

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0614.01 Jane Ritter x4342

SENATE BILL 21-173

SENATE SPONSORSHIP

Gonzales and Moreno, Fenberg, Kolker, Pettersen, Story, Winter

HOUSE SPONSORSHIP

Caraveo and Gonzales-Gutierrez, Duran, Jackson, Lontine, Michaelson Jenet, Roberts,
Sirota, Woodrow

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING RIGHTS RELATED TO RESIDENTIAL RENTAL**
102 **AGREEMENTS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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 addresses the following items related to landlord and tenant rights in residential rental agreements:

- When a landlord removes or excludes a tenant from a dwelling without resorting to proper court procedures, it is an unfair or deceptive trade practice for the purposes of the

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
Amended 2nd Reading
April 13, 2021

- "Colorado Consumer Protection Act";
- After a complaint is filed by a landlord, the clerk of the court or the attorney for the plaintiff shall issue a summons, including information concerning filing an answer and legal aid. A court shall not enter a default writ of restitution before the close of business on the date upon which an appearance is due.
- Provides additional details regarding the defendant's answer, including that a defendant does not waive any defense related to proper notice by filing an answer; that the court shall set a date for trial no sooner than 7 days after the answer is filed, unless the defendant agrees to waive this provision and schedule the trial for an earlier date; and in the time after an answer is filed and before a trial occurs, the court shall order that the landlord provide any documentation related to the tenancy or the current action that the defendant requests;
- Repeals language requiring the defendant, in an appeal from a judgment of a county court, to deposit with the court the amount of rent found due;
- When a court has issued a writ of restitution in a residential forcible entry and wrongful detainer (FED) proceeding, a tenant may pay any rent that is still owed to the landlord at any point up to 48 hours after a court has ordered a writ of restitution;
- Eliminates the bond requirement for the warranty of habitability and allows the tenant to assert an alleged breach of the warranty of habitability as an affirmative defense;
- Establishes allowable court procedures and remedies in cases of an alleged breach of warranty of habitability;
- Bans liquidated damage clauses that assign a cost to a party stemming from a rental violation or an eviction action;
- Prohibits rental agreements that contain one-way fee-shifting clauses that award attorney fees and court costs only to one party; and
- Guarantees parties to a residential FED dispute the right to a trial by jury.

The bill prohibits a landlord of a mobile home park or a residential premises (landlord) from:

- Charging a tenant or mobile home owner (tenant) a late fee for late payment of rent unless the rent payment is late by at least 14 calendar days;
- Charging a tenant a late fee in an amount that exceeds the greater of:

- \$20; or
- 2.5% of the amount of the rent obligation that remains past due;
- Requiring a tenant to pay a late fee unless the late fee is disclosed in the rental agreement;
- Removing, excluding, or initiating eviction procedures against a tenant solely as a result of the tenant's failure to pay one or more late fees;
- Terminating a tenancy or other estate at will or a lease in a mobile home park because the tenant fails to pay one or more late fees to the landlord;
- Imposing a late fee on a tenant for the late payment or nonpayment of any portion of the rent that a rent subsidy provider, rather than the tenant, is responsible for paying;
- Imposing a late fee more than once for each late payment;
- Requiring a tenant to pay interest on late fees;
- Recouping any amount of a late fee from a rent payment made by a tenant; or
- Charging a tenant a late fee unless the landlord provided the tenant written notice of the late fee within 180 days after the date upon which the rent payment was due.

A landlord who commits a violation must pay a \$20 penalty to an aggrieved tenant for each violation. Otherwise, a landlord who commits a violation has 7 days to cure the violation, which 7 days begins when the landlord receives notice of the violation. If a landlord fails to timely cure a violation, the tenant may bring a civil action to seek one or more of the following remedies:

- Compensatory damages for injury or loss suffered;
- A penalty of at least \$500 but not more than \$2,000 for each violation, payable to the tenant;
- Costs, including reasonable attorney fees if the tenant is the prevailing party; and
- Other equitable relief the court finds appropriate.

The attorney general may investigate and prosecute alleged violations. A violation that is not timely cured or that was committed by a landlord in bad faith is an unfair or deceptive trade practice for the purposes of the "Colorado Consumer Protection Act".

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

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add**
 3 (1)(nnn) and (1)(ooo) as follows:

4 **6-1-105. Unfair or deceptive trade practices.** (1) A person

1 engages in a deceptive trade practice when, in the course of the person's
2 business, vocation, or occupation, the person:

3 (nnn) VIOLATES SECTION 38-12-510; OR

4 (ooo) VIOLATES SECTION 38-12-105.

