

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

Conference Committee

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0008.01 Richard Sweetman x4333

HOUSE BILL 19-1170

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A BILL FOR AN ACT

101 **CONCERNING INCREASING TENANT PROTECTIONS RELATING TO THE**
102 **RESIDENTIAL WARRANTY OF HABITABILITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a warranty of habitability (warranty) is implied in every rental agreement for a residential premises, and a landlord commits a breach of the warranty (breach) if:

- ! The residential premises is uninhabitable or otherwise unfit for human habitation;
- ! The residential premises is in a condition that is materially

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 26, 2019

SENATE
Amended 2nd Reading
March 22, 2019

HOUSE
3rd Reading Unamended
February 26, 2019

HOUSE
Amended 2nd Reading
February 25, 2019

dangerous or hazardous to the tenant's life, health, or safety; and

- ! The landlord has received written notice of the condition and failed to cure the problem within a reasonable time.

The bill states that a landlord breaches the warranty if a residential premises is:

- ! Uninhabitable or otherwise unfit for human habitation or in a condition that is materially dangerous or hazardous to the tenant's life, health, or safety; and

- ! The landlord has received written or electronic notice of the condition and failed to commence remedial action by employing reasonable efforts within:

- ! 24 hours, where the condition is materially dangerous or hazardous to the tenant's life, health, or safety; or

- ! 72 hours, where the premises is uninhabitable or otherwise unfit for human habitation.

Current law provides a list of conditions that render a residential premises uninhabitable. To this list, the bill adds 2 conditions; specifically, a residential premises is uninhabitable if:

- ! The premises lacks a functioning refrigerator, range, or oven, if the landlord provides any of these appliances pursuant to the rental agreement; or

- ! There is mold that is associated with dampness, or there is any other condition causing the premises to be damp, which condition, if not remedied, would materially interfere with the health or safety of the tenant.

The bill grants to county courts and small claims courts jurisdiction to provide injunctive relief related to a breach.

Current law requires a tenant to serve written notice upon a landlord before the landlord may be held liable for a breach. The bill expands the acceptable form of such notice to include electronic notice.

The bill also:

- ! States that if a tenant gives a landlord notice of a condition that is imminently hazardous to life, health, or safety the landlord, at the request of the tenant, shall move the tenant to a reasonably comparable unit under the control of the landlord or pay for a tenant to reside in a reasonably comparable temporary living location while the condition is being remedied or repaired;

- ! Allows a tenant who satisfies certain conditions to deduct from one or more rent payments the cost to repair or remedy a condition causing a breach;

- ! Repeals the requirement that a tenant notify a local government before seeking an injunction for a breach;

- ! Repeals provisions that allow a rental agreement to require a tenant to assume certain responsibilities concerning conditions and characteristics of a premises;
- ! Prohibits a landlord from retaliating against a tenant in response to the tenant having made a good-faith complaint to the landlord or to a governmental agency alleging a condition that renders the premises uninhabitable or any condition that materially interferes with the health or safety of the tenant; and
- ! Repeals certain presumptions and specifies monetary damages that may be available to a tenant against whom a landlord retaliates.

If the same condition that substantially caused a breach recurs within 6 months after the condition is repaired or remedied, the tenant may terminate the rental agreement 14 days after providing the landlord written or electronic notice of the tenant's intent to do so.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-6-105, **amend** (1)
 3 introductory portion and (1)(f) as follows:

4 **13-6-105. Specific limits on civil jurisdiction.** (1) The county
 5 court ~~shall have~~ HAS no civil jurisdiction except that specifically
 6 conferred upon it by law. In particular, it ~~shall have~~ HAS no jurisdiction
 7 over the following matters:

8 (f) Original proceedings for the issuance of injunctions, except:

9 (I) As provided in ~~section 13-6-104(5), except~~ SECTIONS 13-6-104
 10 (5) AND 38-12-507 (1)(b);

11 (II) As required to enforce restrictive covenants on residential
 12 property and to enforce ~~the provisions of~~ section 6-1-702.5; ~~C.R.S.~~, and
 13 ~~except~~

14 (III) As otherwise specifically authorized in this ~~article~~ ARTICLE
 15 6 or, if there is no authorization, by rule of the Colorado supreme court.

