

CHAPTER 112

PROPERTY

HOUSE BILL 20-1410

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Exum, Woodrow, Arndt, Bird, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Froelich, Garnett, Gray, Herod, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Young, Becker; also SENATOR(S) Gonzales and Zenzinger, Bridges, Danielson, Donovan, Fenberg, Fields, Foote, Ginal, Hansen, Lee, Moreno, Pettersen, Priola, Story, Williams A., Winter, Garcia.

AN ACT

CONCERNING ASSISTANCE FOR INDIVIDUALS FACING A HOUSING-RELATED HARDSHIP DUE TO THE COVID-19 PANDEMIC, AND, IN CONNECTION THEREWITH, TRANSFERRING MONEY RECEIVED FROM THE FEDERAL GOVERNMENT PURSUANT TO THE "CARES ACT" TO THE EVICTION LEGAL DEFENSE FUND AND THE HOUSING DEVELOPMENT GRANT FUND TO PROVIDE SUCH ASSISTANCE AND MAKING AN APPROPRIATION.

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

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

(a) Due to the COVID-19 pandemic that spread to Colorado in February of 2020 and the public health emergency resulting from the pandemic, on March 20, 2020, the governor issued executive order D 2020 012, limiting evictions, foreclosures, and public utilities disconnections to Coloradans affected by COVID-19 for thirty days;

(b) On March 27, 2020, Congress enacted the "Coronavirus Aid, Relief, and Economic Security Act", Pub.L. 116-136, also referred to as the "CARES Act", to provide emergency assistance to state, local, and tribal governments;

(c) The CARES Act established the Coronavirus Relief Fund (CRF) and appropriated \$150 billion to the CRF for distribution, in part, to the states to cover costs that:

(I) Are necessary expenditures incurred due to the public health emergency with

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

respect to the COVID-19 pandemic;

(II) Were not accounted for in the budget most recently approved as of March 27, 2020, for the state; and

(III) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

(d) Approximately \$1.674 billion was transferred from the CRF to the Colorado state government to use for necessary expenditures incurred due to the current COVID-19 public health emergency, and in his executive order D 2020 070, dated May 18, 2020, the governor transferred \$70 million of that money to the general fund for disbursement by the general assembly;

(e) The federal department of the treasury has issued guidance on states' use of money allocated from the CRF, including the "Coronavirus Relief Fund Frequently Asked Questions" document issued on May 4, 2020, and updated on May 28, 2020, in which the department indicated that "a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure" is an acceptable use of this money;

(f) The COVID-19 pandemic has led to extensive job losses throughout the state, where more than 450,000 claims for state and federal unemployment assistance have been filed since March 1, 2020, and many Coloradans have experienced a significant decline in their household incomes;

(g) With the extensive job losses and loss of income experienced by many tenants and mortgagors throughout the state, even after the expiration of executive order D 2020 012, there will still be Coloradans who, due to the COVID-19 pandemic and the resulting public health emergency, will require assistance with rent and mortgage payments and individuals in need of legal assistance with respect to eviction actions; and

(h) Ensuring that people remain in their homes by paying rent or mortgages will keep more people from becoming homeless and allow those individuals and families to remain in safe environments, maintaining their health and safety from COVID-19.

(2) The general assembly declares that distributing a portion of the money that the state receives from the CRF to the housing development grant fund administered by the division of housing in the department of local affairs and to the eviction legal defense fund administered by the state court administrator to assist those entities in paying the costs incurred due to the current COVID-19 public health emergency, including the costs described in subsection (1) of this section, which assistance was not accounted for in the state's budget most recently approved as of March 27, 2020, is an appropriate, necessary, and lawful use of said money.

