

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0751.01 Troy Bratton

SENATE BILL 10-156

SENATE SPONSORSHIP

Heath,

HOUSE SPONSORSHIP

Hullinghorst,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASED PROTECTIONS FOR MOBILE HOME OWNERS**
102 **WHO LEASE SPACE IN MOBILE HOME PARKS.**

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://www.leg.state.co.us/billsummaries>.)

Section 1 adds language to the legislative declaration of the "Mobile Home Park Act". The new language illustrates the need to protect mobile home owners from eviction so the owners do not lose their homes and any equity derived from their homes.

Section 2 adds manufactured homes to the definition of mobile

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.

homes.

Section 3 increases the notice period for eviction unless there is a substantial violation necessitating an immediate eviction. Section 3 also requires a landlord to compensate a home owner for the value of the home if the tenancy is terminated due to a change in use.

Section 4 increases the notice period for a landlord to notify home owners of intent to change use and makes conforming amendments to statutory citations.

Section 5 requires any notice of termination to include a statement advising the tenant of the tenant's right to mediation. Section 5 also gives the tenant up to 30 days to move a mobile home following a court order, provided that the tenant pays rent on a daily basis beginning with the eighth day following the order.

Section 6 specifies that mobile home owners have the right to peaceably assemble in the streets and common areas of the mobile home park pursuant to the first amendment to the United States constitution. Mobile home park owners may implement reasonable time, place, and manner restrictions on the home owners' right to assemble.

Section 7 specifies that it is the landlord's duty to ensure that mobile home owners receive water and sewer service. A home owner may withhold 2 days' rent for each day that water or sewer service is not available to the home owner. Unforeseen emergencies and scheduled repairs are exempted from the penalty provisions.

Section 8 requires a landlord to notify the municipality as well as the home owners of any intent to change the use of the mobile home park and increases the notice period.

Section 9 makes the home owner's recovery of reasonable attorney fees in a successful private civil action mandatory rather than permissive.

Section 10 requires a landlord to grant county or municipal employees access to the park for the purposes of investigating and studying the utility infrastructure.

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

2 **SECTION 1.** 38-12-201.3, Colorado Revised Statutes, is
3 amended to read:

4 **38-12-201.3. Legislative declaration - increased availability of**
5 **mobile home parks.** The general assembly hereby finds and declares
6 that mobile homes, manufactured housing, and factory-built housing are
7 important and effective ways to meet Colorado's affordable housing

1 needs. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, ==
2 BECAUSE OF THE HIGH COST, IMPOSSIBILITY, OR IMPRACTICALITY OF
3 MOVING EXISTING MOBILE HOMES, AND THE DUAL OWNERSHIP STRUCTURE
4 OF A MOBILE HOME AND THE LAND IT SITS UPON, WHICH RESULTS IN THE
5 UNIQUE AND VULNERABLE ASPECTS OF MOBILE HOME OWNERSHIP, THERE
6 IS A PARTICULARLY CRITICAL NEED TO PROTECT MOBILE HOME OWNERS ==
7 FROM EVICTION WITH SHORT NOTICE SO AS TO PREVENT MOBILE HOME
8 OWNERS FROM LOSING THEIR SHELTER AS WELL AS ANY EQUITY IN THEIR
9 MOBILE HOMES. The general assembly encourages local governments to
10 allow and protect mobile home parks in their jurisdictions and to enact
11 plans to increase the number of mobile home parks in their jurisdictions.
12 The general assembly further encourages local governments to provide
13 incentives to mobile home park owners to attract additional mobile home
14 parks and to increase the viability of current parks.

15 **SECTION 2.** 38-12-201.5 (2), Colorado Revised Statutes, is
16 amended to read:

17 **38-12-201.5. Definitions.** As used in this part 2, unless the
18 context otherwise requires:

19 (2) "Mobile home" means a single-family dwelling built on a
20 permanent chassis designed for long-term residential occupancy and
21 containing complete electrical, plumbing, and sanitary facilities and
22 designed to be installed in a permanent or semipermanent manner with or
23 without a permanent foundation, which is capable of being drawn over
24 public highways as a unit, or in sections by special permit, OR A
25 MANUFACTURED HOME AS DEFINED IN SECTION 24-32-3302 (20), C.R.S.,
26 IF THE MANUFACTURED HOME IS SITUATED IN A MOBILE HOME PARK.

