

Landlord News

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HOPKINS·TSCHETTER·SULZER, P.C.

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LEGISLATURE TAKES AIM AT LANDLORDS

A summary of the 2004 elections will show that Democrats were very successful in Colorado and gained control of both houses of the Colorado Legislature. The change in the Colorado Legislature will be dramatic for the multifamily housing industry. It is anticipated that, as in the past, the democrat controlled legislature will introduce landlord/tenant legislation, tenant



protections, warrant of habitability bills and other legislation that has negative connotations for our industry.

This is what we can expect for the next two years and it is important to stay informed on what is happening at the legislature so that that you can effectively respond in a timely manner. Four bills that specifically address issues that impact our clients are currently working their way through the legislative process. All four of these bills originated in the House. The following is a summary of the bills and their current status.

House Bill 05-1061

Reduces the maximum time that a landlord may retain a security deposit. Requires a landlord to give a copy of a written lease to a tenant. Establishes the maximum late fee for late rent. Requires a landlord that is evicting a tenant to give the tenant notice with specific information about the eviction proceedings. Prohibits a lease

from including a waiver of statutory or common law protections of a tenant.

What this means:

The waiver provision will prohibit an owner and resident from negotiating terms in a lease agreement that would protect the owners' property and relationship with the resident. The common law provision is broad and based on old English Law and prevents a tenant from waiving their rights under common and statutory law. Common laws are not set in statute and would cause increased litigation on provisions in lease contracts. Additionally this law requires a return of the security deposit in 30 days and establishes a maximum late fee for nonpayment of rent. The maximum late fee is 2% per diem with a maximum fine of 15% of the total monthly rent. This bill requires owners to provide the resident with a copy of the lease.

The current status of this bill is that it has passed the House on third reading and has been referred to the Senate Local Government Committee.

(LEGISLATION CONTINUED ON PAGE 2)

◆◆◆◆◆◆◆◆ **NON-MONETARY AND COMPLEX EVICTIONS WORKSHOP MARCH 21**

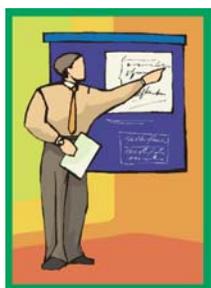
As part of the Firm's continuing program of educational workshops partner Vic Sulzer will be teaching a class on Non-Monetary and Complex Evictions Monday March 21st. This is a must for clients who have already attended the Basic Evictions Program and picks up where that class

ended. This workshop focuses on specific non-monetary eviction scenario analysis that occur in (Continued on Page 2)

EVICCTIONS WORKSHOP

(Continued from Page 1)

evictions and the unexpected complications that arise in the routine eviction process. The format of the class is interactive with participants being trained and quizzed on proper forms and how to execute them to avoid problems. Attendees will learn when to file more than one form and what combination applies to



specific situations. Scenarios from actual client cases both past and current will be utilized to demonstrate how not knowing or not doing the right thing lead to complications and problems in evicting tenants at their properties. The lessons learned in this workshop will help you avoid this happening at your property. *Please call the office 303-699-3484 and talk to Eve Lincoln to register or to confirm your attendance if you have previously registered.*



LEGISLATURE

(Continued from Page 1)

House Bill 05-1062

This bill specifies that a writ of restitution issued by the court in a forcible entry and detainer action shall expire after 30 days following issuance of the writ. The bill allows a county sheriff to be reimbursed for mileage expenses when serving and executing a writ of attachment or replevin on each party. The bill repeals the cap of \$75 for actual expenses incurred for these services. The bill also repeals the caps of \$60 and \$200 on fees a sheriff may charge for serving and executing as writ of restitution.

What this means:

No current law specifies when a writ of restitution expires. However, most, if not all sheriffs will not enforce a writ over 30 days old. This part of the bill simply makes the current unwritten rule that writ is good for 30 days a state law. The lifting of the cap on sheriff's fees will have a substantial negative impact on our clients. With no caps on sheriff's fees, we anticipate that sheriff's fees will increase significantly

The current status of this bill is that it has passed the House on third reading and has been referred to the Senate Local Government Committee. It is expected to pass with little opposition as it is viewed to be a financial plus for county revenues because it will allow county sheriffs to be reimbursed for mileage and 'necessary' expenses for executing and serving certain court documents.

House Bill 05-1169

Amends forcible entry and detainer laws to provide that when a tenant is the documented victim of domestic violence or domestic abuse, the alleged lease violations shall not constitute an unlawful detention of real property and shall not cause the tenant to be guilty of an unlawful detention of real property if the domestic violence or domestic abuse was the cause of, contributed to, or resulted in the alleged unlawful detention. Preserves a landlord's right to seek judgment for possession against the tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of, contributed to, or resulted in the alleged unlawful detention.

Allows a tenant to terminate a lease agreement and to vacate the leased premises if he or she provides written notice and documentation to the landlord that he or she is the victim of domestic violence or domestic abuse. In such circumstances, requires the tenant to pay one month's rent within 90 days after vacating the premises, if the landlord has experienced and documented damages equal to at least one month's rent as a result of the tenant's early termination of the agreement. Specifies that a landlord may not terminate a lease and evict a tenant solely because the tenant is the victim of domestic violence or domestic abuse.



