

CHAPTER 187

PROPERTY

SENATE BILL 20-224

BY SENATOR(S) Gonzales, Danielson, Donovan, Fenberg, Foote, Ginal, Hansen, Lee, Moreno, Pettersen, Priola, Story, Winter; also REPRESENTATIVE(S) Gonzales-Gutierrez, Arndt, Benavidez, Bird, Buckner, Caraveo, Duran, Exum, Garnett, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Singer, Sirota, Snyder, Tipper, Titone, Valdez A., Weissman, Woodrow.

AN ACT

CONCERNING A PROHIBITION ON A LANDLORD ENGAGING IN CERTAIN ACTIVITIES RELATED TO A TENANT'S CITIZENSHIP STATUS.

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

SECTION 1. In Colorado Revised Statutes, **add** part 12 to article 12 of title 38 as follows:

**PART 12
IMMIGRANT TENANT PROTECTION ACT**

38-12-1201. Short title. THE SHORT TITLE OF THIS PART 12 IS THE "IMMIGRANT TENANT PROTECTION ACT".

38-12-1202. Definitions. AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE BY A TENANT. "DWELLING UNIT" INCLUDES A MOBILE HOME, AS DEFINED IN SECTION 38-12-201.5 (2).

(2) "IMMIGRATION OR CITIZENSHIP STATUS" MEANS A PERSON'S ACTUAL OR PERCEIVED IMMIGRATION OR CITIZENSHIP STATUS.

(3) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR, OR SUBLESSOR OF A RESIDENTIAL PREMISES.

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.

(4) "RENTAL AGREEMENT" MEANS ANY AGREEMENT, WRITTEN OR IMPLIED BY LAW, BETWEEN A LANDLORD AND A TENANT EMBODYING THE TERMS AND CONDITIONS CONCERNING THE USE AND OCCUPANCY OF A RESIDENTIAL PREMISES.

(5) "RESIDENTIAL PREMISES" MEANS A STRUCTURE OF WHICH ONE OR MORE DWELLING UNITS ARE PART, INCLUDING ANY IMMEDIATELY SURROUNDING PROPERTY THAT IS OWNED BY OR SUBJECT TO THE EXCLUSIVE CONTROL OF A PERSON WHO CONTROLS SUCH A DWELLING UNIT.

(6) (a) "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL AGREEMENT TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

(b) "TENANT" INCLUDES A PROSPECTIVE TENANT OR ANY OTHER PERSON SEEKING TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

38-12-1203. Prohibition on activities related to a tenant's immigration or citizenship status. (1) ON AND AFTER JANUARY 1, 2021, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR REQUIRED BY LAW OR COURT ORDER, A LANDLORD SHALL NOT:

(a) DEMAND, REQUEST, OR COLLECT INFORMATION REGARDING OR RELATING TO THE IMMIGRATION OR CITIZENSHIP STATUS OF A TENANT; EXCEPT THAT A LANDLORD THAT IS ALSO THE TENANT'S EMPLOYER MAY LAWFULLY COLLECT INFORMATION REQUIRED TO COMPLETE ANY EMPLOYMENT FORM REQUIRED BY STATE OR FEDERAL LAW;

(b) DISCLOSE OR THREATEN TO DISCLOSE INFORMATION REGARDING OR RELATING TO THE IMMIGRATION OR CITIZENSHIP STATUS OF A TENANT TO ANY PERSON, ENTITY, OR IMMIGRATION OR LAW ENFORCEMENT AGENCY;

(c) HARASS OR INTIMIDATE A TENANT OR RETALIATE AGAINST A TENANT FOR:

(I) EXERCISING THE TENANT'S RIGHTS UNDER THIS PART 12; OR

(II) OPPOSING ANY CONDUCT PROHIBITED BY THIS PART 12;

(d) INTERFERE WITH A TENANT'S RIGHTS UNDER THIS PART 12, INCLUDING INFLUENCING OR ATTEMPTING TO INFLUENCE A TENANT TO SURRENDER POSSESSION OF A DWELLING UNIT OR TO NOT SEEK TO OCCUPY A DWELLING UNIT BASED SOLELY OR IN PART ON THE IMMIGRATION OR CITIZENSHIP STATUS OF THE TENANT;

(e) REFUSE TO ENTER INTO A RENTAL AGREEMENT OR TO APPROVE A SUBTENANCY, OR TO OTHERWISE PRECLUDE A TENANT FROM OCCUPYING A DWELLING UNIT, BASED SOLELY OR IN PART ON THE IMMIGRATION OR CITIZENSHIP STATUS OF THE TENANT; OR

(f) BRING AN ACTION TO RECOVER POSSESSION OF A DWELLING UNIT BASED SOLELY OR IN PART ON THE IMMIGRATION OR CITIZENSHIP STATUS OF A TENANT.