16 ■ ■

1 **SECTION 2.** In Colorado Revised Statutes, **amend 38-12-502** as
2 follows:

3 **38-12-502. Definitions.** As used in this part 5 and part 8 of this
4 article 12, unless the context otherwise requires:

5 (1) "APPLIANCE" MEANS A REFRIGERATOR, RANGE STOVE, OR OVEN
6 THAT IS INCLUDED WITHIN A RESIDENTIAL PREMISES BY A LANDLORD FOR
7 THE USE OF THE TENANT PURSUANT TO THE RENTAL AGREEMENT OR ANY
8 OTHER AGREEMENT BETWEEN THE LANDLORD AND THE TENANT. NOTHING
9 IN THIS SECTION REQUIRES A LANDLORD TO PROVIDE ANY APPLIANCE, AND
10 SECTION 38-12-505 APPLIES TO APPLIANCES SOLELY TO THE EXTENT THAT
11 APPLIANCES ARE PART OF A WRITTEN AGREEMENT BETWEEN THE
12 LANDLORD AND THE TENANT OR ARE OTHERWISE ACTUALLY PROVIDED TO
13 A TENANT BY THE LANDLORD AT THE INCEPTION OF THE TENANT'S
14 OCCUPANCY OF THE RESIDENTIAL PREMISES.

15 ~~(1)~~ (2) "Common areas" means the facilities and appurtenances to
16 a residential premises, including the grounds, areas, and facilities held out
17 for the use of tenants generally or whose use is promised to a tenant.

18 ~~(2)~~ (3) "Dwelling unit" means a structure or the part of a structure
19 that is used as a home, residence, or sleeping place by a tenant.

20 (4) "ELECTRONIC NOTICE" MEANS NOTICE BY ELECTRONIC MAIL OR
21 AN ELECTRONIC PORTAL OR MANAGEMENT COMMUNICATIONS SYSTEM
22 THAT IS AVAILABLE TO BOTH A LANDLORD AND A TENANT.

23 ~~(3)~~ (5) "Landlord" means the owner, manager, lessor, or sublessor
24 of a residential premises.

25 (6) "MOLD" MEANS MICROSCOPIC ORGANISMS OR FUNGI THAT CAN
26 GROW IN DAMP CONDITIONS IN THE INTERIOR OF A BUILDING.

27 ~~(4)~~ (7) "Rental agreement" means the agreement, written or oral,

1 embodying the terms and conditions concerning the use and occupancy
2 of a residential premises.

3 ~~(5)~~ (8) "Residential premises" means a dwelling unit, the structure
4 of which the unit is a part, and the common areas.

5 ~~(6)~~ (9) "Tenant" means a person entitled under a rental agreement
6 to occupy a dwelling unit to the exclusion of others.

7 **SECTION 3.** In Colorado Revised Statutes, 38-12-503, **amend**
8 (2), (3), and (4); and **add** (2.2), (2.3), and (2.5) as follows:

9 **38-12-503. Warranty of habitability.** (2) EXCEPT AS DESCRIBED
10 IN SUBSECTION (2.2) OF THIS SECTION, a landlord breaches the warranty of
11 habitability set forth in subsection (1) of this section if:

12 (a) A residential premises is:

13 (I) Uninhabitable as described in section 38-12-505 or otherwise
14 unfit for human habitation; **and** OR

15 ~~(b)~~ (II) ~~The residential premises is~~ In a condition that is materially
16 dangerous or hazardous to INTERFERES WITH the tenant's life, health, or
17 safety; and

18 ~~(c)~~ (b) The landlord has received REASONABLY COMPLETE written
19 OR ELECTRONIC notice of the condition described in ~~paragraphs (a) and~~
20 ~~(b) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION and failed
21 to ~~cure the problem~~ COMMENCE REMEDIAL ACTION BY EMPLOYING
22 REASONABLE EFFORTS within ~~a reasonable time~~ THE FOLLOWING PERIOD
23 AFTER RECEIVING THE NOTICE:

24 (I) TWENTY-FOUR HOURS, WHERE THE CONDITION IS AS DESCRIBED
25 IN SUBSECTION (2)(a)(II) OF THIS SECTION; OR

26 (II) NINETY-SIX HOURS, WHERE THE CONDITION IS AS DESCRIBED
27 IN SUBSECTION (2)(a)(I) OF THIS SECTION AND THE TENANT HAS INCLUDED

