

Colorado Revised Statutes (CRS)
Title 13 Courts and Court Procedure

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13-40-101 Forcible entry and detainer defined (FED)

(1) If any person enters upon or into any lands, tenements, mining claims, or other possessions with force or strong hand or multitude of people, whether any person is actually upon or in the same at the time of such entry, or if any person by threats of violence or injury to the party in possession or by such words or actions as have a natural tendency to excite fear or apprehension of danger gains possession of any lands, tenements, mining claims, or other possessions and detains and holds the same, such person so offending is guilty of a forcible entry and detainer within the meaning of this article.

(2) If any person enters peaceably upon any lands, tenements, mining claims, or other possessions, whether any person is actually in or upon the same at the time of such entry and by force turns the party in possession out or, by threats or by words or actions which have a natural tendency to excite fear or apprehension of danger, frightens the party out of possession and detains and holds the same, such person so offending is guilty of a forcible detainer within the meaning of this article.

(3) If any person enters upon or into any lands, tenements, mining claims, or other possessions by force or by threats of violence, or words or actions which have a natural tendency to excite fear or apprehension of danger, and intimidates the party entitled to possession from returning upon or possessing the same, such person so offending is guilty of a forcible entry within the meaning of this article.

13-40-102 Forcible entry prohibited

No person shall enter into or upon any real property, except in cases where entry is allowed by law, and in such cases not with strong hand or with a multitude of people, but only in a peaceable manner.

13-40-103 Forcible detention prohibited

No person, having peaceably entered into or upon any real property without right to the possession thereof, shall forcibly hold or detain the same as against the person who has a lawful right to such possession.

13-40-104 Unlawful detention defined

1) Any person is guilty of an unlawful detention of real property in the following cases:

(a) When entry is made, without right or title, into any vacant or unoccupied lands or tenements;

(b) When entry is made, wrongfully, into any public lands, tenements, mining claims, or other possessions which are claimed or held by a person who may have located, entered, or settled upon the same in conformity with the laws, rules, and regulations of the United States, or of this state, in relation thereto;

(c) When any lessee or tenant at will, or by sufferance, or for any part of a year, or for one or more years, of any real property, including a specific or undivided portion of a building or dwelling,

holds over and continues in possession of the demised premises, or any portion thereof, after the expiration of the term for which the same were leased, or after such tenancy, at will or sufferance, has been terminated by either party;

(d) When such tenant or lessee holds over without permission of his landlord after any default in the payment of rent pursuant to the agreement under which he holds, and three days' notice in writing has been duly served upon the tenant or lessee holding over, requiring in the alternative the payment of the rent or the possession of the premises. No such agreement shall contain a waiver by the tenant of the three days' notice requirement of this paragraph (d). It shall not be necessary, in order to work a forfeiture of such agreement, for nonpayment of rent, to make a demand for such rent on the day on which the same becomes due; but a failure to pay such rent upon demand, when made, works a forfeiture.

(d.5) When such tenant or lessee holds over, without the permission of the landlord, contrary to any condition or covenant the violation of which is defined as a substantial violation in section 13-40-107.5, and notice in writing has been duly served upon such tenant or lessee in accordance with section 13-40-107.5 ;

(e) When such tenant or lessee holds over, without such permission, contrary to any other condition or covenant of the agreement under which such tenant or lessee holds, and three days' notice in writing has been duly served upon such tenant or lessee requiring in the alternative the compliance with such condition or covenant or the delivery of the possession of the premises so held;

(e.5)(I) When a tenant or lessee has previously been served with the notice described in paragraph (e) of this subsection (1) requiring compliance with a condition or covenant of the agreement, and subsequent to that notice holds over, without permission of the tenant or lessee's landlord, contrary to the same condition or covenant.

(II) A tenancy may be terminated at any time pursuant to this paragraph (e.5) on the basis of a subsequent violation. The termination shall be effective three days after service of written notice to quit.

