

CHAPTER 343

PROPERTY

SENATE BILL 10-156

BY SENATOR(S) Heath, Boyd, Carroll M., Steadman, Tochtrop;
 also REPRESENTATIVE(S) Hullinghorst, Apuan, Casso, Fischer, Kefalas, Labuda, Primavera, Rice, Ryden, Soper.

AN ACT

CONCERNING INCREASED PROTECTIONS 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. 38-12-201.3, Colorado Revised Statutes, is amended 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-built housing are important and effective ways to meet Colorado's affordable housing needs. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, BECAUSE OF THE UNIQUE ASPECTS OF MOBILE HOMES AND MOBILE HOME PARK OWNERSHIP, THERE IS A NEED TO PROTECT MOBILE HOME OWNERS FROM EVICTION WITH SHORT NOTICE SO AS TO PREVENT MOBILE HOME OWNERS FROM LOSING THEIR SHELTER AS WELL AS ANY EQUITY IN THEIR MOBILE HOMES. 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.

SECTION 2. 38-12-201.5 (2), Colorado Revised Statutes, is amended to read:

38-12-201.5. Definitions. As used in this part 2, unless the context otherwise requires:

(2) "Mobile home" means a single-family dwelling built on a permanent chassis designed for long-term residential occupancy and containing complete electrical, plumbing, and sanitary facilities and designed to be installed in a permanent or

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

semipermanent manner with or without a permanent foundation, which is capable of being drawn over public highways as a unit, or in sections by special permit, OR A MANUFACTURED HOME AS DEFINED IN SECTION 38-29-102 (6) IF THE MANUFACTURED HOME IS SITUATED IN A MOBILE HOME PARK.

SECTION 3. 38-12-202, Colorado Revised Statutes, is amended to read:

38-12-202. Tenancy - notice to quit. (1) (a) No tenancy or other lease or rental occupancy of space in a mobile home park shall commence without a written lease or rental agreement, and no tenancy in a mobile home park shall be terminated until a notice to quit has been served. Said notice to quit shall be in writing and in the form specified in section 13-40-107 (2), C.R.S. The property description required in section 13-40-107 (2), C.R.S., shall be deemed legally sufficient if it states:

- (I) The name of the landlord or the mobile home park;
- (II) The mailing address of the property;
- (III) The location or space number upon which the mobile home is situate; and
- (IV) The county in which the mobile home is situate.

(b) Service of the notice to quit shall be as specified in section 13-40-108, C.R.S. Service by posting shall be deemed legally sufficient within the meaning of section 13-40-108, C.R.S., if the notice is affixed to the main entrance of the mobile home.

(c) (I) Except as otherwise provided in subparagraph (II) of this paragraph (c), the home owner shall be given a period of not less than ~~thirty SIXTY days to be extended to not less than sixty days where the home owner must remove a multisection mobile home~~, to remove any mobile home from the premises from the date the notice is served or posted. In those situations where a ~~multisection~~ mobile home is being leased to, or occupied by, persons other than its owner and in a manner contrary to the rules and regulations of the landlord, then in that event, the tenancy may be terminated by the landlord upon giving a thirty-day notice rather than said sixty-day notice.

(II) If the tenancy is terminated on grounds specified in section 38-12-203 (1) (f), the home owner shall be given a period of not less than ten days ~~to be extended to not less than fifteen days where the home owner must remove a multisection mobile home~~, to remove any mobile home from the premises from the date the notice is served or posted.

~~(d)~~ (2) No lease shall contain any provision by which the home owner waives his OR HER rights under this part 2, and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void. ~~However, any lease may provide that the tenancy may be terminated on the landlord's notice in writing to the home owner, in such prescribed manner, to remove the home owner's unit from the premises within a period of not less than thirty days, to be extended to not less than sixty days where the home owner must remove a multisection mobile home from the date the notice is served or posted.~~ In those situations where a ~~multisection~~ mobile home is being leased to, or occupied by, persons other than its owner and in a

manner contrary to the rules and regulations of the landlord, then, in that event, the tenancy may be terminated by the landlord upon giving a thirty-day notice rather than said sixty-day notice.

