

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

INTRODUCED

LLS NO. 21-0614.01 Jane Ritter x4342

SENATE BILL 21-173

SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING RIGHTS RELATED TO RESIDENTIAL RENTAL**
102 **AGREEMENTS.**

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 "Colorado Consumer Protection Act";

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.

- 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 FOR OBTAINING CIVIL LEGAL
5 AID AND RENTAL ASSISTANCE. THE DEPARTMENT OF LOCAL AFFAIRS SHALL
6 MAKE AVAILABLE AND KEEP CURRENT THE LIST OF RESOURCES
7 AVAILABLE. LOCAL GOVERNMENT ENTITIES MAY ALSO PROVIDE OR
8 SUPPLEMENT THE LIST OF RESOURCES.

9 (6) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO
10 CONTAIN:

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

13 (b) A FORM THAT ALLOWS THE DEFENDANT TO REQUEST ALL
14 DOCUMENTS IN THE LANDLORD'S POSSESSION RELATED TO THE TENANCY
15 OR THE CURRENT ACTION.

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

18 **13-40-113. Answer of defendant - additional and amended**
19 **pleadings.** (1) The defendant shall file with the court, at or before the
20 time specified for ~~his~~ THE DEFENDANT'S appearance in the summons, an
21 answer in writing. ~~setting~~ THE DEFENDANT'S ANSWER MUST SET forth the
22 grounds on which ~~he~~ THE DEFENDANT bases ~~his~~ THE DEFENDANT'S claim
23 for possession, ~~and~~ admitting or denying all of the material allegations of
24 the complaint, and presenting every defense which then exists and upon
25 which ~~he~~ THE DEFENDANT intends to rely, either by including the same in
26 ~~his~~ THE DEFENDANT'S answer or by ~~filing simultaneously therewith~~
27 SIMULTANEOUSLY FILING motions setting forth every such defense.

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

4 (3) A DEFENDANT DOES NOT WAIVE ANY DEFENSE RELATED TO
5 PROPER NOTICE BY FILING AN ANSWER PURSUANT TO THIS SECTION.

6 (4) AFTER AN ANSWER IS PROVIDED TO THE COURT PURSUANT TO
7 THIS SECTION:

8 (a) THE COURT SHALL SET A DATE FOR TRIAL NO SOONER THAN
9 SEVEN DAYS AFTER THE ANSWER IS FILED, UNLESS THE DEFENDANT
10 AGREES TO WAIVE THIS PROVISION AND SCHEDULE THE TRIAL FOR AN
11 EARLIER DATE. THIS PROVISION DOES NOT APPLY TO A FORCIBLE ENTRY
12 AND DETAINER PETITION THAT ALLEGES A SUBSTANTIAL VIOLATION, AS
13 DEFINED IN SECTION 13-40-107.5 (3).

14 (b) IN THE TIME AFTER AN ANSWER IS FILED AND BEFORE A TRIAL
15 OCCURS, THE COURT SHALL ORDER THAT THE LANDLORD PROVIDE ANY
16 DOCUMENTATION RELATED TO THE TENANCY OR THE CURRENT ACTION
17 THAT THE DEFENDANT REQUESTS PURSUANT TO SECTION 13-40-111 (6)(b).

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

20 **13-40-115. Judgment - writ of restitution - right to trial by**
21 **jury - cure period.** (2) (a) Upon ~~such~~ A trial or further hearing ~~under this~~
22 ~~article~~ PURSUANT TO THIS ARTICLE 40 after personal service ~~is had~~ HAS
23 BEEN MADE upon the defendant in accordance with section 13-40-112 (1),
24 if the court or jury has not already tried the issue of unlawful detainer, it
25 may do so. ~~and, if it~~ IF THE COURT finds that the defendant has committed
26 an unlawful detainer, the court shall enter judgment for the plaintiff to
27 have restitution of the premises and shall issue a writ of restitution. In

1 addition to ~~such~~ THE judgment for restitution, the court or jury shall
2 further find the amount of rent, if any, due to the plaintiff from the
3 defendant at the time of trial; the amount of damages, if any, sustained by
4 the plaintiff to the time of the trial on account of the unlawful detention
5 of the property by the defendant; and damages sustained by the plaintiff
6 to the time of trial on account of injuries to the property. ~~and judgment~~
7 THE COURT shall enter JUDGMENT for such amounts, together with ANY
8 reasonable ~~attorney's~~ ATTORNEY fees and costs ~~upon which judgment~~
9 ~~execution shall issue~~ as in other civil actions. ~~Nothing in~~ This section
10 ~~shall be construed to~~ DOES NOT permit the entry of judgment in excess of
11 the COURT'S jurisdictional limit. ~~of the court.~~

12 (b) IN ALL CASES INVOLVING RESIDENTIAL PROPERTIES, BOTH THE
13 PLAINTIFF AND DEFENDANT MAY REQUEST AND ARE GUARANTEED A RIGHT
14 TO A TRIAL BY JURY IN PROCEEDINGS BROUGHT PURSUANT TO THIS
15 ARTICLE 40 IF THE PARTY REQUESTING THE TRIAL BY JURY AGREES TO PAY
16 COSTS ASSOCIATED WITH HAVING A JURY TRIAL.