5 **SECTION 2.** In Colorado Revised Statutes, 13-40-111, **amend**
6 (1); and **add** (5) and (6) as follows:

7 **13-40-111. Issuance and return of summons.** (1) Upon filing
8 the complaint as ~~provided~~ REQUIRED in section 13-40-110, the clerk of the
9 court or the attorney for the plaintiff shall issue a summons. The
10 summons ~~shall~~ MUST command the defendant to appear before the court
11 at a place named in ~~such~~ THE summons and at a time and on a day ~~which~~
12 ~~shall be~~ not less than seven days ~~nor~~ BUT NOT more than fourteen days
13 from the day of issuing the same to answer the complaint of plaintiff. A
14 COURT SHALL NOT ENTER A DEFAULT JUDGMENT FOR POSSESSION BEFORE
15 THE CLOSE OF BUSINESS ON THE DATE UPON WHICH AN APPEARANCE IS
16 DUE. The summons ~~shall~~ MUST also contain a statement addressed to the
17 defendant stating: "If you fail to file with the court, at or before the time
18 for appearance specified in the summons, an answer to the complaint
19 setting forth the grounds upon which you base your claim for possession
20 and denying or admitting all of the material allegations of the complaint,
21 judgment by default may be taken against you for the possession of the
22 property described in the complaint, for the rent, if any, due or to become
23 due, for present and future damages and costs, and for any other relief to
24 which the plaintiff is entitled." ~~If you are claiming that the landlord's~~
25 ~~failure to repair the residential premises is a defense to the landlord's~~
26 ~~allegation of nonpayment of rent, the court will require you to pay into the~~
27 ~~registry of the court, at the time of filing your answer, the rent due less~~

1 any expenses you have incurred based upon the landlord's failure to repair
2 the residential premises."

3 (5) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO
4 CONTAIN A LIST OF AVAILABLE RESOURCES WITH A WEBSITE LINK AND
5 PHONE NUMBER FOR RESIDENTIAL TENANTS TO OBTAIN CIVIL LEGAL AID
6 AND RENTAL ASSISTANCE. THE DEPARTMENT OF LOCAL AFFAIRS SHALL
7 MAKE AVAILABLE AND KEEP CURRENT THE LIST OF RESOURCES
8 AVAILABLE. LOCAL GOVERNMENT ENTITIES MAY ALSO PROVIDE OR
9 SUPPLEMENT THE LIST OF RESOURCES AND PROVIDE SUCH RESOURCES TO
10 THE DEPARTMENT OF LOCAL AFFAIRS FOR PUBLICATION ON ITS WEBSITE.

11 (6) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO
12 CONTAIN:

13 (a) A COPY OF A BLANK ANSWER FORM REQUIRED PURSUANT TO
14 SECTION 13-40-113; AND

15 (b) A FORM THAT ALLOWS THE DEFENDANT TO REQUEST ALL
16 DOCUMENTS IN THE LANDLORD'S AND TENANT'S POSSESSION RELEVANT TO
17 THE CURRENT ACTION.

18 **SECTION 3.** In Colorado Revised Statutes, **amend** 13-40-113 as
19 follows:

20 **13-40-113. Answer of defendant - additional and amended**
21 **pleadings.** (1) The defendant shall file with the court, at or before the
22 time DAY specified for ~~his~~ THE DEFENDANT'S appearance in the summons,
23 an answer in writing. ~~setting~~ THE DEFENDANT'S ANSWER MUST SET forth
24 the grounds on which ~~he~~ THE DEFENDANT bases ~~his~~ THE DEFENDANT'S
25 claim for possession, ~~and~~ admitting or denying all of the material
26 allegations of the complaint, and presenting every defense which then
27 exists and upon which ~~he~~ THE DEFENDANT intends to rely, either by

1 including the same in ~~his~~ THE DEFENDANT'S answer or by ~~filing~~
2 ~~simultaneously therewith~~ SIMULTANEOUSLY FILING motions setting forth
3 every such defense.

4 (2) The court for good cause may permit the filing of additional
5 and amended pleadings ~~where such~~ IF IT will not result in A delay
6 prejudicial to the defendant.

7 (3) A DEFENDANT DOES NOT WAIVE ANY DEFENSE RELATED TO
8 PROPER NOTICE BY FILING AN ANSWER PURSUANT TO THIS SECTION. A
9 DEFENDANT CAN RAISE A DEFENSE RELATED TO PROPER NOTICE IN THE
10 DEFENDANT'S ANSWER OR BY FILING A MOTION PREHEARING. A
11 DEFENDANT CANNOT RAISE THIS DEFENSE FOR THE FIRST TIME AT THE
12 HEARING IF THE DEFENDANT FAILED TO RAISE IT IN THE DEFENDANT'S
13 ANSWER OR IN A PREHEARING MOTION.

14 (4) AFTER AN ANSWER IS PROVIDED TO THE COURT PURSUANT TO
15 THIS SECTION:

16 (a) THE COURT SHALL SET A DATE FOR TRIAL NO SOONER THAN
17 SEVEN, BUT NOT MORE THAN TEN, DAYS AFTER THE ANSWER IS FILED,
18 UNLESS THE DEFENDANT REQUESTS A WAIVER OF THIS REQUIREMENT IN
19 THE DEFENDANT'S ANSWER OR AFTER FILING AN ANSWER; EXCEPT THAT A
20 COURT WITH A DOCKET THAT IS IMPACTED BY THE COVID-19 PUBLIC
21 HEALTH EMERGENCY IS NOT REQUIRED TO COMPLY WITH THIS TIME FRAME.
22 THE REQUIREMENT SET FORTH IN THIS SUBSECTION (4)(a) DOES NOT APPLY
23 TO A FORCIBLE ENTRY AND DETAINER PETITION THAT ALLEGES A
24 SUBSTANTIAL VIOLATION, AS DEFINED IN SECTION 13-40-107.5 (3), OR
25 TERMINATES A TENANCY PURSUANT TO SECTION 38-12-203 (1)(f).

