

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

**BILLPAPER**

LLS NO. 21-0127.01 Richard Sweetman x4333

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Gonzales-Gutierrez,**

**SENATE SPONSORSHIP**

**Gonzales,**

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING RESTRICTIONS ON LATE FEES CHARGED BY LANDLORDS.**

**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 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

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.

- 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".

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 38-12-101 as  
 3 follows:

4 **38-12-101. Legislative declaration.** ~~The provisions of This part~~

1 1 shall be liberally construed to implement the intent of the general  
2 assembly to ~~insure~~ ENSURE the proper administration of security deposits  
3 AND LATE FEES and protect the interests of tenants, MOBILE HOME  
4 OWNERS, and landlords.

5 **SECTION 2.** In Colorado Revised Statutes, **amend** 38-12-102 as  
6 follows:

7 **38-12-102. Definitions.** As used in this part 1, unless the context  
8 otherwise requires:

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

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

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

19 ~~(4)~~ (4) "Normal wear and tear" means ~~that~~ deterioration ~~which~~  
20 THAT occurs, based upon the use for which ~~the~~ A rental unit OR MOBILE  
21 HOME SPACE is intended, without negligence, carelessness, accident, or  
22 abuse of the premises or equipment or chattels by the tenant OR HOME  
23 OWNER or members of ~~his~~ THE TENANT'S OR HOME OWNER'S household,  
24 or their invitees or guests.

25 (5) "RENT SUBSIDY PROVIDER" MEANS A PUBLIC OR PRIVATE  
26 ENTITY, INCLUDING A PUBLIC HOUSING AUTHORITY, THAT PROVIDES  
27 ONGOING FINANCIAL ASSISTANCE TO A LANDLORD FOR THE PURPOSE OF

1       SUBSIDIZING RENT.

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

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

8           **SECTION 3.** In Colorado Revised Statutes, **add** 38-12-105 as  
9       follows:

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

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

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

20           (I) TWENTY DOLLARS; OR

21           (II) TWO AND ONE-HALF PERCENT OF THE AMOUNT OF THE PAST  
22       DUE RENT 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 LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION  
23 SHALL PAY TO AN AGGRIEVED TENANT A PENALTY IN THE AMOUNT OF  
24 TWENTY DOLLARS FOR EACH VIOLATION.

25 (3) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION,  
26 AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE  
27 CONTRARY, A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION

1 HAS SEVEN DAYS TO CURE THE VIOLATION, WHICH SEVEN DAYS BEGINS  
2 WHEN THE LANDLORD RECEIVES NOTICE OF THE VIOLATION.

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

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

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

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

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

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

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

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

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

4           **38-12-201.5. Definitions.** As used in this part 2 and in part 11 of  
5 this ~~title 38~~ ARTICLE 12, unless the context otherwise requires:

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

8           (d) Utilities; ~~and~~

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

12           (f) LATE FEES.

13           (2.5) "LATE FEE" HAS THE MEANING SET FORTH IN SECTION  
14 38-12-102 (3).

15           **SECTION 5.** In Colorado Revised Statutes, 38-12-213, **amend**  
16 (1) introductory portion, (1)(c), (1)(e), and (1)(f) as follows:

17           **38-12-213. Rental agreement - disclosure of terms in writing.**

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

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

27           (e) The name and mailing address where a manager's decision can

1 be appealed; AND

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

4 **SECTION 6.** In Colorado Revised Statutes, 13-54-102, **amend**  
5 (1)(r) as follows:

6 **13-54-102. Property exempt - definitions - repeal.** (1) The  
7 following property is exempt from levy and sale under writ of attachment  
8 or writ of execution:

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

15 **SECTION 7.** In Colorado Revised Statutes, **amend** 38-12-220 as  
16 follows:

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

24 **SECTION 8.** In Colorado Revised Statutes, 6-1-105, **add**  
25 (1)(nnn) as follows:

26 **6-1-105. Unfair or deceptive trade practices.** (1) A person  
27 engages in a deceptive trade practice when, in the course of the person's



1 business, vocation, or occupation, the person:

2 (nnn) VIOLATES SECTION 38-12-105, CONCERNING LATE FEES  
3 CHARGED TO TENANTS AND MOBILE HOME OWNERS.

4 **SECTION 9. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, or safety.