

## NEW EVICTION LAW DEMANDS YOUR IMMEDIATE ATTENTION

Despite the concerted efforts of countless firm clients and the Firm, the Colorado General Assembly passed HB19-1118 (“1118”, “new eviction law”, or “new law”). Thanks to all of you who fought so hard with us to defeat this misguided piece of legislation. 1118 has been transmitted to the Governor for signature and becomes effective immediately upon signature. **Accordingly, immediate action is required on your part to evict non-paying tenants.**

First and foremost, you must change and serve new rent demands once the new law becomes effective. Because the new eviction law changes the rent demand period from three days to ten days, you must serve a 10- Day Rent Demand instead of 3-Day Rent Demand before you can evict a non-paying tenant. Prior to 1118 becoming effective, you can still serve a 3-Day Demand. Our best estimate is that the new law will become effective on May 12, 2019, however, it is possible that it could become effective sooner. We are monitoring and will announce the moment it becomes effective. Once the new law goes into effect, you must serve a 10-Day Rent Demand prior to being able to evict. Accordingly, we cannot file any evictions for you after the effective date of the new law unless they are supported by a legally complying rent demand.

A 10-Day Rent Demand is available on the THS website at URL: [tinyurl.com/New10Day](http://tinyurl.com/New10Day). We recommend that you load it into your system as soon as possible so you are ready to go when the new law goes into effect. We highly recommend that you do not change or alter the THS recommended 10-Day in any manner other than putting your logo on it. We will announce shortly classes and webinars to cover issues related to the new 10 Day Rent Demand.

The new eviction law also made other changes to the Colorado eviction statute. Under the new law, apartment rentals must serve 10-Day Demands for both rent and non-monetary violations. Qualifying Single Family Homes (SFHs) can serve 5-Day Demands for both rent and non-monetary violations. In order to be a qualifying SFH, your property must meet the definition of an “Exempt Residential Agreement”. “Exempt Residential Agreement” means a residential agreement leasing a single-family home by a landlord who owns five or fewer single family rental homes and who provides notice in the agreement that a ten day notice period required pursuant to this section does not apply to the tenancy entered into pursuant to the agreement. If you have any doubts about whether you meet this definition, we strongly urge you to consult with us. If you manage more than 5 SFHs, in order to meet the definition, the owner of the home and not the name of your property management company should also be the landlord in the lease.

Because you must have specific lease language even if you own or manage SFHs that meet the definition, you won’t be able to serve a 5-Day Rent Demand until such time that you have changed your lease. Further, only detached single family homes meet the definition. Condos and Townhomes are not detached single family homes. Townhouses and condos are attached, sharing at least one common wall with another, similarly designed home. A detached single-family home has no common walls and sits on its own parcel of land. A simple general but not always conclusive test is if your rental has a unit number than it is not a SFH.

The new law also changes notice requirements for Notices to Quit for Repeat Violations. Similar to rent and non-compliance demands, the new eviction law requires a 10-Day Notice to Quit for a Repeat Violation. However, also similar to the 5-Day compliance demand period for SFH, the new eviction law requires a 5-Day Notice to Quit for Repeat Violation for SFH units. Again, only SFHs that meet the legal definition are eligible for the shorter 5-Day Notice to Quit Period. Based on the change in the law for both non-compliance demands and notices to quit for repeat violations, we have two recommendations.

First, we recommend always serving a non-compliance demand when tenants breach non-monetary provisions of their leases. In the past, some clients issued verbal or written warnings because if the tenant continued to break the lease, they only had to wait three days after service of a Three-Day Demand for Compliance or Possession before they could evict if the tenant continued to violate. Given the new law, if you don't serve a Ten-Day Demand for Compliance or Possession, the tenant may break the lease for any warning periods plus the additional ten day required notice period.

Second, under the old three-day system, some landlords did not evict if the tenant continued to break their lease for a couple of days after the compliance period because they knew that they could quickly evict based on a 3-Day Notice to Quit for a Repeat Violation if the tenant broke the lease again in the future. For example, Tommy Tenant plays loud music. The landlord served a 3-Day Demand. Tommy continued to play loud music a couple of days after the compliance period but then stopped. If Tommy played loud music again at some point in the future, then Tommy could be served a three-day notice to quit for a repeat violation. Under the old system, this would be about six days (3 for the Demand + 3 for the Notice to Quit). Under the new system, Tommy could disturb other residents for over 20 days if you didn't evict (10 days + 10 Days).

The new law significantly alters the eviction time line. Generally, under most leases rent is due on the 1st and then late if not paid either by the 3rd or the 5th. Given the length of the new 10-Day Rent Demand period, the soonest you will be in court is the 22nd or the 24th of the month depending on service of notice on the 4th or the 6th respectively. These are the absolute soonest dates. If you delay in serving notices or if dates fall on weekends or holidays or you are in certain counties that don't hear evictions except for certain days of the week, your first court date will be even later. If the tenant files an answer, the soonest trials dates will be the 29th and the 31st. Thus, under the new law, you will not be able to evict any tenant the same month that they fail to pay the rent. This has obvious operational implications that were discussed and length at the HB19-1118 hearings and categorically ignored by Colorado State Representatives and Senators.

In response to this time line, landlords might require significantly increased security deposits. Landlords might also significantly tighten leasing standards. Landlords might eliminate grace periods entirely and serve rent demands sooner. Landlords might also consider moving the rent due date back in order to claw back some or all of the time line. Strategies for getting back some or all of the time line will be discussed during upcoming classes and webinars. One thing we strongly recommend is serving your rent demands on time. This means also serving rent

demands on the 4th or the 6th regardless of when these dates fall because each day rent demands are not served is just more lost rental days on top of the now required 10-Day period.

The new law also puts a premium on serving correct rent demands because landlords are heavily penalized under the new law for serving defective rent demands. For example, you serve a rent demand on the 4th. It expires on the 14th and you send it to THS for us to file an eviction. We review the demand, but it has a wrong or incomplete street address. We can't file the demand. You have to repost and now can't file for another 10 days. For this reason, we strongly recommend that you use the THS recommend rent demand, you do not alter it any manner, and if you have any questions in how to complete it correctly that you consult us prior to serving and not after it has expired.