

Dear Madam Chair Representative Tracy Kraft-Tharp and Sir Vice Chair Representative James Coleman:

I am a licensed real estate agent in the state of Colorado, a professional property manager, member of the the National Association of Residential Property Managers, member of the Colorado Association of Realtors, a constituent and active voter, a renter, and a lifelong resident of Colorado. As a licensee and property manager, I help to oversee the management of over 200 rental properties, acting as the agent for private property owners. I am testifying to the Committee today, to express my concern over the proposal of House Bill 20-1141. While I agree that affordable housing is a pressing issue in our state, it is my strong belief that should this measure pass as written, the unintended consequences will only cause more detriment to the interests of those it was intended to protect.

Most concerning is the Bill language to limit the late fees a landlord can charge a tenant. As written, the Bill allows for a maximum of \$20 or 3% of the rent amount. It is my understanding the Bill has recently been amended to \$25 and 5%, respectively. Unfortunately, these amounts are still not much of a deterrent to paying late. The purpose of late fees is to encourage renters to pay on time, so that landlords can timely uphold their financial obligations on the property.

An additional concern of the Bill language regarding late fees is the requirement of a 14 day grace period until late fees are charged. Again, my understanding is this language was amended to a 10 day grace period. This is still too large of a grace period of non-payment. HB19-1118 was passed last year, increasing the time to cure lease violations to 10 days. Should HB20-1141 pass as written, the result is that a tenant will have until at least the 20th of the month to pay rent before the account can be filed for eviction. By this time, not only is the landlord in default of their mortgage, but the tenant's next rent will be due in only 11 days, allowing a perpetual cycle of late payments to continue.

Bill Sponsor, Representative Gonzales-Gutierrez has stated that she understands not all landlords are "bad actors". Our firm is of the position that not all tenants are bad actors either. We have several programs in place that allow tenants from many walks of life to rent from us. Our firm offers a one time late payment forgiveness program, waiving the late fee, and not recording the single late payment in their permanent rental history. Unless habitual, late payments are not considered when deciding to renew or non-renew a tenant's lease. Our qualification policy allows first time renters, and those with little or no established credit to qualify. We even have a policy that allows international visitors to rent without having a social security number. Should HB20-1141 pass as written, we will be forced to tighten our rental qualification guidelines, making it more difficult for would-be tenants to qualify. Our firm will also be required to adopt a "zero tolerance" policy on late payments. Under HB20-1141, tenants with just one late payment will be considered high-risk for a lease renewal. The proposed House Bill strips away a landlord's ability to work with a tenant during a time of struggle.

Another unintended consequence of this Bill is that many small landlords will exit the rental market, as the financial risk of owning rental property in Colorado will be too great. Fewer landlords participating in the market means higher demand with even higher rent prices than we are currently seeing. Combined, less inventory and selection of rentals, higher prices of rentals, and stiffer qualifications will only harm Colorado families.

I encourage the Bill Sponsors and House Committee to consider a 5 day grace period and maximum late fee of 10%. These more balanced provisions allow for leniency for tenants, while allowing Colorado landlords to continue offering quality rentals at fair market value to Colorado families.

I thank the Committee for taking the time to read my testimony and hearing my concerns. I welcome the opportunity to work together to come to resolutions that create a well rounded housing climate in Colorado.

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Sondra L. Welsh  
HB -1141 - Opposed

Dear Madam Chair Representative Tracy Kraft-Tharp and Sir <sup>other</sup> ~~Vice Chair Representative James Coleman~~

My name is Sondra Welsh. I have been a property manager for 25 years in the Denver/Metro area. I have been a member of NARPM for 23 years. I have held the positions of President, Vice President, Treasurer, Secretary and now am the Head of Education. I have also been a Realtor for 26 years. I consider myself a professional property manager.

I currently manage over 200 units for a little over 100 owners. Most of my owners are people who own a home in Colorado and for one reason or another had to move away, but someday have the dream of returning to our state to live in the home.

Our company lives by the motto of the Dalai Lama - "Be kind whenever possible. It is always possible". We take pride in treating residents, owners, potential customers and other business owners with respect. We take the time before making changes to discuss how it will impact residents and owners. My leasing agent is a tenant and it is good to have this perspective when dealing with changes. We have several residents that actually stop by the office to chat or get a hug from us. Not all residents are happy all of the time, but we make our rules clear and we follow the law.

