

CHAPTER 157

GOVERNMENT - MUNICIPAL

HOUSE BILL 05-1277

BY REPRESENTATIVE(S) Massey, Berens, Borodkin, Coleman, Hall, Kerr, Knoedler, Merrifield, Sullivan, Todd, Boyd, and Butcher;
also SENATOR(S) Tapia, McElhany, Mitchell, Spence, and Teck.

AN ACT

CONCERNING MUNICIPAL ORDINANCES THAT IMPOSE LIABILITY ON OWNERS OF REAL PROPERTY FOR NUISANCE VIOLATIONS COMMITTED BY TENANTS.

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

SECTION 1. 31-15-401 (1) (c), Colorado Revised Statutes, is amended to read:

31-15-401. General police powers. (1) In relation to the general police power, the governing bodies of municipalities have the following powers:

(c) To declare what is a nuisance and abate the same and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist; EXCEPT THAT A MUNICIPAL ORDINANCE MAY IMPOSE LIABILITY ON THE OWNER OF REAL PROPERTY FOR A NUISANCE COMMITTED ON THE PROPERTY BY A TENANT IN LAWFUL POSSESSION OF THE PROPERTY ONLY IF THE MUNICIPALITY NOTIFIES THE PROPERTY OWNER AND TENANT OF THE NUISANCE BEFORE A FINE OR OTHER LIABILITY IS IMPOSED;

SECTION 2. Part 4 of article 15 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-15-402. Liability for violation of nuisance ordinance. (1) IF A MUNICIPALITY SERVES UPON AN OWNER AND TENANT OF REAL PROPERTY NOTICE OF A VIOLATION OF A NUISANCE ORDINANCE COMMITTED BY A TENANT ON PROPERTY THAT THE OWNER RENTS OR LEASES TO A TENANT, THE OWNER SHALL HAVE THE RIGHT TO DELIVER WRITTEN NOTICE TO THE TENANT TO ABATE THE NUISANCE. IF THE TENANT DOES NOT ABATE THE NUISANCE WITHIN FIVE DAYS AFTER DELIVERY OF THE NOTICE, THE OWNER MAY ENTER THE EXTERIOR AREA OF THE PROPERTY AND ABATE

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

THE NUISANCE.

(2) THIS SECTION SHALL NOT BE CONSTRUED TO PROHIBIT A PROPERTY OWNER FROM ENTERING ANY AREA OF THE PROPERTY UNDER THE TERMS OF THE LEASE WITH THE TENANT.

(3) IF THE ABATEMENT OF A NUISANCE PURSUANT TO THIS SECTION REQUIRES THE REMOVAL OF A MOTOR VEHICLE FROM THE PROPERTY, THE PROPERTY OWNER MAY ABATE THE NUISANCE ONLY BY HIRING A TOWING CARRIER, AS DEFINED IN SECTION 40-13-101 (3), C.R.S., TO TAKE THE VEHICLE TO A LOT FOR STORAGE UNDER APPROPRIATE PROTECTION.

(4) UNLESS THE LEASE PROVIDES OTHERWISE, THE TENANT SHALL BE LIABLE TO THE OWNER OF THE REAL PROPERTY FOR THE AMOUNT OF THE OWNER'S DIRECT COSTS IN ABATING A NUISANCE PURSUANT TO THIS SECTION AND FOR THE AMOUNT OF THE FINE IMPOSED UPON THE OWNER ON AND AFTER THE DATE ON WHICH THE TENANT RECEIVED NOTICE OF THE NUISANCE FROM THE MUNICIPALITY PURSUANT TO SECTION 31-15-401 (1) (c).

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT A TENANT'S LEGAL REMEDIES FOR HARM CAUSED BY A PROPERTY OWNER TO THE TENANT'S PERSON OR TO THE TENANT'S PROPERTY OTHER THAN THE PROPERTY THAT IS THE SUBJECT OF AN ABATEMENT PURSUANT TO THIS SECTION.

SECTION 3. Effective date - applicability. (1) This act shall take effect January 1, 2006.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to notices of nuisance violations served by municipalities on or after the applicable effective date of this act.

Approved: May 25, 2005