26 (b) IN THE TIME AFTER AN ANSWER IS FILED AND BEFORE A TRIAL
27 OCCURS, THE COURT SHALL ORDER THAT THE LANDLORD OR TENANT

1 PROVIDE ANY DOCUMENTATION RELEVANT TO THE CURRENT ACTION THAT
2 EITHER PARTY REQUESTS PURSUANT TO SECTION 13-40-111 (6)(b).

3 **SECTION 4.** In Colorado Revised Statutes, 13-40-115, **amend**
4 (2); and **add** (4) and (5) as follows:

5 **13-40-115. Judgment - writ of restitution - right to trial by**
6 **jury - cure period.** (2) == Upon ~~such~~ A trial or further hearing ~~under this~~
7 ~~article~~ PURSUANT TO THIS ARTICLE 40 after personal service ~~is had~~ HAS
8 BEEN MADE upon the defendant in accordance with section 13-40-112 (1),
9 if the court or jury has not already tried the issue of unlawful detainer, it
10 may do so. ~~and, if it~~ IF THE COURT finds that the defendant has committed
11 an unlawful detainer, the court shall enter judgment for the plaintiff to
12 have restitution of the premises and shall issue a writ of restitution. In
13 addition to ~~such~~ THE judgment for restitution, the court or jury shall
14 further find the amount of rent, if any, due to the plaintiff from the
15 defendant at the time of trial; the amount of damages, if any, sustained by
16 the plaintiff to the time of the trial on account of the unlawful detention
17 of the property by the defendant; and damages sustained by the plaintiff
18 to the time of trial on account of injuries to the property. ~~and judgment~~
19 THE COURT shall enter JUDGMENT for such amounts, together with ANY
20 reasonable ~~attorney's~~ ATTORNEY fees and costs ~~upon which judgment~~
21 ~~execution shall issue~~ as in other civil actions. ~~Nothing in~~ This section
22 ~~shall be construed to~~ DOES NOT permit the entry of judgment in excess of
23 the COURT'S jurisdictional limit. ~~of the court.~~

24

==

25 (4) A LANDLORD WHO PROVIDES A TENANT WITH PROPER NOTICE
26 OF NONPAYMENT SHALL ACCEPT PAYMENT OF THE TENANT'S FULL
27 PAYMENT OF ALL AMOUNTS DUE ACCORDING TO THE NOTICE, AS WELL AS

1 ANY RENT THAT REMAINS DUE UNDER THE RENTAL AGREEMENT, AT ANY
2 TIME UNTIL A JUDGE ISSUES A JUDGMENT FOR POSSESSION PURSUANT TO
3 SUBSECTION (1) OR (2) OF THIS SECTION. A TENANT MAY PAY THIS
4 AMOUNT TO EITHER THE LANDLORD OR TO THE COURT. ONCE A COURT HAS
5 CONFIRMATION THAT THE FULL AMOUNT HAS BEEN TIMELY PAID, THE
6 COURT SHALL:

7 (a) VACATE ANY JUDGMENTS THAT HAVE BEEN ISSUED; AND

8 (b) DISMISS THE ACTION WITH PREJUDICE.

9 (5) THE RIGHTS PROVIDED IN SUBSECTION (4) OF THIS SECTION
10 MAY NOT BE WAIVED BY ANY WRITTEN AGREEMENT.

11 **SECTION 5.** In Colorado Revised Statutes, 13-40-117, **amend**
12 (3) as follows:

13 **13-40-117. Appeals.** (3) If the appellee believes that ~~he~~ THE
14 APPELLEE may suffer serious economic harm during the pendency of the
15 appeal, ~~he~~ THE APPELLEE may petition the court taking the appeal to ~~order~~
16 ~~that an~~ REQUIRE THE APPELLANT TO HAVE AN additional undertaking ~~be~~
17 ~~required of the appellant~~ to cover the anticipated harm. The court shall
18 order such undertaking only after a hearing and upon a finding that the
19 appellee has shown a substantial likelihood of suffering such economic
20 harm during the pendency of the appeal and that ~~he~~ THE APPELLEE will not
21 BE adequately ~~be~~ protected under the appeals bond and the other
22 requirements for appeal pursuant to sections ~~13-40-118~~, 13-40-120 and
23 13-40-123.