38-12-1204. Authorized conduct. (1) SECTION 38-12-1203 DOES NOT PROHIBIT A LANDLORD FROM:

(a) COMPLYING WITH ANY LEGAL OBLIGATION UNDER:

(I) FEDERAL, STATE, OR LOCAL LAW, INCLUDING ANY LEGAL OBLIGATION UNDER A GOVERNMENT PROGRAM OR PURSUANT TO A CONDITION OF GOVERNMENT FUNDING, IF THE GOVERNMENT PROGRAM OR GOVERNMENT FUNDING PROVIDES RENT LIMITATIONS OR RENTAL ASSISTANCE TO A TENANT;

(II) A SUBPOENA;

(III) A WARRANT; OR

(IV) A COURT ORDER OF ANY KIND;

(b) REQUESTING INFORMATION OR DOCUMENTATION NECESSARY TO DETERMINE OR VERIFY THE FINANCIAL QUALIFICATIONS OF A PROSPECTIVE TENANT, PROVIDED THE LANDLORD REQUESTS THE SAME INFORMATION OR DOCUMENTATION OF ALL PROSPECTIVE TENANTS REGARDLESS OF IMMIGRATION OR CITIZENSHIP STATUS, INCLUDING REQUESTING A SOCIAL SECURITY NUMBER OR RELEVANT TAXPAYER IDENTIFICATION NUMBER; OR

(c) DELIVERING TO THE TENANT AN ORAL OR WRITTEN NOTICE REGARDING CONDUCT BY THE TENANT THAT VIOLATES OR MAY VIOLATE ANY APPLICABLE RENTAL AGREEMENT OR LAW.

(2) SECTION 38-12-1203 DOES NOT ENLARGE OR DIMINISH A LANDLORD'S RIGHT TO TERMINATE A TENANCY PURSUANT TO EXISTING STATE OR LOCAL LAW OR THE ABILITY OF A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT TO REGULATE OR ENFORCE A PROHIBITION AGAINST A LANDLORD'S HARASSMENT OF A TENANT.

(3) NOTHING IN THIS PART 12:

(a) PREVENTS A LANDLORD FROM SEEKING TO COLLECT RENT DUE UNDER THE RENTAL AGREEMENT; OR

(b) PERMITS A LANDLORD TO VIOLATE SECTION 8-2-130.

(4) ANY WAIVER OF A RIGHT UNDER THIS PART 12 BY A TENANT IS VOID AS A MATTER OF PUBLIC POLICY.

38-12-1205. Remedies. (1) IF A LANDLORD ENGAGES IN PROHIBITED CONDUCT DESCRIBED IN SECTION 38-12-1203 AGAINST A TENANT, THE TENANT MAY BRING A CIVIL ACTION TO SEEK ANY ONE OR MORE OF THE FOLLOWING REMEDIES:

(a) COMPENSATORY DAMAGES FOR INJURY OR LOSS SUFFERED;

(b) A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR EACH VIOLATION, PAYABLE TO THE TENANT;

(c) COSTS, INCLUDING REASONABLE ATTORNEY FEES; AND

(d) OTHER EQUITABLE RELIEF THE COURT FINDS APPROPRIATE.

(2) NOTHING IN THIS PART 12 RENDERS THE IMMIGRATION OR CITIZENSHIP STATUS OF A TENANT RELEVANT TO ANY ISSUE OF LIABILITY OR REMEDY IN A CIVIL ACTION INVOLVING A TENANT'S HOUSING RIGHTS. IN PROCEEDINGS OR DISCOVERY UNDERTAKEN IN A CIVIL ACTION INVOLVING A TENANT'S HOUSING RIGHTS, NO INQUIRY SHALL BE PERMITTED INTO THE TENANT'S IMMIGRATION OR CITIZENSHIP STATUS UNLESS:

(a) THE CLAIMS OR DEFENSES RAISED BY THE TENANT PLACE THE TENANT'S IMMIGRATION OR CITIZENSHIP STATUS DIRECTLY IN CONTENTION; OR

(b) THE PERSON SEEKING TO MAKE THE INQUIRY DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT THE INQUIRY IS NECESSARY IN ORDER TO COMPLY WITH FEDERAL LAW.

(3) IF A CIVIL ACTION IS COMMENCED PURSUANT TO THIS SECTION, ANY PARTY TO THE CIVIL ACTION MAY DEMAND A TRIAL BY JURY.

SECTION 2. 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 30, 2020