

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

PREAMENDED

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

LLS NO. 19-1001.01 Pierce Lively x2059

HOUSE BILL 19-1309

HOUSE SPONSORSHIP

Hooton and McCluskie,

SENATE SPONSORSHIP

Fenberg,

House Committees

Transportation & Local Government
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF MOBILE HOME PARKS, AND, IN**
102 **CONNECTION THEREWITH, GRANTING COUNTIES THE POWER TO**
103 **ENACT ORDINANCES FOR MOBILE HOME PARKS, EXTENDING THE**
104 **TIME TO MOVE OR SELL A MOBILE HOME AFTER EVICTION**
105 **PROCEEDINGS, AND CREATING THE "MOBILE HOME PARK**
106 **DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM".**

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 provides protections for mobile home owners by:

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.

- ! Granting counties the power to enact certain ordinances for mobile home parks;
- ! Extending the time period between the notice of nonpayment of rent and the termination of any tenancy or other estate at will or lease in a mobile home park; and
- ! Extending the time a mobile home owner has to vacate a mobile home park after a court enters an eviction order.

The bill also creates the "Mobile Home Park Dispute Resolution and Enforcement Program" (program). The program authorizes the division of housing of the department of local affairs to:

- ! Register mobile home parks;
- ! Collect a registration fee from mobile home parks;
- ! Collect and annually report upon data related to disputes and violations of the "Mobile Home Park Act" (act);
- ! Produce and distribute educational materials concerning the act and the program;
- ! Create and maintain a database of mobile home parks;
- ! Create and maintain a database to manage the program; and
- ! Take complaints, conduct investigations, make determinations, impose penalties, and participate in administrative dispute resolutions when there are alleged violations of the act.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Mobile homes, manufactured housing, and factory-built
5 housing are important and effective ways to meet Colorado's affordable
6 housing needs;

7 (b) As of 2018, more than 100,000 Coloradans live in
8 manufactured homes;

9 (c) As of 2015, the median income for Coloradans living in
10 manufactured homes is \$39,000;

11 (d) The department of regulatory agencies' 2018 "Sunrise Review:
12 Manufactured Housing Community Owners and Managers" found that:
13 "Clearly, harm is occurring in manufactured housing communities...The

1 harm largely stems from the lack of enforcement of existing laws, bad
2 actors exploiting a relatively loose regulatory structure, and the inevitable
3 tension that arises when the house belongs to one person but the land
4 beneath it belongs to someone else."

5 (e) Moving mobile homes is costly and it is challenging to find an
6 alternative mobile home park with vacancies willing to accept a mobile
7 home. In some instances, a mobile home owner may not be able to move
8 their mobile home because of the mobile home's age and condition. A
9 mobile home owner may be forced to sell their home for an unreasonably
10 low price due to the abbreviated timeline to move it or the inability to do
11 so. Extending the time to vacate, move, or sell the home provides
12 adequate time for home owners to sell or move their homes without
13 experiencing a needless loss of property or equity.

14 (f) Both mobile home owners who rent a space for their mobile
15 home in a mobile home park and mobile home landlords have important
16 rights and responsibilities under the "Mobile Home Park Act", part 2 of
17 article 12 of title 38, Colorado Revised Statutes;

18 (g) Although mobile home owners and mobile home park
19 landlords may pursue litigation to contest a violation of the "Mobile
20 Home Park Act", the litigation process can be expensive, cumbersome,
21 and more time consuming than an administrative regulatory and dispute
22 resolution process; and

23 (h) Local communities, both home rule and statutory, play an
24 important role in ensuring that the "Mobile Home Park Act" is upheld, but
25 counties lack the power to enact the ordinances necessary to adequately
26 fulfill this role.

27 (2) Therefore, it is the intent of the general assembly to:

1 (a) Provide mobile home owners additional time to either sell or
2 move their mobile homes by extending the time a mobile home owner has
3 to vacate a mobile home park after a court enters an eviction order;

4 (b) Allow counties to play a similar role as home rule cities in
5 ensuring that the "Mobile Home Park Act" is upheld by granting county
6 boards of commissioners additional permissive authority to regulate and
7 enforce regulations of mobile home parks throughout the counties'
8 unincorporated areas; and

9 (c) Support better communication and promote mutual
10 understanding between mobile home landlords, management, and home
11 owners by creating the "Mobile Home Park Act Dispute Resolution and
12 Enforcement Program".

13 **SECTION 2.** In Colorado Revised Statutes, 24-32-705, **add**
14 (1)(u) as follows:

15 **24-32-705. Functions of division.** (1) The division has the
16 following functions:

17 (u) TO ENFORCE THE PROVISIONS OF THE "MOBILE HOME PARK
18 ACT" CREATED IN PART 2 OF ARTICLE 12 OF TITLE 38 AND THE "MOBILE
19 HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM"
20 CREATED IN PART 9 OF ARTICLE 12 OF TITLE 38, AND THE RULES AND
21 REGULATIONS ADOPTED PURSUANT TO SECTION 38-12-904 (2)(j).

