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## OTTEN JOHNSON ALERT

# Legislative Round-Up: Bills That Passed Colorado's 2021 Legislative Session

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Colorado's 2021 legislative session wrapped up on June 12, 2021. A number of bills impacting business regulation, government, housing, and other real estate matters passed and were signed into law by Governor Polis. This alert provides summaries of bills that may be of interest to business and property owners in the state.

## Business

**HB 21-1027 Concerning the Authorization for Certain Alcohol License Holders to Offer Alcohol Beverages for Consumption off the Licensed Premises.** This bill extends the time period that businesses will be able to offer alcohol beverages for delivery or takeout to July 1, 2025. However, if the manufacturer owns and operates a sales room, they may only continue to sell alcohol beverages for delivery and takeout until January 2, 2022. Business may now sell higher quantities of alcohol beverages for delivery or takeout. Finally, businesses that form a "communal outdoor dining area," or a space where two or more licensed persons or businesses share the space for on-premises alcohol consumption, are required to receive a permit from the state licensing authority to sell or serve alcohol beverages in the communal outdoor dining area.

**HB 21-1044 Concerning Allowing a Manufacturer of Vinous Liquors to Maintain Licensed Premises Consisting of Multiple Noncontiguous Locations.** This bill permits a wine manufacturer to keep a license for up to two noncontiguous locations

within a radius of ten miles. However, only one sales room may be located in a licensed premise with multiple noncontiguous locations. In addition, if a noncontiguous location of a winery is outside the boundaries of an entertainment district or common consumption area, it cannot be included as part of that district or area, even if the licensed premise of the winery is within the district.

**SB 21-082 Concerning Authorization for Certain Alcohol Beverage License Holders to Hold Festivals for Alcohol Beverage Retail Activity.** This bill extends licensing permits for festivals to other liquor licenses beyond wineries such as distilleries, brew pubs, or taverns. The state grants the liquor festival license with off-permit sales while the municipalities still hold the authority to grant event licenses. Local licensing authorities may also create a permitting process for these types of festivals. At festivals, an alcohol beverage license holder can conduct tastings and any retail operations normally authorized under its permit. Festivals can be held up to 9 times in 12 months and can last no longer than 72 hours.

**HB 21-1048 Concerning a Requirement that Retail Establishments Accept United States Currency for Purchases.** This bill requires retail establishments that have an individual accepting payment in person for goods and services to accept United States currency from a buyer to purchase the goods or services. If the retail establishment has certain deposit or collateral requirements that utilize credit cards or converts cash into a prepaid card to allow the consumer to complete a transaction, the provisions of this bill do not apply. Failure to comply with this law is a class two petty offense and punishable by a fine of up to \$250 per time a business refuses cash as payment.

**HB 21-1124 Concerning an Expansion of the Ability to Conduct Business Activities Electronically.** This bill defines terms related to the conducting of business activities in electronic form, including e-mail, notice, sign, address, deliver or delivery, document, and electronic communications. The bill further delineates under what circumstances notice may be given in electronic form, in addition to the traditional methods of notice. Finally, the board of directors of an organization may hold a meeting for themselves or shareholders solely by means of remote communication, and the bill specifies how a remote meeting is to be conducted to comply with state law.

**SB 21-035 Concerning Restrictions on Certain Practices by Third-Party Food Delivery Services.** This bill prohibits third-party food delivery services, such as Grubhub, DoorDash, or other services that arrange for the sale and delivery of prepared food or beverages from a retail food establishment, from offering services at a location without the consent of the retail food establishment. Retail food establishments are authorized to bring an action for damages against a third party delivery service that operates in the establishment without receiving the business's consent.

**SB 21-070 Concerning the Authority of a Board of County Commissioners to**

**Require the Registration of Businesses.** This bill permits county boards of commissioners to adopt rules that require businesses in unincorporated portions of the county to register with the county. However, boards are not authorized to license, collect a fee, or collect fines in connection with registrations.

## **Government**

### **HB 21-1047 Concerning the Drawing of Voting Districts by County Governments.**

This bill imposes requirements regarding the drawing of voting districts on counties that elect county commissioners. The bill imposes restrictions on how much the size of districts can vary. Further, the bill requires that those redrawing districts for county commissioners rely on the same population data used for congressional districts and other state office districts. A commission must be established for redistricting purposes to divide the county into districts. The bill encourages boards of county commissioners to appoint people to the commission that accurately reflect the demographics of the county in terms of political affiliation and diversity. Finally, the bill outlines the duties and responsibilities of the commission in carrying out the goals of the bill.

**SB 21-262 Concerning Transparency for Special Districts.** This bill seeks to provide greater transparency for the operations and governance of special districts. Local government election notices must now be sent by two methods: publication and another method such as mail, e-mail, newsletter, or posting on a website. Metropolitan districts organized after January 1, 2000 must email notice to each active registered elector. A special district must also establish, maintain, and update an official website accessible to the public with important information about the governance of the district and current make-up of the board. In addition, developers now must inform buyers of the property taxes a district may assess based on purchase price of the home for newly constructed residences within a district.

## **Housing**

### **HB 21-1028 Concerning the Preparation by the Division of Housing within the Department of Local Affairs of an Annual Public Report that Provides Information on Money Administered by the State to Promote the Provision of Affordable Housing.**

This bill requires the division of housing to prepare an annual public report that discusses money that was used for the preservation or production of emergency or affordable housing or awarded as a grant, contract, or loan for emergency or affordable housing. For any money rewarded as a grant or loan, the report must include specific information such as the applicant, the name of the project, the source of the funding, and other pertinent information that adequately describes the project and use of the funds.

