

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 20-0199.01 Yelana Love x2295

SENATE BILL 20-108

SENATE SPONSORSHIP

Gonzales, Donovan, Fenberg, Foote, Garcia, Hansen, Lee, Moreno, Rodriguez, Story, Todd,
Williams A., Winter

HOUSE SPONSORSHIP

Gonzales-Gutierrez,

Senate Committees
Local Government

House Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION ON A LANDLORD ENGAGING IN CERTAIN**
102 **ACTIVITIES RELATED TO A TENANT'S CITIZENSHIP STATUS.**

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>.)

The bill creates the "Immigrant Tenant Protection Act" (Act), which prohibits a landlord from:

- ! Demanding, requesting, or collecting information regarding or relating to the immigration or citizenship status of a tenant;
- ! Disclosing or threatening to disclose information regarding

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

SENATE
3rd Reading Unamended
February 3, 2020

SENATE
Amended 2nd Reading
January 31, 2020

or relating to the immigration or citizenship status of a tenant to any person, entity, or immigration or law enforcement agency;

- ! Harassing, intimidating, or retaliating against a tenant for exercising the tenant's rights or opposing prohibited conduct;
- ! Interfering with a tenant's rights, including influencing or attempting to influence a tenant to surrender possession of a dwelling unit or to not seek to occupy a dwelling unit based solely or in part on the immigration or citizenship status of the tenant;
- ! Refusing to enter into a lease agreement or approve a subtenancy, or to otherwise preclude a tenant from occupying a dwelling unit, based solely or in part on the immigration or citizenship status of the tenant; and
- ! Bringing an action to recover possession of a dwelling unit based solely or in part on the immigration or citizenship status of a tenant.

The Act is enforceable through a private right of action.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article
 3 12 of title 38 as follows:

4 PART 12

5 IMMIGRANT TENANT PROTECTION ACT

6 **38-12-1201. Short title.** THE SHORT TITLE OF THIS PART 12 IS THE
 7 "IMMIGRANT TENANT PROTECTION ACT".

8 **38-12-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE
 9 CONTEXT OTHERWISE REQUIRES:

10 (1) "DWELLING UNIT" MEANS A ROOM OR SUITE OF ROOMS, A
 11 MOBILE HOME AS DEFINED IN SECTION 38-12-201.5 (2), OR OTHER
 12 RESIDENTIAL REAL ESTATE USED FOR HUMAN HABITATION AND FOR WHICH
 13 A LANDLORD AND A TENANT HAVE A WRITTEN OR ORAL AGREEMENT.

14 (2) "IMMIGRATION OR CITIZENSHIP STATUS" MEANS A PERSON'S

1 ACTUAL OR PERCEIVED IMMIGRATION OR CITIZENSHIP STATUS.

2 (3) (a) "LANDLORD" MEANS THE OWNER, AGENT, LESSOR, OR
3 SUBLESSOR OF A DWELLING UNIT, OR THE BUILDING OF WHICH IT IS PART,
4 AND ANY PERSON AUTHORIZED TO EXERCISE ANY ASPECT OF THE
5 MANAGEMENT OF THE PREMISES, INCLUDING ANY PERSON WHO DIRECTLY
6 OR INDIRECTLY RECEIVES RENTS AND HAS NO OBLIGATION TO DELIVER THE
7 WHOLE OF THE RECEIPTS TO ANOTHER PERSON.

8 (b) "LANDLORD" INCLUDES:

9 (I) THE OWNER OF A MOBILE HOME PARK; AND

10 (II) A SUCCESSOR IN INTEREST TO ANY PERSON LISTED IN
11 SUBSECTION (3)(a) OR (3)(b)(I) OF THIS SECTION.

12 (4) (a) "TENANT" MEANS A PERSON ENTITLED BY WRITTEN OR
13 ORAL AGREEMENT, BY SUBTENANCY APPROVED BY THE LANDLORD OR BY
14 SUFFERANCE, OR BY LAW TO OCCUPY A DWELLING UNIT TO THE EXCLUSION
15 OF OTHERS.

