

CHAPTER 120

PROPERTY

HOUSE BILL 05-1169

BY REPRESENTATIVE(S) Todd, Garcia, Benefield, Borodkin, Boyd, Frangas, McGihon, Paccione, Pommer, Ragsdale, Vigil, Butcher, Carroll M., Carroll T., Coleman, Green, Hodge, Lindstrom, Madden, Marshall, and Merrifield;
also SENATOR(S) Kester, Williams, Bacon, Fitz-Gerald, Gordon, Groff, Grossman, Hanna, Shaffer, Tapia, Tochtrop, Tupa, Veiga, and Windels.

AN ACT**CONCERNING HOUSING ISSUES FOR VICTIMS OF DOMESTIC VIOLENCE.**

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

SECTION 1. 13-40-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-40-104. Unlawful detention defined. (4) (a) IT SHALL NOT CONSTITUTE AN UNLAWFUL DETENTION OF REAL PROPERTY AS DESCRIBED IN PARAGRAPH (d.5), (e), OR (e.5) OF SUBSECTION (1) OF THIS SECTION IF THE TENANT OR LESSEE IS THE VICTIM OF DOMESTIC VIOLENCE, AS THAT TERM IS DEFINED IN SECTION 18-6-800.3, C.R.S., OR OF DOMESTIC ABUSE, AS THAT TERM IS DEFINED IN SECTION 13-14-101 (2), WHICH DOMESTIC VIOLENCE OR DOMESTIC ABUSE WAS THE CAUSE OF OR RESULTED IN THE ALLEGED UNLAWFUL DETENTION AND WHICH DOMESTIC VIOLENCE OR DOMESTIC ABUSE HAS BEEN DOCUMENTED BY THE FOLLOWING:

(I) A POLICE REPORT; OR

(II) A VALID CIVIL OR EMERGENCY PROTECTION ORDER.

(b) A PERSON IS NOT GUILTY OF AN UNLAWFUL DETENTION OF REAL PROPERTY PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4) IF THE ALLEGED VIOLATION OF THE RENTAL OR LEASE AGREEMENT IS A RESULT OF DOMESTIC VIOLENCE OR DOMESTIC ABUSE AGAINST THE TENANT OR LESSEE.

(c) A RENTAL, LEASE, OR OTHER SUCH AGREEMENT SHALL NOT CONTAIN A WAIVER BY THE TENANT OR LESSEE OF THE PROTECTIONS PROVIDED IN THIS SUBSECTION (4).

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

(d) NOTHING IN THIS SUBSECTION (4) SHALL PREVENT THE LANDLORD FROM SEEKING JUDGMENT FOR POSSESSION AGAINST THE TENANT OR LESSEE OF THE PREMISES WHO PERPETUATED THE VIOLENCE OR ABUSE THAT WAS THE CAUSE OF OR RESULTED IN THE ALLEGED UNLAWFUL DETENTION.

SECTION 2. 13-40-107.5 (5), Colorado Revised Statutes, is amended to read:

13-40-107.5. Termination of tenancy for substantial violation - definition - legislative declaration. (5) (a) In any action for possession under this section, the landlord has the burden of proving the occurrence of a substantial violation by a preponderance of the evidence.

(b) In any action for possession under this section, it shall be a defense that:

(I) ~~The tenant is a victim of domestic violence that has been documented by the filing of a police report or the issuance of a protection order and the domestic violence is the basis for the termination notice; or~~

(II) The tenant did not know of, and could not reasonably have known of or prevented, the commission of a substantial violation by a guest or invitee but immediately notified a law enforcement officer of his OR HER knowledge of the substantial violation.

(c) (I) THE LANDLORD SHALL NOT HAVE A BASIS FOR POSSESSION UNDER THIS SECTION IF THE TENANT OR LESSEE IS THE VICTIM OF DOMESTIC VIOLENCE, AS THAT TERM IS DEFINED IN SECTION 18-6-800.3, C.R.S., OR OF DOMESTIC ABUSE, AS THAT TERM IS DEFINED IN SECTION 13-14-101 (2), WHICH DOMESTIC VIOLENCE OR DOMESTIC ABUSE WAS THE CAUSE OF OR RESULTED IN THE ALLEGED SUBSTANTIAL VIOLATION AND WHICH DOMESTIC VIOLENCE OR DOMESTIC ABUSE HAS BEEN DOCUMENTED PURSUANT TO THE PROVISIONS SET FORTH IN SECTION 13-40-104 (4).

