

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB22-1082 be amended as follows:

- 1 Amend reengrossed bill, page 4, line 13, strike "**unit.**" and substitute
- 2 "**unit - powers of attorney general or district attorney - subpoenas -**
- 3 **document production - remedies - injunctive relief - penalties.**".
- 4 Page 4, lines 14 and 15, strike "THAT RISKS CONSUMER HARM," and
- 5 substitute "THAT RISKS HARM TO A CONSUMER,".
- 6 Page 4, line 15, after "SAFETY," strike "OR".
- 7 Page 4, line 19, after "ARTICLE 31." insert "A COMPLAINT IS NOT
- 8 NECESSARY IF THE INFORMATION IS PROVIDED BY AN AGENCY OF THE
- 9 FEDERAL, STATE, OR A LOCAL GOVERNMENT THAT REGULATES OR
- 10 PROVIDES PROTECTIONS FOR CONSUMERS, TENANTS, AND MOBILE HOME
- 11 RESIDENTS.".
- 12 Page 4, strike line 18.
- 13 Page 4, line 19, strike "ARTICLE 31".
- 14 Page 5, after line 4 insert:
 - 15 "(3) **Venue for actions.** UNTIL THE COLORADO SUPREME COURT
 - 16 ADOPTS A VENUE PROVISION RELATING TO THIS ARTICLE 31, ACTIONS
 - 17 INSTITUTED PURSUANT TO THIS ARTICLE 31 MAY BE BROUGHT IN ANY
 - 18 COUNTY IN WHICH:
 - 19 (a) AN ALLEGED VIOLATION OCCURRED OR IN WHICH ANY PORTION
 - 20 OF A TRANSACTION INVOLVING AN ALLEGED VIOLATION OCCURRED;
 - 21 (b) THE PRINCIPAL PLACE OF BUSINESS OF ANY DEFENDANT IS
 - 22 LOCATED; OR
 - 23 (c) ANY DEFENDANT RESIDES.
 - 24 (4)(a) **Powers.** WHEN THE ATTORNEY GENERAL HAS REASONABLE
 - 25 CAUSE TO BELIEVE THAT ANY PERSON, WHETHER IN THIS STATE OR
 - 26 ELSEWHERE, HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF ANY OF
 - 27 THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV),
 - 28 THE ATTORNEY GENERAL MAY:
 - 29 (I) REQUEST THE PERSON TO FILE A STATEMENT OR A REPORT IN
 - 30 WRITING, UNDER OATH OR OTHERWISE, ON FORMS PRESCRIBED BY THE
 - 31 ATTORNEY GENERAL, WITH RESPECT TO ALL FACTS AND CIRCUMSTANCES
 - 32 CONCERNING THE SALE OR ADVERTISEMENT OF PROPERTY BY THE PERSON
 - 33 AND ANY OTHER DATA AND INFORMATION THE ATTORNEY GENERAL DEEMS

