

CHAPTER 26

PROPERTY

HOUSE BILL 05-1058

BY REPRESENTATIVE(S) Liston, Berens, Buescher, Cloer, Decker, Green, Madden, McCluskey, McGihon, Merrifield, Paccione, Plant, Riesberg, Soper, Todd, Vigil, Carroll M., Carroll T., and Kerr;
also SENATOR(S) McElhany, Fitz-Gerald, Keller, Tochtrop, Tupa, and Veiga.

AN ACT**CONCERNING BASIC RIGHTS FOR MOBILE HOME OWNERS WHO LEASE SPACE IN MOBILE HOME PARKS.**

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

SECTION 1. 38-12-206, Colorado Revised Statutes, is amended to read:

38-12-206. Home owner meetings. HOME OWNERS SHALL HAVE THE RIGHT TO MEET AND ESTABLISH A HOMEOWNERS' ASSOCIATION. Meetings of home owners OR THE HOMEOWNERS' ASSOCIATION relating to mobile home living and affairs in their park community hall or recreation hall, if such a facility or similar facility exists, shall not be subject to prohibition by the park management if the hall is reserved according to the park rules and such meetings are held at reasonable hours and when the facility is not otherwise in use.

SECTION 2. 38-12-213 (1) (a), Colorado Revised Statutes, is amended, and the said 38-12-213 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-12-213. Rental agreement - disclosure of terms in writing. (1) The terms and conditions of a tenancy must be adequately disclosed in writing in a rental agreement by the management to any prospective home owner prior to the rental or occupancy of a mobile home space or lot. Said disclosures shall include:

(a) The term of the tenancy and the amount of rent therefor, SUBJECT TO THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION;

(4) THE TERMS OF TENANCY SHALL BE SPECIFIED IN A WRITTEN RENTAL AGREEMENT SUBJECT TO THE FOLLOWING CONDITIONS:

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) THE STANDARD RENTAL AGREEMENT SHALL BE FOR A MONTH-TO-MONTH TENANCY.

(b) UPON WRITTEN REQUEST BY THE HOME OWNER TO THE LANDLORD, THE LANDLORD SHALL ALLOW A RENTAL AGREEMENT FOR A FIXED TENANCY OF NOT LESS THAN ONE YEAR IF THE HOME OWNER IS CURRENT ON ALL RENT PAYMENTS AND IS NOT IN VIOLATION OF THE TERMS OF THE THEN-CURRENT RENTAL AGREEMENT; EXCEPT THAT AN INITIAL RENTAL AGREEMENT FOR A FIXED TENANCY MAY BE FOR LESS THAN ONE YEAR IN ORDER TO ENSURE CONFORMITY WITH A STANDARD ANNIVERSARY DATE. A LANDLORD SHALL NOT EVICT OR OTHERWISE PENALIZE A HOME OWNER FOR REQUESTING A RENTAL AGREEMENT FOR A FIXED PERIOD.

(c) A LANDLORD MAY, IN THE LANDLORD'S DISCRETION, ALLOW A LEASE FOR A FIXED PERIOD OF LONGER THAN ONE YEAR. IN SUCH CIRCUMSTANCES, THE REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (4) SHALL NOT APPLY.

SECTION 3. 38-12-217, Colorado Revised Statutes, is amended to read:

38-12-217. Notice of sale of mobile home park - notice of change in use.

(1) (a) The mobile home park owner shall notify the owners of all mobile homes in the park of his OR HER intent to CHANGE THE USE OF THE LAND COMPRISING THE PARK OR TO sell ~~Such~~ THE PARK PURSUANT TO PARAGRAPH (b) OR (c) OF THIS SUBSECTION (1), AS APPLICABLE.

(b) IF THE MOBILE HOME PARK OWNER INTENDS TO SELL THE PARK, THE notification shall be made only once for any particular contract to sell or trade and shall be by written notice mailed to each mobile home owner at the address shown on the rental agreement with the mobile home park owner at least ten days prior to the first scheduled closing for the sale or trade.