27 **SECTION 3.** 38-12-202, Colorado Revised Statutes, is amended

1 to read:

2 **38-12-202. Tenancy - notice to quit.** (1) (a) No tenancy or other
3 lease or rental occupancy of space in a mobile home park shall commence
4 without a written lease or rental agreement, and no tenancy in a mobile
5 home park shall be terminated until a notice to quit has been served. Said
6 notice to quit shall be in writing and in the form specified in section
7 13-40-107 (2), C.R.S. The property description required in section
8 13-40-107 (2), C.R.S., shall be deemed legally sufficient if it states:

9 (I) The name of the landlord or the mobile home park;

10 (II) The mailing address of the property;

11 (III) The location or space number upon which the mobile home
12 is situate; and

13 (IV) The county in which the mobile home is situate.

14 (b) Service of the notice to quit shall be as specified in section
15 13-40-108, C.R.S. Service by posting shall be deemed legally sufficient
16 within the meaning of section 13-40-108, C.R.S., if the notice is affixed
17 to the main entrance of the mobile home.

18 (c) (I) Except as otherwise provided in subparagraph (II) of this
19 paragraph (c), the home owner shall be given a period of not less than
20 ~~thirty~~ SIXTY days ~~to be extended to not less than sixty days where the~~
21 ~~home owner must remove a multisection mobile home,~~ to remove any
22 mobile home from the premises from the date the notice is served or
23 posted. In those situations where a multisection mobile home is being
24 leased to, or occupied by, persons other than its owner and in a manner
25 contrary to the rules and regulations of the landlord, then in that event, the
26 tenancy may be terminated by the landlord upon giving a thirty-day notice
27 rather than said sixty-day notice.

1 (II) If the tenancy is terminated on grounds specified in section
2 38-12-203 (1) (f), the home owner shall be given a period of not less than
3 ten days to be extended to not less than fifteen days where the home
4 owner must remove a multisection mobile home, to remove any mobile
5 home from the premises from the date the notice is served or posted.

6 (d) (2) No lease shall contain any provision by which the home
7 owner waives his OR HER rights under this part 2, and any such waiver
8 shall be deemed contrary to public policy and shall be unenforceable and
9 void. However, any lease may provide that the tenancy may be
10 terminated on the landlord's notice in writing to the home owner, in such
11 prescribed manner, to remove the home owner's unit from the premises
12 within a period of not less than thirty days, to be extended to not less
13 than sixty days where the home owner must remove a multisection
14 mobile home, from the date the notice is served or posted. In those
15 situations where a multisection mobile home is being leased to, or
16 occupied by, persons other than its owner and in a manner contrary to the
17 rules and regulations of the landlord, then, in that event, the tenancy may
18 be terminated by the landlord upon giving a thirty-day notice rather than
19 said sixty-day notice.

20 (2) (3) The landlord or management of a mobile home park shall
21 specify, in the notice required by this section, the reason for the
22 termination, AS DESCRIBED IN SECTION 38-12-203, of any tenancy in such
23 mobile home park. If the tenancy is being terminated based on the
24 mobile home or mobile home lot being out of compliance with the rules
25 and regulations adopted pursuant to section 38-12-203 (1) (c), the notice
26 required by this section shall include a statement advising the home
27 owner that the home owner has a right to cure the noncompliance within

1 thirty days of the date of service or posting of the notice to quit. The
2 thirty-day period to cure any noncompliance set forth in this subsection
3 ~~(2)~~ SUBSECTION (3) shall run concurrently with the ~~thirty-day~~ SIXTY-DAY
4 period to remove a mobile home from the premises as set forth in
5 ~~paragraphs (c) and (d)~~ PARAGRAPH (c) of subsection (1) ___ ___ of this
6 section. Acceptance of rent by the landlord or management of a mobile
7 home park during the thirty-day right to cure period set forth in section
8 38-12-203 (1) (c) shall not constitute a waiver of the landlord's right to
9 terminate the tenancy for any noncompliance set forth in section
10 38-12-203 (1) (c).