What this means:

This bill prevents owners of rental property from evicting tenants that are victims of domestic violence and ends up granting special rights to victims in cases where they are disturbing other residents on the property, placing the residents on the property in danger, and increasing the opportunity for property damage in the future. It also grants the victims of domestic violence or abuse the opportunity to void their lease contract and move from the property. One of the unintended consequences of this legislation

is the opportunity for potential fraud where residents could use a domestic violence claim to either void their lease or prevent eviction. (Continued on Page 3)

LEGISLATURE

(Continued from Page 2)

The current status of this bill is that it has passed the House on third reading and is currently assigned to the Senate Judiciary Committee.

House Bill 05-1229

Specifies that the state rent control statute not be construed to:



Prohibit a property owner from offering or providing rent-controlled housing in order to furnish affordable housing as a condition for approval of a land development; or Restrict the right of a property owner or governmental entity to enter into and enforce a contract with specified

governmental entities to control rents on private residential housing.

What this means:

This bill is viewed as an attempt to circumvent the rent control statute and is seen by landlords as the first step to abolishing the rent control prohibition. This legislation grants the municipal and county governments the legal authority to obtain units for affordable housing should the owner be interested in rehab on the property, new development opportunities, and anything requiring a building permit as a condition of approval from the government agency. It is evident by the legislation that the housing community is responsible for providing affordable housing without due compensation. The bill attempts to give cities the authority to place a portion of units under rent control for an indeterminate period of time. This legislation sets no boundaries by which the government could take a portion or all of the units in a particular project, should they see fit to do so.

The current status of this bill is that it failed in the House on third reading. However, the measure had broad support from many members and may re-emerge in another form at some point.

WHAT CAN YOU DO

You can contact the members of the Senate Judiciary Committee and the Senate Local Government Committee and express your views on this legislation and the impact it will have on your business. You can also contact your own State Senator if they are not members of either of the above committees and urge them to vote against these bills if they come to the floor. The following is a list of the members of the Senate Committees that will be handling these bills.

LOCAL GOVERNMENT COMMITTEE

Anderson	R Dist 22	303-866-4859
Bacon	D Dist 14	303-866-4841
Dyer	R Dist 26	303-866-4866
Gordon	D Dist 35	303-866-4875
Mitchell	R Dist 23	303-866-4876
Shaffer	D Dist 17	303-866-5291

JUDICIARY COMMITTEE

Johnson	R Dist 15	303-866-4853
Hagedorn	D Dist 29	303-866-4879
Hanna	D Dist 21	303-866-4857
Kester	R Dist 2	303-866-4877
Mitchell	R Dist 23	303-866-4876
Sandoval	D Dist 34	303-866-4862
Shaffer	D Dist 17	303-866-5291

We will continue to keep you updated on the movement and status of these bills and what actions you may be able to exercise to defeat them.





**DENVER COUNTY
COURTS CLOSED
ON
MONDAY MARCH
28TH

CEASAR CHAVEZ
DAY.**

CLIENT LUNCHEON ATTENDANCE UP

The monthly client luncheons continue to attract strong support. At the February lunch Mark gave a presentation on the current bills wending their way through the legislature. Those in attendance had an opportunity to ask questions and exchange ideas on how best to approach having a positive impact on the outcome of the proposed legislation. The Firm is pleased that attendance at the luncheons is growing and encourages anyone who has not been to one of the lunches to mark their calendar and plan on attending the March luncheon. The next Firm lunch will be held at C.B.&Potts on Friday March 18th. The restaurant is located on 120th just west of I25 Please call the office and let us know if you plan to attend. It is a great opportunity to exchange views with other managers in the multi-family rental profession.



The person who was to become St. Patrick, the patron saint of Ireland, was born in Wales

about AD 385. *His given name was Maewyn, and he almost didn't get the job of bishop of Ireland because he lacked the required scholarship. Far from being a saint, until he was 16, he considered himself a pagan.*

At that age, he was sold into slavery by a group of Irish marauders that raided his village. During his captivity, he became closer to God. He escaped from slavery after six years and went to Gaul where he studied in the monastery and became aware that his calling was to convert the pagans to Christianity. It was at this time that he adopted the Christian name of Patrick.

Patrick was quite successful at winning converts. And this fact upset the Celtic Druids. Patrick was arrested several times, but escaped each time. His mission in Ireland lasted for thirty years. After that time, Patrick retired to County Down. He died on March 17 in AD 461. That day has been commemorated as St. Patrick's Day ever since.

Much Irish folklore surrounds St. Patrick's Day. Not much of it is actually substantiated. Some of this lore includes the belief that Patrick drove all the snakes from Ireland. Of course, no snakes were ever native to Ireland, and some people think this is a metaphor for the conversion of the pagans.

One traditional icon of the day is the shamrock. And this stems from a more bona fide Irish tale that tells how Patrick used the three-leafed shamrock to explain the Trinity. His followers adopted the custom of wearing a shamrock on his feast day.



The St. Patrick's Day custom came to America in 1737. That was the first year St. Patrick's Day was publicly celebrated in this country, in Boston.



There is less to
fear from outside
competition than from
inside inefficiency,
discourtesy and bad
service.

Anonymous