1 WITH THE NOTICE PERMISSION TO THE LANDLORD OR TO THE LANDLORD'S
2 AUTHORIZED AGENT TO ENTER THE RESIDENTIAL PREMISES.

3 (2.2) IN A CASE IN WHICH A RESIDENTIAL PREMISES HAS MOLD
4 THAT IS ASSOCIATED WITH DAMPNESS, OR THERE IS ANY OTHER CONDITION
5 CAUSING THE RESIDENTIAL PREMISES TO BE DAMP, WHICH CONDITION, IF
6 NOT REMEDIED, WOULD MATERIALLY INTERFERE WITH THE LIFE, HEALTH,
7 OR SAFETY OF A TENANT, A LANDLORD BREACHES THE WARRANTY OF
8 HABITABILITY IF THE LANDLORD FAILS:

9 (a) WITHIN NINETY-SIX HOURS AFTER RECEIVING REASONABLY
10 COMPLETE WRITTEN OR ELECTRONIC NOTICE OF THE CONDITION, TO
11 MITIGATE IMMEDIATE RISK FROM MOLD BY INSTALLING A CONTAINMENT,
12 STOPPING ACTIVE SOURCES OF WATER TO THE MOLD, AND INSTALLING A
13 HIGH-EFFICIENCY PARTICULATE AIR FILTRATION DEVICE TO REDUCE
14 TENANTS' EXPOSURE TO MOLD:

15 (b) TO MAINTAIN THE CONTAINMENT DESCRIBED IN SUBSECTION
16 (2.2)(a) OF THIS SECTION UNTIL THE ACTIONS DESCRIBED IN SUBSECTION
17 (2.2)(c) OF THIS SECTION ARE EXECUTED; AND

18 (c) WITHIN A REASONABLE AMOUNT OF TIME, TO EXECUTE THE
19 FOLLOWING REMEDIAL ACTIONS TO REMOVE THE HEALTH RISK POSED BY
20 MOLD:

21 (I) ESTABLISH APPROPRIATE PROTECTIONS FOR WORKERS AND
22 OCCUPANTS;

23 (II) ELIMINATE OR LIMIT MOISTURE SOURCES AND DRY ALL
24 MATERIALS;

25 (III) DECONTAMINATE OR REMOVE DAMAGED MATERIALS AS
26 APPROPRIATE;

27 (IV) EVALUATE WHETHER THE PREMISES HAS BEEN SUCCESSFULLY

1 REMEDIED; AND

2 (V) REASSEMBLE THE PREMISES TO CONTROL SOURCES OF
3 MOISTURE AND NUTRIENTS AND THEREBY PREVENT OR LIMIT THE
4 RECURRENCE OF MOLD.

5 (2.3) A TENANT WHO GIVES A LANDLORD ELECTRONIC NOTICE OF
6 A CONDITION SHALL SEND SUCH NOTICE ONLY TO THE E-MAIL ADDRESS,
7 PHONE NUMBER, OR ELECTRONIC PORTAL SPECIFIED BY THE LANDLORD IN
8 THE RENTAL AGREEMENT FOR COMMUNICATIONS. IN THE ABSENCE OF
9 SUCH A PROVISION IN THE RENTAL AGREEMENT, THE TENANT SHALL
10 COMMUNICATE WITH THE LANDLORD IN A MANNER THAT THE LANDLORD
11 HAS PREVIOUSLY USED TO COMMUNICATE WITH THE TENANT. THE TENANT
12 SHALL RETAIN SUFFICIENT PROOF OF DELIVERY OF THE ELECTRONIC
13 NOTICE.

14 (2.5) A LANDLORD WHO RECEIVES FROM A TENANT WRITTEN OR
15 ELECTRONIC NOTICE OF A CONDITION DESCRIBED BY SUBSECTION (2)(a) OF
16 THIS SECTION SHALL RESPOND TO THE TENANT NOT MORE THAN
17 TWENTY-FOUR HOURS AFTER RECEIVING THE NOTICE. THE RESPONSE MUST
18 INDICATE THE LANDLORD'S INTENTIONS FOR REMEDYING THE CONDITION,
19 INCLUDING AN ESTIMATE OF WHEN THE REMEDIATION WILL COMMENCE
20 AND WHEN IT WILL BE COMPLETED.

