

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0504.01 Bob Lackner x4350

SENATE BILL 17-098

SENATE SPONSORSHIP

Kefalas,

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Ginal,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING MOBILE HOME PARKS, AND, IN CONNECTION THEREWITH,
102 PROMOTING HOME OWNERSHIP, PROTECTING PROPERTY
103 RIGHTS, AND PROVIDING INCENTIVES TO LOCAL GOVERNMENTS
104 TO PRESERVE AND DEVELOP MOBILE HOME PARK COMMUNITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Notice of sale of a mobile home park. Where the home owners within a mobile home park (park) have formed either a homeowners' association or a cooperative, **section 2** of the bill specifies that, not less

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

than 30 days nor more than one year prior to, an owner of a park either entering into a written listing agreement for the sale of the park or making an offer to sell the park to any party must provide written notice to the president, secretary, and treasurer of any homeowners' association or cooperative of the owner's intention to sell the park. The bill specifies certain circumstances in which the park owner is not required to satisfy these notice requirements.

During the notice period required by the bill, the owner or management of the park may consider any offer to purchase the park that has been made by a homeowners' association or cooperative of such home owners as long as the association or cooperative is open to all home owners. The owner of the park may consider any reasonable offer made by an association or cooperative representing the home owners and negotiate in good faith with them. If an agreement to purchase the community is reached during the notice period specified in the bill, the association or cooperative has a reasonable time beyond the expiration of such period, if necessary, to obtain financing for the purchase. The bill explicitly specifies that these provisions do not give any home owner or group of home owners within a park any right of first refusal.

Terms of written rental agreement. Section 3 permits a written rental agreement for a tenancy in a park to contain a clause that encourages the use of mediation or another form of alternative dispute resolution to resolve any controversy by or among owners, management, and home owners within parks.

Alternative dispute resolution. In any controversy between management and a home owner of a park arising out of the bill, except for the nonpayment of rent or in cases in which the health or safety of other home owners is in imminent danger, **section 4** permits the parties to submit the dispute to another form of alternative dispute resolution in addition to mediation prior to the filing of a forcible entry and detainer lawsuit. The choice of alternative dispute resolution methods is dependent upon agreement of the parties.

Under section 4, the general assembly also encourages the owners and management of parks and home owners within such parks to make use of the state office of dispute resolution to resolve any controversy by or among them in addition to local government agencies and community-based nonprofit organizations that are created and empowered to mediate disputes between or among the owners and management of parks and home owners within such parks.

Subtraction of gain from sale of park from calculation of federal taxable income for state income tax purposes. For income tax years commencing on or after January 1, 2018, **section 5** subtracts from federal taxable income the following amount of the gain recognized from the sale or exchange of a park where the party purchasing the park is a county, municipality, local housing authority, nonprofit corporation,

homeowners' association, or a cooperative:

- ! 100% of the recognized gain for a mobile home park with 50 or fewer lots; and
- ! 50% of the recognized gain for a mobile home park with more than 50 lots.

Encouragement of the preservation and development of mobile and manufactured home parks through county and municipal master plans. Recognizing the importance of manufactured housing as an option for many households, under **sections 6 and 7**, counties and municipalities, as applicable, are required to encourage through either their master plans or other land use or planning documents adopted by the particular governmental body the preservation of existing parks and the development of new manufactured home parks within their territorial boundaries, including increasing opportunities for parks that are owned by the owners of homes within the park. Whenever an existing park is located in a hazardous area, the county or municipality, as applicable, is required to make every reasonable effort to reduce or eliminate the hazard, when feasible, or to help mitigate the loss of housing through the relocation of affected households.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) Relevant data shows that owners of manufactured homes and
5 members of mobile home parks are generally more satisfied with their
6 homes than traditional renters, pay less per month in housing costs than
7 traditional renters, and that manufactured homes can be a wealth
8 accumulating asset when the owners own both the land and the structure.