22 **SECTION 3.** In Colorado Revised Statutes, **add** 30-11-128 as
23 follows:

24 **30-11-128. Mobile home parks - definition.** (1) THE BOARD OF
25 COUNTY COMMISSIONERS OF EACH COUNTY HAS THE POWER TO ADOPT,
26 ADMINISTER, AND ENFORCE ORDINANCES AND RESOLUTIONS TO PROVIDE
27 FOR THE SAFE AND EQUITABLE OPERATION OF MOBILE HOME PARKS

1 THROUGHOUT THE UNINCORPORATED AREAS OF THE COUNTY. THESE
2 ORDINANCES AND RESOLUTIONS MAY BE ENACTED WITHIN THE SCOPE OF
3 THE "MOBILE HOME PARK ACT", PART 2 OF ARTICLE 12 OF TITLE 38, AND
4 FURTHER AS THE BOARD DEEMS NECESSARY TO PROTECT HOME OWNERS'
5 EQUITY IN THE SAFE USE AND ENJOYMENT OF THE MOBILE HOMES AND
6 MOBILE HOME LOTS, INCLUDING BUT NOT LIMITED TO THE IMPOSITION OF
7 PENALTIES OR ADOPTION OF A LOCAL REGISTRATION SYSTEM.

8 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AN
9 ORDINANCE OR RESOLUTION ENACTED BY A COUNTY'S BOARD OF COUNTY
10 COMMISSIONERS IS ONLY ENFORCEABLE WITHIN THE UNINCORPORATED
11 AREA OF THE COUNTY.

12 (3) ONE OR MORE CONTIGUOUS COUNTIES AND ANY MUNICIPALITY
13 OR TOWN WITHIN EACH COUNTY MAY ENTER INTO INTERGOVERNMENTAL
14 AGREEMENTS TO EXTEND THE APPLICABILITY OF ANY ORDINANCE OR
15 RESOLUTION ADOPTED UNDER THIS SECTION TO AND THROUGHOUT ANY
16 PARTICIPATING COUNTY, MUNICIPALITY, OR TOWN.

17 (4) FOR PURPOSES OF THIS SECTION, "HOME OWNER", "LANDLORD",
18 "MOBILE HOME", "MOBILE HOME LOT", AND "MOBILE HOME PARK" HAVE
19 THE SAME MEANING AS THEY ARE DEFINED IN SECTION 38-12-201.5.

20 **SECTION 4.** In Colorado Revised Statutes, 38-12-201.5, **amend**
21 the introductory portion as follows:

22 **38-12-201.5. Definitions.** As used in this part 2 AND IN PART 9 OF
23 THIS TITLE 38, unless the context otherwise requires:

24 **SECTION 5.** In Colorado Revised Statutes, 38-12-204, **amend**
25 (1) as follows:

26 **38-12-204. Nonpayment of rent - notice required for rent**
27 **increase.** (1) Any tenancy or other estate at will or lease in a mobile

1 home park may be terminated upon the landlord's written notice to the
2 home owner requiring, in the alternative, payment of rent or the removal
3 of the home owner's unit from the premises, within a period of not less
4 than ~~five~~ TEN days after the date notice is served or posted, for failure to
5 pay rent when due.

6 **SECTION 6.** In Colorado Revised Statutes, 38-12-204.3, **amend**
7 (2) as follows:

8 **38-12-204.3. Notice required for termination.** (2) The notice
9 required under this section ~~shall~~ MUST be in at least ten-point type and
10 ~~shall~~ MUST read as follows:

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

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

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

- 23 ! The grounds for the termination of the tenancy;
- 24 ! Whether or not the home owner has a right to cure under
25 the "Mobile Home Park Act"; and
- 26 ! That the home owner has ~~a right to~~ THE OPTION OF
27 mediation pursuant to section 38-12-216, Colorado Revised

1 Statutes, of the "Mobile Home Park Act.

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

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

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

22 ! The landlord or management complied with the notice
23 requirements of the "Mobile Home Park Act";

24 ! The landlord or management provided the home owner
25 with a statement of reasons for termination of the tenancy;
26 and

27 ! The reasons for termination of the tenancy are true and

1 valid under the "Mobile Home Park Act".

2 A home owner must appear in court to defend against an eviction
3 action. If the court rules in favor of the landlord or management of the
4 mobile home park, the home owner ~~will have~~ HAS not less than ~~48 hours~~
5 ~~THIRTY~~ DAYS from the time of the ruling to EITHER remove OR SELL the
6 mobile home and to vacate the premises. ~~If a tenancy is being terminated~~
7 ~~pursuant to section 38-12-203(1)(f), Colorado Revised Statutes, the home~~
8 ~~owner shall have not less than 48 hours from the time of the ruling to~~
9 ~~remove the home and vacate the premises. In all other circumstances, If~~
10 ~~the home owner wishes to extend such period beyond 48 hours~~ THIRTY
11 ~~DAYS but not more than thirty~~ SIXTY days from the date of the ruling, the
12 home owner shall prepay to the landlord an amount equal to any total
13 amount declared by the court to be due to the landlord, as well as a pro
14 rata share of rent for each day following the court's ruling that the mobile
15 home owner will remain on the premises. All prepayments ~~shall be paid~~
16 ~~by certified check, by cashier's check, or by wire transfer and shall be~~
17 ~~paid no later than 48 hours~~ THIRTY DAYS after the court ruling.
18 ~~ALTERNATIVELY, IF A HOME OWNER CHOOSES TO REMAIN ON THE~~
19 ~~PREMISES FOR MORE THAN THIRTY DAYS, A HOME OWNER MAY ALLOW THE~~
20 ~~LANDLORD TO PLACE A LIEN ON THE HOME OWNER'S MOBILE HOME THAT~~
21 ~~IS EQUAL IN VALUE TO THE PRO RATA SHARE OF RENT FOR EACH DAY~~
22 ~~FOLLOWING THE COURT'S RULING THAT THE HOME OWNER REMAINS ON~~
23 ~~THE PREMISES. REMOVAL OF A MOBILE HOME OR ONE OR MORE MOBILE~~
24 ~~HOME OWNERS OR OCCUPANTS FROM THE MOBILE HOME PARK IF A MOBILE~~
25 ~~HOME OWNER VIOLATES ARTICLE 3, 4, 6, 7, 9, 10, 12, OR 18 OF TITLE 18 OR~~
26 ~~SECTION 16-13-303.~~