17 (4) A LANDLORD WHO PROVIDES A TENANT WITH PROPER NOTICE
18 OF NONPAYMENT SHALL ACCEPT PAYMENT OF THE TENANT'S FULL
19 PAYMENT OF ALL AMOUNTS DUE ACCORDING TO THE NOTICE AT ANY TIME
20 UP TO FORTY-EIGHT HOURS AFTER A JUDGE ISSUES A JUDGMENT FOR
21 POSSESSION PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION. A
22 TENANT MAY PAY THIS AMOUNT TO EITHER THE LANDLORD OR TO THE
23 COURT. ONCE A COURT HAS CONFIRMATION THAT THE FULL AMOUNT HAS
24 BEEN TIMELY PAID, THE COURT SHALL:

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

26 (b) DISMISS THE ACTION WITH PREJUDICE.

27 **SECTION 5.** In Colorado Revised Statutes, 13-40-117, **amend**

1 (3) as follows:

2 **13-40-117. Appeals.** (3) If the appellee believes that ~~he~~ THE
3 APPELLEE may suffer serious economic harm during the pendency of the
4 appeal, ~~he~~ THE APPELLEE may petition the court taking the appeal to ~~order~~
5 ~~that an~~ REQUIRE THE APPELLANT TO HAVE AN additional undertaking ~~be~~
6 ~~required of the appellant~~ to cover the anticipated harm. The court shall
7 order such undertaking only after a hearing and upon a finding that the
8 appellee has shown a substantial likelihood of suffering such economic
9 harm during the pendency of the appeal and that ~~he~~ THE APPELLEE will not
10 BE adequately ~~be~~ protected under the appeals bond and the other
11 requirements for appeal pursuant to sections ~~13-40-118~~, 13-40-120 and
12 13-40-123.

13 **SECTION 6.** In Colorado Revised Statutes, **repeal** 13-40-118 as
14 follows:

15 **13-40-118. Deposit of rent.** ~~In all appeals from the judgment of~~
16 ~~a county court, in an action founded upon section 13-40-104 (1)(d), the~~
17 ~~defendant, at the time of the filing thereof, shall deposit with the court the~~
18 ~~amount of rent found due and specified in such judgment. Unless such~~
19 ~~deposit is made, the appeal is not perfected, and proceedings upon such~~
20 ~~judgment shall thereupon be had accordingly. If the appeal is perfected,~~
21 ~~the court shall transmit such deposit to the clerk of the appellate court,~~
22 ~~with the papers in such case; and the appellant thereafter, at the time~~
23 ~~when the rents become due as specified in the judgment appealed from~~
24 ~~and as often as the same become due, shall deposit the amount thereof~~
25 ~~with the clerk of such appellate court. In case the appellant, at any time~~
26 ~~during the pendency of such appeal and before final judgment therein,~~
27 ~~neglects or fails to make any deposit of rent, falling due at the time~~

1 specified in the judgment appealed from, the court in which such appeal
2 is pending, upon such fact being made to appear and upon motion of the
3 appellee, shall affirm the judgment appealed from with costs; and
4 proceedings thereupon shall be had as in like cases determined upon the
5 merits.

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

8 **13-40-120. Appellate review.** Appellate review of the judgment
9 of the district courts of this state, in proceedings ~~under this article~~
10 PURSUANT TO THIS ARTICLE 40, is allowed as provided by law and the
11 Colorado appellate rules. ~~In cases of appeal from judgments founded~~
12 ~~upon causes of action embraced in section 13-40-104 (1)(d), the deposit~~
13 ~~of rent money during pendency of appeal shall be made, or judgment of~~
14 ~~affirmance shall be entered, in the manner provided in section 13-40-118.~~

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

17 **13-54-102. Property exempt - definitions - repeal.** (1) The
18 following property is exempt from levy and sale under writ of attachment
19 or writ of execution:

20 (r) For purposes of garnishment proceedings pursuant to ~~the~~
21 ~~provisions of article 54.5 of this title~~ TITLE 13, any amount held by a third
22 party as a security deposit, as defined in ~~section 38-12-102 (2), C.R.S.~~
23 SECTION 38-12-102 (6), or any amount held by a third party as a utility
24 deposit to secure payment for utility goods or services used or consumed
25 by the debtor or ~~his~~ THE DEBTOR'S dependents;

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

1 **38-12-101. Legislative declaration.** ~~The provisions of~~ This part
2 1 shall be liberally construed to implement the intent of the general
3 assembly to ~~insure~~ ENSURE the proper administration of security deposits
4 AND LATE FEES and protect the interests of tenants, MOBILE HOME
5 OWNERS, and landlords.

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

8 **38-12-102. Definitions.** As used in this part 1, unless the context
9 otherwise requires:

10 (1) "HOME OWNER" HAS THE MEANING SET FORTH IN SECTION
11 38-12-201.5 (2).

12 (2) "LANDLORD" MEANS A LANDLORD, AS DEFINED IN SECTION
13 38-12-502 (5), OR THE MANAGEMENT OR LANDLORD OF A MOBILE HOME
14 PARK, AS DEFINED IN SECTION 38-12-201.5 (3).

15 (3) "LATE FEE" MEANS A MONETARY SUM THAT A LANDLORD
16 CHARGES A TENANT OR HOME OWNER AS A RESULT OF THE TENANT'S OR
17 HOME OWNER'S FAILURE TO TIMELY PAY RENT AND THAT IS DETERMINED
18 PURSUANT TO A RENTAL AGREEMENT BETWEEN THE LANDLORD AND THE
19 TENANT OR HOME OWNER.

20 ~~(4)~~ (4) "Normal wear and tear" means ~~that~~ deterioration ~~which~~
21 THAT occurs, based upon the use for which ~~the~~ A rental unit OR MOBILE
22 HOME SPACE is intended, without negligence, carelessness, accident, or
23 abuse of the premises or equipment or chattels by the tenant OR HOME
24 OWNER or members of ~~his~~ THE TENANT'S OR HOME OWNER'S household,
25 or their invitees or guests.

26 (5) "RENT SUBSIDY PROVIDER" MEANS A PUBLIC OR PRIVATE
27 ENTITY, INCLUDING A PUBLIC HOUSING AUTHORITY, THAT PROVIDES

1 ONGOING FINANCIAL ASSISTANCE TO A LANDLORD FOR THE PURPOSE OF
2 SUBSIDIZING RENT.

3 ~~(2)~~ (6) "Security deposit" means any advance or deposit of money,
4 regardless of its denomination, the primary function of which is to secure
5 the performance of a rental agreement for A residential premises or any
6 part thereof OF A RESIDENTIAL PREMISES.

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

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

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

17 (a) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS A
18 RENT PAYMENT IS LATE BY AT LEAST FOURTEEN CALENDAR DAYS;

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

21 (I) TWENTY DOLLARS; OR

22 (II) TWO AND ONE-HALF PERCENT OF THE AMOUNT OF THE PAST
23 DUE RENT PAYMENT;

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

26 (d) REMOVE OR EXCLUDE A TENANT FROM A DWELLING OR
27 INITIATE A COURT PROCESS FOR THE REMOVAL OR EXCLUSION OF A

1 TENANT FROM A DWELLING BECAUSE THE TENANT FAILS TO PAY ONE OR
2 MORE LATE FEES TO THE LANDLORD;

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

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

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

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

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

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

23 (2) A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION
24 SHALL PAY TO AN AGGRIEVED TENANT A PENALTY IN THE AMOUNT OF
25 TWENTY DOLLARS FOR EACH VIOLATION.

26 (3) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION,
27 AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE

1 CONTRARY, A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION
2 HAS SEVEN DAYS TO CURE THE VIOLATION, WHICH SEVEN DAYS BEGINS
3 WHEN THE LANDLORD RECEIVES NOTICE OF THE VIOLATION.

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

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

9 (b) A PENALTY OF AT LEAST FIVE HUNDRED DOLLARS BUT NOT
10 MORE THAN TWO THOUSAND DOLLARS FOR EACH VIOLATION, PAYABLE TO
11 THE TENANT OR HOME OWNER;

12 (c) COSTS, INCLUDING REASONABLE ATTORNEY FEES, IF THE
13 TENANT OR HOME OWNER IS THE PREVAILING PARTY; AND

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

15 (5) A TENANT OR HOME OWNER MAY RAISE AN ALLEGED
16 VIOLATION OF THIS SECTION AS AN AFFIRMATIVE DEFENSE IN A FORCIBLE
17 ENTRY AND DETAINER PROCEEDING.