1 NECESSARY;
2 (II) EXAMINE UNDER OATH ANY PERSON IN CONNECTION WITH THE
3 SALE OR ADVERTISEMENT OF ANY PROPERTY;
4 (III) EXAMINE ANY PROPERTY OR SAMPLE THEREOF, RECORD,
5 BOOK, DOCUMENT, ACCOUNT, OR PAPER THE ATTORNEY GENERAL DEEMS
6 NECESSARY; AND
7 (IV) MAKE TRUE COPIES, AT THE EXPENSE OF THE ATTORNEY
8 GENERAL, OF ANY RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER
9 EXAMINED PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, WHICH
10 COPIES MAY BE OFFERED INTO EVIDENCE IN LIEU OF PRODUCING THE
11 ORIGINALS IN ANY ACTIONS BROUGHT BY THE ATTORNEY GENERAL.
12 (b) FOR PURPOSES OF THIS SECTION, "REASONABLE CAUSE" IS
13 BASED UPON A COMPLAINT CONCERNING A POTENTIAL VIOLATION OF THE
14 LAW WHEN THE ATTORNEY GENERAL BELIEVES THE ALLEGED VIOLATION
15 MAY AFFECT MORE THAN ONE PERSON OR BE PART OF A SERIES OF RELATED
16 VIOLATIONS AFFECTING MULTIPLE PERSONS.
17 (c) ANY REQUEST FOR PERSONALLY IDENTIFIABLE INFORMATION
18 MADE PURSUANT TO THIS SUBSECTION (4) IS SUBJECT TO THE
19 REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION.
20 (5) **Subpoenas - production of documents.** (a) WHEN THE
21 ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON,
22 WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED IN OR IS ENGAGING
23 IN A VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101
24 (1)(i)(IX) TO (1)(i)(XIV), THE ATTORNEY GENERAL, IN ADDITION TO ANY
25 OTHER POWERS CONFERRED UPON THE ATTORNEY GENERAL BY THIS
26 ARTICLE 31, MAY ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE OF
27 WITNESSES OR THE PRODUCTION OF DOCUMENTS, ADMINISTER OATHS,
28 CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR INQUIRY, AND
29 PRESCRIBE SUCH FORMS AND PROMULGATE SUCH RULES AS MAY BE
30 NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE 31.
31 (b) SERVICE OF ANY NOTICE OR SUBPOENA MUST BE MADE IN THE
32 MANNER PRESCRIBED BY LAW OR AS PROVIDED IN RULE 4 OF THE
33 COLORADO RULES OF CIVIL PROCEDURE.
34 (c) IF THE RECORDS OF A PERSON WHO HAS BEEN ISSUED A
35 SUBPOENA ARE LOCATED OUTSIDE THIS STATE, THE PERSON SHALL EITHER:
36 (I) MAKE THEM AVAILABLE TO THE ATTORNEY GENERAL AT A
37 CONVENIENT LOCATION WITHIN THIS STATE; OR
38 (II) PAY THE REASONABLE AND NECESSARY EXPENSES FOR THE
39 ATTORNEY GENERAL OR DISTRICT ATTORNEY, OR THE ATTORNEY
40 GENERAL'S OR DISTRICT ATTORNEY'S DESIGNEE, TO EXAMINE THE RECORDS
41 AT THE LOCATION AT WHICH THE DOCUMENTS ARE MAINTAINED.
42 (d) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY
43 DESIGNATE REPRESENTATIVES, INCLUDING COMPARABLE OFFICIALS OF THE

1 STATE IN WHICH THE RECORDS ARE LOCATED, TO INSPECT THE RECORDS ON
2 BEHALF OF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY.

3 (6) **Inadmissible testimony.** (a) ANY TESTIMONY OBTAINED BY
4 THE ATTORNEY GENERAL PURSUANT TO COMPULSORY PROCESS UNDER
5 THIS ARTICLE 31 OR ANY INFORMATION DERIVED DIRECTLY OR INDIRECTLY
6 FROM SUCH TESTIMONY SHALL NOT BE ADMISSIBLE IN EVIDENCE IN ANY
7 CRIMINAL PROSECUTION AGAINST THE PERSON SO COMPELLED TO TESTIFY.
8 THIS SUBSECTION (6) SHALL NOT BE CONSTRUED TO PREVENT ANY LAW
9 ENFORCEMENT OFFICER FROM INDEPENDENTLY PRODUCING OR OBTAINING
10 THE SAME OR SIMILAR FACTS, INFORMATION, OR EVIDENCE FOR USE IN ANY
11 CRIMINAL PROSECUTION.

12 (b) SUBJECT TO SUBSECTION (8) OF THIS SECTION, THE RECORDS OF
13 INVESTIGATIONS OR INTELLIGENCE INFORMATION OF THE ATTORNEY
14 GENERAL OBTAINED UNDER THIS ARTICLE 31 MAY CONSTITUTE PUBLIC
15 RECORDS AVAILABLE FOR INSPECTION BY THE PUBLIC AT THE SOLE
16 DISCRETION OF THE ATTORNEY GENERAL. THIS SUBSECTION (6)(b) SHALL
17 NOT BE CONSTRUED TO PREVENT THE ATTORNEY GENERAL FROM ISSUING
18 PUBLIC STATEMENTS DESCRIBING OR WARNING OF ANY COURSE OF
19 CONDUCT OR ANY CONSPIRACY THAT CONSTITUTES A VIOLATION OF ANY
20 OF THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO
21 (1)(i)(XIV), WHETHER ON A LOCAL, STATEWIDE, REGIONAL, OR
22 NATIONWIDE BASIS.