27 **SECTION 7.** In Colorado Revised Statutes, 38-12-208, **amend**

1 (1)(b) as follows:

2 **38-12-208. Remedies.** (1)(b) The notice of judgment ~~shall~~ MUST
3 state that, at a specified time not less than ~~forty-eight hours~~ THIRTY DAYS
4 from the entry of judgment, if a tenancy is being terminated pursuant to
5 section ~~38-12-203~~ (1)(f) and, in all other instances, not less than
6 ~~forty-eight hours from the entry of judgment~~, which may be extended to
7 not more than ~~thirty~~ SIXTY days after the entry of judgment if the home
8 owner has prepaid by certified check, by cashier's check, or by wire
9 transfer no later than ~~forty-eight hours~~ THIRTY DAYS after the court ruling
10 to the landlord an amount equal to any total amount declared by the court
11 to be due to the landlord, as well as a pro rata share of rent for each day
12 following the court's ruling that the mobile home owner will remain on
13 the premises, OR, IF A HOME OWNER CHOOSES TO REMAIN ON THE
14 PREMISES FOR MORE THAN THIRTY DAYS, A HOME OWNER MAY ALLOW THE
15 LANDLORD TO PLACE A LIEN ON THE HOME OWNER'S MOBILE HOME THAT
16 IS EQUAL IN VALUE TO THE PRO RATA SHARE OF RENT FOR EACH DAY
17 FOLLOWING THE COURT'S RULING THAT THE HOME OWNER REMAINS ON
18 THE PREMISES, IN INSTANCES WHERE THE MOBILE HOME MUST BE
19 REMOVED FROM THE MOBILE HOME LOT, the sheriff ~~will~~ SHALL return to
20 serve a writ of restitution and superintend the peaceful and orderly
21 removal of the mobile home under that order of court. The notice of
22 judgment ~~shall~~ MUST also advise the home owner, IN INSTANCES WHERE
23 THE MOBILE HOME MUST BE REMOVED FROM THE MOBILE HOME LOT, to
24 prepare the mobile home for removal from the premises by removing the
25 skirting, disconnecting utilities, attaching tires, and otherwise making the
26 mobile home safe and ready for highway travel.

27 **SECTION 8.** In Colorado Revised Statutes, **add** part 9 to article

1 12 of title 38 as follows:

2

PART 9

3

MOBILE HOME PARK ACT DISPUTE

4

RESOLUTION AND ENFORCEMENT PROGRAM

5

38-12-901. Short title. THE SHORT TITLE OF THIS PART 9 IS THE

6

"MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT

7

PROGRAM".

8

38-12-902. Legislative declaration. (1) THE GENERAL ASSEMBLY

9

HEREBY FINDS AND DECLARES THAT:

10

(a) THERE ARE FACTORS UNIQUE TO THE RELATIONSHIP BETWEEN

11

MOBILE HOME OWNERS AND MOBILE HOME PARK LANDLORDS;

12

(b) ONCE OCCUPANCY HAS COMMENCED, A MOBILE HOME OWNER

13

MAY BE SUBJECT TO VIOLATIONS OF THE "MOBILE HOME PARK ACT", PART

14

2 OF THIS ARTICLE 12, WITHOUT AN ADEQUATE REMEDY AT LAW BECAUSE

15

THE DIFFICULTY AND EXPENSE IN MOVING AND RELOCATING A MOBILE

16

HOME CAN AFFECT THE OPERATION OF MARKET FORCES AND LEAD TO AN

17

INEQUALITY OF THE BARGAINING POSITION OF THE PARTIES;

18

(c) TAKING LEGAL ACTION AGAINST A MOBILE HOME PARK

19

LANDLORD FOR VIOLATIONS OF THE "MOBILE HOME PARK ACT" CAN BE

20

A COSTLY AND LENGTHY PROCESS, AND MANY MOBILE HOME OWNERS

21

CANNOT AFFORD TO PURSUE A COURT PROCESS TO VINDICATE STATUTORY

22

RIGHTS. MOBILE HOME PARK LANDLORDS WILL ALSO BENEFIT BY HAVING

23

ACCESS TO A PROCESS THAT RESOLVES DISPUTES QUICKLY AND

24

EFFICIENTLY.

25

(2) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO

26

PROVIDE AN EQUITABLE AS WELL AS A LESS COSTLY AND MORE EFFICIENT

27

WAY FOR MOBILE HOME OWNERS AND MOBILE HOME PARK LANDLORDS TO

1 RESOLVE DISPUTES, AND TO PROVIDE A MECHANISM FOR STATE
2 AUTHORITIES TO QUICKLY LOCATE MOBILE HOME PARK LANDLORDS.

3 **38-12-903. Definitions.** AS USED IN THIS PART 9, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

5 (1) "ACT" MEANS THE "MOBILE HOME PARK ACT" CREATED IN
6 PART 2 OF THIS ARTICLE 12.

7 (2) "COMPLAINANT" MEANS A LANDLORD OR HOME OWNER WHO
8 HAS FILED A COMPLAINT ALLEGING A VIOLATION OF THE ACT OR THE
9 COMPLAINANT'S AGENT, EMPLOYEE, OR REPRESENTATIVE AUTHORIZED TO
10 ACT ON THE COMPLAINANT'S BEHALF.