9 (b) Manufactured homes are built in alignment with federal
10 department of housing and urban development regulations to promote
11 efficiently built homes that are both safe and constructed of quality
12 materials.

13 (c) Colorado's senior population is growing rapidly and a
14 disproportionate number of owners of manufactured homes are seniors in

1 Colorado. Promoting the formation of resident-owned communities will
2 protect Colorado's senior population from disruptive relocation processes
3 and the significant expenses that would accompany moving their homes.

4 (d) There is a shortage of affordable housing in Colorado and
5 promoting the formation of resident-owned communities will create
6 avenues by which low- and moderate-income individuals and families
7 may attain permanent, quality, and unsubsidized affordable housing.

8 (e) As used in this act, "mobile home" refers to the single family
9 dwellings as defined in section 38-12-201.5 (2), C.R.S., that were built
10 before 1976 and "manufactured home" refers to a preconstructed building
11 unit or combination of units within the meaning of section 24-32-3302
12 (20), C.R.S., that were built after 1976 and have been certified by the
13 federal department of housing and urban development.

14 **SECTION 2.** In Colorado Revised Statutes, 38-12-217, **amend**
15 (1)(a) and (1)(b) as follows:

16 **38-12-217. Notice of sale of mobile home park - notice of**
17 **change in use - legislative declaration - definition.** (1) (a) The mobile
18 home park owner shall notify the owners of all mobile homes in the park
19 and the municipality in which the park is situated or, if none, the county
20 in which the park is situated of ~~his or her~~ THE OWNER'S intent to change
21 the use of the land comprising the park or to sell the park pursuant to
22 ~~paragraph (b) or (c) of this subsection (1)~~ SUBSECTION (1)(b) OR (1)(c) OF
23 THIS SECTION, as applicable. THE PURPOSE OF NOTIFYING APPLICABLE
24 LOCAL GOVERNMENTS, THE DIVISION OF HOUSING WITHIN THE
25 DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1), AND
26 LOCAL GOVERNMENT ORGANIZATIONS OF A PROSPECTIVE SALE OR
27 TRANSFER OF A MOBILE HOME PARK AS REQUIRED BY SUBSECTION (1)(b)(I)

1 OF THIS SECTION IS TO PROVIDE INFORMATION THAT MAY LEAD TO
2 COLLABORATION AMONG ORGANIZATIONS, HOME OWNERS, AND
3 COMMUNITY LEADERS TO PRESERVE THE MOBILE HOME PARK AND TO
4 FOSTER RESIDENT OWNERSHIP AND SELF-GOVERNANCE AMONG THE
5 RESIDENTS, AS APPROPRIATE.

6 (b) (I) ~~IF~~ WHERE THE HOME OWNERS WITHIN A MOBILE HOME PARK
7 HAVE NOT FORMED EITHER A HOMEOWNERS' ASSOCIATION PURSUANT TO
8 SECTION 38-12-206 OR A COOPERATIVE PURSUANT TO SECTION 38-12-218,
9 AND the mobile home park owner intends to sell the park, the notification
10 ~~shall~~ MUST be made only once for any particular contract to sell or trade
11 and ~~shall~~ MUST be by written notice mailed to each mobile home owner
12 at the address shown on the rental agreement with the mobile home park
13 owner at least ten days prior to the first scheduled closing for the sale or
14 trade. WHERE THE HOME OWNERS WITHIN A MOBILE HOME PARK HAVE
15 FORMED EITHER A HOMEOWNERS' ASSOCIATION PURSUANT TO SECTION
16 38-12-206 OR A COOPERATIVE PURSUANT TO SECTION 38-12-218, NOT
17 LESS THAN THIRTY DAYS NOR MORE THAN ONE YEAR PRIOR TO AN OWNER
18 OF A MOBILE HOME PARK EITHER ENTERING INTO A WRITTEN LISTING
19 AGREEMENT WITH A LICENSED REAL ESTATE BROKER AS DEFINED IN
20 SECTION 12-61-101 (2)(a) FOR THE SALE OF THE MOBILE HOME PARK OR
21 MAKING AN OFFER TO SELL THE PARK TO ANY PARTY, THE OWNER OF THE
22 PARK SHALL PROVIDE WRITTEN NOTICE TO THE PRESIDENT, SECRETARY,
23 AND TREASURER OF ANY HOMEOWNERS' ASSOCIATION OR COOPERATIVE OF
24 THE OWNER'S INTENTION TO SELL THE PARK. SUCH NOTICE MUST BE SENT
25 BY FIRST-CLASS MAIL OR BY PERSONAL DELIVERY.