~~(2)~~ (3) The landlord or management of a mobile home park shall specify, in the notice required by this section, the reason for the termination, AS DESCRIBED IN SECTION 38-12-203, of any tenancy in such mobile home park. If the tenancy is being terminated based on the mobile home or mobile home lot being out of compliance with the rules and regulations adopted pursuant to section 38-12-203 (1) (c), the notice required by this section shall include a statement advising the home owner that the home owner has a right to cure the noncompliance within thirty days of the date of service or posting of the notice to quit. The thirty-day period to cure any noncompliance set forth in this ~~subsection (2)~~ SUBSECTION (3) shall run concurrently with the ~~thirty-day~~ SIXTY-DAY period to remove a mobile home from the premises as set forth in ~~paragraphs (c) and (d)~~ PARAGRAPH (c) of subsection (1) AND SUBSECTION (2) of this section. Acceptance of rent by the landlord or management of a mobile home park during the thirty-day right to cure period set forth in section 38-12-203 (1) (c) shall not constitute a waiver of the landlord's right to terminate the tenancy for any noncompliance set forth in section 38-12-203 (1) (c).

~~(3) Repealed.~~

SECTION 4. 38-12-203 (1) (c) and (1) (d), Colorado Revised Statutes, are amended to read:

38-12-203. Reasons for termination. (1) A tenancy shall be terminated pursuant to this part 2 only for one or more of the following reasons:

(c) Failure of the home owner to comply with written rules and regulations of the mobile home park either established by the management in the rental agreement at the inception of the tenancy, amended subsequently thereto with the consent of the home owner, or amended subsequently thereto without the consent of the home owner on sixty days' written notice if the amended rules and regulations are reasonable; except that the home owner shall have thirty days from the date of service or posting of the notice to quit set forth in ~~section 38-12-202 (2)~~ SECTION 38-12-202 (3) to cure any noncompliance on the mobile home or mobile home lot before an action for termination may be commenced, except if local ordinances, state laws and regulations, park rules and regulations, or emergency, health, or safety situations require immediate compliance. If a home owner was in violation or noncompliance pursuant to this paragraph (c) and was given notice and a right to cure such noncompliance and within a twelve-month period from the date of service of the notice is in noncompliance of the same rule or regulation and is given notice of the second noncompliance, there shall be no right to cure the second noncompliance. Regulations applicable to recreational facilities may be amended at the REASONABLE discretion of the management. For purposes of this paragraph (c), when the mobile home is owned by a person other than the owner of the mobile home park, the mobile home is a separate unit of ownership, and regulations ~~which~~ THAT are adopted subsequent to the unit location in the park without the consent of the home owner and ~~which~~ THAT place restrictions or requirements on that separate unit are prima facie unreasonable. Nothing in this paragraph (c) shall prohibit a

mobile home park owner from requiring compliance with current park unit regulations at the time of sale or transfer of the mobile home to a new owner. Transfer under this paragraph (c) shall not include transfer to a co-owner pursuant to death or divorce or to a new co-owner pursuant to marriage.

(d) (I) Condemnation or change of use of the mobile home park. When the owner of a mobile home park is formally notified by A NOTICE OF INTENT TO ACQUIRE PURSUANT TO SECTION 38-1-121 (1) OR OTHER SIMILAR PROVISION OF LAW, OR A COMPLAINT IN A CONDEMNATION ACTION FROM an appropriate governmental agency that ~~his~~ THE mobile home park, OR ANY PORTION THEREOF, is TO BE ACQUIRED BY THE GOVERNMENTAL AGENCY OR MAY BE the subject of a condemnation proceeding, the landlord shall, within seventeen days, notify ~~his~~ THE home owners in writing of the terms of the ~~condemnation~~ notice ~~which he receives~~ OF INTENT TO ACQUIRE OR COMPLAINT RECEIVED BY THE LANDLORD.