11 (3) "DIVISION" MEANS THE DIVISION OF HOUSING OF THE
12 DEPARTMENT OF LOCAL AFFAIRS.

13 (4) "FUND" MEANS THE MOBILE HOME PARK ACT DISPUTE
14 RESOLUTION AND ENFORCEMENT PROGRAM FUND CREATED IN SECTION
15 38-12-910.

16 (5) "PENALTY" MEANS A MONETARY PENALTY LEVIED AGAINST A
17 COMPLAINANT OR RESPONDENT BECAUSE OF A VIOLATION OF EITHER THE
18 ACT OR THE PROGRAM.

19 (6) "PROGRAM" MEANS THE "MOBILE HOME PARK ACT DISPUTE
20 RESOLUTION AND ENFORCEMENT PROGRAM" CREATED IN THIS PART 9.

21 (7) "RESPONDENT" MEANS A LANDLORD OR HOME OWNER,
22 ALLEGED TO HAVE COMMITTED A VIOLATION OF THE ACT, OR THE
23 RESPONDENT'S AGENT, EMPLOYEE, OR REPRESENTATIVE AUTHORIZED TO
24 ACT ON THE RESPONDENT'S BEHALF.

25 **38-12-904. Dispute resolution program - creation - division of**
26 **housing - duties - report - rules.** (1) THE "MOBILE HOME PARK ACT
27 DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM" IS HEREBY

1 CREATED.

2 (2) THE DIVISION SHALL:

3 (a) PRODUCE EDUCATIONAL MATERIALS REGARDING THE ACT AND
4 THE PROGRAM. THESE MATERIALS MUST BE IN BOTH ENGLISH AND
5 SPANISH AND MUST INCLUDE A NOTICE IN A FORMAT THAT A LANDLORD
6 CAN REASONABLY POST IN A MOBILE HOME PARK. THE NOTICE MUST
7 SUMMARIZE HOME OWNER RIGHTS AND RESPONSIBILITIES, PROVIDE
8 INFORMATION ON HOW TO FILE A COMPLAINT WITH THE DIVISION,
9 DESCRIBE THE PROTECTIONS AFFORDED HOME OWNERS UNDER SECTION
10 38-12-905 (13), AND PROVIDE A TOLL-FREE TELEPHONE NUMBER AND
11 WEBSITE THAT LANDLORDS AND HOME OWNERS CAN USE TO SEEK
12 ADDITIONAL INFORMATION AND COMMUNICATE COMPLAINTS SPECIFIC TO
13 THE PROGRAM;

14 (b) DISTRIBUTE THE EDUCATIONAL MATERIALS DESCRIBED IN
15 SUBSECTION (2)(a) OF THIS SECTION TO ALL KNOWN LANDLORDS AND, AS
16 REQUESTED, TO ANY COMPLAINANTS OR RESPONDENTS;

17 (c) ENSURE THAT LANDLORDS POST THE NOTICE PROVIDED IN
18 SUBSECTION (2)(a) OF THIS SECTION IN A CLEARLY VISIBLE LOCATION IN
19 COMMON AREAS OF MOBILE HOME PARKS, INCLUDING ANY COMMUNITY
20 HALL OR RECREATION HALL;

21 (d) ENFORCE A PENALTY IF THE DIVISION DISCOVERS THAT THE
22 LANDLORD HAS NOT APPROPRIATELY POSTED THE NOTICE PROVIDED IN
23 SUBSECTION (2)(a) OF THIS SECTION IN ACCORDANCE WITH THE
24 REQUIREMENTS OF SUBSECTION (2)(c) OF THIS SECTION;

25 (e) CREATE AND MAINTAIN A REGISTRATION DATABASE OF MOBILE
26 HOME PARKS;

27 (f) CREATE AND MAINTAIN A DATABASE OF MOBILE HOME PARKS

1 THAT HAVE HAD COMPLAINTS FILED AGAINST THEM UNDER THE PROGRAM;

2 (g) PROVIDE AN ANNUAL REPORT TO THE TRANSPORTATION AND
3 LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
4 ITS SUCCESSOR COMMITTEE, AND THE LOCAL GOVERNMENT COMMITTEE OF
5 THE SENATE, OR ITS SUCCESSOR COMMITTEE, AND PUBLISH THAT ANNUAL
6 REPORT ON THE DIVISION'S OFFICIAL WEBSITE;

7 (h) RECEIVE COMPLAINTS AND PERFORM DISPUTE RESOLUTION
8 ACTIVITIES RELATED TO THE PROGRAM, INCLUDING INVESTIGATIONS,
9 NEGOTIATIONS, DETERMINATIONS OF VIOLATIONS, AND IMPOSITION OF
10 PENALTIES AS DESCRIBED IN SECTION 38-12-905;

11 (i) ISSUE SUBPOENAS;

12 (j) PROMULGATE SUCH RULES AS ARE NECESSARY TO IMPLEMENT
13 THE PROVISIONS OF THE PROGRAM CREATED IN THIS PART 9 AND TO
14 CLARIFY THE REQUIREMENTS OF THE "MOBILE HOME PARK ACT", PART 2
15 OF THIS ARTICLE 12. SUCH RULES SHALL BE PROMULGATED IN
16 ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

17 (3) THE PROGRAM MUST BE FUNDED BY THE PENALTIES AND FEES
18 DEPOSITED IN THE FUND AND ANY OTHER RESOURCES DIRECTED TO THE
19 PROGRAM.

20 **38-12-905. Dispute resolution program - complaint process.**

21 (1) BEGINNING MAY 1, 2020, ANY AGGRIEVED PARTY MAY FILE A
22 COMPLAINT WITH THE DIVISION ALLEGING A VIOLATION OF THE ACT OR
23 THIS PART 9.