23 (7) **Remedies.** IF ANY PERSON FAILS TO COOPERATE WITH ANY
24 INVESTIGATION PURSUANT TO THIS ARTICLE 31 OR FAILS TO OBEY ANY
25 SUBPOENA PURSUANT TO THIS ARTICLE 31, THE ATTORNEY GENERAL MAY
26 APPLY TO THE APPLICABLE DISTRICT COURT FOR AN APPROPRIATE ORDER
27 TO EFFECT THE PURPOSES OF THIS ARTICLE. THE APPLICATION MUST STATE
28 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE ORDER
29 APPLIED FOR IS NECESSARY TO INVESTIGATE A VIOLATION OF THIS ARTICLE
30 31. IF THE COURT IS SATISFIED THAT REASONABLE GROUNDS EXIST, THE
31 COURT IN ITS ORDER MAY:

32 (a) GRANT INJUNCTIVE RELIEF RESTRAINING THE SALE OR
33 ADVERTISEMENT OF ANY PROPERTY BY SUCH PERSON;

34 (b) REQUIRE THE ATTENDANCE OF OR THE PRODUCTION OF
35 DOCUMENTS BY SUCH PERSON, OR BOTH; OR

36 (c) GRANT SUCH OTHER OR FURTHER RELIEF AS MAY BE
37 NECESSARY TO OBTAIN COMPLIANCE BY SUCH PERSON.

38 (8) **Injunctive authority - assurances of discontinuance.**

39 (a) WHENEVER THE ATTORNEY GENERAL HAS CAUSE TO BELIEVE THAT A
40 PERSON HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF ANY OF THE
41 PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV), THE
42 ATTORNEY GENERAL MAY APPLY FOR AND OBTAIN, IN AN ACTION IN THE
43 APPROPRIATE DISTRICT COURT OF THIS STATE, A TEMPORARY RESTRAINING

1 ORDER OR INJUNCTION, OR BOTH, PURSUANT TO THE COLORADO RULES OF
2 CIVIL PROCEDURE, PROHIBITING THE PERSON FROM CONTINUING OR
3 ENGAGING IN SUCH PRACTICES, OR DOING ANY ACT IN FURTHERANCE OF
4 SUCH PRACTICES. THE COURT MAY MAKE SUCH ORDERS OR JUDGMENTS AS
5 IS NECESSARY TO:

6 (I) PREVENT THE USE OR EMPLOYMENT BY SUCH PERSON OF ANY
7 SUCH PRACTICES;

8 (II) COMPLETELY COMPENSATE OR RESTORE THE ORIGINAL
9 POSITION OF ANY PERSON INJURED BY MEANS OF ANY SUCH PRACTICE; OR

10 (III) PREVENT ANY UNJUST ENRICHMENT BY ANY PERSON
11 THROUGH THE USE OR EMPLOYMENT OF ANY PRACTICE THAT IS IN
12 VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101
13 (1)(i)(IX) TO (1)(i)(XIV).