(f) When the property has been duly sold under any power of sale, contained in any mortgage or trust deed that was executed by such person, or any person under whom such person claims by title subsequent to date of the recording of such mortgage or trust deed, and the title under such sale has been duly perfected and the purchaser at such sale, or his or her assigns, has duly demanded the possession thereof;

(g) When the property has been duly sold under the judgment or decree of any court of competent jurisdiction and the party or privies to such judgment or decree, after the expiration of the time of redemption when redemption is allowed by law, refuse or neglect to surrender possession thereof after demand therefor has been duly made by the purchaser at such sale, or his or her assigns;

(h) When an heir or devisee continues in possession of any premises sold and conveyed by any personal representative with authority to sell, after demand therefor is duly made;

(i) When a vendee having obtained possession under an agreement to purchase lands or tenements, and having failed to comply with his agreement, withholds possession thereof from his vendor, or assigns, after demand therefor is duly made.

(2) Repealed by Laws 1987, S.B.123, § 6, eff. Jan. 31, 1989.

(3) Repealed by Laws 1987, S.B.123, § 6, eff. July 1, 1991.

(4)(a) It shall not constitute an unlawful detention of real property as described in paragraph (d.5), (e), or (e.5) of subsection (1) of this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, C.R.S., or of domestic abuse, as that term is defined in section 13-14-101(2), which domestic violence or domestic abuse was the cause of or resulted in the alleged unlawful detention and which domestic violence or domestic abuse has been documented by the following:

(I) A police report; or

(II) A valid civil or emergency protection order.

(b) A person is not guilty of an unlawful detention of real property pursuant to paragraph (a) of this subsection (4) if the alleged violation of the rental or lease agreement is a result of domestic violence or domestic abuse against the tenant or lessee.

(c) A rental, lease, or other such agreement shall not contain a waiver by the tenant or lessee of the protections provided in this subsection (4).

(d) Nothing in this subsection (4) shall prevent the landlord from seeking judgment for possession against the tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged unlawful detention.

13-40-105 Crops of possessor

In all cases arising under section 13-40-104(1)(c) to (1)(i), the person in possession is entitled to cultivate and gather the crops, if any, planted or sown by him previous to the service of the demand to deliver up possession, and then grown or growing on the premises, and shall have the right to enter such premises for the purpose of cultivating or removing such crops, first paying or tendering to the party entitled to the possession of said premises a reasonable compensation for the use of the land before removing such crops.

13-40-106 Written demand

The demand required by section 13-40-104 shall be made in writing, specifying the grounds of the demandant's right to the possession of such premises, describing the same, and the time when the same shall be delivered up, and shall be signed by the person claiming such possession, his agent, or his attorney.

13-40-107 Notice to quit

(1) A tenancy may be terminated by notice in writing, served not less than the respective period fixed before the end of the applicable tenancy, as follows:

(a) A tenancy for one year or longer, ninety-one days;

(b) A tenancy of six months or longer but less than a year, twenty-eight days;

(c) A tenancy of one month or longer but less than six months, twenty-one days;

(d) A tenancy of one week or longer but less than one month, or a tenancy at will, three days;

(e) A tenancy for less than one week, one day.

(2) Such notice shall describe the property and the particular time when the tenancy will terminate and shall be signed by the landlord or tenant, the party giving such notice or his agent or attorney.

(3) Any person in possession of real property with the assent of the owner is presumed to be a tenant at will until the contrary is shown.

(4) No notice to quit shall be necessary from or to a tenant whose term is, by agreement, to end at a time certain.

(5) Except as otherwise provided in section 38-33-112, C.R.S., the provisions of subsections (1) and (4) of this section shall not apply to the termination of a residential tenancy during the ninety-day period provided for in said section.

13-40-107.5 Termination of tenancy for substantial violation--definition--legislative declaration

(1) The general assembly finds and declares that:

(a) Violent and antisocial criminal acts are increasingly committed by persons who base their operations in rented homes, apartments, and commercial properties;

(b) Such persons often lease such property from owners who are unaware of the dangerous nature of such persons until after the persons have taken possession of the property;

(c) Under traditional landlord and tenant law, such persons may have established the technical, legal right to occupy the premises for a fixed term which continues long after they have demonstrated themselves unfit to coexist with their neighbors and co-tenants; furthermore, such persons often resist eviction as long as possible;

(d) In certain cases it is necessary to curtail the technical, legal right of occupancy of such persons in order to protect the equal or greater rights of neighbors and co-tenants, the interests of property owners, the values of trust and community within neighborhoods, and the health, safety, and welfare of all the people of this state.

(2) It is declared to be an implied term of every lease of real property in this state that the tenant shall not commit a substantial violation while in possession of the premises.