24 (2) AFTER RECEIVING A COMPLAINT UNDER THIS PART 9, THE
25 DIVISION SHALL INVESTIGATE THE ALLEGED VIOLATIONS AT THE DIVISION'S
26 DISCRETION AND, IF APPROPRIATE, FACILITATE NEGOTIATIONS BETWEEN
27 THE COMPLAINANT AND THE RESPONDENT.

1 (3) (a) COMPLAINANTS AND RESPONDENTS SHALL COOPERATE
2 WITH THE DIVISION IN THE COURSE OF AN INVESTIGATION BY RESPONDING
3 TO SUBPOENAS ISSUED BY THE DIVISION. THE SUBPOENAS MAY SEEK
4 ACCESS TO PAPERS OR OTHER DOCUMENTS AND PROVIDE SITE ACCESS TO
5 THE MOBILE HOME PARKS RELEVANT TO THE INVESTIGATION.
6 COMPLAINANTS AND RESPONDENTS MUST RESPOND TO THE DIVISION'S
7 SUBPOENAS WITHIN TEN DAYS OF THE DIVISION SENDING THE SUBPOENAS.

8 (b) FAILURE TO COOPERATE WITH THE DIVISION IN THE COURSE OF
9 AN INVESTIGATION IS A VIOLATION OF THIS PART 9.

10 (4) (a) IF, AFTER AN INVESTIGATION, THE DIVISION DETERMINES
11 THAT THE PARTIES ARE UNABLE TO COME TO AN AGREEMENT, THE
12 DIVISION SHALL MAKE A WRITTEN DETERMINATION ON WHETHER A
13 VIOLATION OF THE ACT HAS OCCURRED.

14 (b) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
15 VIOLATION OF THE ACT HAS OCCURRED, THE DIVISION SHALL DELIVER A
16 WRITTEN NOTICE OF VIOLATION BY CERTIFIED MAIL TO BOTH THE
17 COMPLAINANT AND THE RESPONDENT. THE NOTICE OF VIOLATION MUST
18 SPECIFY THE BASIS FOR THE DIVISION'S DETERMINATION, THE VIOLATION,
19 THE ACTION REQUIRED TO CURE THE VIOLATION, THE TIME WITHIN WHICH
20 THAT ACTION MUST BE TAKEN, THE PENALTIES THAT WILL BE IMPOSED IF
21 THAT ACTION IS NOT TAKEN WITHIN THE SPECIFIED TIME PERIOD, AND THE
22 PROCESS FOR CONTESTING THE DETERMINATION, REQUIRED ACTION, AND
23 PENALTIES BY MEANS OF AN ADMINISTRATIVE HEARING.

24 (c) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
25 VIOLATION OF THE ACT HAS NOT OCCURRED, THE DIVISION SHALL DELIVER
26 A WRITTEN NOTICE OF NONVIOLATION TO BOTH THE COMPLAINANT AND
27 THE RESPONDENT BY CERTIFIED MAIL. THE NOTICE OF NONVIOLATION

1 MUST INCLUDE THE BASIS FOR THE DIVISION'S DETERMINATION AND THE
2 PROCESS FOR CONTESTING THE DETERMINATION INCLUDED IN THE NOTICE
3 OF NONVIOLATION BY MEANS OF AN ADMINISTRATIVE HEARING.

4 (5) THE RESPONDENT MUST COMPLY WITH THE REQUIREMENTS OF
5 A NOTICE OF VIOLATION FROM THE DIVISION WITHIN SEVEN DAYS OF THE
6 NOTICE OF VIOLATION BECOMING A FINAL AGENCY ORDER UNDER EITHER
7 SUBSECTION (7)(b) OR (9)(b) OF THIS SECTION, EXCEPT AS REQUIRED
8 OTHERWISE BY THE DIVISION, UNLESS THE RESPONDENT HAS SUBMITTED
9 A TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING TO CONTEST THE
10 NOTICE UNDER SUBSECTION (7) OF THIS SECTION. IF A RESPONDENT FAILS
11 TO COMPLY WITH THE REQUIREMENTS OF A NOTICE OF VIOLATION WITHIN
12 THE REQUIRED TIME PERIOD AND THE DIVISION HAS NOT RECEIVED A
13 TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING, THE DIVISION MAY
14 IMPOSE A PENALTY, UP TO A MAXIMUM OF FIVE THOUSAND DOLLARS PER
15 VIOLATION PER DAY, FOR EACH DAY THAT A VIOLATION REMAINS
16 UNCORRECTED. WHEN DETERMINING THE AMOUNT OF THE PENALTY TO
17 IMPOSE ON A RESPONDENT, THE DIVISION SHALL CONSIDER THE SEVERITY
18 AND DURATION OF THE VIOLATION AND THE IMPACT OF THE VIOLATION ON
19 OTHER COMMUNITY RESIDENTS. IF THE RESPONDENT SHOWS, UPON TIMELY
20 APPLICATION TO THE DIVISION, THAT A GOOD FAITH EFFORT TO COMPLY
21 WITH THE REQUIREMENTS OF THE NOTICE OF VIOLATION HAS BEEN MADE
22 AND THAT THE RESPONDENT HAS NOT COMPLIED BECAUSE OF MITIGATING
23 FACTORS BEYOND THE RESPONDENT'S CONTROL, THE DIVISION MAY DELAY
24 THE IMPOSITION OF A PENALTY.