26 (II) AN OWNER OF A MOBILE HOME PARK IS NOT REQUIRED TO
27 SATISFY SUBSECTION (1)(b)(I) OF THIS SECTION UNLESS THE FOLLOWING

1 CONDITIONS ARE MET:

2 (A) THE HOMEOWNERS' ASSOCIATION OR COOPERATIVE HAS FIRST
3 FURNISHED THE PARK OWNER OR MANAGEMENT WITH WRITTEN NOTICE OF
4 THE NAME AND ADDRESS OF THE PRESIDENT, SECRETARY, AND TREASURER
5 OF THE ASSOCIATION OR COOPERATIVE TO WHOM THE NOTICE OF INTENT
6 TO SELL MUST BE GIVEN;

7 (B) THE HOMEOWNERS' ASSOCIATION OR COOPERATIVE HAS FIRST
8 NOTIFIED THE PARK OWNER OR MANAGEMENT IN WRITING THAT THE HOME
9 OWNERS ARE INTERESTED IN PURCHASING THE PARK. THE INITIAL NOTICE
10 BY THE HOMEOWNERS' ASSOCIATION OR COOPERATIVE MUST BE MADE
11 PRIOR TO THE WRITTEN LISTING OR THE EXTENSION OF AN OFFER TO SELL
12 THE PARK BY THE PARK OWNER, AND THE HOMEOWNERS' ASSOCIATION OR
13 COOPERATIVE SHALL GIVE SUBSEQUENT NOTICE AT LEAST ONCE EACH
14 YEAR THEREAFTER THAT THE HOME OWNERS ARE INTERESTED IN
15 PURCHASING THE PARK.

16 (C) THE HOMEOWNERS' ASSOCIATION OR COOPERATIVE HAS
17 FURNISHED THE PARK OWNER OR MANAGEMENT A WRITTEN NOTICE,
18 WITHIN FIVE DAYS, OF ANY CHANGE IN THE NAME OR ADDRESS OF
19 OFFICERS OF THE ASSOCIATION OR COOPERATIVE TO WHOM THE NOTICE OF
20 SALE IS TO BE GIVEN.

21 (III) DURING THE NOTICE PERIOD REQUIRED BY SUBSECTION
22 (1)(b)(I) OF THIS SECTION, THE OWNER OR MANAGEMENT OF THE MOBILE
23 HOME PARK MAY CONSIDER ANY OFFER TO PURCHASE THE PARK THAT HAS
24 BEEN MADE BY AN ASSOCIATION OF SUCH HOME OWNERS FORMED UNDER
25 SECTION 38-12-206, OR A COOPERATIVE FORMED BY SUCH HOME OWNERS
26 UNDER SECTION 38-12-218, AS LONG AS THE ASSOCIATION OR
27 COOPERATIVE IS OPEN TO ALL HOME OWNERS. THE OWNER OF THE PARK

