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Colorado Legislative Session Recap

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Construction Defect Reform

MOST SIGNIFICANT CONSTRUCTION DEFECT REFORMS IN 20 YEARS, BUT QUESTION REMAINS WHETHER IT WILL FAVORABLY IMPACT ENTRY-LEVEL HOUSING

HB 1272 (Business/Local Gov't Construction Defect)

- PASSED; SIGNIFICANTLY AMENDED
- Policy aim to increase entry-level housing development by reducing construction defect claims
- Narrowed to a "Multifamily Construction Incentive Program"
 - Certificate of Review; Defects Threshold; Affirmative Defenses
 - Fee-Shifting
 - HOAs must secure approval from 65% of unit owners before initiating a defect claim

HB 1261 (Trial Lawyers Construction Defect)

- FAILED
- Introduced as competing policy to HB 1272, focused entirely on expanding homeowner legal protections
- Would have required construction professionals accused of defects to provide claimants detailed building records
- Would have voided real estate contract provisions that prohibited group lawsuits
- Would have changed starting time on statute of limitations to point when a cause of the defect is ascertained
- Would have required builders to pay an 8% prejudgment interest on claims

Updated Building Energy Efficiency Standards

THE STATE AND CITY AND COUNTY OF DENVER HAVE UPDATED THE ENERGY EFFICIENCY STANDARDS FOR THE REDUCTION OF GREENHOUSE GASES (REGULATION 28) AND ENERGY USE INTENSITY (ENERGIZE DENVER)

HB 1269 (Building Decarb/Reg 28 Reform)

- PASSED; GOVERNOR LIKELY TO SIGN
- Extends the timeframe to meet Energy Performance Standards to 2040 (five-month extension)
- Provides methods for Alternative Compliance that include Individualized Compliance Metrics and Schedules
- Updates civil penalties for non-compliance
 - 1st Benchmark Violation: \$577; Subsequent: \$2,300
 - 1st Performance Violation: \$2,300; Subsequent \$5,800
- Creates Building Decarbonization Enterprise
 - Funded by annual fee from building owners
 - Tasked with providing financial and technical assistance and programmatic support

Energize Denver – Updated/Revised Regulations

- Extended Compliance Deadlines
 - Benchmarking 25,000+ sq ft : submitted by September 1, 2025/Compliance deadline extended to 2032
 - Going forward, buildings 25,000 sq ft and over are due June 1 each year
 - 5,000 -24,999 sq. ft – No Benchmark Data
 - Improve Lighting – 90% LED OR all lighting meets 2019 Denver Bldg/Fire Code for lighting density
OR
 - Improve Energy Source – Utilize renewable power 20% annual site usage
- End-of-Service Life Concept HVAC
- New Rebates
- Ongoing Technical Support and Guidance

Consumer Protection and Multifamily Operations

CONSUMER ADVOCATES SUCCESSFULLY ADVANCED AND PASSED LEGISLATION AFFECTING MULTIFAMILY OPERATIONS FORECASTING THAT LANDLORD/TENANT ISSUES ARE MAKING THEIR WAY INTO BROADER POLICY CONVOS

HB 1090 (Junk Fees)

- PASSED; SIGNED BY GOVERNOR
- Prohibits a landlord from up-charging utilities (except in accordance with current law); passing through property taxes; charging for payment processing (as long as a free option is available); charging late fees for any amounts due other than rent; fees for landlord duties or goods, services, or property not actually provided, or for maintenance of common areas

SB 20 (Receivership of Multifamily Housing)

- PASSED; GOVERNOR LIKELY TO SIGN
- Would allow the court to authorize the AG, a city, or a county to take control of a property as a receiver

HB 1010 (Price Gouging)

- PASSED; GOVERNOR LIKELY TO SIGN
- Was amended to narrow the scope of the bill to prohibit an increase in certain goods or services (including “necessities”) that are already subject to Colorado’s existing price gouging law if, after the Governor declares a disaster emergency (including market disruptions), as opposed to a 10% increase over any three-month period of any good or service “necessary for the health, safety, or welfare of the general public”

Local Growth

HB 1093 (Limitations on Local Anti-Growth)

- PASSED; GOVERNOR SIGNED
- Broadens the definition of “anti-growth law” to include any “generally applicable” land-use regulation that reduces permitted residential density or land uses below what was previously allowed – *unless*, the jurisdiction ensures a corresponding increase in density or allowable uses elsewhere in its boundaries.
- Guarantees a Fee-in-Lieu Option for Land Dedication.
- Provides for Early Judicial Review of Proposed Land-Use initiatives.

HB 1273 (Single Stair)

- PASSED; GOVERNOR LIKELY TO SIGN
- Jurisdictions over 100,000 served by a single fire protection district/authority/department may allow for single-exit stairways on buildings up to 5 stories of other safety provisions are met.

