

MULTIFAMILY PROPERTIES

Quarterly

Law

Colo. manufactured housing bill goes into effect

Affordable housing availability continues to be a problem throughout Colorado and much of the United States. Manufactured housing communities are an attractive option to those seeking both home ownership and affordable housing. That said, manufactured housing communities have unique legal challenges given the ownership structure within many of these communities. More specifically, the owners of the manufactured houses (“homeowners”) frequently own their home, which constitutes personal property and not real property, while a third party (a “lot owner”), often a real estate investor, owns the ground under the manufactured homes, which is then leased to homeowners. This creates a unique set of challenges, as homeowners both rent and own their living space. In order to combat some of the issues arising out of this unique situation in manufactured housing communities, HB19-1309 has been passed and signed into law in Colorado. HB19-1309 aims to give homeowners more protections and a more accessible dispute resolution process.

The notable portions of HB19-1309:

- Allow evicted residents 30 days to vacate, which is a significant increase from the 48-hour timeline under the previous law;
- Create a dispute resolution program run by the Division of Housing of the Department of Local



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- Allow counties to pass their own manufactured housing regulations to supplement HB19-1309.

The purpose of this article is to highlight the changes in law made by HB19-1309, and also highlight potential unintended consequences of the same.

One of the most notable provisions increases the amount of time evicted residents have to vacate, as noted above. With a short turnaround of 48 hours under prior law, evicted residents often could not move their manufactured homes prior to eviction and would be forced to abandon their homes (often resulting in a forfeiture of ownership of the manufactured home to the lot owner). HB19-1309 extends the eviction time frame from 48 hours to 30 days to alleviate this problem. That said, the extended time frame for removal could be a detriment to other residents. With the extended time to vacate, lot owners may be unable to remove dangerous or troublesome tenants to the detriment of others in the community. Additionally, with the increased demand for affordable housing in Colorado, the extended eviction times may reduce turnover for problem residents, and thus reduce the amount



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of available housing for new tenants.

In addition, HB19-1309 contains a new dispute resolution program that is intended to give homeowners more accessible means to settle disputes with lot owners.

The program is established and funded by a fee imposed on lot owners. The goal is to facilitate efficient resolutions without legal costs being a bar to homeowners seeking redress. The bill, however, allows the lot owner to split 50% of the fee used to run the program with renters, which will increase the rent for all homeowners and increase operating costs for lot owners. The dispute resolution program also allows for lot owners to be fined if found in violation of the Mobile Home Parks Act or the program. With higher risk of being fined by the program, lot owners’ cost of business could rise significantly, which may discourage investment in the industry or result in higher rents being passed on to homeowners to offset this risk.

Finally, HB19-1309 allows counties to impose their own legislation and regulations on manufactured housing communities. Previously, home-ruled cities in Colorado were permitted to establish their own

laws regarding manufactured housing communities, but there was no such ability available to counties to regulate manufactured home communities. HB19-1309 addresses this gap in regulatory coverage. While easier for cities and counties to enact legislation, the act may cause issues for lot owners. With the potential for varying county laws, owners of multiple communities in different counties may have difficulty dealing with variations in the law. This could discourage the operation of multiple communities and raise costs for lot owners that are required to accommodate varying regulations (and thus, result in an increase in rents to homeowners, as lot owners will be encouraged to pass these costs over to residents).

Overall, HB19-1309 seeks to give homeowners more protections. The issue with HB19-1309, however, is the protections could end up raising lot rent, exasperate the need for affordable housing and discourage investment and operation of manufactured housing communities. Indeed, this may exacerbate an existing problem as many homeowners already are being driven out of their communities due to rapidly rising lot rent. It will be key to pay attention to how the bill affects the manufactured housing industry in Colorado, as the bill, while based on meritorious considerations and principles, may bring detrimental effects to lot owners and homeowners alike. ▲