21 (3) When any condition described in subsection (2) of this section
22 is caused by the misconduct of the tenant, a member of the tenant's
23 household, a guest or invitee of the tenant, or a person under the tenant's
24 direction or control, the condition does not constitute a breach of the
25 warranty of habitability. It is not misconduct by a victim of domestic
26 violence; domestic abuse; unlawful sexual behavior, as described in
27 section 16-22-102 (9); or stalking under this subsection (3) if the

1 condition is the result of domestic violence; domestic abuse; unlawful
2 sexual behavior, as described in section 16-22-102 (9); or stalking and the
3 landlord has been given written OR ELECTRONIC notice and evidence of
4 domestic violence; domestic abuse; unlawful sexual behavior, as
5 described in section 16-22-102 (9); or stalking, as described in section
6 38-12-402 (2)(a).

7 (4) (a) ~~In response to~~ IF the notice sent pursuant to ~~paragraph (c)~~
8 ~~of subsection (2)~~ SUBSECTION (2)(b) of this section CONCERNS A
9 CONDITION THAT IS DESCRIBED BY SUBSECTION (2)(a)(II) OF THIS SECTION,
10 ~~a~~ THE landlord, ~~may, in the landlord's discretion~~ AT THE REQUEST OF THE
11 TENANT, SHALL ~~move a~~ PROVIDE THE tenant: ~~to~~

12 (I) A comparable DWELLING unit, ~~after paying the reasonable~~
13 ~~costs, actually incurred, incident to the move.~~ AS SELECTED BY THE
14 LANDLORD, AT NO EXPENSE OR COST TO THE TENANT; OR

15 (II) A HOTEL ROOM, AS SELECTED BY THE LANDLORD, AT NO
16 EXPENSE OR COST TO THE TENANT.

17 (b) A LANDLORD IS NOT REQUIRED TO PAY FOR ANY OTHER
18 EXPENSES OF A TENANT THAT ARISE AFTER THE RELOCATION PERIOD. A
19 TENANT CONTINUES TO BE RESPONSIBLE FOR PAYMENT OF RENT UNDER
20 THE RENTAL AGREEMENT DURING THE PERIOD OF ANY TEMPORARY
21 RELOCATION AND FOR THE REMAINDER OF THE TERM OF THE RENTAL
22 AGREEMENT FOLLOWING THE REMEDIATION.

23
24 **SECTION 4.** In Colorado Revised Statutes, 38-12-505, **amend**
25 (1) and (3) as follows:

26 **38-12-505. Uninhabitable residential premises.** (1) A
27 residential premises is deemed uninhabitable if:

1 (a) THERE IS MOLD THAT IS ASSOCIATED WITH DAMPNES, OR
2 THERE IS ANY OTHER CONDITION CAUSING THE RESIDENTIAL PREMISES TO
3 BE DAMP, WHICH CONDITION, IF NOT REMEDIED, WOULD MATERIALLY
4 INTERFERE WITH THE HEALTH OR SAFETY OF THE TENANT, EXCLUDING THE
5 PRESENCE OF MOLD THAT IS MINOR AND FOUND ON SURFACES THAT CAN
6 ACCUMULATE MOISTURE AS PART OF THEIR PROPER FUNCTIONING AND
7 INTENDED USE; OR

8 (b) It substantially lacks any of the following characteristics:
9 (I) FUNCTIONING APPLIANCES THAT CONFORMED TO APPLICABLE
10 LAW AT THE TIME OF INSTALLATION AND THAT ARE MAINTAINED IN GOOD
11 WORKING ORDER;

12 (a) (II) Waterproofing and weather protection of roof and exterior
13 walls maintained in good working order, including unbroken windows
14 and doors;

15 (b) (III) Plumbing or gas facilities that conformed to applicable
16 law in effect at the time of installation and that are maintained in good
17 working order;

18 (c) (IV) Running water and reasonable amounts of hot water at all
19 times furnished to appropriate fixtures and connected to a sewage
20 disposal system approved under applicable law;