(3) As used in this section, "substantial violation" means any act or series of acts by the tenant or any guest or invitee of the tenant that, when considered together:

(a) Occurs on or near the premises and endangers the person or willfully and substantially endangers the property of the landlord, any co-tenant, or any person living on or near the premises; or

(b) Occurs on or near the premises and constitutes a violent or drug-related felony prohibited under article 3, 4, 6, 7, 9, 10, 12, or 18 of title 18, C.R.S.; or

(c) Occurs on the tenant's leased premises or the common areas, hallway, grounds, parking lot, or other area located in the same building or complex in which the tenant's leased premises are located and constitutes a criminal act in violation of federal or state law or local ordinance that:

(I) Carries a potential sentence of incarceration of one hundred eighty days or more; and

(II) Has been declared to be a public nuisance under state law or local ordinance based on a state statute.

(4)(a) A tenancy may be terminated at any time on the basis of a substantial violation. The termination shall be effective three days after service of written notice to quit.

(b) The notice to quit shall describe the property, the particular time when the tenancy will terminate, and the grounds for termination. The notice shall be signed by the landlord or by the landlord's agent or attorney.

(5)(a) In any action for possession under this section, the landlord has the burden of proving the occurrence of a substantial violation by a preponderance of the evidence.

(b) In any action for possession under this section, it shall be a defense that:

(I) Deleted by Laws 2005, Ch. 120, § 2, eff. July 1, 2005.

(II) The tenant did not know of, and could not reasonably have known of or prevented, the commission of a substantial violation by a guest or invitee but immediately notified a law enforcement officer of his or her knowledge of the substantial violation.

(c)(I) The landlord shall not have a basis for possession under this section if the tenant or lessee is the victim of domestic violence, as that term is defined in section 18-6-800.3, C.R.S., or of domestic abuse, as that term is defined in section 13-14-101(2), which domestic violence or domestic abuse was the cause of or resulted in the alleged substantial violation and which domestic violence or domestic abuse has been documented pursuant to the provisions set forth in section 13-40-104(4).

(II) Nothing in this paragraph (c) shall prevent the landlord from seeking possession against a tenant or lessee of the premises who perpetuated the violence or abuse that was the cause of or resulted in the alleged substantial violation.

13-40-108 Service of notice to quit

A notice to quit or demand for possession of real property may be served by delivering a copy thereof to the tenant or other person occupying such premises, or by leaving such copy with some person, a member of the tenant's family above the age of fifteen years, residing on or in charge of the premises, or, in case no one is on the premises at the time service is attempted, by posting such copy in some conspicuous place on the premises.

13-40-109 Jurisdiction of courts

The district courts in their respective districts and county courts in their respective counties have jurisdiction of all cases of forcible entry, forcible detainer, or unlawful detainer arising under this article,

and the person entitled to the possession of any premises may recover possession thereof by action brought in any of said courts in the manner provided in this article. On and after January 1, 1991, in all actions brought before county courts under section 13-40-104(1)(f) to (1)(i), where the allegations of the complaint are put in issue by a verified answer and in actions in which the verified answer alleges a monthly rental value of the property in excess of fifteen thousand dollars, the county court, upon the filing of said answer, shall suspend all proceedings therein and certify said cause and transmit the papers therein to the district court of the same county. Causes so certified by the county court shall be proceeded within the courts to which they have been so certified in all respects as if originally begun in the court to which they have been certified. On and after January 1, 1991, the jurisdiction of the county court to enter judgment for rent, or damages, or both and to render judgment on a counterclaim in forcible entry and detainer shall be limited to a total of fifteen thousand dollars in favor of either party, exclusive of costs and attorney fees.

13-40-110 Action--how commenced

(1) An action under this article is commenced by filing with the court a complaint in writing describing the property with reasonable certainty, the grounds for the recovery thereof, the name of the person in possession or occupancy, and a prayer for recovery of possession. The complaint may also set forth the amount of rent due, the rate at which it is accruing, the amount of damages due, and the rate at which they are accruing and may include a prayer for rent due or to become due, present and future damages, costs, and any other relief to which plaintiff is entitled.

(2) In an action for termination of a tenancy in a mobile home park, the complaint, in addition to the requirements of subsection (1) of this section, shall specify the particular reasons for termination as such reasons are stated in section 38-12-203, C.R.S. Such complaint shall specify the approximate time, place, and manner in which the tenant allegedly committed the acts giving rise to the complaint. If the action is based on the mobile home or mobile home lot being out of compliance with the rules and regulations adopted pursuant to section 38-12-203(1)(c), C.R.S., the complaint shall specify that the home owner was given thirty days from the date of service or posting of the notice to quit to cure the noncompliance and that thirty days have passed and the noncompliance has not been cured.