(II) In those cases where the ~~zoning law allows the~~ landlord DESIRES to change the use of ~~his land without obtaining the consent of the zoning authority~~ THE MOBILE HOME PARK and where such change of use would result in eviction of inhabited mobile homes, the landlord shall first give the owner of each mobile home subject to such eviction a written notice of ~~his~~ THE LANDLORD'S intent to evict not less than six months prior to such change of use of the land, notice to be mailed to each home owner.

SECTION 5. 38-12-204.3 (2), Colorado Revised Statutes, is amended to read:

38-12-204.3. Notice required for termination. (2) The notice required under this section shall be in at least ten-point type and shall read as follows:

IMPORTANT NOTICE TO THE HOME OWNER:

This notice and the accompanying notice to quit/notice of nonpayment of rent are the first steps in the eviction process. Any dispute you may have regarding the grounds for eviction should be addressed with your landlord or the management of the mobile home park or in the courts if an eviction action is filed. Please be advised that the "Mobile Home Park Act", part 2 of article 12 of title 38, Colorado Revised Statutes, may provide you with legal protection:

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

- The grounds for the termination of the tenancy; ~~and~~
- Whether or not the home owner has a right to cure under the "Mobile Home Park Act"; AND
- THAT THE HOME OWNER HAS A RIGHT TO MEDIATION PURSUANT TO SECTION 38-12-216, COLORADO REVISED STATUTES, OF THE "MOBILE HOME PARK ACT".

NOTICE OF NONPAYMENT OF RENT: The landlord or management of a

mobile home park must serve to a home owner a notice of nonpayment of rent in order to terminate a home owner's tenancy. The notice must be in writing and must require that the home owner either make payment of rent and any applicable fees due and owing or remove the owner's unit from the premises, within a period of not less than five days after the date the notice is served or posted, for failure to pay rent when due.

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

COMMENCEMENT OF LEGAL ACTION TO TERMINATE THE TENANCY: After the last day of the notice period, a legal action may be commenced to take possession of the space leased by the home owner. In order to evict a home owner, the landlord or management of the mobile home park must prove:

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

A home owner must appear in court to defend against an eviction action. If the court rules in favor of the landlord or management of the mobile home park, the home owner will have not less than 48 hours from the time of the ruling to remove the mobile home and to vacate the premises. IF A TENANCY IS BEING TERMINATED PURSUANT TO SECTION 38-12-203 (1)(f), COLORADO REVISED STATUTES, THE HOME OWNER SHALL HAVE NOT LESS THAN 48 HOURS FROM THE TIME OF THE RULING TO REMOVE THE HOME AND VACATE THE PREMISES. IN ALL OTHER CIRCUMSTANCES, IF THE HOME OWNER WISHES TO EXTEND SUCH PERIOD BEYOND 48 HOURS BUT NOT MORE THAN THIRTY DAYS FROM THE DATE OF THE RULING, THE HOME OWNER SHALL PREPAY TO THE LANDLORD AN AMOUNT EQUAL TO ANY TOTAL AMOUNT DECLARED BY THE COURT TO BE DUE TO THE LANDLORD, AS WELL AS A PRO RATA SHARE OF RENT FOR EACH DAY FOLLOWING THE COURT'S RULING THAT THE MOBILE HOME OWNER WILL REMAIN ON THE PREMISES. ALL PREPAYMENTS SHALL BE PAID BY CERTIFIED CHECK, CASHIER'S CHECK, OR BY WIRE TRANSFER AND SHALL BE PAID NO LATER THAN 48 HOURS AFTER THE COURT RULING.

SECTION 6. 38-12-206, Colorado Revised Statutes, is amended to read:

38-12-206. Home owner meetings - assembly in common areas. 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 COMMON AREA, 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 COMMON AREA OR 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; EXCEPT THAT NO SUCH MEETINGS SHALL BE HELD IN THE STREETS OR THOROUGHFARES OF THE MOBILE HOME PARK.