24

25 **SECTION 6.** In Colorado Revised Statutes, **amend** 13-40-118 as
26 follows:

27 **13-40-118. Deposit of rent.** (1) In all appeals from the judgment

1 of a county court, in an action founded upon section 13-40-104 (1)(d), the
2 defendant, at the time of the filing thereof, shall deposit with the court the
3 amount of rent found due and specified in such THE judgment. Unless
4 such THE deposit is made, the appeal is not perfected, and proceedings
5 upon such THE judgment shall thereupon MUST be had accordingly. If the
6 appeal is perfected, the court shall transmit such THE deposit to the clerk
7 of the appellate court, with the papers in such THE case; and the appellant
8 thereafter, at the time when the rents become due as specified in the
9 judgment appealed from and as often as the same become due, shall
10 deposit the amount thereof with the clerk of such THE appellate court. In
11 case the appellant, at any time during the pendency of such THE appeal
12 and before final judgment therein, neglects or fails to make any deposit
13 of rent, falling due at the time specified in the judgment appealed from,
14 the court in which such appeal is pending, upon such fact being made to
15 appear and upon motion of the appellee, shall affirm the judgment
16 appealed from with costs; and proceedings thereupon shall MUST be had
17 as in like cases determined upon the merits.

18 (2) A DEPOSIT SHALL NOT BE REQUIRED TO PERFECT AN APPEAL IF
19 A COUNTY, DISTRICT, OR APPEALS COURT IS SATISFIED THAT THE
20 DEFENDANT IS UNABLE TO DEPOSIT THE AMOUNT OF RENT SPECIFIED IN
21 THE JUDGMENT BECAUSE THE DEFENDANT IS FOUND TO BE INDIGENT
22 PURSUANT TO SECTION 13-16-103. UPON A FINDING OF INDIGENCY AND
23 THE FILING OF THE PROPER APPEAL DOCUMENTS PURSUANT TO THE
24 COLORADO APPELLATE RULES, THE APPEAL WILL BE PERFECTED AND A
25 JUDGMENT CANNOT BE EXECUTED.

26 **SECTION 7.** In Colorado Revised Statutes, **amend** 13-40-120 as
27 follows:

1 **13-40-120. Appellate review.** Appellate review of the judgment
2 of the district courts of this state, in proceedings ~~under this article~~
3 PURSUANT TO THIS ARTICLE 40, is allowed as provided by law and the
4 Colorado appellate rules. ~~In cases of appeal from judgments founded~~
5 ~~upon causes of action embraced in section 13-40-104 (1)(d), the deposit~~
6 ~~of rent money during pendency of appeal shall be made, or judgment of~~
7 ~~affirmance shall be entered, in the manner provided in section 13-40-118.~~

8 **SECTION 8.** In Colorado Revised Statutes, 13-54-102, **amend**
9 (1)(r) as follows:

10 **13-54-102. Property exempt - definitions - repeal.** (1) The
11 following property is exempt from levy and sale under writ of attachment
12 or writ of execution:

13 (r) For purposes of garnishment proceedings pursuant to ~~the~~
14 ~~provisions of~~ article 54.5 of this ~~title~~ TITLE 13, any amount held by a third
15 party as a security deposit, as defined in ~~section 38-12-102 (2), C.R.S.~~
16 SECTION 38-12-102 (7), or any amount held by a third party as a utility
17 deposit to secure payment for utility goods or services used or consumed
18 by the debtor or ~~his~~ THE DEBTOR'S dependents;

19 **SECTION 9.** In Colorado Revised Statutes, **amend** 38-12-101 as
20 follows:

21 **38-12-101. Legislative declaration.** ~~The provisions of~~ This part
22 1 shall be liberally construed to implement the intent of the general
23 assembly to ~~insure~~ ENSURE the proper administration of security deposits
24 AND LATE FEES and protect the interests of tenants, MOBILE HOME
25 OWNERS, and landlords.

26 **SECTION 10.** In Colorado Revised Statutes, **amend** 38-12-102
27 as follows:

1 **38-12-102. Definitions.** As used in this part 1, unless the context
2 otherwise requires:

3 (1) "EXEMPT RESIDENTIAL AGREEMENT" MEANS A RESIDENTIAL
4 AGREEMENT LEASING A SINGLE-FAMILY HOME BY A LANDLORD WHO OWNS
5 FIVE OR FEWER SINGLE-FAMILY RENTAL HOMES.

6 (2) "HOME OWNER" HAS THE MEANING SET FORTH IN SECTION
7 38-12-201.5 (2).

8 (3) "LANDLORD" MEANS A LANDLORD, AS DEFINED IN SECTION
9 38-12-502 (5), OR THE MANAGEMENT OR LANDLORD OF A MOBILE HOME
10 PARK, AS DEFINED IN SECTION 38-12-201.5 (3).

11 (4) "LATE FEE" MEANS A MONETARY SUM THAT A LANDLORD
12 CHARGES A TENANT OR HOME OWNER AS A RESULT OF THE TENANT'S OR
13 HOME OWNER'S FAILURE TO TIMELY PAY RENT AND THAT IS DETERMINED
14 PURSUANT TO A RENTAL AGREEMENT BETWEEN THE LANDLORD AND THE
15 TENANT OR HOME OWNER.

