

# HOUSING AND PROPERTY

|  |   |   |
|--|---|---|
| <b>Affordable Housing</b>  |   |   |
| <b>SB 12-158</b> (Enacted)<br><i>Consolidate Public Housing Agencies In Department of Local Affairs</i>  | <b>HB 12-1028</b> (Enacted)<br><i>Continue Low-income Energy-related Assistance</i>                     | <b>HB 12-1253</b> (Postponed Indefinitely)<br><i>Low-income Property Expenses Assistance Grants</i>   |
| <b>Foreclosures</b>  |   |   |
| <b>SB 12-030</b> (Enacted)<br><i>Public Trustee &amp; Foreclosure Sales</i>                              | <b>SB 12-071</b> (Deemed Lost)<br><i>Foreclosure Require Loan Modification Efforts</i>                  | <b>HB 12-1156</b> (Postponed Indefinitely)<br><i>Public Trustee Foreclosure Document Requirements</i> |
| <b>Homeowners' Associations and Insurance</b>  |   |   |
| <b>HB 12-1057</b> (Postponed Indefinitely)<br><i>Homeowner's Insurance Additional Protections</i>        | <b>HB 12-1237</b> (Enacted)<br><i>Common Interest Community Homeowners' Associations Records Copies</i> |   |
| <b>Home Safety</b>   |   |   |
| <b>SB 12-081</b> (Postponed Indefinitely)<br><i>Local Government Sprinkler Installation Requirements</i> | <b>HB 12-1165</b> (Postponed Indefinitely)<br><i>Disclose Radon Hazards Information</i>                 |   |
| <b>Landlord-Tenant Relationship</b>  |   |   |
| <b>SB 12-070</b> (Deemed Lost)<br><i>Uniform Residential Landlord &amp; Tenant Act</i>                   |   |   |
| <b>Property Tax</b>  |   |   |
| <b>SB 12-087</b> (Deemed Lost)<br><i>Accrual Of Interest On Property Tax Refunds</i>                     |   |   |
| <b>Renewable Energy and Property</b>   |   |   |
| <b>HB 12-1105</b> (Enacted)<br><i>Wind Energy Property Rights</i>  |   |   |

The General Assembly considered several bills concerning housing and property. Specifically, the legislation addressed affordable housing, foreclosures, matters pertaining to homeowners, home safety, landlord-tenant relationships, property taxes, and renewable energy.

## Affordable Housing

In the 2011 session, House Bill 11-1230 consolidated housing assistance programs under the Division of Housing (DOH) in the Department of Local Affairs (DOLA). **Senate Bill 12-158** was enacted as a clean up bill to further consolidate housing assistance programs under the DOH. The bill clarified that the DOH is the state's sole public housing agency for the

purpose of providing financial housing assistance to both households with low income and to persons with disabilities in order to comply with mandates from the U.S. Department of Housing and Urban Development (HUD). The bill also moved the Supportive Housing Program for persons with disabilities and the administration of the Homeless Prevention Activities Program to the DOH.

***Low-Income Energy Assistance Program (LEAP).*** Moneys from the operational account of the Severance Tax Trust Fund are divided into two tiers. Tier 1 money is used to fund core programs for six divisions within the Department of Natural Resources. Tier 2 money is spent on a variety of programs, including the Colorado LEAP program, which helps needy Colorado residents pay a portion of their winter utility bills between November 1 and April 30. This is a federally funded program that is supervised by the state and administered at the county level.

Current law provides a mechanism for balancing spending from the operational account by making reductions to the account's Tier 2 programs when insufficient funds exist to fully fund the programs, like LEAP, as well as the account's reserve. The legislature adopted **House Bill 12-1028** to extend funding from the operational account of the Severance Tax Trust Fund for LEAP payments through direct bill payment assistance and home energy-efficiency improvements totaling \$13 million annually through FY 2018-19. The bill allocates LEAP funding, according to current law, in the following proportions:

- 25 percent to the Department of Human Services;
- 25 percent to Energy Outreach Colorado; and
- 50 percent to the Governor's Energy Office.

***Property tax rebates.*** The Department of Revenue's Property Tax/Rent/Heat Rebate (PTC) was instituted in 1972 to reimburse a portion of the property tax or rent expenses paid by low-income Colorado residents ages 65 and over (and surviving spouses ages 58 and over). The General Assembly added a rebate for heat and fuel expenses in 1980, and low-income disabled individuals became eligible for the program in 1987. **House Bill 12-1253**, which was postponed indefinitely, would have expanded the PTC program for tax year 2013, by modifying income-eligibility requirements on a one-time basis. If enacted, the bill would have increased grant amounts, increased the income limits for grant eligibility and established a flat-minimum grant amount for any eligible individual or married couple.