11 ~~(3) Repealed.~~

12 (4) (a) IF THE TENANCY IS TERMINATED DUE TO A CHANGE IN USE,
13 THE LANDLORD SHALL PROVIDE COMPENSATION TO THE HOME OWNER AS
14 FOLLOWS:

15 (I) IF THE HOME OWNER IS UNABLE TO MOVE THE MOBILE HOME
16 DUE TO THE PERMANENT OR SEMIPERMANENT NATURE OF THE HOME, THE
17 LANDLORD SHALL PROVIDE COMPENSATION TO THE HOME OWNER FOR THE
18 FAIR MARKET VALUE OF THE HOME; OR

19 (II) IF THE HOME OWNER IS READILY ABLE TO MOVE THE MOBILE
20 HOME DUE TO THE MOBILE NATURE OF THE HOME, THE LANDLORD SHALL
21 COMPENSATE THE HOME OWNER FOR ANY EXPENSES THE HOME OWNER
22 INCURS IN MOVING THE HOME; EXCEPT THAT THE LANDLORD SHALL NOT
23 BE REQUIRED TO COMPENSATE THE HOME OWNER FOR ANY EXPENSES
24 ABOVE AND BEYOND THE FAIR MARKET VALUE OF THE HOME. ANY
25 COMPENSATION REQUIRED BY THIS SUBPARAGRAPH (II) SHALL BE PAID BY
26 THE LANDLORD TO THE HOME OWNER NO LATER THAN FIVE DAYS AFTER
27 THE HOME OWNER INCURS SUCH EXPENSES AND REPORTS THE EXPENSES

1 TO THE LANDLORD.

2 (b) IF A LANDLORD TERMINATES A TENANCY AS DESCRIBED IN
3 PARAGRAPH (a) OF THIS SUBSECTION (4), THE NOTICE REQUIRED BY
4 SECTION 38-12-204.3 SHALL INCLUDE A SECTION ADVISING THE HOME
5 OWNER OF THE COMPENSATION REQUIRED BY THIS SUBSECTION (4).

6 **SECTION 4.** 38-12-203 (1) (c) and (1) (d), Colorado Revised
7 Statutes, are amended to read:

8 **38-12-203. Reasons for termination.** (1) A tenancy shall be
9 terminated pursuant to this part 2 only for one or more of the following
10 reasons:

11 (c) Failure of the home owner to comply with written rules and
12 regulations of the mobile home park either established by the
13 management in the rental agreement at the inception of the tenancy,
14 amended subsequently thereto with the consent of the home owner, or
15 amended subsequently thereto without the consent of the home owner on
16 sixty days' written notice if the amended rules and regulations are
17 reasonable; except that the home owner shall have thirty days from the
18 date of service or posting of the notice to quit set forth in ~~section~~
19 ~~38-12-202(2)~~ SECTION 38-12-202 (3) to cure any noncompliance on the
20 mobile home or mobile home lot before an action for termination may
21 be commenced, except if local ordinances, state laws and regulations,
22 park rules and regulations, or emergency, health, or safety situations
23 require immediate compliance. If a home owner was in violation or
24 noncompliance pursuant to this paragraph (c) and was given notice and
25 a right to cure such noncompliance and within a twelve-month period
26 from the date of service of the notice is in noncompliance of the same
27 rule or regulation and is given notice of the second noncompliance, there

1 shall be no right to cure the second noncompliance. Regulations
2 applicable to recreational facilities may be amended at the REASONABLE
3 discretion of the management. For purposes of this paragraph (c), when
4 the mobile home is owned by a person other than the owner of the
5 mobile home park, the mobile home is a separate unit of ownership, and
6 regulations ~~which~~ THAT are adopted subsequent to the unit location in the
7 park without the consent of the home owner and ~~which~~ THAT place
8 restrictions or requirements on that separate unit are prima facie
9 unreasonable. Nothing in this paragraph (c) shall prohibit a mobile
10 home park owner from requiring compliance with current park unit
11 regulations at the time of sale or transfer of the mobile home to a new
12 owner. Transfer under this paragraph (c) shall not include transfer to a
13 co-owner pursuant to death or divorce or to a new co-owner pursuant to
14 marriage.