(II) NOTHING IN THIS PARAGRAPH (c) SHALL PREVENT THE LANDLORD FROM SEEKING POSSESSION AGAINST A TENANT OR LESSEE OF THE PREMISES WHO PERPETUATED THE VIOLENCE OR ABUSE THAT WAS THE CAUSE OF OR RESULTED IN THE ALLEGED SUBSTANTIAL VIOLATION.

SECTION 3. 38-12-402, Colorado Revised Statutes, is amended to read:

38-12-402. Protection for victims of domestic violence. (1) A landlord shall not include in a residential rental agreement or lease agreement for housing a provision authorizing the landlord to terminate the agreement or to impose a penalty on a residential tenant for calls made by the residential tenant for peace officer assistance or other emergency assistance in response to a domestic violence or domestic abuse situation. A residential tenant may not waive the residential tenant's right to call for police or other emergency assistance.

(2) (a) IF A TENANT TO A RESIDENTIAL RENTAL AGREEMENT OR LEASE AGREEMENT NOTIFIES THE LANDLORD IN WRITING THAT HE OR SHE IS THE VICTIM OF DOMESTIC VIOLENCE OR DOMESTIC ABUSE AND PROVIDES TO THE LANDLORD EVIDENCE OF DOMESTIC VIOLENCE OR DOMESTIC ABUSE IN THE FORM OF A POLICE REPORT WRITTEN

WITHIN THE PRIOR SIXTY DAYS OR A VALID PROTECTION ORDER AND THE RESIDENTIAL TENANT SEEKS TO VACATE THE PREMISES DUE TO FEAR OF IMMINENT DANGER FOR SELF OR CHILDREN BECAUSE OF THE DOMESTIC VIOLENCE OR DOMESTIC ABUSE, THEN THE RESIDENTIAL TENANT MAY TERMINATE THE RESIDENTIAL RENTAL AGREEMENT OR LEASE AGREEMENT AND VACATE THE PREMISES WITHOUT FURTHER OBLIGATION EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2).

(b) IF A TENANT TO A RESIDENTIAL RENTAL AGREEMENT OR LEASE AGREEMENT TERMINATES THE RESIDENTIAL RENTAL AGREEMENT OR LEASE AGREEMENT AND VACATES THE PREMISES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THEN THE TENANT SHALL BE RESPONSIBLE FOR ONE MONTH'S RENT FOLLOWING VACATION OF THE PREMISES, WHICH AMOUNT SHALL BE DUE AND PAYABLE TO THE LANDLORD WITHIN NINETY DAYS AFTER THE TENANT VACATES THE PREMISES. THE LANDLORD SHALL NOT BE OBLIGATED TO REFUND THE SECURITY DEPOSIT TO THE TENANT UNTIL SUCH TIME AS THE TENANT HAS PAID THE ONE MONTH'S RENT PURSUANT TO THIS SECTION. NOTWITHSTANDING THE PROVISIONS OF SECTION 38-12-103, THE LANDLORD AND THE TENANT TO A RESIDENTIAL RENTAL AGREEMENT OR LEASE AGREEMENT MAY USE ANY AMOUNTS OWED TO THE OTHER TO OFFSET COSTS FOR THE ONE MONTH'S RENT OR THE SECURITY DEPOSIT. THE PROVISIONS OF THIS PARAGRAPH (b) SHALL APPLY ONLY IF THE LANDLORD HAS EXPERIENCED AND DOCUMENTED DAMAGES EQUAL TO AT LEAST ONE MONTH'S RENT AS A RESULT OF THE TENANT'S EARLY TERMINATION OF THE AGREEMENT.

(3) NOTHING IN THIS PART 4 AUTHORIZES THE TERMINATION OF TENANCY AND EVICTION OF A RESIDENTIAL TENANT SOLELY BECAUSE THE RESIDENTIAL TENANT IS THE VICTIM OF DOMESTIC VIOLENCE OR DOMESTIC ABUSE.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 2005, and shall apply to lease agreements and rental agreements entered into on or after said date.

SECTION 5. 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 27, 2005