Our late fees are currently at 10%. This is enough to keep the majority of our tenants from paying late. We only have two percent of our tenants pay late on an average month. We also let them know when they call because they are going to be late, to pay as much as possible to get the late fee down. We also forgive one late fee for each lease. By doing this we feel we are more than fair.

If this law passes as it was originally written, we will no longer have the option to waive late fees. I feel it may be necessary to raise the rents to cover the costs that will be passed on to the owner for late payment collection process, roommate transfers, NSF fees, etc.

When we send out renewals we do our best to not increase rent to market rent. We feel if you are a great tenant that we want to keep you for a long time and reward you for that. In a property I personally own the tenants rent is at \$1320 per month. They have lived in the unit since 2006. They live in a 5 bedroom, 2 bath house in Golden that I could rent for \$3000 per month. They are great tenants and take great care of my investment. As I said before we want to treat people with kindness.

*I urge the Committee to not support this bill*  
~~I urge you to change the late fee to 10%, make rent due on the 5th of the month and allow fees that will make leases enforceable in Colorado. A lease should be treated as a legal binding contract, the same as a house or car purchase.~~

Thank you for taking the time to read this.  
Sondra L. Welsh

Tony Cline  
HB20-1141  
Against

- Good afternoon.
- My Name is Tony Cline
- Thank you for taking time to hear our concerns with HB20-1141.

While I believe that this bill has many unintended consequences I will keep my comments focused on the following topics:

- 1. Fees other than late fees and use fees.**
- 2. Condos and townhomes, not apartments**
- 3. The Landlords this bill will negatively affect. These are real people, not faceless corporations.**
- 4. Professional property managers will be forced out of the market leaving tenants to deal directly with unregulated and unlicensed landlords.**
- 5. This bill would increase rents across the board on ALL tenants.**

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- 1. Contrary to some information being circulated this bill would, in fact, prohibit a landlord from being able to charge ANY FEE other than rent, a nominal late fee, and a “use fee” that is so**

**tightly defined that in most cases it can't be charged either and is not applicable for landlords of single-family homes or individually owned condos and townhomes.**

**2. Older condos and Townhomes are often rented by tenants as their first rental home because they are more affordable than single-family homes or luxury apartments. These condos and townhomes are different than large apartment complexes in that most are owned by individual "mom and pop" investors. In last year's bill regarding notice periods, exceptions were made for single-family homes but failed to take into account these condos and townhomes. If this bill were to pass and impact these condo and townhome properties, landlords I have talked to will be forced to sell and the entry-level rental housing inventory will be greatly reduced as a result.**

**3. 45% of all real estate investors only own one rental property and a full 87% of single-family rental homes are owned by someone**

who owns LESS than 10 properties. These are not large corporations looking to take advantage of people, these are your neighbors, friends & family. Without these landlords providing housing, inventory will shrink to an even lower rate and tenants will have even higher overall expenses.

4. Professional property managers will exit the market leaving Tenants to deal directly with unregulated and unlicensed landlords as it will no longer be profitable to operate a business without this ancillary income. Ancillary fees like late fees provide for income to either the landlord or the property manager to offset the added expenses of chasing down late rent, posting notices, working with attorneys when tenants become unresponsive and fail to honor the terms of the agreement and eviction proceedings become necessary.
5. Because we will have to guesstimate how many additional trips to post notices, late payments, lease breaks, NSF charges, etc.

**there will be for each lease we will have to build those costs into the rent across the board. Rents will increase for ALL TENANTS, not just bad actors or for specific situations.**

**Thank you for your time today, I am available for questions.**

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- 1. Contrary to some information being circulated this bill would, in fact, prohibit a landlord from being able to charge any fee other than rent, a nominal late fee, and a “use fee” that is so tightly defined that in most cases it can’t be charged either and is not applicable for landlords of single-family homes or individually owned condos and townhomes.**
  - a. Picture this: You save up for a down payment to buy your first investment property. You realize that being a landlord is a lot of work but can also be very rewarding because you are providing much-needed housing for those in our community.
    - i. You navigate all of the laws, show the property and sign a lease. You are happy because you think the work is done.
    - ii. The first of the month comes and goes and the tenant has not paid rent. Because of this new law the late fee doesn’t even cover your expenses of taking off work, visiting the property, making multiple calls emails or texts, just to try to collect the rent, and you can’t even charge a late fee unless the tenant is 14 days late.
    - iii. On day 14, after your mortgage payment was already due, your tenant finally gives you a check for the rent payment but does not include the nominal late fee that they were required to pay by this law and by the lease. You add the late fee to the amount due but you have no way to actually collect it at this point.
    - iv. You deposit the tenant’s rent check and make your mortgage payment, including the late fee that YOU are required to pay to the mortgage company, only to be notified by your bank 4 or 5 days later that the tenant’s check bounced. According to this new bill you can’t pass on the

"insufficient funds fee" or NSF fee that your bank charged you due to your tenant's failure to pay with good funds. So, you have to pay that fee too.