SECTION 7. 38-12-208 (1) (a) and (1) (b), Colorado Revised Statutes, are amended to read:

38-12-208. Remedies. (1) (a) Upon granting judgment for possession by the landlord in a forcible entry and detainer action, the court shall immediately issue a writ of restitution which the landlord shall take to the sheriff. IN ADDITION, IF A MONEY JUDGMENT HAS BEEN REQUESTED IN THE COMPLAINT AND IF SERVICE WAS ACCOMPLISHED BY PERSONAL SERVICE, THE COURT SHALL DETERMINE AND ENTER JUDGMENT FOR ANY AMOUNTS DUE TO THE LANDLORD AND SHALL CALCULATE A PRO RATA DAILY RENT AMOUNT THAT MUST BE PAID FOR THE HOME TO REMAIN IN THE PARK. THE COURT MAY RELY UPON INFORMATION PROVIDED BY THE LANDLORD OR THE LANDLORD'S ATTORNEY WHEN DETERMINING THE PRO RATA DAILY RENT AMOUNT TO BE PAID BY THE HOME OWNER. Upon receipt of the writ of restitution, the sheriff shall serve notice in accordance with the requirements of section 13-40-108, C.R.S., to the home owner of the court's decision and entry of judgment.

(b) The notice of judgment shall state that, at a specified time not less than forty-eight hours from the entry of judgment IF A TENANCY IS BEING TERMINATED PURSUANT TO 38-12-203 (1) (f) AND, IN ALL OTHER INSTANCES, NOT LESS THAN FORTY-EIGHT HOURS FROM THE ENTRY OF JUDGMENT, WHICH MAY BE EXTENDED TO NOT MORE THAN THIRTY DAYS AFTER THE ENTRY OF JUDGMENT IF THE HOME OWNER HAS PREPAID BY CERTIFIED CHECK, CASHIER'S CHECK, OR BY WIRE TRANSFER NO LATER THAN FORTY-EIGHT HOURS AFTER THE COURT RULING TO THE LANDLORD AN AMOUNT EQUAL TO ANY TOTAL AMOUNT DECLARED BY THE COURT TO BE DUE TO THE LANDLORD, AS WELL AS A PRO RATA SHARE OF RENT FOR EACH DAY FOLLOWING THE COURT'S RULING THAT THE MOBILE HOME OWNER WILL REMAIN ON THE PREMISES, the sheriff will return to serve a writ of restitution and superintend the peaceful and orderly removal of the mobile home under that order of court. The notice of judgment shall also advise the home owner to prepare the mobile home for removal from the premises by removing the skirting, disconnecting utilities, attaching tires, and otherwise making the mobile home safe and ready for highway travel.

SECTION 8. 38-12-212.3 (1) (a) (I) and (1) (b), Colorado Revised Statutes, are amended, and the said 38-12-212.3 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

38-12-212.3. Responsibilities of landlord - acts prohibited. (1) (a) Except as otherwise provided in this section, a landlord shall be responsible for and pay the cost of the maintenance and repair of:

(I) Any sewer lines, WATER LINES, utility service lines, or related connections owned and provided by the landlord to the utility pedestal or pad space for a mobile home sited in the park; and

(b) Any landlord who fails to maintain or repair the items delineated in paragraph (a) of this subsection (1) shall be responsible for and pay the cost of repairing any damage to a mobile home which results from such failure. THE LANDLORD SHALL ENSURE THAT ALL PLUMBING LINES AND CONNECTIONS OWNED AND PROVIDED BY THE LANDLORD TO THE UTILITY PEDESTAL OR PAD SPACE FOR EACH MOBILE HOME IN THE MOBILE HOME PARK HAVE PLUMBING THAT CONFORMED TO APPLICABLE LAW IN EFFECT AT THE TIME THE PLUMBING WAS INSTALLED AND THAT IS MAINTAINED IN GOOD WORKING ORDER AND RUNNING WATER AND REASONABLE AMOUNTS OF WATER AT ALL TIMES FURNISHED TO THE UTILITY PEDESTAL OR PAD SPACE AND SHALL ENSURE THAT EACH PAD SPACE IS CONNECTED TO A SEWAGE DISPOSAL SYSTEM APPROVED UNDER APPLICABLE LAW; EXCEPT THAT THESE CONDITIONS NEED NOT BE MET IF:

(I) A MOBILE HOME IS INDIVIDUALLY METERED AND THE TENANT OCCUPYING THE MOBILE HOME FAILS TO PAY FOR WATER SERVICES;

(II) THE LOCAL GOVERNMENT IN WHICH THE MOBILE HOME PARK IS SITUATED SHUTS OFF WATER SERVICE TO A MOBILE HOME FOR ANY REASON;

(III) WEATHER CONDITIONS PRESENT A LIKELIHOOD THAT WATER PIPES WILL FREEZE, WATER PIPES TO A MOBILE HOME ARE WRAPPED IN HEATED PIPE TAPE, AND THE UTILITY COMPANY HAS SHUT OFF ELECTRICAL SERVICE TO A MOBILE HOME FOR ANY REASON OR THE HEAT TAPE MALFUNCTIONS FOR ANY REASON; OR

(IV) RUNNING WATER IS NOT AVAILABLE FOR ANY OTHER REASON OUTSIDE THE LANDLORD'S CONTROL.

(c) THE LANDLORD SHALL GIVE A MINIMUM OF TWO DAYS' NOTICE TO A MOBILE HOME OWNER IF THE WATER SERVICE WILL BE DISRUPTED FOR PLANNED MAINTENANCE. THE LANDLORD SHALL ATTEMPT TO GIVE A REASONABLE AMOUNT OF NOTICE TO HOME OWNERS IF WATER SERVICE IS TO BE DISRUPTED FOR ANY OTHER REASONS UNLESS CONDITIONS ARE SUCH THAT PROVIDING THE NOTICE WOULD RESULT IN PROPERTY DAMAGE, HEALTH, OR SAFETY CONCERNS OR WHEN CONDITIONS OTHERWISE REQUIRE EMERGENCY REPAIR.

SECTION 9. 38-12-217 (1) (a) and (2), Colorado Revised Statutes, are 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 AND THE MUNICIPALITY IN WHICH THE PARK IS SITUATED OR, IF NONE, THE COUNTY IN WHICH THE PARK IS SITUATED of his or her intent to change the use of the land comprising the park or to sell the park pursuant to paragraph (b) or (c) of this subsection (1), as applicable.

(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; EXCEPT THAT SUCH PURCHASERS SHALL

NOT CHANGE THE USE OF THE LAND COMPRISING THE MOBILE HOME PARK WITHOUT COMPLYING WITH THE NOTICE PROVISIONS OF THIS SECTION. For purposes of this section "immediate family" means persons related by blood or adoption.

SECTION 10. 38-12-220, Colorado Revised Statutes, is amended to read:

38-12-220. Private civil right of action. Any home owner who ~~lives~~ OWNS A HOME 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~~ REASONABLE attorney fees and costs IF THE HOME OWNER IS SUCCESSFUL IN THE ACTION.

SECTION 11. Part 2 of article 12 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-12-221. Access by counties and municipalities. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, UPON A FINDING THAT THE UTILITIES IN A PARK CREATE A SIGNIFICANT HEALTH OR SAFETY DANGER TO PARK RESIDENTS, THE LANDLORD OF A MOBILE HOME PARK SHALL GRANT COUNTY OR MUNICIPAL OFFICERS OR EMPLOYEES ACCESS TO THE MOBILE HOME PARK FOR THE PURPOSES OF INVESTIGATING OR CONDUCTING A STUDY RELATED TO SUCH DANGER.

SECTION 12. Specified effective date. This act shall take effect July 1, 2010.

SECTION 13. 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: June 5, 2010