18 (6) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE
19 ALLEGED VIOLATIONS OF SUBSECTION (1) OF THIS SECTION. A VIOLATION
20 OF SUBSECTION (1) OF THIS SECTION THAT IS NOT CURED WITHIN THE
21 PERIOD DESCRIBED IN SUBSECTION (3) OF THIS SECTION OR THAT WAS
22 COMMITTED BY THE LANDLORD IN BAD FAITH IS AN UNFAIR OR DECEPTIVE
23 TRADE PRACTICE FOR THE PURPOSES OF THE "COLORADO CONSUMER
24 PROTECTION ACT", ARTICLE 1 OF TITLE 6, AS DESCRIBED IN SECTION
25 6-1-105 (1)(nm).

26 (7) A LATE FEE IS DISTINCT FROM RENT, AND A RENTAL
27 AGREEMENT MAY NOT CLASSIFY A LATE FEE AS RENT FOR THE PURPOSES

1 OF SECTION 13-40-104 (1)(d).

2 **SECTION 12.** In Colorado Revised Statutes, 38-12-201.5,
3 **amend** the introductory portion, (1)(d), and (1)(e); and **add** (1)(f) and
4 (2.5) as follows:

5 **38-12-201.5. Definitions.** As used in this part 2 and in part 11 of
6 this ~~title 38~~ ARTICLE 12, unless the context otherwise requires:

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

9 (d) Utilities; ~~and~~

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

13 (f) LATE FEES.

14 (2.5) "LATE FEE" HAS THE MEANING SET FORTH IN SECTION
15 38-12-102 (3).

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

18 **38-12-213. Rental agreement - disclosure of terms in writing.**

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

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

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

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

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

7 **38-12-220. Private civil right of action.** ~~Any~~ A home owner who
8 ~~owns a home~~ in a ~~mobile home~~ park where the landlord has violated any
9 provision of this ~~article shall have~~ ARTICLE 12 HAS a private civil right of
10 action against the landlord. In any such action, EXCEPT AS DESCRIBED IN
11 SECTION 38-12-105 (4), the home owner ~~shall be~~ IS entitled to actual
12 economic damages and reasonable attorney fees and costs if the home
13 owner is successful in the action.

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

16 **38-12-507. Breach of warranty of habitability - tenant's**
17 **remedies.** (1) If there is a breach of the warranty of habitability as set
18 forth in section 38-12-503 (2):

19 (c) In an action for possession OR COLLECTION based upon
20 nonpayment of rent, ~~in which the tenant asserts a defense to possession~~
21 ~~based upon the landlord's alleged breach of the warranty of habitability,~~
22 ~~upon the filing of the tenant's answer the court shall order the tenant to~~
23 ~~pay into the registry of the court all or part of the rent accrued after due~~
24 ~~consideration of expenses already incurred by the tenant based upon the~~
25 ~~landlord's breach of the warranty of habitability~~ THE TENANT MAY ASSERT,
26 AS AN AFFIRMATIVE DEFENSE, AN ALLEGED BREACH OF THE WARRANTY OF
27 HABITABILITY, PROVIDED THAT THE LANDLORD OR ANY AGENT ACTING ON

1 BEHALF OF THE LANDLORD HAS PREVIOUSLY RECEIVED ACTUAL OR LEGAL
2 NOTICE OF AN ALLEGED BREACH OF THE WARRANTY OF HABITABILITY.

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

8 (d.5) THE COURT SHALL DETERMINE THE REDUCTION OF THE
9 PREMISE'S RENTAL VALUE IN ITS UNINHABITABLE STATE TO THE DATE OF
10 TRIAL AND SHALL DENY POSSESSION TO THE LANDLORD AND DEEM THE
11 TENANT TO BE THE PREVAILING PARTY, CONDITIONED UPON THE PAYMENT
12 OF THE RENT THAT HAS ACCRUED TO THE DATE OF THE TRIAL, AS
13 ADJUSTED PURSUANT TO THE REDUCTION IN THE RENTAL VALUE CAUSED
14 BY THE BREACH OF THE WARRANTY OF HABITABILITY. THE TENANT SHALL
15 MAKE THIS PAYMENT WITHIN FOURTEEN DAYS FROM THE DATE OF THE
16 COURT'S JUDGMENT. THE COURT MAY ORDER THE LANDLORD TO MAKE
17 REPAIRS AND CORRECT THE CONDITIONS THAT CONSTITUTE A BREACH OF
18 THE LANDLORD'S OBLIGATIONS, SHALL ORDER THAT THE MONTHLY RENT
19 BE LIMITED TO THE PREMISE'S REASONABLE RENTAL VALUE, AS
20 DETERMINED PURSUANT TO THIS SECTION, UNTIL REPAIRS ARE COMPLETED,
21 AND SHALL AWARD THE TENANT COSTS AND ATTORNEY FEES IF PROVIDED
22 BY AND PURSUANT TO ANY STATUTE OR THE CONTRACT OF THE PARTIES.
23 IF THE COURT ORDERS REPAIRS OR CORRECTIONS, OR BOTH, PURSUANT TO
24 THIS SECTION, THE COURT'S JURISDICTION CONTINUES OVER THE MATTER
25 FOR THE PURPOSE OF ENSURING COMPLIANCE. THE COURT SHALL AWARD
26 POSSESSION OF THE PREMISES TO THE LANDLORD IF THE TENANT FAILS TO
27 PAY ALL REDUCED RENT OBLIGATIONS ACCRUED TO THE DATE OF TRIAL