16 ~~(+)~~ (5) "Normal wear and tear" means that deterioration which
17 THAT occurs, based upon the use for which ~~the~~ A rental unit OR MOBILE
18 HOME SPACE, AS DEFINED IN SECTION 38-12-201.5(7), is intended, without
19 negligence, carelessness, accident, or abuse of the premises or equipment
20 or chattels by the tenant OR HOME OWNER or members of ~~his~~ THE
21 TENANT'S OR HOME OWNER'S household, or their invitees or guests.

22 (6) "RENT SUBSIDY PROVIDER" MEANS A PUBLIC OR PRIVATE
23 ENTITY, INCLUDING A PUBLIC HOUSING AUTHORITY, THAT PROVIDES
24 ONGOING FINANCIAL ASSISTANCE TO A LANDLORD FOR THE PURPOSE OF
25 SUBSIDIZING RENT.

26 ~~(2)~~ (7) "Security deposit" means any advance or deposit of money,
27 regardless of its denomination, the primary function of which is to secure

1 the performance of a rental agreement for A residential premises or any
2 part thereof OF A RESIDENTIAL PREMISES.

3 (8) "TENANT" HAS THE MEANING SET FORTH IN SECTION 38-12-502
4 (9).

5 **SECTION 11.** In Colorado Revised Statutes, **add** 38-12-105 as
6 follows:

7 **38-12-105. Late fees charged to tenants and mobile home**
8 **owners - maximum late fee amounts - prohibited acts - penalties -**
9 **period to cure violations - remedies - unfair or deceptive trade**
10 **practice.** (1) A LANDLORD SHALL NOT TAKE ANY OF THE FOLLOWING
11 ACTIONS OR DIRECT ANY AGENT TO TAKE ANY OF THE FOLLOWING ACTIONS
12 ON THE LANDLORD'S BEHALF:

13 (a) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS A
14 RENT PAYMENT IS LATE BY AT LEAST SEVEN CALENDAR DAYS. A LENDER
15 SHALL ALLOW THE LANDLORD THE SAME PERIOD OF TIME TO MAKE A
16 PAYMENT ON THE MORTGAGE FOR THE PROPERTY BEFORE IMPOSING A
17 LATE FEE ON THE MORTGAGE PAYMENT.

18 (b) CHARGE A TENANT OR HOME OWNER A LATE FEE IN AN AMOUNT
19 THAT EXCEEDS THE GREATER OF:

20 (I) FIFTY DOLLARS; OR

21 (II) FIVE PERCENT OF THE AMOUNT OF THE PAST DUE RENT
22 PAYMENT;

23 (c) REQUIRE A TENANT OR HOME OWNER TO PAY A LATE FEE
24 UNLESS THE LATE FEE IS DISCLOSED IN THE RENTAL AGREEMENT;

25 (d) REMOVE OR EXCLUDE A TENANT FROM A DWELLING OR
26 INITIATE A COURT PROCESS FOR THE REMOVAL OR EXCLUSION OF A
27 TENANT FROM A DWELLING BECAUSE THE TENANT FAILS TO PAY ONE OR

1 MORE LATE FEES TO THE LANDLORD;

2 (e) TERMINATE A TENANCY OR OTHER ESTATE AT WILL OR A LEASE
3 IN A MOBILE HOME PARK BECAUSE A TENANT OR HOME OWNER FAILS TO
4 PAY ONE OR MORE LATE FEES TO THE LANDLORD;

5 (f) IMPOSE A LATE FEE ON A TENANT OR HOME OWNER FOR THE
6 LATE PAYMENT OR NONPAYMENT OF ANY PORTION OF THE RENT THAT A
7 RENT SUBSIDY PROVIDER, RATHER THAN THE TENANT OR HOME OWNER, IS
8 RESPONSIBLE FOR PAYING;

9 (g) IMPOSE A LATE FEE MORE THAN ONCE FOR EACH LATE
10 PAYMENT, EXCEPT THAT A LANDLORD MAY IMPOSE A LATE FEE MORE THAN
11 ONCE FOR A LATE PAYMENT IF THE TOTAL AMOUNT OF SUCH LATE FEES
12 DOES NOT EXCEED THE AMOUNT DESCRIBED IN SUBSECTION (1)(b) OF THIS
13 SECTION;

14 (h) REQUIRE A TENANT OR HOME OWNER TO PAY ANY AMOUNT OF
15 INTEREST ON A LATE FEE;

16 (i) RECOUP ANY AMOUNT OF A LATE FEE FROM A RENT PAYMENT
17 MADE TO THE LANDLORD BY A TENANT OR HOME OWNER; OR

18 (j) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS THE
19 LANDLORD PROVIDED THE TENANT OR HOME OWNER WRITTEN NOTICE OF
20 THE LATE FEE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE UPON
21 WHICH THE RENT PAYMENT WAS DUE.