1 MAY CONSIDER ANY REASONABLE OFFER MADE BY AN ASSOCIATION OR
2 COOPERATIVE REPRESENTING THE HOME OWNERS AND NEGOTIATE IN GOOD
3 FAITH WITH THEM. IF AN AGREEMENT TO PURCHASE THE COMMUNITY IS
4 REACHED DURING THE NOTICE PERIOD SPECIFIED IN SUBSECTION (1)(b)(I)
5 OF THIS SECTION, THE ASSOCIATION OR COOPERATIVE HAS A REASONABLE
6 TIME BEYOND THE EXPIRATION OF SUCH PERIOD, IF NECESSARY, TO OBTAIN
7 FINANCING FOR THE PURCHASE. A HOMEOWNERS' ASSOCIATION OR
8 COOPERATIVE MAY ASSIGN ANY RIGHTS SUCH HOME OWNERS POSSESS
9 UNDER THIS SECTION TO THE MUNICIPALITY OR COUNTY, AS APPLICABLE,
10 IN WHICH THE COMMUNITY IS LOCATED, A LOCAL HOUSING AUTHORITY, OR
11 A LOCAL NONPROFIT ENTITY SPECIALIZING IN THE PROVISION OR
12 PRESERVATION OF AFFORDABLE HOUSING.

13 (IV) NOTHING IN THIS SUBSECTION (1)(b) GIVES ANY HOME OWNER
14 OR GROUP OF HOME OWNERS WITHIN A MOBILE HOME PARK ANY RIGHT OF
15 FIRST REFUSAL. THE OWNER OR MANAGEMENT OF A MOBILE HOME PARK
16 MAY REJECT ANY OFFER MADE BY OR ON BEHALF OF ONE OR MORE HOME
17 OWNERS WITHIN A MOBILE HOME PARK OR ANY ASSOCIATION OR
18 COOPERATIVE OF SUCH HOME OWNERS, FOR THE PURCHASE BY THE HOME
19 OWNERS OF THE PARK ON THE BASIS OF ANY REASON OFFERED BY THE
20 OWNER OR MANAGEMENT OF THE PARK FOR REJECTION OF THE OFFER THAT
21 IS MADE IN GOOD FAITH. FOR PURPOSES OF THIS SUBSECTION (1)(b), "RIGHT
22 OF FIRST REFUSAL" MEANS A CONTRACTUAL RIGHT THAT GIVES A
23 HOMEOWNERS' ASSOCIATION OR COOPERATIVE OF MOBILE HOME OWNERS
24 THE OPTION TO ENTER INTO A BUSINESS TRANSACTION WITH THE OWNER
25 OR MANAGEMENT OF A MOBILE HOME PARK WHEREBY THE ASSOCIATION
26 OR COOPERATIVE MUST FIRST BE OFFERED AN OPPORTUNITY TO PURCHASE
27 THE MOBILE HOME PARK ON SPECIFIED TERMS BEFORE THE OWNER OR

1 MANAGEMENT MAY ENTER INTO SUCH TRANSACTION WITH A THIRD PARTY.

2 **SECTION 3.** In Colorado Revised Statutes, 38-12-213, **add** (5)
3 as follows:

4 **38-12-213. Rental agreement - disclosure of terms in writing.**

5 (5) A WRITTEN RENTAL AGREEMENT REQUIRED BY SUBSECTION (1) OF
6 THIS SECTION MAY CONTAIN A CLAUSE THAT ENCOURAGES THE USE OF
7 MEDIATION OR ANOTHER FORM OF ALTERNATIVE DISPUTE RESOLUTION TO
8 RESOLVE ANY CONTROVERSY BY OR AMONG OWNERS, MANAGEMENT, AND
9 HOME OWNERS WITHIN MOBILE HOME PARKS.

10 **SECTION 4.** In Colorado Revised Statutes, 38-12-216, **amend**
11 (1) as follows:

12 **38-12-216. Mediation, when permitted - court actions.** (1) In
13 any controversy between the management and a home owner of a mobile
14 home park arising out of the provisions of this part 2, except for the
15 nonpayment of rent or in cases in which the health or safety of other
16 home owners is in imminent danger, such controversy may be submitted
17 to EITHER mediation OR ANOTHER FORM OF ALTERNATIVE DISPUTE
18 RESOLUTION by either party prior to the filing of a forcible entry and
19 detainer lawsuit, WHICH CHOICE OF ALTERNATIVE DISPUTE RESOLUTION
20 METHODS IS DEPENDENT upon agreement of the parties. THE GENERAL
21 ASSEMBLY HEREBY ENCOURAGES THE OWNERS AND MANAGEMENT OF
22 MOBILE HOME PARKS AND HOME OWNERS WITHIN SUCH PARKS TO MAKE
23 USE OF THE OFFICE OF DISPUTE RESOLUTION CREATED IN SECTION
24 13-22-303 TO RESOLVE ANY CONTROVERSY BY OR AMONG THEM IN
25 ADDITION TO LOCAL GOVERNMENT AGENCIES AND COMMUNITY-BASED
26 NONPROFIT ORGANIZATIONS THAT ARE CREATED AND EMPOWERED TO
27 MEDIATE DISPUTES BETWEEN OR AMONG THE OWNERS AND MANAGEMENT

1 OF MOBILE HOME PARKS AND HOME OWNERS WITHIN SUCH PARKS.

2 **SECTION 5.** In Colorado Revised Statutes, 39-22-104, **add**
3 (4)(x) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - legislative declaration - definitions - repeal.**

6 (4) There shall be subtracted from federal taxable income:

7 (x) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
8 1, 2018, THE FOLLOWING AMOUNT OF THE GAIN RECOGNIZED FROM THE
9 SALE OR EXCHANGE OF A MOBILE HOME PARK, AS DEFINED IN SECTION
10 38-12-201.5 (3), WHERE THE PARTY PURCHASING THE PARK IS A COUNTY,
11 MUNICIPALITY, LOCAL HOUSING AUTHORITY, NONPROFIT CORPORATION,
12 HOMEOWNERS' ASSOCIATION FORMED PURSUANT TO SECTION 38-12-206,
13 OR A COOPERATIVE FORMED PURSUANT TO SECTION 38-12-218:

14 (I) ONE HUNDRED PERCENT OF THE RECOGNIZED GAIN FOR A
15 MOBILE HOME PARK WITH FIFTY OR FEWER LOTS; AND

16 (II) FIFTY PERCENT OF THE RECOGNIZED GAIN FOR A MOBILE HOME
17 PARK WITH MORE THAN FIFTY LOTS.

18 **SECTION 6.** In Colorado Revised Statutes, 30-28-106, **amend**
19 (3)(a)(VII) as follows:

20 **30-28-106. Adoption of master plan - contents.** (3) (a) The
21 master plan of a county or region, with the accompanying maps, plats,
22 charts, and descriptive and explanatory matter, shall show the county or
23 regional planning commission's recommendations for the development of
24 the territory covered by the plan. The master plan of a county or region
25 shall be an advisory document to guide land development decisions;
26 however, the plan or any part thereof may be made binding by inclusion
27 in the county's or region's adopted subdivision, zoning, platting, planned

1 unit development, or other similar land development regulations after
2 satisfying notice, due process, and hearing requirements for legislative or
3 quasi-judicial processes as appropriate. After consideration of each of the
4 following, where applicable or appropriate, the master plan may include:

5 (VII) The general character, location, and extent of community
6 centers, townsites, housing developments, whether public or private, the
7 existing, proposed, or projected location of residential neighborhoods and
8 sufficient land for future housing development for the existing and
9 projected economic and other needs of all current and anticipated
10 residents of the county or region, and urban conservation or
11 redevelopment areas. RECOGNIZING THE IMPORTANCE OF MANUFACTURED
12 HOUSING AS AN OPTION FOR MANY HOUSEHOLDS, THE COUNTY SHALL
13 ENCOURAGE THROUGH EITHER ITS MASTER PLAN OR OTHER LAND USE OR
14 PLANNING DOCUMENTS ADOPTED BY THE BOARD OF COUNTY
15 COMMISSIONERS THE PRESERVATION OF EXISTING MOBILE HOME PARKS
16 AND THE DEVELOPMENT OF NEW MANUFACTURED HOME PARKS WITHIN ITS
17 TERRITORIAL BOUNDARIES, INCLUDING INCREASING OPPORTUNITIES FOR
18 MOBILE HOME PARKS THAT ARE OWNED BY THE OWNERS OF HOMES WITHIN
19 THE PARK. WHENEVER AN EXISTING MOBILE HOME PARK IS LOCATED IN A
20 HAZARDOUS AREA, THE COUNTY SHALL MAKE EVERY REASONABLE EFFORT
21 TO REDUCE OR ELIMINATE THE HAZARD, WHEN FEASIBLE, OR TO HELP
22 MITIGATE THE LOSS OF HOUSING THROUGH THE RELOCATION OF AFFECTED
23 HOUSEHOLDS. If a county or region has entered into a regional planning
24 agreement, such agreement may be incorporated by reference into the
25 master plan.