25 (6) THE DIVISION MAY ISSUE AN ORDER REQUIRING THE
26 RESPONDENT TO CEASE AND DESIST FROM AN UNLAWFUL PRACTICE. THE
27 DIVISION MAY ALSO ISSUE AN ORDER REQUIRING THE RESPONDENT TO

1 TAKE ACTIONS THAT IN THE JUDGMENT OF THE DIVISION WILL CARRY OUT
2 THE PURPOSES OF THIS PART 9. THE ACTIONS MAY INCLUDE, BUT ARE NOT
3 LIMITED TO:

4 (a) REFUNDS OF RENT INCREASES, IMPROPER FEES, AND CHARGES
5 COLLECTED IN VIOLATION OF THIS PART 9;

6 (b) FILING DOCUMENTS THAT CORRECT A STATUTORY OR RULE
7 VIOLATION; AND

8 (c) TAKING ACTION NECESSARY TO CORRECT A STATUTORY OR
9 RULE VIOLATION.

10 (7) (a) A COMPLAINANT OR RESPONDENT MAY REQUEST AN
11 ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE TO
12 CONTEST:

13 (I) A NOTICE OF VIOLATION ISSUED UNDER SUBSECTION (4)(b) OF
14 THIS SECTION OR A NOTICE OF NONVIOLATION ISSUED UNDER SUBSECTION
15 (4)(c) OF THIS SECTION;

16 (II) A PENALTY IMPOSED UNDER SUBSECTION (5) OF THIS SECTION;
17 OR

18 (III) AN ORDER TO CEASE AND DESIST OR AN ORDER TO TAKE
19 ACTIONS UNDER SUBSECTION (6) OF THIS SECTION.

20 (b) IF THE COMPLAINANT OR RESPONDENT REQUESTS AN
21 ADMINISTRATIVE HEARING PURSUANT TO SUBSECTION (7)(a) OF THIS
22 SECTION, THE COMPLAINANT OR RESPONDENT MUST FILE THE REQUEST
23 WITHIN FIFTEEN BUSINESS DAYS OF RECEIPT OF A NOTICE OF VIOLATION,
24 NOTICE OF NONVIOLATION PENALTY, ORDER, OR ACTION. IF AN
25 ADMINISTRATIVE HEARING IS NOT REQUESTED WITHIN THIS TIME PERIOD,
26 THE NOTICE OF VIOLATION OR NOTICE OF NONVIOLATION CONSTITUTES A
27 FINAL AGENCY ORDER OF THE DIVISION AND IS NOT SUBJECT TO REVIEW BY

1 ANY COURT OR AGENCY.

2 (8) HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE COURTS
3 MUST BE CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
4 UNLESS OTHERWISE SPECIFIED IN THIS SECTION.

5 (9) (a) AN APPOINTED ADMINISTRATIVE LAW JUDGE SHALL:

6 (I) HEAR AND RECEIVE PERTINENT EVIDENCE AND TESTIMONY;

7 (II) DECIDE WHETHER THE EVIDENCE SUPPORTS THE DIVISION'S
8 FINDING BY A PREPONDERANCE OF THE EVIDENCE; AND

9 (III) ENTER AN APPROPRIATE ORDER WITHIN THIRTY DAYS AFTER
10 THE COMPLETION OF THE HEARING AND IMMEDIATELY SEND COPIES OF THE
11 ORDER TO THE AFFECTED PARTIES.

12 (b) AN ORDER ENTERED BY AN ADMINISTRATIVE LAW JUDGE
13 CONSTITUTES THE FINAL AGENCY ORDER OF THE DIVISION AND IS SUBJECT
14 TO JUDICIAL REVIEW PURSUANT TO ARTICLE 4 OF TITLE 24. AN ORDER
15 ENTERED BY AN ADMINISTRATIVE LAW JUDGE MAY BE APPEALED BY THE
16 RESPONDENT AND THE DIVISION.

17 (10) WHEN THE DIVISION IMPOSES ANY PENALTY AGAINST A
18 RESPONDENT LANDLORD UNDER THIS PART 9, THE RESPONDENT MAY NOT
19 SEEK ANY RECOVERY OR REIMBURSEMENT OF THE PENALTY FROM A
20 COMPLAINANT OR FROM ANY OTHER HOME OWNER.

21 (11) ALL MONEY COLLECTED FROM THE IMPOSITION OF ANY
22 PENALTIES IMPOSED UNDER THIS SECTION OTHER THAN ANY PORTION OF
23 THE PENALTIES REQUIRED TO BE PAID TO A COMPLAINANT MUST BE
24 DEPOSITED IN THE FUND.

25 (12) THIS SECTION DOES NOT PROVIDE AN EXCLUSIVE REMEDY AND
26 DOES NOT LIMIT THE RIGHT OF LANDLORDS OR HOME OWNERS TO TAKE
27 LEGAL ACTION AGAINST ANOTHER PARTY AS PROVIDED IN THE ACT OR

1 OTHERWISE. EXHAUSTION OF THE ADMINISTRATIVE REMEDY PROVIDED IN
2 THIS SECTION IS NOT REQUIRED BEFORE A LANDLORD OR HOME OWNER
3 MAY BRING A LEGAL ACTION.

4 (13) A LANDLORD MAY NOT TAKE ANY RETALIATORY ACTIONS
5 AGAINST A HOME OWNER FOR EXPRESSING AN INTENTION TO FILE A
6 COMPLAINT UNDER THIS PROGRAM OR FILING A COMPLAINT UNDER THIS
7 PROGRAM. IF THE DIVISION DETERMINES THAT A LANDLORD HAS
8 RETALIATED AGAINST A HOME OWNER, THE DIVISION MAY IMPOSE A FINE
9 OF UP TO TEN THOUSAND DOLLARS ON THE LANDLORD.