22 (2) A PROVISION OF A LEASE OF A LANDLORD OR PERSON ACTING
23 ON BEHALF OF A LANDLORD THAT DOES NOT COMPLY WITH THE
24 PROVISIONS OF SUBSECTION (1) OF THIS SECTION IS VOID AND
25 UNENFORCEABLE. A TENANT WHO IS AGGRIEVED BY AN ACTION TAKEN BY
26 A LANDLORD OR PERSON ACTING ON BEHALF OF THE LANDLORD IN
27 VIOLATION OF SUBSECTION (1) OF THIS SECTION MAY BRING AN ACTION

1 FOR INJUNCTIVE RELIEF PURSUANT TO SUBSECTION (5) OF THIS SECTION.

2 (3) A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION
3 SHALL PAY TO AN AGGRIEVED TENANT OR HOME OWNER A PENALTY IN THE
4 AMOUNT OF FIFTY DOLLARS FOR EACH VIOLATION.

5 (4) EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION,
6 AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE
7 CONTRARY, A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION
8 HAS SEVEN DAYS TO CURE THE VIOLATION, WHICH SEVEN DAYS BEGINS
9 WHEN THE LANDLORD RECEIVES WRITTEN OR ELECTRONIC NOTICE OF THE
10 VIOLATION.

11 (5) IF A LANDLORD VIOLATES SUBSECTION (1) OF THIS SECTION
12 AND FAILS TO TIMELY CURE THE VIOLATION AS DESCRIBED IN SUBSECTION
13 (4) OF THIS SECTION, A TENANT OR HOME OWNER MAY BRING A CIVIL
14 ACTION TO SEEK ONE OR MORE OF THE FOLLOWING REMEDIES:

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

16 (b) A PENALTY OF AT LEAST ONE HUNDRED FIFTY DOLLARS BUT
17 NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION, PAYABLE
18 TO THE TENANT OR HOME OWNER;

19 (c) COSTS, INCLUDING REASONABLE ATTORNEY FEES TO THE
20 PREVAILING PARTY; AND

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

22 (6) A TENANT OR HOME OWNER MAY RAISE AN ALLEGED
23 VIOLATION OF THIS SECTION AS AN AFFIRMATIVE DEFENSE IN A FORCIBLE
24 ENTRY AND DETAINER PROCEEDING.

25 (7) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE
26 ALLEGED VIOLATIONS OF SUBSECTION (1) OF THIS SECTION. A VIOLATION
27 OF SUBSECTION (1) OF THIS SECTION THAT IS NOT CURED WITHIN THE

1 PERIOD DESCRIBED IN SUBSECTION (4) OF THIS SECTION OR THAT WAS
2 COMMITTED BY THE LANDLORD IN BAD FAITH IS AN UNFAIR OR DECEPTIVE
3 TRADE PRACTICE FOR THE PURPOSES OF THE "COLORADO CONSUMER
4 PROTECTION ACT", ARTICLE 1 OF TITLE 6, AS DESCRIBED IN SECTION
5 6-1-105 (1)(nnn).

6 (8) A LATE FEE IS DISTINCT FROM RENT, AND A RENTAL
7 AGREEMENT MAY NOT CLASSIFY A LATE FEE AS RENT FOR THE PURPOSES
8 OF SECTION 13-40-104 (1)(d).

9 (9) THIS SECTION DOES NOT APPLY TO EXEMPT RESIDENTIAL
10 AGREEMENTS.

11 **SECTION 12.** In Colorado Revised Statutes, 38-12-201.5,
12 **amend** the introductory portion, (1)(d), and (1)(e); and **add** (1)(f) and
13 (2.5) as follows:

14 **38-12-201.5. Definitions.** As used in this part 2 and in part 11 of
15 this ~~title 38~~ ARTICLE 12, unless the context otherwise requires:

16 (1) "Entry fee" means any fee paid to or received from an owner
17 of a mobile home park or an agent thereof except for:

18 (d) Utilities; ~~and~~

19 (e) Incidental reasonable charges for services actually performed
20 by the mobile home park owner or the ~~home~~ MOBILE HOME PARK owner's
21 agent and agreed to in writing by the home owner; AND

22 (f) LATE FEES.

23 (2.5) "LATE FEE" HAS THE MEANING SET FORTH IN SECTION
24 38-12-102 (4).

25 **SECTION 13.** In Colorado Revised Statutes, 38-12-213, **amend**
26 (1) introductory portion, (1)(c), (1)(e), and (1)(f) as follows:

27 **38-12-213. Rental agreement - disclosure of terms in writing.**

1 (1) The MANAGEMENT SHALL ADEQUATELY DISCLOSE THE terms and
2 conditions of a tenancy ~~must be adequately disclosed~~ in writing in a rental
3 agreement ~~by the management~~ to any prospective home owner ~~prior to~~
4 BEFORE the rental or occupancy of a mobile home space or lot. ~~Said~~ THE
5 disclosures ~~shall~~ MUST include:

6 (c) The day when unpaid rent ~~shall be~~ IS considered in default FOR
7 THE PURPOSE OF ESTABLISHING A LATE FEE, WHICH DAY MAY NOT BE LESS
8 THAN TEN CALENDAR DAYS AFTER THE DAY RENT IS DUE AND PAYABLE;

9 (e) The name and mailing address where a manager's decision can
10 be appealed; AND

11 (f) All charges to the home owner other than rent, INCLUDING
12 LATE FEES.