21 (d) (V) Functioning heating facilities that conformed to applicable
22 law at the time of installation and that are maintained in good working
23 order;

24 (e) (VI) Electrical lighting, with wiring and electrical equipment
25 that conformed to applicable law at the time of installation, maintained in
26 good working order;

27 (f) (VII) Common areas and areas under the control of the

1 landlord that are kept reasonably clean, sanitary, and free from all
2 accumulations of debris, filth, rubbish, and garbage and that have
3 appropriate extermination in response to the infestation of rodents or
4 vermin;

5 ~~(g)~~ (VIII) Appropriate extermination in response to the infestation
6 of rodents or vermin throughout a residential premises;

7 ~~(h)~~ (IX) An adequate number of appropriate exterior receptacles
8 for garbage and rubbish, in good repair;

9 ~~(i)~~ (X) Floors, stairways, and railings maintained in good repair;

10 ~~(j)~~ (XI) Locks on all exterior doors and locks or security devices
11 on windows designed to be opened that are maintained in good working
12 order; or

13 ~~(k)~~ (XII) Compliance with all applicable building, housing, and
14 health codes, THE VIOLATION OF which ~~if violated~~, would constitute a
15 condition that ~~is dangerous or hazardous to a tenant's life, health, or safety~~
16 MATERIALLY INTERFERES WITH THE LIFE, HEALTH, OR SAFETY OF THE
17 TENANT.

18 (3) Unless THE RENTAL AGREEMENT PROVIDES otherwise stated in
19 AS PERMITTED BY section 38-12-506, ~~prior to being~~ BEFORE A
20 RESIDENTIAL PREMISES IS leased to a tenant, ~~a residential~~ THE
21 RESIDENTIAL premises must comply with the requirements set forth in
22 section 38-12-503 (1) AND (2)(a). ~~and (2)(b)~~.

23 **SECTION 5.** In Colorado Revised Statutes, **repeal and reenact,**
24 **with amendments,** 38-12-506 as follows:

25 **38-12-506. Exception for certain single-family residences.**

26 (1) FOR A SINGLE-FAMILY RESIDENCE PREMISES FOR WHICH A LANDLORD
27 DOES NOT RECEIVE A SUBSIDY FROM ANY GOVERNMENTAL SOURCE, A

1 LANDLORD AND TENANT MAY AGREE IN WRITING THAT THE TENANT IS TO
2 PERFORM SPECIFIC REPAIRS, MAINTENANCE TASKS, ALTERATIONS, AND
3 REMODELING NECESSARY TO COMPLY WITH SECTION 38-12-503, SUBJECT
4 TO THE FOLLOWING REQUIREMENTS:

5 (a) THE AGREEMENT OF THE LANDLORD AND TENANT IS ENTERED
6 INTO IN GOOD FAITH AND IS SET FORTH IN A WRITING THAT IS SEPARATE
7 FROM THE RENTAL AGREEMENT, SIGNED BY THE PARTIES, AND SUPPORTED
8 BY ADEQUATE CONSIDERATION; AND

9 (b) THE TENANT HAS THE REQUISITE SKILLS TO PERFORM THE
10 WORK REQUIRED TO COMPLY WITH SECTION 38-12-503 (1).

11 (2) TO THE EXTENT THAT PERFORMANCE BY A TENANT RELATES TO
12 A CHARACTERISTIC SET FORTH IN SECTION 38-12-505 (1), THE TENANT
13 ASSUMES THE OBLIGATION FOR THE CHARACTERISTIC, AND THE LACK OF
14 THE CHARACTERISTIC DOES NOT MAKE THE RESIDENTIAL PREMISES
15 UNINHABITABLE.

