

(5) (a) The remedies in this section are in addition to any other remedies available at law or in equity to any person.

(b) This section does not limit or restrict the authority of any state or local housing or health code enforcement agency.

**Source: L. 2019:** Entire part added, (HB 19-1328), ch. 426, p. 3721, § 1, effective January 1, 2020.

**38-12-1007. Relationship to warranty of habitability.** *[Editor's note: This section is effective January 1, 2020.]* Notwithstanding any provision of part 5 of this article 12 to the contrary, a landlord who complies with this part 10 is deemed to have satisfied the requirements of said part 5 with respect to matters concerning bed bugs.

**Source: L. 2019:** Entire part added, (HB 19-1328), ch. 426, p. 3721, § 1, effective January 1, 2020.

## PART 11

### MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM

**Cross references:** For the legislative declaration in HB 19-1309, see section 1 of chapter 281, Session Laws of Colorado 2019.

**38-12-1101. Short title.** The short title of this part 11 is the "Mobile Home Park Act Dispute Resolution and Enforcement Program".

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2631, § 9, effective May 23.

**38-12-1102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) There are factors unique to the relationship between mobile home owners and mobile home park landlords;

(b) Once occupancy has commenced, a mobile home owner may be subject to violations of the "Mobile Home Park Act", part 2 of this article 12, without an adequate remedy at law because the difficulty and expense in moving and relocating a mobile home can affect the operation of market forces and lead to an inequality of the bargaining position of the parties;

(c) Taking legal action against a mobile home park landlord for violations of the "Mobile Home Park Act" can be a costly and lengthy process, and many mobile home owners cannot afford to pursue a court process to vindicate statutory rights. Mobile home park landlords will also benefit by having access to a process that resolves disputes quickly and efficiently.

(2) Therefore, it is the intent of the general assembly to provide an equitable as well as a less costly and more efficient way for mobile home owners and mobile home park landlords to

resolve disputes, and to provide a mechanism for state authorities to quickly locate mobile home park landlords.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2631, § 9, effective May 23.

**38-12-1103. Definitions.** As used in this part 11, unless the context otherwise requires:

- (1) "Act" means the "Mobile Home Park Act" created in part 2 of this article 12.
- (2) "Complainant" means a landlord or home owner who has filed a complaint alleging a violation of the act or the complainant's agent, employee, or representative authorized to act on the complainant's behalf.
- (3) "Division" means the division of housing of the department of local affairs.
- (4) "Fund" means the mobile home park act dispute resolution and enforcement program fund created in section 38-12-1110.
- (5) "Penalty" means a monetary penalty levied against a complainant or respondent because of a violation of either the act or the program.
- (6) "Program" means the "Mobile Home Park Act Dispute Resolution and Enforcement Program" created in this part 11.
- (7) "Respondent" means a landlord or home owner, alleged to have committed a violation of the act, or the respondent's agent, employee, or representative authorized to act on the respondent's behalf.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2631, § 9, effective May 23.

**38-12-1104. Dispute resolution program - creation - division of housing - duties - report - rules.** (1) The "Mobile Home Park Act Dispute Resolution and Enforcement Program" is hereby created.

- (2) The division shall:
  - (a) Produce educational materials regarding the act and the program. These materials must be in both English and Spanish and must include a notice in a format that a landlord can reasonably post in a mobile home park. The notice must summarize home owner rights and responsibilities, provide information on how to file a complaint with the division, describe the protections afforded home owners under section 38-12-1105 (13), and provide a toll-free telephone number and website that landlords and home owners can use to seek additional information and communicate complaints specific to the program;
  - (b) Distribute the educational materials described in subsection (2)(a) of this section to all known landlords and, as requested, to any complainants or respondents;
  - (c) Ensure that landlords post the notice provided in subsection (2)(a) of this section in a clearly visible location in common areas of mobile home parks, including any community hall or recreation hall;
  - (d) Enforce a penalty if the division discovers that the landlord has not appropriately posted the notice provided in subsection (2)(a) of this section in accordance with the requirements of subsection (2)(c) of this section;
  - (e) Create and maintain a registration database of mobile home parks;

(f) Create and maintain a database of mobile home parks that have had complaints filed against them under the program;

(g) Provide an annual report to the transportation and local government committee of the house of representatives, or its successor committee, the local government committee of the senate, or its successor committee, and to the department of regulatory agencies, and publish that annual report on the division's official website;

(h) Receive complaints and perform dispute resolution activities related to the program, including investigations, negotiations, determinations of violations, and imposition of penalties as described in section 38-12-1105;

(i) Issue subpoenas;

(j) Promulgate such rules as are necessary to implement the provisions of the program created in this part 11 and to clarify the requirements of the "Mobile Home Park Act", part 2 of this article 12. Such rules shall be promulgated in accordance with article 4 of title 24.

(3) The program must be funded by the penalties and fees deposited in the fund and any other resources directed to the program.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2632, § 9, effective May 23.