16 (b) "TENANT" INCLUDES A PROSPECTIVE TENANT OR ANY OTHER
17 PERSON SEEKING TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF
18 OTHERS.

19 **38-12-1203. Prohibition on activities related to a tenant's**
20 **immigration or citizenship status.** (1) ON AND AFTER JANUARY 1,
21 2021, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR REQUIRED BY
22 LAW OR COURT ORDER, A LANDLORD SHALL NOT:

23 (a) DEMAND, REQUEST, OR COLLECT INFORMATION REGARDING OR
24 RELATING TO THE IMMIGRATION OR CITIZENSHIP STATUS OF A TENANT;
25 EXCEPT THAT A LANDLORD THAT IS ALSO THE TENANT'S EMPLOYER MAY
26 LAWFULLY COLLECT INFORMATION REQUIRED TO COMPLETE ANY
27 EMPLOYMENT FORM REQUIRED BY STATE OR FEDERAL LAW;

1 (b) DISCLOSE OR THREATEN TO DISCLOSE INFORMATION
2 REGARDING OR RELATING TO THE IMMIGRATION OR CITIZENSHIP STATUS
3 OF A TENANT TO ANY PERSON, ENTITY, OR IMMIGRATION OR LAW
4 ENFORCEMENT AGENCY;

5 (c) HARASS OR INTIMIDATE A TENANT OR RETALIATE AGAINST A
6 TENANT FOR:

7 (I) EXERCISING THE TENANT'S RIGHTS UNDER THIS PART 12; OR

8 (II) OPPOSING ANY CONDUCT PROHIBITED BY THIS PART 12;

9 (d) INTERFERE WITH A TENANT'S RIGHTS UNDER THIS PART 12,
10 INCLUDING INFLUENCING OR ATTEMPTING TO INFLUENCE A TENANT TO
11 SURRENDER POSSESSION OF A DWELLING UNIT OR TO NOT SEEK TO OCCUPY
12 A DWELLING UNIT BASED SOLELY OR IN PART ON THE IMMIGRATION OR
13 CITIZENSHIP STATUS OF THE TENANT;

14 (e) REFUSE TO ENTER INTO A LEASE AGREEMENT OR TO APPROVE
15 A SUBTENANCY, OR TO OTHERWISE PRECLUDE A TENANT FROM OCCUPYING
16 A DWELLING UNIT, BASED SOLELY OR IN PART ON THE IMMIGRATION OR
17 CITIZENSHIP STATUS OF THE TENANT; OR

18 (f) BRING AN ACTION TO RECOVER POSSESSION OF A DWELLING
19 UNIT BASED SOLELY OR IN PART ON THE IMMIGRATION OR CITIZENSHIP
20 STATUS OF A TENANT.

21 **38-12-1204. Authorized conduct.** (1) SECTION 38-12-1203 DOES
22 NOT PROHIBIT A LANDLORD FROM:

23 (a) COMPLYING WITH ANY LEGAL OBLIGATION UNDER FEDERAL,
24 STATE, OR LOCAL LAW, INCLUDING ANY LEGAL OBLIGATION UNDER A
25 GOVERNMENT PROGRAM OR PURSUANT TO THE CONDITION OF
26 GOVERNMENT FUNDING, IF THE GOVERNMENT PROGRAM OR GOVERNMENT
27 FUNDING PROVIDES RENT LIMITATIONS OR RENTAL ASSISTANCE TO A _____

1 TENANT, A SUBPOENA, A WARRANT, OR A COURT ORDER OF ANY KIND;

2 (b) REQUESTING INFORMATION OR DOCUMENTATION NECESSARY
3 TO DETERMINE OR VERIFY THE FINANCIAL QUALIFICATIONS OF A
4 PROSPECTIVE TENANT; OR

5 (c) DELIVERING TO THE TENANT AN ORAL OR WRITTEN NOTICE
6 REGARDING CONDUCT BY THE TENANT THAT VIOLATES OR MAY VIOLATE
7 ANY APPLICABLE LEASE AGREEMENT OR LAW.