15 (d) (I) Condemnation or change of use of the mobile home park.
16 When the owner of a mobile home park is formally notified by A NOTICE
17 OF INTENT TO ACQUIRE PURSUANT TO SECTION 38-1-121 (1) OR OTHER
18 SIMILAR PROVISION OF LAW, OR A COMPLAINT IN A CONDEMNATION
19 ACTION FROM an appropriate governmental agency that ~~his~~ THE mobile
20 home park, OR ANY PORTION THEREOF, is TO BE ACQUIRED BY THE
21 GOVERNMENTAL AGENCY OR MAY BE the subject of a condemnation
22 proceeding, the landlord shall, within seventeen days, notify ~~his~~ THE
23 home owners in writing of the terms of the ~~condemnation~~ notice ~~which~~
24 ~~he receives~~ OF INTENT TO ACQUIRE OR COMPLAINT RECEIVED BY THE
25 LANDLORD.

26 (II) In those cases where the ~~zoning law allows the~~ landlord
27 DESIRES to change the use of ~~his land without obtaining the consent of~~

1 ~~the zoning authority~~ THE MOBILE HOME PARK and where such change of
2 use would result in eviction of inhabited mobile homes, the landlord
3 shall first give the owner of each mobile home subject to such eviction
4 a written notice of ~~his~~ THE LANDLORD'S intent to evict not less than six
5 months prior to such change of use of the land, notice to be mailed to
6 each home owner.

7 **SECTION 5.** 38-12-204.3 (2), Colorado Revised Statutes, is
8 amended to read:

9 **38-12-204.3. Notice required for termination.** (2) The notice
10 required under this section shall be in at least ten-point type and shall
11 read as follows:

12 **IMPORTANT NOTICE TO THE HOME OWNER:**

13 This notice and the accompanying notice to quit/notice of
14 nonpayment of rent are the first steps in the eviction process. Any
15 dispute you may have regarding the grounds for eviction should be
16 addressed with your landlord or the management of the mobile home
17 park or in the courts if an eviction action is filed. Please be advised that
18 the "Mobile Home Park Act", part 2 of article 12 of title 38, Colorado
19 Revised Statutes, may provide you with legal protection:

20 NOTICE TO QUIT: The landlord or management of a mobile
21 home park must serve to a home owner a notice to quit in order to
22 terminate a home owner's tenancy. The notice must be in writing and
23 must contain certain information, including:

- 24 ! The grounds for the termination of the tenancy; ~~and~~
25 ! Whether or not the home owner has a right to cure under
26 the "Mobile Home Park Act"; AND
27 ! THAT THE HOME OWNER HAS A RIGHT TO MEDIATION

1 PURSUANT TO SECTION 38-12-216 OF THE "MOBILE HOME
2 PARK ACT".

3 NOTICE OF NONPAYMENT OF RENT: The landlord or
4 management of a mobile home park must serve to a home owner a notice
5 of nonpayment of rent in order to terminate a home owner's tenancy.
6 The notice must be in writing and must require that the home owner
7 either make payment of rent and any applicable fees due and owing or
8 remove the owner's unit from the premises, within a period of not less
9 than five days after the date the notice is served or posted, for failure to
10 pay rent when due.

11 CURE PERIODS: If the home owner has a right to cure under
12 the "Mobile Home Park Act", the landlord or management of a mobile
13 home park cannot terminate a home owner's tenancy without first
14 providing the home owner with a time period to cure the noncompliance.
15 "Cure" refers to a home owner remedying, fixing, or otherwise
16 correcting the situation or problem that caused the tenancy to be
17 terminated pursuant to sections 38-12-202, 38-12-203, or 38-12-204,
18 Colorado Revised Statutes.