26 **SECTION 7.** In Colorado Revised Statutes, 31-23-206, **amend**
27 (1)(g) as follows:

1 **31-23-206. Master plan.** (1) It is the duty of the commission to
2 make and adopt a master plan for the physical development of the
3 municipality, including any areas outside its boundaries, subject to the
4 approval of the governmental body having jurisdiction thereof, which in
5 the commission's judgment bear relation to the planning of such
6 municipality. The master plan of a municipality shall be an advisory
7 document to guide land development decisions; however, the plan or any
8 part thereof may be made binding by inclusion in the municipality's
9 adopted subdivision, zoning, platting, planned unit development, or other
10 similar land development regulations after satisfying notice, due process,
11 and hearing requirements for legislative or quasi-judicial processes as
12 appropriate. When a commission decides to adopt a master plan, the
13 commission shall conduct public hearings, after notice of such public
14 hearings has been published in a newspaper of general circulation in the
15 municipality in a manner sufficient to notify the public of the time, place,
16 and nature of the public hearing, prior to final adoption of a master plan
17 in order to encourage public participation in and awareness of the
18 development of such plan and shall accept and consider oral and written
19 public comments throughout the process of developing the plan. Such
20 plan, with the accompanying maps, plats, charts, and descriptive matter,
21 shall, after consideration of each of the following, where applicable or
22 appropriate, show the commission's recommendations for the
23 development of said municipality and outlying areas, including:

24 (g) The general character, location, and extent of community
25 centers, housing developments, whether public or private, the existing,
26 proposed, or projected location of residential neighborhoods and
27 sufficient land for future housing development for the existing and

1 projected economic and other needs of all current and anticipated
2 residents of the municipality, and redevelopment areas. RECOGNIZING THE
3 IMPORTANCE OF MANUFACTURED HOUSING AS AN OPTION FOR MANY
4 HOUSEHOLDS, THE MUNICIPALITY SHALL ENCOURAGE THROUGH EITHER ITS
5 MASTER PLAN OR OTHER LAND USE OR PLANNING DOCUMENTS ADOPTED
6 BY THE GOVERNING BODY THE PRESERVATION OF EXISTING MOBILE HOME
7 PARKS AND THE DEVELOPMENT OF NEW MANUFACTURED HOME PARKS
8 WITHIN ITS TERRITORIAL BOUNDARIES, INCLUDING INCREASING
9 OPPORTUNITIES FOR MOBILE HOME PARKS THAT ARE OWNED BY THE
10 OWNERS OF HOMES WITHIN THE PARK. WHENEVER AN EXISTING MOBILE
11 HOME PARK IS LOCATED IN A HAZARDOUS AREA, THE MUNICIPALITY SHALL
12 MAKE EVERY REASONABLE EFFORT TO REDUCE OR ELIMINATE THE
13 HAZARD, WHEN FEASIBLE, OR TO HELP MITIGATE THE LOSS OF HOUSING
14 THROUGH THE RELOCATION OF AFFECTED HOUSEHOLDS. If a municipality
15 has entered into a regional planning agreement, such agreement may be
16 incorporated by reference into the master plan.

17 **SECTION 8. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2018 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.