

CHAPTER 186

COURTS

HOUSE BILL 04-1046

BY REPRESENTATIVE(S) McGihon, Borodkin, Coleman, Marshall, Vigil, Williams S., and Garcia; also SENATOR(S) Teck.

AN ACT

CONCERNING THE COMPUTATION OF DAYS IN DETERMINING CERTAIN TIME PERIODS FOR FORCIBLE ENTRY AND DETAINER ACTIONS.

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

SECTION 1. 13-40-111, Colorado Revised Statutes, is amended to read:

13-40-111. Issuance and return of summons. (1) Upon filing the complaint as provided in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons shall command the defendant to appear before the court at a place named in such summons and at a time and on a day which shall be not less than five BUSINESS days nor more than ten CALENDAR days from the day of issuing the same to answer the complaint of plaintiff. The summons shall also contain a statement addressed to the defendant stating: "If you fail to file with the court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the plaintiff is entitled."

(2) FOR PURPOSES OF THIS SECTION, "BUSINESS DAYS" MEANS ANY CALENDAR DAY EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

SECTION 2. 13-40-112 (2) and (3), Colorado Revised Statutes, are amended, and the said 13-40-112 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

13-40-112. Service. (2) If personal service cannot be had upon the defendant by

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

a person qualified under the Colorado rules of civil procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the plaintiff shall mail, no later than the next BUSINESS day following the day on which he OR SHE files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the defendant at the premises by postage prepaid, first-class mail.

(3) Personal service or service by posting shall be made at least five BUSINESS days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

(4) FOR PURPOSES OF THIS SECTION, "BUSINESSDAYS" MEANS ANY CALENDAR DAY EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to actions commenced 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: April 22, 2004