SECTION 2. In Colorado Revised Statutes, 13-40-127, **add** (7) as follows:

13-40-127. Eviction legal assistance - fund - rules - report - definitions - repeal. (7) (a) THE STATE TREASURER SHALL TRANSFER THREE HUNDRED FIFTY

THOUSAND DOLLARS FROM THE CARE SUBFUND IN THE GENERAL FUND TO THE EVICTION LEGAL DEFENSE FUND FOR THE PURPOSE OF PROVIDING LEGAL REPRESENTATION TO INDIGENT TENANTS TO RESOLVE CIVIL LEGAL MATTERS ARISING ON AND AFTER MARCH 1, 2020, FOR AN EVICTION OR IMPENDING EVICTION RELATED TO THE PUBLIC HEALTH EMERGENCY CAUSED BY THE COVID-19 PANDEMIC. THE MONEY TRANSFERRED TO THE FUND PURSUANT TO THIS SUBSECTION (7)(a) SHALL BE MAINTAINED IN A SEPARATE ACCOUNT AND USED ONLY FOR THE PURPOSES SPECIFIED IN THIS SUBSECTION (7)(a). THE GENERAL ASSEMBLY SHALL APPROPRIATE THE MONEY TRANSFERRED TO THE FUND PURSUANT TO THIS SUBSECTION (7)(a) TO THE ADMINISTRATOR FOR USE IN ACCORDANCE WITH THIS SUBSECTION (7)(a). THE ADMINISTRATOR MUST USE THE MONEY BY DECEMBER 30, 2020, FOR THE PURPOSES SPECIFIED IN THIS SUBSECTION (7).

(b) AS USED IN THIS SUBSECTION (7), "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO KNOWN AS SARS-CoV-2.

(c) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

SECTION 3. In Colorado Revised Statutes, 24-32-721, **add** (1.7) as follows:

24-32-721. Colorado affordable housing construction grants and loans - housing development grant fund - creation - housing assistance for persons with behavioral, mental health, or substance use disorders - cash fund - appropriation - report to general assembly - definitions - rules - repeal.

(1.7)(a) THE STATE TREASURER SHALL TRANSFER NINETEEN MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS FROM THE CARE SUBFUND IN THE GENERAL FUND TO THE HOUSING DEVELOPMENT GRANT FUND FOR THE PURPOSE OF PROVIDING HOUSING ASSISTANCE AS SPECIFIED IN THIS SUBSECTION (1.7). MONEY TRANSFERRED PURSUANT TO THIS SUBSECTION (1.7)(a) SHALL BE MAINTAINED IN A SEPARATE ACCOUNT. THE DIVISION MAY USE UP TO THREE PERCENT OF THE MONEY TRANSFERRED PURSUANT TO THIS SUBSECTION (1.7)(a) FOR THE COSTS OF ADMINISTERING THIS SUBSECTION (1.7).

(b) THE GENERAL ASSEMBLY SHALL APPROPRIATE THE MONEY TRANSFERRED TO THE FUND PURSUANT TO THIS SUBSECTION (1.7) TO THE DIVISION FOR USE IN PROVIDING INDIVIDUALS AND HOUSEHOLDS WHO, ON OR AFTER MARCH 1, 2020, HAVE EXPERIENCED FINANCIAL NEED DUE TO THE COVID-19 PANDEMIC OR SECOND-ORDER EFFECTS OF THE COVID-19 PANDEMIC, WITH RENTAL ASSISTANCE, RESIDENTIAL MORTGAGE ASSISTANCE, AND GUIDANCE ON HOW TO ACCESS ADDITIONAL HOUSING SERVICES. THE DIVISION MUST USE THE MONEY BY DECEMBER 30, 2020, FOR THE PURPOSES SPECIFIED IN THIS SUBSECTION (1.7).

(c)(I) IN DETERMINING HOW TO DISTRIBUTE THE RENTAL ASSISTANCE UNDER THIS SUBSECTION (1.7), THE DIVISION SHALL PRIORITIZE:

(A) HOMELESS FAMILIES WITH DEPENDENTS OR OTHER CHILDREN ENROLLED IN PRESCHOOL, ELEMENTARY, OR SECONDARY SCHOOLS;

(B) MEDICAID CLIENTS IN NURSING HOMES WHO ARE ABLE TO LIVE IN THEIR COMMUNITIES WITH IN-HOME SERVICES;

(C) FAMILY UNIFICATION AND RELATED SERVICES;

(D) HOMELESS OR DISABLED VETERANS;

(E) LOW-INCOME HOUSEHOLDS WITH AN INCOME AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME;

(F) SURVIVORS OF DOMESTIC VIOLENCE;

(G) PEOPLE EXPERIENCING HOMELESSNESS WHO ARE AT A HIGHER RISK OF CONTRACTING COVID-19 ACCORDING TO THE FEDERAL CENTERS FOR DISEASE CONTROL; AND

(H) ENTITIES THAT PROVIDE DIRECT SERVICES TO YOUTH EXPERIENCING OR AT RISK OF EXPERIENCING HOMELESSNESS.