(c) IF THE MOBILE HOME PARK OWNER INTENDS TO CHANGE THE USE OF THE LAND COMPRISING THE MOBILE HOME PARK, THE MOBILE HOME PARK OWNER SHALL GIVE WRITTEN NOTICE TO EACH MOBILE HOME OWNER AT LEAST ONE HUNDRED EIGHTY DAYS BEFORE THE CHANGE IN USE WILL OCCUR. THE MOBILE HOME PARK OWNER SHALL MAIL THE WRITTEN NOTICE TO EACH MOBILE HOME OWNER AT THE ADDRESS SHOWN ON THE RENTAL AGREEMENT WITH THE MOBILE HOME PARK OWNER.

(2) The provisions of PARAGRAPH (b) OF SUBSECTION (1) OF this section shall not apply to the sale of a mobile home park when such sale occurs between members of an immediate family, RELATED BUSINESS ENTITIES, MEMBERS AND MANAGERS OF A LIMITED LIABILITY COMPANY, SHAREHOLDERS, OFFICERS, AND DIRECTORS IN A CORPORATION, TRUSTEES AND BENEFICIARIES OF A TRUST, or partners AND LIMITED LIABILITY PARTNERS in a partnership OR LIMITED LIABILITY PARTNERSHIP. For purposes of this section "immediate family" means persons related by blood or adoption.

SECTION 4. Part 2 of article 12 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-12-201.3. Legislative declaration - increased availability of mobile home parks. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT MOBILE HOMES, MANUFACTURED HOUSING, AND FACTORY-BUILD HOUSING ARE IMPORTANT AND EFFECTIVE WAYS TO MEET COLORADO'S AFFORDABLE HOUSING NEEDS. THE GENERAL ASSEMBLY ENCOURAGES LOCAL GOVERNMENTS TO ALLOW AND PROTECT MOBILE HOME PARKS IN THEIR JURISDICTIONS AND TO ENACT PLANS TO INCREASE THE NUMBER OF MOBILE HOME PARKS IN THEIR JURISDICTIONS. THE GENERAL ASSEMBLY FURTHER ENCOURAGES LOCAL GOVERNMENTS TO PROVIDE INCENTIVES TO MOBILE HOME PARK OWNERS TO ATTRACT ADDITIONAL MOBILE HOME PARKS AND TO INCREASE THE VIABILITY OF CURRENT PARKS.

38-12-218. Mobile home owners - right to form a cooperative. ONE OR MORE MEMBERS OF A HOMEOWNERS' ASSOCIATION MAY, AT ANY TIME, FORM A COOPERATIVE FOR THE PURPOSES OF OFFERING TO PURCHASE OR FINANCE A MOBILE HOME PARK. A HOME OWNER SHALL BE A MEMBER OF THE HOMEOWNERS' ASSOCIATION IN ORDER TO PARTICIPATE IN THE COOPERATIVE, AND PARTICIPATION IN THE COOPERATIVE SHALL BE VOLUNTARY.

38-12-219. Home owners' and landlords' rights. (1) EVERY HOME OWNER AND LANDLORD SHALL HAVE THE RIGHT TO THE FOLLOWING:

(a) PROTECTION FROM ABUSE OR DISREGARD OF STATE OR LOCAL LAW BY THE LANDLORD AND HOME OWNERS;

(b) PEACEFUL ENJOYMENT OF THE HOME OWNER'S MOBILE HOME SPACE, FREE FROM UNREASONABLE, ARBITRARY, OR CAPRICIOUS RULES AND ENFORCEMENT THEREOF; AND

(c) TENANCY FREE FROM HARASSMENT OR FRIVOLOUS LAWSUITS BY THE LANDLORD AND HOMEOWNERS.

38-12-220. Private civil right of action. ANY HOME OWNER WHO LIVES IN A MOBILE HOME PARK WHERE THE LANDLORD HAS VIOLATED ANY PROVISION OF THIS ARTICLE SHALL HAVE A PRIVATE CIVIL RIGHT OF ACTION AGAINST THE LANDLORD. IN ANY SUCH ACTION, THE HOME OWNER SHALL BE ENTITLED TO ACTUAL ECONOMIC DAMAGES AND MAY BE ENTITLED TO ATTORNEY FEES AND COSTS.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-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 (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 5, 2005