10 (14) ANY PENALTY LEVIED AGAINST A LANDLORD UNDER THIS
11 PART 9 SHALL BE A LIEN AGAINST THE LANDLORD'S MOBILE HOME PARK
12 UNTIL THE LANDLORD PAYS THE PENALTY.

13 **38-12-906. Registration of mobile home parks - process - fees.**

14 (1) THE DIVISION SHALL REGISTER ALL MOBILE HOME PARKS ON AN
15 INDIVIDUAL BASIS AND RENEW THIS REGISTRATION ANNUALLY.

16 (2) THE DIVISION SHALL SEND REGISTRATION NOTIFICATIONS
17 AND INFORMATION PACKETS TO ALL KNOWN LANDLORDS OF
18 UNREGISTERED MOBILE HOME PARKS. THESE INFORMATION PACKETS MUST
19 INCLUDE:

20 (a) REGISTRATION FORMS THAT SATISFY ALL OF THE
21 REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION;

22 (b) INFORMATION ABOUT THE DIFFERENT METHODS OF
23 REGISTRATION;

24 (c) INFORMATION ABOUT THE SINGLE, STATEWIDE TOLL-FREE
25 TELEPHONE NUMBER DESCRIBED IN SUBSECTION (11) OF THIS SECTION;

26 (d) REGISTRATION ASSESSMENT INFORMATION, INCLUDING
27 REGISTRATION DUE DATES AND LATE FEES, AND THE COLLECTIONS

1 PROCEDURES, LIENS, AND CHARGING COSTS TO HOME OWNERS; AND

2 (e) A DESCRIPTION OF THE PROTECTIONS AFFORDED HOME OWNERS
3 UNDER SECTION 38-12-905 (13).

4 (3) THE DIVISION SHALL ANNUALLY SEND REGISTRATION RENEWAL
5 NOTIFICATIONS AND INFORMATION PACKETS TO ALL REGISTERED MOBILE
6 HOME PARKS.

7 (4) A LANDLORD MUST FILE FOR REGISTRATION OR REGISTRATION
8 RENEWAL BY SUBMITTING TO THE DIVISION, EITHER THROUGH THE
9 DIVISION'S WEBSITE, BY MAIL, OR IN PERSON, A REGISTRATION OR
10 REGISTRATION RENEWAL FORM PROVIDED BY THE DIVISION AND PAY A
11 REGISTRATION FEE AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

12 (5) A LANDLORD MUST NOTIFY THE DIVISION WITHIN THIRTY DAYS
13 OF A CHANGE IN THE OWNERSHIP OF THE LANDLORD'S MOBILE HOME PARK
14 SO THAT THE DIVISION MAY UPDATE THE MOBILE HOME PARK'S
15 REGISTRATION INFORMATION.

16 (6) THE DIVISION SHALL MAKE AVAILABLE ON THE DIVISION'S
17 WEBSITE ELECTRONIC FORMS TO REGISTER A MOBILE HOME PARK. THESE
18 FORMS MUST BE AVAILABLE IN BOTH ENGLISH AND SPANISH AND SATISFY
19 ALL OF THE REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION.

20 (7) THE REGISTRATION FORMS PROVIDED BY THE DIVISION MUST
21 REQUIRE INFORMATION NECESSARY TO ASSIST THE DIVISION IN
22 IDENTIFYING AND LOCATING A MOBILE HOME PARK AND OTHER
23 INFORMATION THAT MAY BE USEFUL TO THE STATE INCLUDING, AT A
24 MINIMUM:

- 25 (a) THE NAME AND ADDRESS OF THE LANDLORD;
- 26 (b) THE NAME AND ADDRESS OF THE MOBILE HOME PARK;
- 27 (c) THE NUMBER OF LOTS WITHIN THE MOBILE HOME PARK;

1 (d) THE NUMBER OF MOBILE HOMES WITHIN THE MOBILE HOME
2 PARK; AND

3 (e) THE ADDRESS OF EACH MOBILE HOME WITHIN THE MOBILE
4 HOME PARK.

5 (8) FOR THE 2020 CALENDAR YEAR, THE DIVISION SHALL CHARGE
6 EACH LANDLORD A TWENTY-FOUR DOLLAR REGISTRATION FEE FOR EACH
7 MOBILE HOME INDEPENDENTLY OWNED ON RENTED LAND WITHIN THE
8 LANDLORD'S MOBILE HOME PARK. EACH YEAR THEREAFTER, THE DIVISION
9 SHALL ESTABLISH BY RULE A FEE THAT EACH LANDLORD SHALL PAY TO
10 THE DIVISION AS AN ANNUAL REGISTRATION FEE FOR EACH MOBILE HOME
11 INDEPENDENTLY OWNED ON RENTED LAND WITHIN THE LANDLORD'S
12 MOBILE HOME PARK. A LANDLORD MAY CHARGE A HOME OWNER NOT
13 MORE THAN HALF OF THE FEE. THE REGISTRATION FEE FOR EACH MOBILE
14 HOME MUST BE DEPOSITED INTO THE FUND. THE DIVISION SHALL REVIEW
15 THE ANNUAL REGISTRATION FEE AND, IF NECESSARY, ADJUST THE ANNUAL
16 REGISTRATION FEE THROUGH RULE-MAKING TO ENSURE IT CONTINUES TO
17 REASONABLY RELATE TO THE COST OF ADMINISTERING THE PROGRAM.