HB 1169 (“Yes in God's Backyard”/YIGBY)

- FAILED; LIKELY TO RETURN NEXT SESSION
- Would have allowed residential development on properties owned by faith-based organizations, educational entities if certain requirements were met:
- Developments would have been subject to an administrative approval process
- Local jurisdiction would have been limited in its ability to stop the project based on height, zone district, number of dwelling units, applying more stringent development rules
- Affordable housing requirements required unless the jurisdiction has own inclusionary zoning ordinance

SB 280 (Data Center Tax Incentives)

- FAILED; MAY RETURN NEXT SESSION
- Would have provided tax incentives for data centers meeting certain criteria, including jobs threshold and sustainability plans and water stewardship measures

Algorithms and Artificial Intelligence

POLICY MAKERS CONSIDERED LEGISLATION SEEKING TO REGULATE THE USE OF ALGORITHMS AND ARTIFICIAL INTELLIGENCE IN HOUSING, A POLICY TOPIC LIKELY TO RETURN NEXT SESSION

HB 1004 (Rent Pricing Algorithms)

- PASSED; ANTICIPATE VETO REQUESTS
- Would prohibit the use of software to “set or recommend the amount of rent, level of occupancy, or other commercial term associated with the occupancy of a residential premises” if “based on data or a formula that is similar for each landlord

HB 1264 (Surveillance Pricing/Wages)

- FAILED; LIKELY TO RETURN NEXT YEAR
- Would have prohibited the use of “automated decision systems” to informed “individualized” prices or wages based on data related to personal characteristics, behaviors, or biometrics

SB 318 (Algorithmic Discrimination)

- FAILED; CURRENT LAW REMAINS IN EFFECT
- Would have made changes to the comprehensive AI regulatory bill from 2024, but negotiations between the bill sponsor and stakeholders broke down in the last five days of the legislative session
- That leaves last year’s legislation (SB24-205) as current law along with an implementation date of February 1, 2026, which imposes requirements and responsibilities on developers and “deployers” (i.e., users) of AI systems that makes a decision regarding the “provision or denial to any consumer of, or the cost or terms of,” among other things, “housing” (which is not further defined)

Landlord/Tenant

SEVERAL BILLS SPECIFIC TO THE LANDLORD/TENANT RELATIONSHIP MADE THEIR WAY THROUGH THE LEGISLATIVE PROCESS, INDICATING THAT TENANT ADVOCATES WILL CONTINUE TO PUSH FOR CHANGES TO THESE LAWS

PASSED

HB 1108 (Lease Prohibitions Regarding Death): prohibits leases from requiring early termination fees or for repayment of certain concessions or discounts or being enforced when the tenant dies

HB 1207 (Pet Ownership Residential Housing): requires entities receiving state subsidies for affordable housing to allow pets

HB 1236 (Residential Tenant Screening): removes requirement that portable tenant screening reports be made available to landlords directly by reporting agencies

HB 1239 (Disability Discrimination): consolidates disability discrimination claims under the Colorado Anti-Discrimination Act

PASSED

HB 1249 (Tenant Security Deposits): restricts the circumstances under which a landlord may retain a tenant security deposit

FAILED

HB 1196 (Landlord Procedures for Removal of Tenants): landlord-friendly bill that sought to undo recent tenant-friendly eviction reforms

HB 1235 (Jury Trials for Tenant Proceedings): would have required jury trials for evictions

HB 1286 (Protecting Workers Extreme Temps): would have imposed employee safety requirements in temperatures over 80 degrees or under 30 degrees

Other Bills Affecting Development

OTHER PIECES OF LEGISLATION WERE PASSED OR CONSIDERED THAT MAY ALTER THE ECONOMICS FOR HOUSING DEVELOPMENT, PARTICULARLY FOR MASTER PLANNED COMMUNITIES

HB 1113 (Artificial Turf)

- PASSED; GOVERNOR LIKELY TO SIGN
- Expands the current prohibition on nonfunctional turf to include residential property used for apartment or condo project

HB 1211 (Limitations on Tap Fees)

- PASSED; GOVERNOR LIKELY TO SIGN
- Requires water and wastewater districts to ensure their tap fees are reasonably related to the cost of providing water/wastewater service, including the cost of infrastructure construction, water rights planning, and the acquisition and development of water rights

HB 1219 (Metro Districts Information Sharing)

- PASSED; GOVERNOR LIKELY TO SIGN
- Requires sellers of any residential property within the boundaries of a metro district to disclose information about the district, including information about the district's tax mill levy and authority to issue debt; as well as additional notice requirements for annual meetings and website requirements

HB 1334 (Special Districts Condemnation Authority)

- FAILED; LIKELY TO RETURN NEXT SESSION
- Would have prohibited metro districts and water/wastewater districts from acquiring home rule property through dominant eminent domain

Thank you! Questions?

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