1 WITHIN THE PERIOD PRESCRIBED BY THE COURT PURSUANT TO THIS
2 SUBSECTION (1)(d.5).

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

5 **38-12-510. Unlawful removal or exclusion.** (1) It ~~shall be~~ IS
6 unlawful for a landlord to remove or exclude a tenant from a dwelling
7 unit without resorting to court process, unless the removal or exclusion
8 is consistent with ~~the provisions of~~ article 18.5 of title 25 ~~C.R.S.~~, and the
9 rules promulgated by the state board of health for the cleanup of an illegal
10 drug laboratory; ~~or~~ is with the mutual consent of the landlord and tenant;
11 or unless the dwelling unit has been abandoned by the tenant, as
12 evidenced by the return of keys, the substantial removal of the tenant's
13 personal property, notice by the tenant, or the extended absence of the
14 tenant while rent remains unpaid, any of which would cause a reasonable
15 person to believe the tenant had permanently surrendered possession of
16 the dwelling unit. ~~Such~~ Unlawful removal or exclusion includes the
17 willful termination of utilities or the willful removal of doors, windows,
18 or locks to the premises other than as required for repair or maintenance.
19 If the landlord willfully and unlawfully removes the tenant from the
20 premises or willfully and unlawfully causes the termination of heat,
21 running water, hot water, electric, gas, or other essential services, the
22 tenant may seek any remedy available under the law, including this part
23 5.

24 (2) A TENANT AFFECTED BY ANY VIOLATION OF THIS SECTION MAY
25 BRING A CIVIL ACTION TO RESTRAIN FURTHER VIOLATIONS AND TO
26 RECOVER DAMAGES, COSTS, AND REASONABLE ATTORNEY FEES. IN THE
27 CASE OF A VIOLATION, THE TENANT MUST BE AWARDED STATUTORY

1 DAMAGES EQUAL TO THE TENANT'S ACTUAL DAMAGES AND THE HIGHER
2 AMOUNT OF EITHER THREE TIMES THE MONTHLY RENT OR FIVE THOUSAND
3 DOLLARS, AS WELL AS ANY OTHER DAMAGES AND COSTS THAT MAY BE
4 OWED.

5 (3) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE
6 TRADE PRACTICE FOR THE PURPOSES OF THE "COLORADO CONSUMER
7 PROTECTION ACT", ESTABLISHED IN PART 1 OF ARTICLE 1 OF TITLE 6, AND
8 SECTION 6-1-105.

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

11 **38-12-801. Written rental agreement - prohibited clauses -**
12 **copy - tenant.** (3) A WRITTEN RENTAL AGREEMENT MUST NOT INCLUDE:

13 (a) A LIQUIDATED DAMAGES CLAUSE THAT ASSIGNS A COST TO A
14 PARTY STEMMING FROM AN EVICTION NOTICE OR AN EVICTION ACTION
15 FROM A VIOLATION OF THE RENTAL AGREEMENT OR AN EVICTION NOTICE;
16 OR

17 (b) A ONE-WAY, FEE-SHIFTING CLAUSE THAT AWARDS ATTORNEY
18 FEES AND COURT COSTS ONLY TO ONE PARTY. ANY FEE-SHIFTING CLAUSE
19 CONTAINED IN A RENTAL AGREEMENT MUST AWARD ATTORNEY FEES TO
20 THE PREVAILING PARTY IN A COURT DISPUTE CONCERNING THE RENTAL
21 AGREEMENT, RESIDENTIAL PREMISES, OR DWELLING UNIT.

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

24 **SECTION 18. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2022 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.