

RESIDENTIAL RENTAL AGREEMENTS SB21-173

Summary

This bill prevents charging late fees until payment is 14 days late, caps those fees at 2.5% of past due rent. It requires housing providers to accept partial payments and file multiple lawsuits for the remaining balance. It prohibits agreements for reasonable lease break fees. It paralyzes the court system by converting possession cases to jury trials. It eliminates court safeguards by abolishing warranty of habitability bonds and appeal bonds. It mandates punitive penalties including a \$5,000 minimum penalty, attorney fees and treble damages.

Elements and Consequences

Late Fees

- Currently, the amount of late fees must be reasonable and agreed to in the rental agreement by the resident.
- A mandated 14-day moratorium on late fees represents a requirement that a property owner extend interest-free credit to all customers. It encourages all customers to be 14 days late at all times.
- Property owners are not their customers banks. They have already loaned the resident a very expensive piece of property, they should not be required to extend an interest-free line of credit as well.
- A late fee is not just interest. It is also compensation for the administrative cost of dealing with the delinquency including posting the required statutory demands and the owner's late fees to its lenders.
- Requiring a property owner to look only to the security deposit as a source of repayment for late fees will require higher security deposits making initial move in cost higher (even for residents that don't default).
- When the late fee is less than the actual cost of the delinquency, those operational costs are shifted to the non-defaulting residents through higher rents.
- By limiting the late fee to rent only, the bill ignores the cost of delinquency on other items like utilities, parking, and reimbursement for tenant caused damages.

Required Acceptance of Partial Payments

- Colorado's mandated process of filing a lawsuit to recover a rented unit following a payment default takes between 2 and 3 months depending upon the county. Mandating that the housing provider accept only the rent that was due at the beginning of that process and file a new lawsuit for the remaining balance means residents can be perpetually 3 months past due.

Lease Break Fees

- By prohibiting contractually agreed to reasonable lease break fees (liquidated damages) parties will no longer be free to agree to predetermined early lease termination options. Having a known and agreed to option to terminate the lease early is beneficial to both the resident and the housing provider by removing the resident's potential long-term obligation for rent until the unit is re-leased.

Mandated Jury Trials

- Most rent disputes are factually straightforward. The myriad of legal requirements imposed by the State are complicated. These types of cases are best suited for trials to a judge who understands the law.
- Colorado has more than 5.7 million people who need access to the court system and generate a minimum of 36,000 filed lawsuits over possession disputes each year. Converting these cases from 2-hour trials to a judge to 3-day trials to a jury will hopelessly clog the court system and deny timely access to resolution.
- Requiring jury trials will dramatically increase the cost to Colorado's court system.

Removing Bonds

- Court bonds require litigants to act in good faith when they appeal a lawsuit after losing it or when they claim rent wasn't paid because of money spent making a unit habitable. Removing the requirement of these bonds encourages frivolous litigation to tactically deprive the housing provider of their property.
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Penalty Provisions

- The penalty provisions are not related to actual losses and the requirement that the housing provider pay a resident \$5,000 and be subject to consumer fraud claims for being late on the rent is absurd and will led to frequent and expensive litigation.