**38-12-1105. Dispute resolution program - complaint process.** (1) Beginning May 1, 2020, any aggrieved party may file a complaint with the division alleging a violation of the act or this part 11.

(2) After receiving a complaint under this part 11, the division shall investigate the alleged violations at the division's discretion and, if appropriate, facilitate negotiations between the complainant and the respondent.

(3) (a) Complainants and respondents shall cooperate with the division in the course of an investigation by responding to subpoenas issued by the division. The subpoenas may seek access to papers or other documents and provide site access to the mobile home parks relevant to the investigation. Complainants and respondents must respond to the division's subpoenas within fourteen days of the division sending the subpoenas by certified mail.

(b) Failure to cooperate with the division in the course of an investigation is a violation of this part 11.

(4) (a) If, after an investigation, the division determines that the parties are unable to come to an agreement, the division shall make a written determination on whether a violation of the act has occurred.

(b) If the division finds by a written determination that a violation of the act has occurred, the division shall deliver a written notice of violation by certified mail to both the complainant and the respondent. The notice of violation must specify the basis for the division's determination, the violation, the action required to cure the violation, the time within which that action must be taken, the penalties that will be imposed if that action is not taken within the specified time period, and the process for contesting the determination, required action, and penalties by means of an administrative hearing.

(c) If the division finds by a written determination that a violation of the act has not occurred, the division shall deliver a written notice of nonviolation to both the complainant and the respondent by certified mail. The notice of nonviolation must include the basis for the

division's determination and the process for contesting the determination included in the notice of nonviolation by means of an administrative hearing.

(5) The respondent must comply with the requirements of a notice of violation from the division within seven days of the notice of violation becoming a final agency order under either subsection (7)(b) or (9)(b) of this section, except as required otherwise by the division, unless the respondent has submitted a timely request for an administrative hearing to contest the notice under subsection (7) of this section. If a respondent fails to comply with the requirements of a notice of violation within the required time period and the division has not received a timely request for an administrative hearing, the division may impose a penalty, up to a maximum of five thousand dollars per violation per day, for each day that a violation remains uncorrected. When determining the amount of the penalty to impose on a respondent, the division shall consider the severity and duration of the violation and the impact of the violation on other community residents. If the respondent shows, upon timely application to the division, that a good faith effort to comply with the requirements of the notice of violation has been made and that the respondent has not complied because of mitigating factors beyond the respondent's control, the division may delay or dismiss the imposition of a penalty.

(6) The division may issue an order requiring the respondent to cease and desist from an unlawful practice. The division may also issue an order requiring the respondent to take actions that in the judgment of the division will carry out the purposes of this part 11. The actions may include, but are not limited to:

(a) Refunds of rent increases, improper fees, and charges collected in violation of this part 11;

(b) Filing documents that correct a statutory or rule violation; and

(c) Taking action necessary to correct a statutory or rule violation.

(7) (a) A complainant or respondent may request an administrative hearing before an administrative law judge to contest:

(I) A notice of violation issued under subsection (4)(b) of this section or a notice of nonviolation issued under subsection (4)(c) of this section;

(II) A penalty imposed under subsection (5) of this section; or

(III) An order to cease and desist or an order to take actions under subsection (6) of this section.

(b) If the complainant or respondent requests an administrative hearing pursuant to subsection (7)(a) of this section, the complainant or respondent must file the request within fifteen business days of receipt of a notice of violation, notice of nonviolation penalty, order, or action. If an administrative hearing is not requested within this time period, the notice of violation or notice of nonviolation constitutes a final agency order of the division and is not subject to review by any court or agency.

(8) Hearings before the office of administrative courts must be conducted in accordance with article 4 of title 24, unless otherwise specified in this section.

(9) (a) An appointed administrative law judge shall:

(I) Hear and receive pertinent evidence and testimony;

(II) Decide whether the evidence supports the division's finding by a preponderance of the evidence; and

(III) Enter an appropriate order within thirty days after the completion of the hearing and immediately send copies of the order to the affected parties.

(b) An order entered by an administrative law judge constitutes the final agency order of the division and is subject to judicial review pursuant to article 4 of title 24. An order entered by an administrative law judge may be appealed by the respondent and the division.

(10) When the division imposes any penalty against a respondent landlord under this part 11, the respondent may not seek any recovery or reimbursement of the penalty from a complainant or from any other home owner.

(11) All money collected from the imposition of any penalties imposed under this section other than any portion of the penalties required to be paid to a complainant must be deposited in the fund.

(12) This section does not provide an exclusive remedy and does not limit the right of landlords or home owners to take legal action against another party as provided in the act or otherwise. Exhaustion of the administrative remedy provided in this section is not required before a landlord or home owner may bring a legal action.

(13) A landlord may not take any retaliatory actions against a home owner for expressing an intention to file a complaint under this program or filing a complaint under this program. If the division determines that a landlord has retaliated against a home owner, the division may impose a fine of up to ten thousand dollars on the landlord.