13 **SECTION 14.** In Colorado Revised Statutes, **amend** 38-12-220
14 as follows:

15 **38-12-220. Private civil right of action.** ~~Any~~ A home owner ~~who~~
16 ~~owns a home~~ in a ~~mobile home~~ park where the landlord has violated any
17 provision of this ~~article shall have~~ ARTICLE 12 HAS a private civil right of
18 action against the landlord. In any such action, EXCEPT AS DESCRIBED IN
19 SECTION 38-12-105 (4), the home owner ~~shall be~~ IS entitled to actual
20 economic damages and reasonable attorney fees and costs if the home
21 owner is successful in the action.

22 **SECTION 15.** In Colorado Revised Statutes, 38-12-507, **amend**
23 (1)(c) and (1)(d); and **add** (1)(d.5) as follows:

24 **38-12-507. Breach of warranty of habitability - tenant's**
25 **remedies.** (1) If there is a breach of the warranty of habitability as set
26 forth in section 38-12-503 (2):

27 (c) In an action for possession OR COLLECTION based upon

1 nonpayment of rent, ~~in which the tenant asserts a defense to possession~~
2 ~~based upon the landlord's alleged breach of the warranty of habitability,~~
3 upon the filing of the tenant's answer the court shall order the tenant to
4 pay into the registry of the court all or part of the rent accrued after due
5 consideration of expenses already incurred by the tenant based upon the
6 landlord's breach of the warranty of habitability. THE TENANT MAY
7 ASSERT, AS AN AFFIRMATIVE DEFENSE, AN ALLEGED BREACH OF THE
8 WARRANTY OF HABITABILITY, PROVIDED THAT THE LANDLORD OR ANY
9 AGENT ACTING ON BEHALF OF THE LANDLORD HAS PREVIOUSLY RECEIVED
10 WRITTEN OR ELECTRONIC NOTICE OF AN ALLEGED BREACH OF THE
11 WARRANTY OF HABITABILITY. IF A COUNTY, DISTRICT, OR APPEALS COURT
12 IS SATISFIED THAT THE DEFENDANT IS UNABLE TO DEPOSIT THE AMOUNT
13 OF RENT SPECIFIED BECAUSE THE DEFENDANT IS FOUND TO BE INDIGENT
14 PURSUANT TO SECTION 13-16-103, UPON A FINDING OF INDIGENCY AND
15 THE FILING OF THE PROPER FILING OF A WARRANTY OF HABITABILITY
16 CLAIM DOCUMENTS, THE CLAIM WILL BE PERFECTED.

17 (d) Whether asserted as a claim, ~~or~~ counterclaim, OR AN
18 AFFIRMATIVE DEFENSE, a tenant may recover damages directly arising
19 from a breach of the warranty of habitability, which may include, but are
20 not limited to, any reduction in the fair rental value of the dwelling unit,
21 in any court of competent jurisdiction.

22 (d.5) THE COURT SHALL DETERMINE THE REDUCTION OF THE
23 PREMISE'S RENTAL VALUE IN ITS UNINHABITABLE STATE TO THE DATE OF
24 TRIAL AND SHALL DENY POSSESSION TO THE LANDLORD AND DEEM THE
25 TENANT TO BE THE PREVAILING PARTY, CONDITIONED UPON THE PAYMENT
26 OF THE RENT THAT HAS ACCRUED TO THE DATE OF THE TRIAL, AS
27 ADJUSTED PURSUANT TO THE REDUCTION IN THE RENTAL VALUE CAUSED

1 BY THE BREACH OF THE WARRANTY OF HABITABILITY. THE TENANT SHALL
2 MAKE THIS PAYMENT TO EITHER THE COURT OR THE LANDLORD WITHIN
3 FOURTEEN DAYS FROM THE DATE OF THE COURT'S JUDGMENT. THE COURT
4 MAY ORDER THE LANDLORD TO MAKE REPAIRS AND CORRECT THE
5 CONDITIONS THAT CONSTITUTE A BREACH OF THE LANDLORD'S
6 OBLIGATIONS, SHALL ORDER THAT THE MONTHLY RENT BE LIMITED TO THE
7 PREMISE'S REASONABLE RENTAL VALUE, AS DETERMINED PURSUANT TO
8 THIS SECTION, UNTIL REPAIRS ARE COMPLETED, AND SHALL AWARD THE
9 TENANT COSTS AND ATTORNEY FEES IF PROVIDED BY AND PURSUANT TO
10 ANY STATUTE OR THE CONTRACT OF THE PARTIES. IF THE COURT ORDERS
11 REPAIRS OR CORRECTIONS, OR BOTH, PURSUANT TO THIS SECTION, THE
12 COURT'S JURISDICTION CONTINUES OVER THE MATTER FOR THE PURPOSE
13 OF ENSURING COMPLIANCE. THE COURT SHALL AWARD POSSESSION OF THE
14 PREMISES TO THE LANDLORD IF THE TENANT FAILS TO PAY ALL REDUCED
15 RENT OBLIGATIONS ACCRUED TO THE DATE OF TRIAL WITHIN THE PERIOD
16 PRESCRIBED BY THE COURT PURSUANT TO THIS SUBSECTION (1)(d.5).