- v. You now have to begin the process to collect rent all over again. You have to go to the property or pay someone to go to the property to post a "10 day notice to pay or quit" as required by law and you wait for your payment. Because of this Bill you can't pass on the costs associated with hiring someone to post this notice so you have to pay that too.
- vi. After several months of this routine, The tenant informs you that they no longer want to honor the terms of their lease and they will be breaking their lease. You now have additional vacancy, turnover costs to get the property ready for the next tenant, and additional leasing and fees. Because of this Bill you cannot pass any of those costs, incurred through no fault of your own, on to the tenant. They are simply allowed to walk away without any consequence.
- vii. Your experience as a landlord could have been great, and you could have continued to provide much needed housing for the community, but after careful consideration you realize that all of the work and legal liability is simply is too much for the benefits received and you exit the landlord business, selling the property and it is no longer available on the rental market, causing rental housing supply to go down, and demand to go up, followed by rent rates.

2. **Older condos and Townhomes are often rented by tenants as their first rental home because they are more affordable than single-family homes or luxury apartments. These condos and townhomes are different than large apartment complexes in that most are condos and townhomes are owned by individual "mom and pop" investors. In last year's bill regarding notice periods exceptions were made for single-family homes but failed to take into account these condos and townhomes. If this bill were to pass and impact these condo and townhome properties, landlords I have talked to will be forced to sell and the entry level rental housing inventory will be greatly reduced as a result.**
3. **According to recent data, 45% of all real estate investors only own one rental property and a full 87% of single-family rental homes are owned by someone who owns LESS than 10 properties. These are not large corporations looking to take advantage of people, these are your neighbors, friends & family. These landlords depend on timely rental payments to meet their mortgage obligations that are typically due on the first of the month and have hefty penalties for late payments.**

**Without these landlords providing housing, inventory will shrink to an even lower rate and tenants will have even higher overall expenses.**

- 4. Professional property managers will exit the market leaving Tenants to deal directly with unregulated and unlicensed landlords** as it will no longer be profitable to operate a business without this ancillary income. Ancillary fees like late fees provide for income to either the landlord or the property manager to offset the added expenses of chasing down late rent, posting notices, working with attorneys when tenants become unresponsive and fail to honor the terms of the agreement and eviction proceedings become necessary. Professional property managers continue to stay educated on current laws and act as a buffer between inexperienced landlords and the tenants who rent from them. Professional property managers set high standards for living conditions and ensure that rental properties are professionally maintained, laws are followed, and tenants are treated with dignity and respect while ensuring that all parties adhere to the legally binding lease agreement. Without these professional property managers, tenants will have to navigate the lease and the rental relationship directly with the landlord and neither party has much experience with the law, their legal rights, and how to interpret them. The reduction of professional property managers in the housing market will cause an increase in landlord-tenant disputes in the legal system AND harm tenants who find themselves dealing directly with landlords who either don't understand the law or choose to act in an unscrupulous manner.
  
- 5. Because we will have to guesstimate how many additional trips to post notices, late payments, lease breaks, NSF charges, etc. there will be for each lease we will have to build those costs into the rent. Rents will increase for ALL TENANTS, not just bad actors or for specific situations.** As HB 20-1141 is currently written, a landlord can only charge RENT, with the exception of a use based fee, which is so tightly defined that it essentially can't be charged either. This means that if a tenant pays late, bounces a check, incurs an NSF charge with an electronic payment, has a pet, chooses not to honor the terms of their lease and vacates early, requires increased inspections, doesn't pay the rent on time or at all and a notice is required to be posted to the property in accordance with eviction laws, a landlord cannot charge for this increase in labor, time and expenses. Without the ability to assess additional fees as necessary in individual situations, landlords and property managers will be required to guess the issues that will arise over the next 12 months and raise the rent across the board to ensure that these additional items are accounted for.