19 COMMENCEMENT OF LEGAL ACTION TO TERMINATE
20 THE TENANCY: After the last day of the notice period, a legal action
21 may be commenced to take possession of the space leased by the home
22 owner. In order to evict a home owner, the landlord or management of
23 the mobile home park must prove:

- 24 ! The landlord or management complied with the notice
- 25 requirements of the "Mobile Home Park Act";
- 26 ! The landlord or management provided the home owner
- 27 with a statement of reasons for termination of the tenancy;

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and
! The reasons for termination of the tenancy are true and valid under the "Mobile Home Park Act".

A home owner must appear in court to defend against an eviction action. If the court rules in favor of the landlord or management of the mobile home park, the home owner will have not less than ~~48 hours~~ SEVEN DAYS AND UP TO THIRTY DAYS from the time of the ruling to remove the mobile home and to vacate the premises. THE HOME OWNER SHALL PREPAY TO THE LANDLORD AN AMOUNT EQUAL TO THE TOTAL AMOUNT DUE TO THE LANDLORD AND SHALL PREPAY A PRO RATA SHARE OF RENT ON A DAILY BASIS TO THE LANDLORD FOR EACH DAY THE MOBILE HOME WILL REMAIN ON THE PREMISES AFTER THE SEVENTH DAY FOLLOWING THE COURT RULING.

SECTION 6. 38-12-206, Colorado Revised Statutes, is amended to read:

38-12-206. Home owner meetings - assembly in common areas. (1) Home owners shall have the right to meet and establish a homeowners' association. Meetings of home owners or the homeowners' association relating to mobile home living and affairs in their park community hall or recreation hall, if such a facility or similar facility exists, shall not be subject to prohibition by the park management if the hall is reserved according to the park rules and such meetings are held at reasonable hours and when the facility is not otherwise in use.

(2) THE STREETS AND COMMON AREAS WITHIN THE BOUNDARIES OF THE MOBILE HOME PARK PROPERTY THAT ARE NOT DEDICATED TO THE LOCAL GOVERNMENT SHALL BE CONSIDERED PUBLIC AREAS FOR THE RESIDENTS OF THE MOBILE HOME PARK AND ANY INVITED GUESTS OF THE

1 RESIDENTS OF THE MOBILE HOME PARK TO PEACEABLY ASSEMBLE
2 PURSUANT TO THE FIRST AMENDMENT TO THE UNITED STATES
3 CONSTITUTION. ANY REGULATIONS PROMULGATED BY THE LANDLORD
4 MAY PROVIDE REASONABLE TIME, PLACE, AND MANNER RESTRICTIONS
5 BUT MAY NOT PROHIBIT ASSEMBLY PROTECTED BY THE FIRST
6 AMENDMENT TO THE UNITED STATES CONSTITUTION.

7 **SECTION 7.** 38-12-212.3 (1) (a) (I) and (1) (b), Colorado
8 Revised Statutes, are amended to read:

9 **38-12-212.3. Responsibilities of landlord - acts prohibited.**

10 (1) (a) Except as otherwise provided in this section, a landlord shall be
11 responsible for and pay the cost of the maintenance and repair of:

12 (I) Any sewer lines, WATER LINES, utility service lines, or related
13 connections owned and provided by the landlord to the utility pedestal
14 or pad space for a mobile home sited in the park; and

15 (b) Any landlord who fails to maintain or repair the items
16 delineated in paragraph (a) of this subsection (1) shall be responsible for
17 and pay the cost of repairing any damage to a mobile home which results
18 from such failure. THE LANDLORD SHALL HAVE A DUTY TO KEEP WATER
19 AND SEWER SERVICES IN OPERATION TO EACH MOBILE HOME AT ALL
20 TIMES. IF, IN THE EVENT OF A DISRUPTION OF WATER AND SEWER
21 SERVICES, THE LANDLORD DOES NOT PROCEED WITH DUE DILIGENCE TO
22 RECONNECT THE SERVICES, THE LANDLORD SHALL REDUCE THE MONTHLY
23 RENT DUE FOR ANY MOBILE HOME ___ BY THE EQUIVALENT OF TWO DAYS'
24 RENT FOR EVERY DAY OR PORTION OF A DAY THAT WATER OR SEWER
25 SERVICES WERE NOT AVAILABLE TO THE MOBILE HOME; EXCEPT THAT
26 THIS PENALTY SHALL NOT APPLY IN INSTANCES OF TEMPORARY
27 DISCONNECTION OF SERVICES FOR REPAIR SO LONG AS FIVE DAYS'