17 **SECTION 16.** In Colorado Revised Statutes, **amend** 38-12-510
18 as follows:

19 **38-12-510. Unlawful removal or exclusion.** (1) It ~~shall be~~ IS
20 unlawful for a landlord to remove or exclude a tenant from a dwelling
21 unit without resorting to court process, unless the removal or exclusion
22 is consistent with ~~the provisions of~~ article 18.5 of title 25 ~~C.R.S.~~, and the
23 rules promulgated by the state board of health for the cleanup of an illegal
24 drug laboratory; ~~or~~ is with the mutual consent of the landlord and tenant;
25 or unless the dwelling unit has been abandoned by the tenant, as
26 evidenced by the return of keys, the substantial removal of the tenant's
27 personal property, notice by the tenant, or the extended absence of the

1 tenant while rent remains unpaid, any of which would cause a reasonable
2 person to believe the tenant had permanently surrendered possession of
3 the dwelling unit. ~~Such~~ Unlawful removal or exclusion includes the
4 willful termination of utilities or the willful removal of doors, windows,
5 or locks to the premises other than as required for repair or maintenance.
6 If the landlord willfully and unlawfully removes the tenant from the
7 premises or willfully and unlawfully causes the termination of heat,
8 running water, hot water, electric, gas, or other essential services, the
9 tenant may seek any remedy available under the law, including this part
10 5.

11 (2) A TENANT AFFECTED BY ANY VIOLATION OF THIS SECTION MAY
12 BRING A CIVIL ACTION TO RESTRAIN FURTHER VIOLATIONS AND TO
13 RECOVER DAMAGES, COSTS, AND REASONABLE ATTORNEY FEES. IN THE
14 CASE OF A VIOLATION, THE TENANT MUST BE AWARDED STATUTORY
15 DAMAGES EQUAL TO THE TENANT'S ACTUAL DAMAGES AND THE HIGHER
16 AMOUNT OF EITHER THREE TIMES THE MONTHLY RENT OR FIVE THOUSAND
17 DOLLARS, AS WELL AS ANY OTHER DAMAGES, ATTORNEY FEES, AND COSTS
18 THAT MAY BE OWED.

19 (3) A COURT MAY ALSO ORDER THAT POSSESSION BE RESTORED TO
20 A TENANT WHO WAS AFFECTED BY A VIOLATION OF THIS SECTION.

21 (4) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE
22 TRADE PRACTICE FOR THE PURPOSES OF THE "COLORADO CONSUMER
23 PROTECTION ACT", ESTABLISHED IN PART 1 OF ARTICLE 1 OF TITLE 6, AND
24 SECTION 6-1-105.

25 **SECTION 17.** In Colorado Revised Statutes, 38-12-801, **add** (3)
26 as follows:

27 **38-12-801. Written rental agreement - prohibited clauses -**

1 **copy - tenant. (3) A WRITTEN RENTAL AGREEMENT MUST NOT INCLUDE:**

2 (a) A LIQUIDATED DAMAGES CLAUSE THAT ASSIGNS A COST TO A
3 PARTY STEMMING FROM AN EVICTION NOTICE OR AN EVICTION ACTION
4 FROM A VIOLATION OF THE RENTAL AGREEMENT; OR

5 (b) A ONE-WAY, FEE-SHIFTING CLAUSE THAT AWARDS ATTORNEY
6 FEES AND COURT COSTS ONLY TO ONE PARTY. ANY FEE-SHIFTING CLAUSE
7 CONTAINED IN A RENTAL AGREEMENT MUST AWARD ATTORNEY FEES TO
8 THE PREVAILING PARTY IN A COURT DISPUTE CONCERNING THE RENTAL
9 AGREEMENT, RESIDENTIAL PREMISES, OR DWELLING UNIT.

10 (c) ANY CLAUSE IN VIOLATION OF SUBSECTION (3)(a) OR (3)(b) OF
11 THIS SECTION IS NULL AND VOID AND UNENFORCEABLE.

12 **SECTION 18. Appropriation.** For the 2021-22 state fiscal year,
13 \$21,339 is appropriated to the judicial department. This appropriation is
14 from the general fund and is based on an assumption that the department
15 will require an additional 0.3 FTE. To implement this act, the department
16 may use this appropriation for trial court programs.

17 **SECTION 19. Act subject to petition - effective date.** This act
18 takes effect January 1, 2022; except that, if a referendum petition is filed
19 pursuant to section 1 (3) of article V of the state constitution against this
20 act or an item, section, or part of this act within the ninety-day period
21 after final adjournment of the general assembly, then the act, item,
22 section, or part will not take effect unless approved by the people at the
23 general election to be held in November 2022 and, in such case, will take
24 effect on the date of the official declaration of the vote thereon by the
25 governor. _____