~~
27 ~~meaning of section 13-40-112, C.R.S., if the summons is affixed to the~~

1 ~~main entrance of the mobile home.~~

2 **SECTION 9.** In Colorado Revised Statutes, 38-12-204, **amend**
3 (1); and **add** (3) as follows:

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

11 (3) A LANDLORD SHALL NOT INCREASE RENT MORE THAN ONE TIME
12 IN ANY TWELVE-MONTH PERIOD OF CONSECUTIVE OCCUPANCY BY THE
13 TENANT, REGARDLESS OF:

14 (a) WHETHER THERE IS A WRITTEN RENTAL AGREEMENT FOR THE
15 TENANCY;

16 (b) THE LENGTH OF THE TENANCY; AND

17 (c) WHETHER THE TENANT'S RENTAL AGREEMENT IS FOR A FIXED
18 TENANCY, A MONTH-TO-MONTH TENANCY, OR AN INDEFINITE TERM.

19 **SECTION 10.** In Colorado Revised Statutes, 38-12-204.3,
20 **amend** (2) as follows:

21 **38-12-204.3. Notice required for termination.** (2) The notice
22 required ~~under~~ PURSUANT TO this section must be in at least ten-point type
23 and must read as follows:

24 **IMPORTANT NOTICE TO THE HOME OWNER:**

25 This notice and the accompanying notice to quit/notice of
26 nonpayment of rent are the first steps in the eviction process. Any dispute
27 you may have regarding the grounds for eviction should be addressed

1 with your landlord or the management of the mobile home park or in the
2 courts if an eviction action is filed. Please be advised that the "Mobile
3 Home Park Act", part 2 of article 12 of title 38, Colorado Revised
4 Statutes, and the "Mobile Home Park Act Dispute Resolution and
5 Enforcement Program" created in section 38-12-1104, Colorado Revised
6 Statutes, may provide you with legal protection.

7 NOTICE TO QUIT: In order to terminate a home owner's tenancy,
8 the landlord or management of a mobile home park must serve to a home
9 owner a notice to quit. The notice must be in writing and must contain
10 certain information, including:

- 11 ● The grounds for the termination of the tenancy;
- 12 ● Whether or not the home owner has a right to cure under the
13 "Mobile Home Park Act"; and
- 14 ● That the home owner has the option of mediation pursuant to
15 section 38-12-216, Colorado Revised Statutes, of the "Mobile
16 Home Park Act" and the option of filing a complaint through the
17 "Mobile Home Park Act Dispute Resolution and Enforcement
18 Program" created in section 38-12-1104, Colorado Revised
19 Statutes.

20 NOTICE OF NONPAYMENT OF RENT: In order to terminate
21 a home owner's tenancy due to nonpayment of rent, the landlord or
22 management of a mobile home park must serve to a home owner a notice
23 of nonpayment of rent. The notice must be in writing and must require
24 that the home owner either make payment of rent or sell the owner's unit
25 or remove it from the premises within a period of not less than ~~ten~~
26 FOURTEEN days after the date the notice is served, ~~or posted~~, for failure
27 to pay rent when due.

1 CURE PERIODS: If the home owner has a right to cure under the
2 "Mobile Home Park Act", the landlord or management of a mobile home
3 park cannot terminate a home owner's tenancy without first providing the
4 home owner with a time period to cure the noncompliance. "Cure" refers
5 to a home owner remedying, fixing, or otherwise correcting the situation
6 or problem that made the tenancy subject to termination pursuant to
7 sections 38-12-202, 38-12-203, or 38-12-204, Colorado Revised Statutes.

8 COMMENCEMENT OF LEGAL ACTION TO TERMINATE
9 THE TENANCY: After the last day of the applicable notice period
10 required by section 38-12-202 (1)(c), Colorado Revised Statutes, a legal
11 action may be commenced to take possession of the space leased by the
12 home owner. In order to evict a home owner, the landlord or management
13 of the mobile home park must prove:

- 14 ● The landlord or management complied with the notice
15 requirements of the "Mobile Home Park Act";
- 16 ● The landlord or management provided the home owner with a
17 statement of reasons for termination of the tenancy; and
- 18 ● The reasons for termination of the tenancy are true and valid
19 under the "Mobile Home Park Act".

20 To defend against an eviction action, a home owner must appear
21 in court. If the court rules in favor of the landlord or management of the
22 mobile home park, the home owner has not less than thirty days from the
23 time of the ruling to either remove or sell the mobile home and to vacate
24 the premises. If the home owner wishes to extend such period beyond
25 thirty days but not more than sixty days ~~from~~ AFTER the date of the ruling,
26 the home owner shall prepay to the landlord an amount equal to a pro rata
27 share of rent for each day following the expiration of the initial thirty-day

1 period after the court's ruling that the mobile home owner will remain on
2 the premises. All prepayments shall be paid no later than thirty days after
3 the court ruling. This section does not preclude earlier removal by law
4 enforcement officers of a mobile home or one or more mobile home
5 owners or occupants from the mobile home park if a mobile home owner
6 violates article 3, 4, 6, 7, 9, 10, 12, or 18 of title 18 or section 16-13-303,
7 Colorado Revised Statutes.

8 **SECTION 11.** In Colorado Revised Statutes, **amend** 38-12-701
9 as follows:

10 **38-12-701. Notice of rent increase.** (1) Notwithstanding any
11 other ~~provision~~ of law, in a NONRESIDENTIAL tenancy of one month or
12 longer but less than six months ~~where~~ IN WHICH there is no written
13 agreement between the landlord and tenant, a landlord may increase the
14 rent only upon at least twenty-one days' notice to the tenant.

15 (2) (a) NOTWITHSTANDING ANY OTHER LAW, IN A RESIDENTIAL
16 TENANCY IN WHICH THERE IS NO WRITTEN AGREEMENT BETWEEN THE
17 LANDLORD AND TENANT, A LANDLORD MAY INCREASE THE RENT ONLY
18 UPON AT LEAST SIXTY DAYS' WRITTEN NOTICE TO THE TENANT.

19 (b) A LANDLORD MAY NOT TERMINATE A RESIDENTIAL TENANCY
20 IN WHICH THERE IS NO WRITTEN AGREEMENT BY SERVING A TENANT WITH
21 A NOTICE TO QUIT PURSUANT TO SECTION 13-40-107 WITH THE PRIMARY
22 PURPOSE OF INCREASING A TENANT'S RENT IN A MANNER INCONSISTENT
23 WITH THIS SECTION.

24 **SECTION 12.** In Colorado Revised Statutes, **add** 38-12-702 as
25 follows:

26 **38-12-702. Limit on frequency of residential rent increases.**
27 (1) IN RESIDENTIAL TENANCIES, A LANDLORD SHALL NOT INCREASE RENT

1 MORE THAN ONE TIME IN ANY TWELVE-MONTH PERIOD OF CONSECUTIVE
2 OCCUPANCY BY THE TENANT, REGARDLESS OF:

3 (a) WHETHER THERE IS A WRITTEN RENTAL AGREEMENT FOR THE
4 TENANCY;

5 (b) THE LENGTH OF THE TENANCY; AND

6 (c) WHETHER THE TENANT'S RENTAL AGREEMENT IS FOR A FIXED
7 TENANCY, A MONTH-TO-MONTH TENANCY, OR AN INDEFINITE TERM.

8 **SECTION 13. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.