14 (b) WHERE THE ATTORNEY GENERAL HAS AUTHORITY TO
15 INSTITUTE A CIVIL ACTION OR OTHER PROCEEDING PURSUANT TO THE
16 PROVISIONS OF THIS ARTICLE, THE ATTORNEY GENERAL MAY ACCEPT, IN
17 LIEU THEREOF OR AS A PART THEREOF, AN ASSURANCE OF
18 DISCONTINUANCE OF ANY PRACTICE THAT CONSTITUTES A VIOLATION OF
19 SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV). ANY SUCH ASSURANCE OF
20 DISCONTINUANCE MAY INCLUDE A STIPULATION FOR THE VOLUNTARY
21 PAYMENT BY THE ALLEGED VIOLATOR OF THE COSTS OF INVESTIGATION
22 AND THE COSTS OF ANY ACTION OR PROCEEDING BY THE ATTORNEY
23 GENERAL OR A DISTRICT ATTORNEY AND ANY AMOUNT NECESSARY TO
24 RESTORE TO ANY PERSON ANY MONEY OR PROPERTY THAT MAY HAVE BEEN
25 ACQUIRED BY SUCH ALLEGED VIOLATOR BY MEANS OF ANY SUCH
26 DECEPTIVE TRADE PRACTICE. ANY SUCH ASSURANCE OF DISCONTINUANCE
27 ACCEPTED BY THE ATTORNEY GENERAL AND ANY SUCH STIPULATION FILED
28 WITH THE COURT AS A PART OF ANY SUCH ACTION OR PROCEEDING IS A
29 MATTER OF PUBLIC RECORD UNLESS THE ATTORNEY GENERAL
30 DETERMINES, IN THE ATTORNEY GENERAL'S SOLE DISCRETION, THAT THE
31 ASSURANCE OF DISCONTINUANCE AND ANY STIPULATION ARE
32 CONFIDENTIAL TO THE PARTIES TO THE ACTION OR PROCEEDING AND TO
33 THE COURT AND ITS EMPLOYEES. UPON THE FILING OF A CIVIL ACTION BY
34 THE ATTORNEY GENERAL ALLEGING THAT A CONFIDENTIAL ASSURANCE OF
35 DISCONTINUANCE OR STIPULATION ACCEPTED PURSUANT TO THIS
36 SUBSECTION (8)(b) HAS BEEN VIOLATED, THE ASSURANCE OF
37 DISCONTINUANCE OR STIPULATION IS DEEMED A PUBLIC RECORD AND OPEN
38 TO INSPECTION BY ANY PERSON. PROOF BY A PREPONDERANCE OF THE
39 EVIDENCE OF A VIOLATION OF ANY SUCH ASSURANCE OR STIPULATION
40 CONSTITUTES PRIMA FACIE EVIDENCE OF A DECEPTIVE TRADE PRACTICE
41 FOR THE PURPOSES OF ANY CIVIL ACTION OR PROCEEDING BROUGHT
42 THEREAFTER BY THE ATTORNEY GENERAL, WHETHER A NEW ACTION OR A
43 SUBSEQUENT MOTION OR PETITION IN ANY PENDING ACTION OR

1 PROCEEDING.
2 (9) **Penalties.** IN ORDER TO ENFORCE THE PROVISIONS OF THIS
3 ARTICLE 31, IN ADDITION TO ANY PENALTIES STATED IN THIS ARTICLE 31,
4 THE ATTORNEY GENERAL MAY SEEK ANY OF THE PENALTIES OR OTHER
5 ENFORCEMENT MECHANISMS SPECIFIED IN THE "IMMIGRANT TENANT
6 PROTECTION ACT", PART 12 OF ARTICLE 12 OF TITLE 38; THE "MOBILE
7 HOME PARK ACT", PART 2 OF ARTICLE 12 OF TITLE 38; THE "MOBILE
8 HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM",
9 PART 11 OF ARTICLE 12 OF TITLE 38; PART 1 OF ARTICLE 12 OF TITLE 38;
10 PART 7 OF ARTICLE 12 OF TITLE 38; AND SECTION 38-12-904 (1)(b), ALONG
11 WITH COSTS TO ENFORCE THESE PROVISIONS.
12 (10) **Limitations.** ALL ACTIONS BROUGHT UNDER THIS ARTICLE 31
13 MUST BE COMMENCED WITHIN THREE YEARS AFTER THE DATE ON WHICH
14 A VIOLATION OCCURRED OR THE DATE ON WHICH THE LAST IN A SERIES OF
15 SUCH ACTS OR PRACTICES OCCURRED OR WITHIN THREE YEARS AFTER THE
16 CONSUMER DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE
17 SHOULD HAVE DISCOVERED THE VIOLATION. THE PERIOD OF LIMITATION
18 PROVIDED IN THIS SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR
19 IF THE ATTORNEY GENERAL PROVES THAT FAILURE TO TIMELY COMMENCE
20 THE ACTION WAS CAUSED BY THE DEFENDANT ENGAGING IN CONDUCT
21 CALCULATED TO INDUCE THE ATTORNEY GENERAL TO REFRAIN FROM OR
22 POSTPONE THE COMMENCEMENT OF THE ACTION."

** ** ** ** **