## **Foreclosures**

**Senate Bill 12-030** makes several clarifications and modifications to administrative and notice requirements related to a foreclosure sale. It is an administrative clean-up bill intended by public trustees to help the foreclosure process run more smoothly in Colorado. The bill applies to foreclosure sales for which a notice of election and demand or pending lawsuit is recorded on or after September 1, 2012. Specifically, the bill outlines electronic payment compliance requirements; requires the debt holder or their attorney to file a statement identifying the loan servicer of the evidence of debt, if any; and establishes a form for the cure statement. Additionally, it allows a notice of hearing to be presented to the occupant if they are home; currently, the notice may only be given by posting. The bill modifies the debt holder's bid form. It changes foreclosure procedures for a property that is part of a bankruptcy proceeding; modifies the calculation of excess proceeds from a foreclosure sale; and shortens the deadline for an officer to transfer unclaimed excess

proceeds to a county treasurer. It clarifies that an assignment of a lien must always be attached to the notice of intent to redeem. It modifies when an officer is required to execute and record a confirmation deed and specifies the conditions under which an assignee must be listed as the grantee on the deed. Finally, it specifies the procedures for releasing a deed of trust that has been recorded in the wrong county.

**House Bill 12-1156**, which was postponed indefinitely, would have removed a provision in law allowing a debt holder to foreclose on real property under a deed of trust. Instead, the debt holder would be required to file with the public trustee an unbroken chain of documented interests in the debt before a foreclosure sale could be authorized. In all cases, the bill would have placed the burden of proof on the debt holder to provide documentation showing that it is entitled to foreclose on a property.

**Senate Bill 12-071**, which was lost in the Senate, would have required the holder of an evidence of debt to take and fully document steps to ensure that the borrower is kept informed of all stages of the foreclosure process and alternatives to foreclosure. The bill would have also required the state, through the Department of Local Affairs, to publish a standardized notice to initiate the foreclosure alternatives process.

## **Homeowners' Associations and Insurance**

The provisions of the Colorado Common Interest Ownership Act (CCIOA) authorize the creation of common interest communities to be governed by unit owners' or homeowners' associations (HOAs). Currently, there are approximately 16,000 common interest communities or HOAs in Colorado. During the 2012 legislative session, the General Assembly considered one piece of legislation concerning records maintained by an HOA and access to such records. **House Bill 12-1237**, which takes effect January 1, 2013, identifies a list of the records that must be maintained by an HOA concerning the finances, board meeting minutes, and other affairs of a common interest community under CCIOA. This bill also allows homeowners to access these types of records.

Depending on individual policies, homeowners' insurance does not always cover the entire value of a home or the contents within the home when the structure is severely damaged or destroyed. **House Bill 12-1057**, which was postponed indefinitely, would have required the Commissioner of Insurance in the Department of Regulatory Agencies to adopt rules related to homeowners' insurance. These rules would have addressed the criteria for estimating replacement cost of a structure, standards for such replacement, and the process for documenting both the replacement value of the structure as well as the contents of a home.

## **Home Safety**

The General Assembly considered two bills related to the safety of residential property. Local governments commonly adopt various uniform codes with regard to building permits and construction standards. The 2009 International Residential Code (2009 IRC) requires all new residential one- and two- family dwellings and townhouses to include an automatic fire sprinkler system. Despite this requirement in the 2009 IRC or any similar codes, **Senate Bill 12-081**, which

was postponed indefinitely, would have prohibited any county or municipality from requiring the installation of sprinklers in single-family residences.

**House Bill 12-1165**, which was postponed indefinitely, addressed radon testing and the disclosure of any hazards prior to the resale of property. Specifically, the bill required any seller of residential property to test for radon and to disclose the results to a potential purchaser of the property. The bill also provided for the any mitigation of hazardous radon levels to be privately negotiated between the seller and the potential purchaser of the property.

### **Landlord-Tenant Relationship**

**Senate Bill 12-070**, which was lost in the Senate, would have addressed rental property and rental property agreements and the obligations of both landlords and tenants. Specifically, the bill would have eliminated current law that permits a 60-day reconciliation period of the security deposit and required reconciliation within one month after a lease is terminated. The bill would have also provided guidelines to govern rental disputes in both trial courts and appellate courts in Colorado.

### **Property Tax**

Under current law, property taxes that are erroneously collected must be refunded to the taxpayer. The delinquent interest is also owed to the taxpayer in these instances, and that interest accrues from the tax payment date. **Senate Bill 12-087**, which was lost in the House, would have set the start date for interest accrual from the date a complete abatement petition is filed with the board of county commissioners or the date the taxes are paid, whichever is later, thus lessening the amount of time that interest accrues and lowering county expenditures. The bill sought to reduce the amount of tax overpayments claimed by individuals or corporations for the sole purpose of receiving the relatively high interest rate that the county is required by statute to pay on overpayments.

### **Renewable Energy and Property**

Under current law, the space above the lands and waters of the state belongs to the surface owner. However, the law does not specify whether wind is part of that space and whether the landowner may sell or transfer wind rights to another while retaining ownership of the surface. **House Bill 12-1105** establishes that wind energy rights are not severable from the surface estate to real property in Colorado. According to the bill, the establishment of wind energy rights is accomplished through a wind energy agreement in the form of a lease, license, easement, or other grant or reservation, but must be indicated in the property records filed with the county clerk and recorder in the county where the land is located. The bill also defines the procedure for release from a wind energy agreement that has terminated and for reversion of wind energy rights that have been undeveloped for a continuous period of ten years. Lastly, the bill clarifies that equipment for wind energy development is not subject to taxation until wind energy production commences.