### **HB 21-1134 Concerning Facilitating the Reporting of Tenants' Rent Payment Information to Consumer Reporting Agencies at the Tenants' Request**

Recognizing disparity in home ownership and access to credit, this bill creates a pilot program where tenants can elect to have their rent payment information reported to consumer reporting agencies to aid in building credit. The bill provides information as to who may participate in the program, what participating in the program entails, and the goals of the program. A report on the pilot program will be compiled in 2024 outlining the state of the program.

**HB 21-1121 Concerning Protections for Residential Tenants Related to Actions by Landlords.** This bill modifies the language in a summons addressed to a defendant to clearly state and explain the implications of the defendant failing to respond to the landlord's complaint, such as the entry of a default judgment and what that will entail for a defendant. Next, when a judgment for the landlord is entered, the bill lengthens the time for an officer to execute a writ of restitution to at least ten days after the entry of the judgment. A landlord is also now required to give earlier notice of increases in rent for both nonresidential tenancies and residential tenancies. Finally, landlords are now prohibited from increasing rent more than one time per 12-month-period, regardless of the existence of a rental agreement, the length of the tenancy, or the type of duration of the tenancy.

**SB 21-173 Concerning Rights Related to Residential Rental Agreements.** This bill also provides more protections for a tenant in a residential rental agreement. First, a summons issued to a tenant must include information about obtaining civil legal aid and rental assistance along with a copy of the required answer form and a form for the tenant to request documents relevant to the current action. Next, landlords who give proper notice for nonpayment of rent are required to accept payments in full from tenants, upon which the court will vacate the judgment and dismiss the action with prejudice. The bill also provides other additional protections such as restrictions on landlords assessing late fees, the prohibition of one-way fee shifting clauses in leases regarding attorney's fees and court costs, requiring rental management to adequately disclose the terms and conditions of a tenancy, including the date of default, and permitting a tenant to assert an alleged breach of the warranty of habitability as an affirmative defense in an action for possession or collection.

**HB 21-1229 Concerning Increased Protections for Unit Owners in the Governance of Unit Owners' Associations under the "Colorado Common Interest Ownership Act."** This bill requires associations to maintain and make available records on the HOA's fees for the purchase or sale of a unit in the community that are not payable through assessments. It also requires HOAs to maintain annual disclosures for review, such as financial statements, reserve fund balances, insurance policies, and meeting minutes. Failure to comply with this provision can result in a fee assessed against the association after it fails to produce any requested documents. Next, non-vegetative turf has been added to drought-tolerant landscaping materials that an HOA can regulate but not prohibit. The bill also specifies the types of restrictions an HOA can place on renewable energy generation devices and requires

HOAs to review any requests for installation of these devices within 60 days of the application. Reviews of applications for renewable energy generation devices must be transparent, and applications cannot be denied for arbitrary or capricious reasons.

**HB 21-1019 Concerning Modifications to the Regulations of Factory Built Structures.** In response to issues of housing affordability in Colorado, this bill clarifies provisions regarding the regulation, creation, and modification of factory built structures and manufactured homes. A factory built residential structure is a manufactured home designed to be installed on a permanent foundation. A manufactured home is a pre-constructed building unit or combination of units. The bill further clarifies regulations for those that install and sell manufactured homes. Under this bill, the division of housing has the power to make and enforce rules and requirements for the installation and sale assurance for manufactured homes.

### **Miscellaneous**

**HB 21-1061 Concerning the Definition of Residential Land for the Purpose of Property Tax Classification.** This bill modifies the definition of “residential land” to include contiguous parcels of land without residential improvements if the same individual on the record title owns them and they contain some improvement that is essential to the residential improvements on the contiguous land. “Contiguous” means parcels of land that touch, even if interrupted by a street, alley or common element. Related improvements that qualify under this bill can include a driveway or a parking space.

**HB 21-1224 Concerning Modifications to the Provisions Governing Foreclosure Sales of Real Property.** This bill alters the provisions regarding an “overbid” in a foreclosure, or any amount that results from a sale that is above the value of the liens on the property. Before this bill, overbid money was paid to the record owner of the property. Now, the overbid will be paid to the borrower, or whoever is liable under an evidence of debt such as a mortgage loan or deed of trust. Finally, the bill extends the definition of a “qualified holder” to include private companies that originate, insure, guarantee, or purchase loans on behalf of a holder of evidence of debt that is secured by a deed of trust on some time share estates.

**HB 21-1286 Concerning Measures to Improve Energy Efficiency.** This bill requires owners of specific “covered buildings,” or those that have a gross floor area of at least 50,000 square feet and are occupied by a single tenant or group of tenants, with some exclusions, to report the building’s energy use to the Colorado Energy Office. Utility companies will be required to provide this data to the owners. The bill then delineates energy standards that a covered building must meet by 2026 and comply with from then on. A task force of building owners, professionals, utility representatives, and government representatives will assess and modify the energy performance standards using a database and mapping of building data that is submitted. There are penalties

for violating the reporting provisions of this bill that increase for subsequent violations.

*Emily Maino, a third year law student at DU's Sturm College of Law and law clerk with Otten Johnson, contributed to this alert.*

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