8 (2) SECTION 38-12-1203 DOES NOT ENLARGE OR DIMINISH A
9 LANDLORD'S RIGHT TO TERMINATE A TENANCY PURSUANT TO EXISTING
10 STATE OR LOCAL LAW OR THE ABILITY OF A UNIT OF FEDERAL, STATE, OR
11 LOCAL GOVERNMENT TO REGULATE OR ENFORCE A PROHIBITION AGAINST
12 A LANDLORD'S HARASSMENT OF A TENANT.

13 (3) NOTHING IN THIS PART 12:

14 (a) PREVENTS A LANDLORD FROM SEEKING TO COLLECT RENT DUE
15 UNDER THE LEASE AGREEMENT; OR

16 (b) PERMITS A LANDLORD TO VIOLATE SECTION 8-2-130.

17 (4) ANY WAIVER OF A RIGHT UNDER THIS PART 12 BY A TENANT IS
18 VOID AS A MATTER OF PUBLIC POLICY.

19 **38-12-1205. Remedies.** (1) IF A LANDLORD ENGAGES IN
20 PROHIBITED CONDUCT DESCRIBED IN SECTION 38-12-1203 AGAINST A
21 TENANT, THE TENANT MAY BRING A CIVIL ACTION TO SEEK ANY ONE OR
22 MORE OF THE FOLLOWING REMEDIES:

23 (a) COMPENSATORY DAMAGES FOR INJURY OR LOSS SUFFERED;

24 (b) A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TWO
25 THOUSAND DOLLARS FOR EACH VIOLATION, PAYABLE TO THE TENANT;

26 (c) COSTS, INCLUDING REASONABLE ATTORNEY FEES; AND

27 (d) OTHER EQUITABLE RELIEF THE COURT FINDS APPROPRIATE.

1 (2) NOTHING IN THIS PART 12 RENDERS THE IMMIGRATION OR
2 CITIZENSHIP STATUS OF A TENANT RELEVANT TO ANY ISSUE OF LIABILITY
3 OR REMEDY IN A CIVIL ACTION INVOLVING A TENANT'S HOUSING RIGHTS.
4 IN PROCEEDINGS OR DISCOVERY UNDERTAKEN IN A CIVIL ACTION
5 INVOLVING A TENANT'S HOUSING RIGHTS, NO INQUIRY SHALL BE
6 PERMITTED INTO THE TENANT'S IMMIGRATION OR CITIZENSHIP STATUS
7 UNLESS:

8 (a) THE CLAIMS OR DEFENSES RAISED BY THE TENANT PLACE THE
9 TENANT'S IMMIGRATION OR CITIZENSHIP STATUS DIRECTLY IN
10 CONTENTION; OR

11 (b) THE PERSON SEEKING TO MAKE THE INQUIRY DEMONSTRATES
12 BY CLEAR AND CONVINCING EVIDENCE THAT THE INQUIRY IS NECESSARY
13 IN ORDER TO COMPLY WITH FEDERAL LAW.

14 (3) IF A CIVIL ACTION IS COMMENCED PURSUANT TO THIS SECTION,
15 ANY PARTY TO THE CIVIL ACTION MAY DEMAND A TRIAL BY JURY.

16 **SECTION 2. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
18 the expiration of the ninety-day period after final adjournment of the
19 general assembly (August 5, 2020, if adjournment sine die is on May 6,
20 2020); except that, if a referendum petition is filed pursuant to section 1
21 (3) of article V of the state constitution against this act or an item, section,
22 or part of this act within such period, then the act, item, section, or part
23 will not take effect unless approved by the people at the general election
24 to be held in November 2020 and, in such case, will take effect on the
25 date of the official declaration of the vote thereon by the governor.

26 (2) This act applies to conduct occurring on and after the
27 applicable effective date of this act.