13-40-111 Issuance and return of summons

(1) Upon filing the complaint as provided in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons shall command the defendant to appear before the court at a place named in such summons and at a time and on a day which shall be not less than seven days nor more than fourteen days from the day of issuing the same to answer the complaint of plaintiff. The summons shall also contain a statement addressed to the defendant stating: "If you fail to file with the court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the

plaintiff is entitled. If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises.”

(2) Repealed by Laws 2012, Ch. 208, § 10, eff. July 1, 2012.

(3) For actions commenced pursuant to section 13-40-104(1)(f) and (1)(g) only, if no answer to the complaint is filed as provided in subsection (1) of this section, the court shall examine the complaint, and, if satisfied that venue is proper and the plaintiff is entitled to possession of the premises, the court shall dispense with appearances by the plaintiff or a hearing and shall forthwith enter a judgment for possession, present or future damages, and costs.

13-40-112 Service

(1) Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.

(2) If personal service cannot be had upon the defendant by a person qualified under the Colorado rules of civil procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the plaintiff shall mail, no later than the next business day following the day on which he or she files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the defendant at the premises by postage prepaid, first-class mail.

(3) Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

(4) For purposes of this section, “business days” means any calendar day excluding Saturdays, Sundays, and legal holidays.

13-40-113 Answer of defendant--additional and amended pleadings

(1) The defendant shall file with the court, at or before the time specified for his appearance in the summons, an answer in writing setting forth the grounds on which he bases his claim for possession and admitting or denying all of the material allegations of the complaint and presenting every defense which then exists and upon which he intends to rely, either by including the same in his answer or by filing simultaneously therewith motions setting forth every such defense.

(2) The court for good cause may permit the filing of additional and amended pleadings where such will not result in delay prejudicial to the defendant.

13-40-114 Delay in trial—undertaking

If either party requests a delay in trial longer than five days, the court in its discretion may, upon good cause shown, require either of the parties to give bond or other security approved and fixed by the court

in an amount for the payment to the opposite party of such sum as he may be damaged due to the delay.

13-40-115 Judgment--writ of restitution

(1) Upon the trial of any action under this article if service was had only by posting in accordance with section 13-40-112(2) and if the court finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. The court may also continue the case for further hearing from time to time and may issue alias and pluries summonses until personal service upon the defendant is had.

(2) Upon such trial or further hearing under this article after personal service is had upon the defendant in accordance with section 13-40-112(1), if the court or jury has not already tried the issue of unlawful detainer, it may do so, and, if it finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. In addition to such judgment for restitution, the court or jury shall further find the amount of rent, if any, due to the plaintiff from the defendant at the time of trial, the amount of damages, if any, sustained by the plaintiff to the time of the trial on account of the unlawful detention of the property by the defendant, and damages sustained by the plaintiff to the time of trial on account of injuries to the property, and judgment shall enter for such amounts, together with reasonable attorney's fees and costs, upon which judgment execution shall issue as in other civil actions. Nothing in this section shall be construed to permit the entry of judgment in excess of the jurisdictional limit of the court.

(3) A writ of restitution that is issued by the court pursuant to subsection (1) or (2) of this section shall remain in effect for forty-nine days after issuance and shall automatically expire thereafter.

13-40-116 Dismissal

If the plaintiff's action brought for any of the causes mentioned in this article, upon the trial thereon, is dismissed or the action fails to prove the plaintiff's right to the possession of the premises described in the complaint, the defendant shall have judgment and execution for his costs.

13-40-117 Appeals

(1) If either party feels aggrieved by the judgment rendered in such action before the county court, he may appeal to the district court, as in other cases tried before the county court, with the additional requirements provided in this article.

(2) Upon the court's taking such appeal, all further proceedings in the case shall be stayed, and the appellate court shall thereafter issue all needful writs and process to carry out any judgment which may be rendered thereon in the appellate court.