18 (9) INITIAL REGISTRATIONS OF MOBILE HOME PARKS MUST BE FILED
19 BEFORE FEBRUARY 1, 2020, AND AFTER THAT DATE WITHIN THREE
20 MONTHS OF THE AVAILABILITY OF MOBILE HOME LOTS FOR RENT WITHIN
21 A NEW PARK. A LANDLORD WHO WAS SENT AN INITIAL REGISTRATION
22 FORM AND WHO MISSED THE DEADLINE FOR REGISTRATION IS SUBJECT TO
23 A DELINQUENCY FEE OF UP TO FIVE THOUSAND DOLLARS. LANDLORDS WHO
24 RECEIVE REGISTRATION RENEWAL NOTIFICATIONS AND DO NOT RENEW
25 THEIR REGISTRATION BY THE EXPIRATION DATE AS ASSIGNED BY THE
26 DIVISION ARE ALSO SUBJECT TO A DELINQUENCY FEE OF UP TO FIVE
27 THOUSAND DOLLARS.

1 (10) REGISTRATION IS EFFECTIVE ON THE DATE DETERMINED BY
2 THE DIVISION, AND THE DIVISION MUST ISSUE A REGISTRATION NUMBER TO
3 EACH REGISTERED MOBILE HOME PARK. THE DIVISION MUST PROVIDE AN
4 EXPIRATION DATE, ASSIGNED BY THE DIVISION, TO EACH REGISTERED
5 MOBILE HOME PARK.

6 (11) THE DIVISION SHALL ESTABLISH A SYSTEM, INCLUDING BUT
7 NOT LIMITED TO A SINGLE, STATEWIDE TOLL-FREE TELEPHONE NUMBER,
8 FOR RESPONDING DIRECTLY TO INQUIRIES ABOUT THE REGISTRATION
9 PROCESS.

10 **38-12-907. Registration information database.** BY FEBRUARY
11 1, 2020, THE DIVISION SHALL CREATE AND MAINTAIN A DATABASE THAT
12 INCLUDES ALL OF THE INFORMATION COLLECTED UNDER SECTION
13 38-12-906.

14 **38-12-908. Mobile home park complaint database.** (1) BY
15 MAY 1, 2020, THE DIVISION SHALL ALSO CREATE AND MAINTAIN A
16 DATABASE OF MOBILE HOME PARKS THAT HAVE HAD COMPLAINTS FILED
17 AGAINST THEM UNDER THE PROGRAM.

18 (2) AT A MINIMUM, THE DATABASE MUST INCLUDE:

- 19 (a) THE NUMBER OF COMPLAINTS RECEIVED;
- 20 (b) THE NATURE AND EXTENT OF THE COMPLAINTS RECEIVED;
- 21 (c) THE VIOLATION OF LAW COMPLAINED OF; AND
- 22 (d) THE OUTCOME OF EACH COMPLAINT.

23 **38-12-909. Mobile home park act dispute resolution and**
24 **enforcement program annual report.** THE DIVISION SHALL PREPARE AN
25 ANNUAL REPORT THAT CONTAINS, AT A MINIMUM, THE NUMBER OF
26 CONSTITUENTS CONTACTED BY THE DIVISION IN REGARD TO THE PROGRAM,
27 THE NUMBER OF COMPLAINTS RECEIVED UNDER THE PROGRAM RECEIVED

1 BY THE DIVISION, THE NUMBER OF COMPLAINTS UNDER THE PROGRAM
2 RESOLVED BY THE DIVISION, A BRIEF SUMMARY OF THE NATURE OF THE
3 COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE DIVISION, HOW THE
4 COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE DIVISION WERE
5 RESOLVED, THE NUMBER OF ADMINISTRATIVE APPEALS UNDER THE
6 PROGRAM, A SUMMARY OF ANY RELEVANT COURT DECISIONS RELATING TO
7 THE PROGRAM, AND A SUMMARY OF RESULTS OF AN ANNUAL CONSTITUENT
8 SURVEY CONDUCTED BY AN INDEPENDENT CONTRACTOR.

9 **38-12-910. Mobile home park act dispute resolution and**
10 **enforcement program fund.** (1) THERE IS HEREBY CREATED IN THE
11 STATE TREASURY THE MOBILE HOME PARK ACT DISPUTE RESOLUTION AND
12 ENFORCEMENT PROGRAM FUND. ALL MONEY COLLECTED PURSUANT TO
13 THE PROGRAM MUST BE DEPOSITED IN THE FUND. THE FUND SHALL BE
14 USED BY THE DIVISION FOR THE COSTS ASSOCIATED WITH ADMINISTERING
15 THE PROGRAM. THE MONEY IN THE FUND SHALL BE CONTINUOUSLY
16 APPROPRIATED FOR ADMINISTERING THE PROGRAM. ALL INTEREST AND
17 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE
18 FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
19 UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL
20 YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
21 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

22 (2) THE DIVISION, BY RULE OR AS OTHERWISE PROVIDED BY LAW,
23 MAY REDUCE THE AMOUNT OF ANY FEE IMPOSED UNDER THIS PART 9 IF
24 NECESSARY PURSUANT TO SECTION 24-75-402 (3) TO REDUCE THE
25 UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF
26 THE FEE IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND
27 ARE SUFFICIENTLY REDUCED, THE DIVISION, BY RULE OR AS OTHERWISE

1 PROVIDED BY LAW, MAY INCREASE THE AMOUNT OF THE FEES IMPOSED
2 UNDER THIS PART 9 AS PROVIDED IN SECTION 24-75-402 (4).

3

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, and safety.