(14) Any penalty levied against a landlord under this part 9 shall be a lien against the landlord's mobile home park until the landlord pays the penalty.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2633, § 9, effective May 23.

**38-12-1106. Registration of mobile home parks - process - fees.** (1) The division shall register all mobile home parks on an individual basis and renew this registration annually.

(2) The division shall send registration notifications and information packets to all known landlords of unregistered mobile home parks. These information packets must include:

(a) Registration forms that satisfy all of the requirements of subsection (7) of this section;

(b) Information about the different methods of registration;

(c) Information about the single, statewide toll-free telephone number described in subsection (11) of this section;

(d) Registration assessment information, including registration due dates and late fees, and the collections procedures, liens, and charging costs to home owners; and

(e) A description of the protections afforded home owners under section 38-12-1105 (13).

(3) The division shall annually send registration renewal notifications and information packets to all registered mobile home parks.

(4) A landlord must file for registration or registration renewal by submitting to the division, either through the division's website, by mail, or in person, a registration or registration renewal form provided by the division and pay a registration fee as described in subsection (8) of this section.

(5) A landlord must notify the division within thirty days of a change in the ownership of the landlord's mobile home park so that the division may update the mobile home park's registration information.

(6) The division shall make available on the division's website electronic forms to register a mobile home park. These forms must be available in both English and Spanish and satisfy all of the requirements of subsection (7) of this section.

(7) The registration forms provided by the division must require information necessary to assist the division in identifying and locating a mobile home park and other information that may be useful to the state including, at a minimum:

- (a) The name and address of the landlord;
- (b) The name and address of the mobile home park;
- (c) The number of lots within the mobile home park;
- (d) The number of mobile homes within the mobile home park; and
- (e) The address of each mobile home within the mobile home park.

(8) For the 2020 calendar year, the division shall charge each landlord a twenty-four dollar registration fee for each mobile home independently owned on rented land within the landlord's mobile home park. Each year thereafter, the division shall establish by rule a fee that each landlord shall pay to the division as an annual registration fee for each mobile home independently owned on rented land within the landlord's mobile home park. A landlord may charge a home owner not more than half of the fee. The registration fee for each mobile home must be deposited into the fund. The division shall review the annual registration fee and, if necessary, adjust the annual registration fee through rule-making to ensure it continues to reasonably relate to the cost of administering the program.

(9) Initial registrations of mobile home parks must be filed before February 1, 2020, and after that date within three months of the availability of mobile home lots for rent within a new park. A landlord who was sent an initial registration form and who missed the deadline for registration is subject to a delinquency fee of up to five thousand dollars. Landlords who receive registration renewal notifications and do not renew their registration by the expiration date as assigned by the division are also subject to a delinquency fee of up to five thousand dollars.

(10) Registration is effective on the date determined by the division, and the division must issue a registration number to each registered mobile home park. The division must provide an expiration date, assigned by the division, to each registered mobile home park.

(11) The division shall establish a system, including but not limited to a single, statewide toll-free telephone number, for responding directly to inquiries about the registration process.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2636, § 9, effective May 23.

**38-12-1107. Registration information database.** By February 1, 2020, the division shall create and maintain a database that includes all of the information collected under section 38-12-1106.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2638, § 9, effective May 23.

**38-12-1108. Mobile home park complaint database.** (1) By May 1, 2020, the division shall also create and maintain a database of mobile home parks that have had complaints filed against them under the program.

- (2) At a minimum, the database must include:
  - (a) The number of complaints received;
  - (b) The nature and extent of the complaints received;
  - (c) The violation of law complained of; and
  - (d) The outcome of each complaint.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2638, § 9, effective May 23.

**38-12-1109. Mobile home park act dispute resolution and enforcement program annual report.** The division shall prepare an annual report that contains, at a minimum, the number of constituents contacted by the division in regard to the program, the number of complaints received under the program received by the division, the number of complaints under the program resolved by the division, a brief summary of the nature of the complaints under the program received by the division, how the complaints under the program received by the division were resolved, the number of administrative appeals under the program, a summary of any relevant court decisions relating to the program, and a summary of results of an annual constituent survey conducted by an independent contractor.

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2638, § 9, effective May 23.

**38-12-1110. Mobile home park act dispute resolution and enforcement program fund.** (1) There is hereby created in the state treasury the mobile home park act dispute resolution and enforcement program fund. All money collected pursuant to the program must be deposited in the fund. The fund shall be used by the division for the costs associated with administering the program. The money in the fund shall be continuously appropriated for administering the program. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) The division, by rule or as otherwise provided by law, may reduce the amount of any fee imposed under this part 11 if necessary pursuant to section 24-75-402 (3) to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the division, by rule or as otherwise provided by law, may increase the amount of the fees imposed under this part 11 as provided in section 24-75-402 (4).

**Source: L. 2019:** Entire part added, (HB 19-1309), ch. 281, p. 2638, § 9, effective May 23.

## UNCLAIMED PROPERTY

### ARTICLE 13