(3) If the appellee believes that he may suffer serious economic harm during the pendency of the appeal, he may petition the court taking the appeal to order that an additional undertaking be required of the appellant to cover the anticipated harm. The court shall order such undertaking only after a hearing and upon a finding that the appellee has shown a substantial likelihood of suffering such economic harm during the pendency of the appeal and that he will

not adequately be protected under the appeals bond and the other requirements for appeal pursuant to sections 13-40-118 , 13-40-120 , and 13-40-123 .

13-40-118 Deposit of rent

In all appeals from the judgment of a county court, in an action founded upon section 13-40-104(1)(d) , the defendant, at the time of the filing thereof, shall deposit with the court the amount of rent found due and specified in such judgment. Unless such deposit is made, the appeal is not perfected, and proceedings upon such judgment shall thereupon be had accordingly. If the appeal is perfected, the court shall transmit such deposit to the clerk of the appellate court, with the papers in such case; and the appellant thereafter, at the time when the rents become due as specified in the judgment appealed from and as often as the same become due, shall deposit the amount thereof with the clerk of such appellate court. In case the appellant, at any time during the pendency of such appeal and before final judgment therein, neglects or fails to make any deposit of rent, falling due at the time specified in the judgment appealed from, the court in which such appeal is pending, upon such fact being made to appear and upon motion of the appellee, shall affirm the judgment appealed from with costs; and proceedings thereupon shall be had as in like cases determined upon the merits.

13-40-119 Rules of practice

In all actions brought under any provision of this article in any court, the proceedings shall be governed by the rules of practice and the provisions of law concerning civil actions in such court, except as may be otherwise provided in this article.

13-40-120 Appellate review

Appellate review of the judgment of the district courts of this state, in proceedings under this article, is allowed as provided by law and the Colorado appellate rules. In cases of appeal from judgments founded upon causes of action embraced in section 13-40-104(1)(d) , the deposit of rent money during pendency of appeal shall be made, or judgment of affirmance shall be entered, in the manner provided in section 13-40-118 .

13-40-121 When deposit of rent is paid

The rent money deposited, as provided for in this article, shall be paid to the landlord entitled thereto, upon the order of the court wherein the same is deposited and at such time and in such manner as the court determines necessary to protect the rights of the parties.

13-40-122 Writ of restitution after judgment

(1) No writ of restitution shall issue upon any judgment entered in any action under the provisions of this article out of any court until after the expiration of forty-eight hours from the time of the entry of such judgment; and such writs shall be executed by the officer having the same only in the daytime and between sunrise and sunset. Any writ of restitution governed by this section may be executed by the county sheriff's office in which the property is located by a sheriff, undersheriff, or deputy sheriff, as described in section 16-2.5-103(1) or (2), C.R.S. , while off duty or on duty at rates charged by the employing sheriff's office in accordance with section 30-1-104(1)(gg), C.R.S. .

(2) The officer that executes a writ of restitution under subsection (1) of this section and the law enforcement agency that employs such

officer shall be immune from civil liability for any damage to a tenant's personal property that was removed from the premises during the execution of the writ. A landlord who complies with the lawful directions of the officer executing a writ of restitution shall be immune from civil and criminal liability for any act or omission related to a tenant's personal property that was removed from the premises during or after the execution of a writ of restitution.

(3) A landlord has no duty to store or maintain a tenant's personal property that is removed from the premises during or after the execution of a writ of restitution. Regardless of whether a landlord elects to store or maintain the personal property so removed, the landlord shall have no duty to inventory the personal property or to determine ownership of or the condition of the personal property. Such storage shall not create either an implied or express bailment of the personal property, and the landlord shall be immune from liability for any loss or damage to the personal property.

(4) A landlord who elects to store a tenant's personal property that was removed from the premises during or after the execution of a writ of restitution may charge the tenant the reasonable costs of storing the personal property. To recover such costs, the landlord may either dispose of the personal property under any lien rights the landlord has under part 1 of article 20 of title 38, C.R.S., or the landlord may allow the tenant to recover the personal property after paying the reasonable storage charges incurred by the landlord.

13-40-123 Damages

The prevailing party in any action brought under the provisions of this article is entitled to recover damages, reasonable attorney fees, and costs of suit; except that a residential landlord or tenant who is a prevailing party shall not be entitled to recover reasonable attorney fees unless the residential rental agreement between the parties contains a provision for either party to obtain attorney fees. Nothing in this section shall be construed to permit the entry of judgments in any single proceeding in excess of the jurisdictional limit of said court.