

Housing Legislation Update

The 74th General Assembly has passed dozens of bills impacting the future of housing in the State of Colorado. Below are the key pieces of legislation which impact the rights of individual homeowners and renters.

HB23-1120: Mediation Prior to Eviction

- For renters on SSI, SSDI, and TANF, after a notice of eviction is filed, they have the right the mediation prior to eviction.
- After an eviction is ordered by the court, the tenant has 30 days to leave the unit before the sheriff executes the writ.

HB23-1168: Remote Participation for Residential Eviction Proceedings

For a residential eviction action filed in county court, the bill:

- Requires the court to allow either party or any witness to choose to appear in person or remotely at any return, conference, hearing, trial, or other court proceeding;
- Authorizes a pro se defendant to file an answer electronically by e-mail, or at the court's discretion, through an e-filing system; and authorizes either party, if the party is pro se, to file a motion or other documents electronically by e-mail, or at the court's discretion, through an e-filing system;
- Prohibits the court from assessing an e-filing fee or service fee on a motion to waive filing fees, or from assessing an e-filing fee, service fee, or any other fee associated with the electronic filing or e-mailing of motions, answers, or documents for an indigent party; and
- Requires the court to comply with federal and state law or regulations, including supreme court directive or policy, regarding the provision of accommodation for people with a disability or for people with limited English proficiency. If a party is appearing remotely and the party is disconnected, the bill requires the court to make all reasonable efforts to contact the party and allow reasonable time for the party to reestablish connection. If the party is unable to reestablish connection, the bill requires the court to reschedule the hearing for the first available in-person date after the date of the originally scheduled hearing, but no later than one week after the originally scheduled hearing, to the extent practicable. The bill prohibits the court from entering a default judgment if a party is unable to participate remotely due to a technological disconnection or failure. The bill requires the complaint to include a designation of whether the plaintiff elects to participate in any hearing in person or remotely, and a box indicating if the eviction is for a residential or commercial tenancy. The bill requires the summons to include a statement in bold-faced type notifying the defendant that either party has a right to appear in person or remotely, include a place for the defendant to indicate whether the defendant will appear in person or remotely, and

provide information for how a pro se party can electronically submit documents related to the case.

HB23-1254: Habitability for Residential Premises

- The bill expands conditions covered under the warranty of habitability for residential premises in relation to indoor air quality, water quality, and other health and safety issues.
- The bill adds water damage, fire damage, and damage due to a natural or an environmental event as conditions under which a residential premises is deemed uninhabitable.
- The bill requires a landlord to have a residential premises inspected and tested by a certified industrial hygienist or an industrial hygienist to determine if the premises is safe for habitability.
- The bill also clarifies landlord responsibilities in remediating a residential premises to a habitable standard and how a tenant must give notice to a landlord if there are habitability issues with the tenant's residence.
- The bill prohibits a landlord from retaliating against a tenant for making a good faith complaint about the conditions of the residential premises and provides conditions by which a tenant may terminate a lease if a habitability issue is not remediated.

SB23-184: Protections for Residential Tenants

- The bill restricts a landlord from considering or inquiring about certain information relating to a prospective tenant's rental history, amount of income, and credit history. It also requires a landlord who solicits and accepts rental applications for the rental of a residential premises to rent to the first prospective tenant who applies and satisfies the landlord's financial and other rental screening criteria. A landlord must keep records of when rental applications are received and provide a time-stamped receipt to any prospective tenant who submits a rental application and requests such a receipt.
- The bill states that a landlord who violates any of the bill's new prohibitions is subject to an initial penalty of \$50, to be paid to the aggrieved party. A landlord who does not cure the violation is also subject to a statutory penalty of \$5,000, to be paid to the aggrieved party in addition to the initial penalty and any economic damages, court costs, and attorney fees.
- The bill establish that a violation of any of the bill's new prohibitions is an unfair housing practice subject to enforcement by private persons, the attorney general, and the Colorado civil rights division.
- The bill requires a landlord to allow a tenant to pay a security deposit in monthly installments over a period that is equal to half the term of the tenancy. It also prohibits a landlord from requiring a tenant to submit a security deposit in an amount that exceeds the amount of one monthly rent payment under the rental agreement.

- The bill establish that a tenant who alleges that the tenant's landlord has violated or is in violation of any state laws concerning unfair housing practices has an affirmative defense against an eviction action.

SB23-196: Income Tax Credit For Retrofitting A Home For Health Reasons

- Extends C.R.S. 39-22-541 from 2024 to 2029
- Allows a person who retrofits a home for disability related improvements (i.e. installing a ramp) to receive a tax credit for up to \$5000 to cover the cost of the improvement.
- Expands the carry over credit through 2028, which means if an improvement takes more than 1 year to complete the remaining credit can be used the following year