(II) (A) IN ACCORDANCE WITH POLICIES AND PROCEDURES ESTABLISHED BY THE DIVISION, A LANDLORD MAY SEEK RENTAL ASSISTANCE PURSUANT TO THIS SUBSECTION (1.7) ON BEHALF OF THE LANDLORD'S TENANTS WHO HAVE EXPERIENCED FINANCIAL NEED ON OR AFTER MARCH 1, 2020, DUE TO THE COVID-19 PANDEMIC OR SECOND-ORDER EFFECTS OF THE COVID-19 PANDEMIC. THIS SUBSECTION (1.7) DOES NOT AUTHORIZE A LANDLORD TO OBTAIN INFORMATION ABOUT A TENANT THAT VIOLATES THE TENANT'S RIGHT TO PRIVACY OR ANY OTHER LAW.

(B) IN ACCEPTING RENTAL ASSISTANCE ON BEHALF OF A TENANT IN ACCORDANCE WITH THIS SUBSECTION (1.7)(c)(II), THE LANDLORD IS PROHIBITED FROM COMMENCING EVICTION PROCEEDINGS AGAINST A TENANT FOR WHOM THE ASSISTANCE WAS PROVIDED FOR THE MONTH FOR WHICH THE ASSISTANCE WAS PROVIDED.

(C) A LANDLORD RECEIVING RENTAL ASSISTANCE ON BEHALF OF A TENANT IN ACCORDANCE WITH THIS SUBSECTION (1.7)(c)(II) SHALL PROVIDE THE TENANT WITH A RECEIPT ACKNOWLEDGING THE PAYMENT OF RENT AS REQUIRED BY SECTION 38-12-802.

(d) (I) IN DETERMINING HOW TO PRIORITIZE THE RESIDENTIAL MORTGAGE ASSISTANCE UNDER THIS SUBSECTION (1.7), THE DIVISION SHALL PRIORITIZE HOUSEHOLDS WITH AN INCOME AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME.

(II) (A) IN ACCORDANCE WITH POLICIES AND PROCEDURES ESTABLISHED BY THE DIVISION, A NONPROFIT LENDER MAY SEEK RESIDENTIAL MORTGAGE ASSISTANCE PURSUANT TO THIS SUBSECTION (1.7) ON BEHALF OF THE NONPROFIT LENDER'S MORTGAGER WHO HAS EXPERIENCED FINANCIAL NEED ON OR AFTER MARCH 1, 2020, DUE TO THE COVID-19 PANDEMIC OR SECOND-ORDER EFFECTS OF THE COVID-19 PANDEMIC. THIS SUBSECTION (1.7)(d)(II) DOES NOT AUTHORIZE A NONPROFIT LENDER TO OBTAIN INFORMATION ABOUT A MORTGAGER THAT VIOLATES THE MORTGAGER'S RIGHT TO PRIVACY OR ANY OTHER LAW.

(B) IN ACCEPTING RESIDENTIAL MORTGAGE ASSISTANCE ON BEHALF OF A

MORTGAGER IN ACCORDANCE WITH THIS SUBSECTION (1.7)(d)(II), THE NONPROFIT LENDER IS PROHIBITED FROM ISSUING A NOTICE OF DEFAULT, INITIATING A JUDICIAL OR NONJUDICIAL FORECLOSURE, SEEKING A COURT ORDER FOR A FORECLOSURE JUDGMENT OR ORDER OF SALE, HOLDING A FORECLOSURE SALE, OR EXECUTING A FORECLOSURE-RELATED EVICTION AGAINST A MORTGAGER FOR WHOM THE ASSISTANCE WAS PROVIDED FOR THE MONTH FOR WHICH THE ASSISTANCE WAS PROVIDED.