1 WRITTEN NOTICE IS GIVEN TO EACH MOBILE HOME OWNER AFFECTED BY
2 THE REPAIR, NOR SHALL THE PENALTY APPLY IN THE EVENT OF AN
3 EMERGENCY THAT COULD NOT HAVE BEEN FORESEEN SO LONG AS THE
4 LANDLORD PROCEEDS WITH DILIGENCE TO RECONNECT THE SERVICES AS
5 SOON AS POSSIBLE.

6 **SECTION 8.** 38-12-217 (1) (a), (1) (c), and (2), Colorado
7 Revised Statutes, are amended to read:

8 **38-12-217. Notice of sale of mobile home park - notice of**
9 **change in use.** (1) (a) The mobile home park owner shall notify the
10 owners of all mobile homes in the park AND THE MUNICIPALITY IN WHICH
11 THE PARK IS SITUATED OR, IF NONE, THE COUNTY IN WHICH THE PARK IS
12 SITUATED of his or her intent to change the use of the land comprising
13 the park or to sell the park pursuant to paragraph (b) or (c) of this
14 subsection (1), as applicable.

15 (c) If the mobile home park owner intends to change the use of
16 the land comprising the mobile home park, the mobile home park owner
17 shall give written notice to each mobile home owner at least one hundred
18 eighty days before the change in use will occur. The mobile home park
19 owner shall mail the written notice to each mobile home owner at the
20 address shown on the rental agreement with the mobile home park
21 owner.

22 (2) The provisions of paragraph (b) of subsection (1) of this
23 section shall not apply to the sale of a mobile home park when such sale
24 occurs between members of an immediate family, related business
25 entities, members and managers of a limited liability company,
26 shareholders, officers, and directors in a corporation, trustees and
27 beneficiaries of a trust, or partners and limited liability partners in a

1 partnership or limited liability partnership; EXCEPT THAT SUCH
2 PURCHASERS SHALL NOT CHANGE THE USE OF THE LAND COMPRISING THE
3 MOBILE HOME PARK WITHOUT COMPLYING WITH THE NOTICE PROVISIONS
4 OF THIS SECTION. For purposes of this section "immediate family" means
5 persons related by blood or adoption.

6 **SECTION 9.** 38-12-220, Colorado Revised Statutes, is amended
7 to read:

8 **38-12-220. Private civil right of action.** Any home owner who
9 ~~lives~~ OWNS A HOME in a mobile home park where the landlord has
10 violated any provision of this article shall have a private civil right of
11 action against the landlord. In any such action, the home owner shall be
12 entitled to actual economic damages and ~~may be entitled to~~ REASONABLE
13 attorney fees and costs IF THE HOME OWNER IS SUCCESSFUL IN THE
14 ACTION.

15 **SECTION 10.** Part 2 of article 12 of title 38, Colorado Revised
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
17 read:

18 **38-12-221. Access by counties and municipalities.**
19 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE LANDLORD OF
20 A MOBILE HOME PARK SHALL GRANT COUNTY OR MUNICIPAL OFFICERS OR
21 EMPLOYEES ACCESS TO THE MOBILE HOME PARK FOR THE PURPOSES OF
22 INVESTIGATING OR CONDUCTING ANY NECESSARY STUDIES, AS
23 DETERMINED BY THE COUNTY OR MUNICIPALITY, RELATING TO THE
24 SUFFICIENCY OF UTILITY INFRASTRUCTURE.

25 **SECTION 11. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.