(C) A NONPROFIT LENDER RECEIVING RESIDENTIAL MORTGAGE ASSISTANCE ON BEHALF OF A MORTGAGER IN ACCORDANCE WITH THIS SUBSECTION (1.7)(d)(II) SHALL NOTE THE ASSISTANCE AS PART OF ANY MONTHLY MORTGAGE STATEMENT PROVIDED TO THE MORTGAGER. IF THE NONPROFIT LENDER DOES NOT PROVIDE A MONTHLY STATEMENT, THE LENDER SHALL ISSUE THE MORTGAGER A LETTER DOCUMENTING THE PAYMENT.

(e) THE DIVISION MAY PROMULGATE RULES NECESSARY TO IMPLEMENT THIS SUBSECTION (1.7).

(f) AN ASSOCIATION OR ORGANIZATION THAT RECEIVES ASSISTANCE PURSUANT TO THIS SUBSECTION (1.7) IS NOT REQUIRED TO INDEPENDENTLY VERIFY THE TENANT'S OR BORROWER'S FINANCIAL NEED IF THE TENANT OR BORROWER OR LANDLORD ATTESTS THAT THE TENANT OR BORROWER, AS APPROPRIATE, HAS EXPERIENCED AN ADVERSE FINANCIAL IMPACT DUE TO THE COVID-19 PANDEMIC OR SECOND-ORDER EFFECTS OF THE COVID-19 PANDEMIC.

(g) HOUSING ASSISTANCE PROVIDED UNDER THIS SUBSECTION (1.7) IS SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER RELIEF.

(h) THE DIVISION SHALL NOT PROVIDE ASSISTANCE UNDER THIS SUBSECTION (1.7) FOR THE PURPOSE OF HOUSING DEVELOPMENT.

(i) DURING THE SECOND REGULAR SESSION OF THE SEVENTY-THIRD GENERAL ASSEMBLY, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL REPORT TO THE SENATE COMMITTEE ON LOCAL GOVERNMENT AND THE HOUSE OF REPRESENTATIVES COMMITTEE ON TRANSPORTATION AND LOCAL GOVERNMENT, OR ANY SUCCESSOR COMMITTEES, UNDER THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2, ON:

(I) EACH ASSOCIATION OR ORGANIZATION THAT RECEIVED ASSISTANCE UNDER THIS SUBSECTION (1.7), INCLUDING THE NAME OF EACH ASSOCIATION OR ORGANIZATION, THE AMOUNT OF ASSISTANCE EACH ASSOCIATION OR ORGANIZATION RECEIVED, AND THE LOCATION OF THE ASSOCIATION OR ORGANIZATION;

(II) THE NUMBER OF HOUSEHOLDS WHO RECEIVED RENTAL ASSISTANCE UNDER THIS SUBSECTION (1.7);

(III) THE NUMBER OF HOUSEHOLDS WHO RECEIVED RESIDENTIAL MORTGAGE ASSISTANCE UNDER THIS SUBSECTION (1.7); AND

(IV) TO THE EXTENT POSSIBLE, THE PERCENTAGE OF MONEY DISTRIBUTED BASED

ON EACH OF THE FOLLOWING PURPOSES:

- (A) RENTAL ASSISTANCE;
- (B) RESIDENTIAL MORTGAGE ASSISTANCE; AND
- (C) GUIDANCE ON HOW TO ACCESS ADDITIONAL HOUSING SERVICES.

(j) AS USED IN THIS SUBSECTION (1.7), "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO KNOWN AS SARS-CoV-2.

(k) THIS SUBSECTION (1.7) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 4. Appropriation. For the 2019-20 state fiscal year, \$350,000 is appropriated to the judicial department for use by the eviction legal defense grant program. This appropriation is from the pandemic subaccount of the eviction legal defense fund created by section 13-40-127 (2) and (7)(a), C.R.S. To implement this act, the department may use this appropriation for the purpose of providing legal representation to indigent tenants as specified in section 13-40-127 (7)(a), C.R.S. Any money appropriated in this section not expended prior to July 1, 2020, is further appropriated to the department for the period from July 1, 2020, through December 30, 2020, for the same purpose.

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

Approved: June 22, 2020