16 **SECTION 6.** In Colorado Revised Statutes, 38-12-507, **amend**
17 (1) introductory portion and (1)(b); and **add** (1)(e) and (3) as follows:

18 **38-12-507. Breach of warranty of habitability - tenant's**
19 **remedies.** (1) If there is a breach of the warranty of habitability as set
20 forth in section 38-12-503 (2): ~~the following provisions shall apply:~~

21 (b) (I) A tenant may obtain injunctive relief for breach of the
22 warranty of habitability in any COUNTY OR DISTRICT court of competent
23 jurisdiction. In ~~any~~ A proceeding for injunctive relief, the court shall
24 determine actual damages for a breach of the warranty at the time the
25 court orders the injunctive relief. A landlord ~~shall~~ IS not ~~be~~ subject to any
26 court order for injunctive relief if:

27 (A) The landlord tenders the actual damages to the court within

1 two business days ~~of~~ AFTER the order; AND

2 (B) THE PROCEEDING FOR INJUNCTIVE RELIEF DOES NOT CONCERN
3 A CONDITION DESCRIBED IN SECTION 38-12-503 (2)(a)(II) THAT HAS NOT
4 BEEN REPAIRED OR REMEDIED.

5 (II) Upon application by the tenant, the court shall immediately
6 release to the tenant the damages paid by the landlord. If the tenant
7 vacates the leased RESIDENTIAL premises, the landlord shall not ~~be~~
8 ~~permitted to~~ rent the RESIDENTIAL premises again until ~~such time as~~ the
9 unit ~~would be in compliance~~ COMPLIES with the warranty of habitability
10 set forth in section 38-12-503 (1).

11 (e) (I) PURSUANT TO THIS SUBSECTION (1)(e), THE TENANT MAY
12 DEDUCT FROM ONE OR MORE RENT PAYMENTS THE COST OF REPAIRING OR
13 REMEDYING A CONDITION THAT IS THE BASIS OF A BREACH OF THE
14 WARRANTY OF HABITABILITY DESCRIBED IN SECTION 38-12-503, IF THE
15 TENANT PROVIDES NOTICE OF THE CONDITION TO THE LANDLORD AS
16 DESCRIBED IN SECTION 38-12-503 (2)(b) OR (2.2) AND THE LANDLORD
17 FAILS TO:

18 (A) COMMENCE REMEDIAL ACTION BY EMPLOYING REASONABLE
19 EFFORTS WITHIN THE APPLICABLE PERIOD DESCRIBED IN SECTION
20 38-12-503 (2)(b); OR

21 (B) COMPLETE THE ACTIONS DESCRIBED IN SECTION 38-12-503
22 (2.2).

23 (II) AT LEAST TEN DAYS BEFORE DEDUCTING COSTS FROM A RENT
24 PAYMENT AS DESCRIBED IN THIS SUBSECTION (1)(e), A TENANT SHALL
25 PROVIDE THE LANDLORD WITH WRITTEN OR ELECTRONIC NOTICE OF THE
26 TENANT'S INTENT TO DO SO. THE NOTICE MUST SPECIFY THE DATE OF
27 NOTIFICATION, THE NAME OF THE LANDLORD OR PROPERTY MANAGER, THE

1 ADDRESS OF THE RENTAL PROPERTY, THE CONDITION THAT REQUIRES A
2 REPAIR OR REMEDY, THE DATE UPON WHICH THE TENANT PROVIDED
3 NOTICE TO THE LANDLORD OF THE CONDITION THAT REQUIRES A REPAIR OR
4 REMEDY, AND A COPY OF AT LEAST ONE GOOD-FAITH ESTIMATE OF COSTS
5 TO REPAIR OR REMEDY THE CONDITION, WHICH ESTIMATE HAS BEEN
6 PREPARED BY A PROFESSIONAL WHO IS UNRELATED TO THE TENANT, IS
7 TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING
8 PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR
9 REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE
10 PERFORMANCE OF THE WORK. A TENANT WITHHOLDING RENT OVER
11 MULTIPLE PAYMENT PERIODS IS REQUIRED TO PROVIDE NOTICE ONLY ONCE.
12 THE TENANT SHALL RETAIN A COPY OF THE NOTICE.

13 (III) AFTER A TENANT PROVIDES A LANDLORD NOTICE OF THE
14 TENANT'S INTENT TO DEDUCT COSTS PURSUANT TO SUBSECTION (1)(e)(II)
15 OF THIS SECTION, THE LANDLORD HAS FOUR BUSINESS DAYS TO OBTAIN
16 ONE OR MORE GOOD-FAITH ESTIMATES OF SUCH COSTS IN ADDITION TO
17 ANY ESTIMATE THAT THE TENANT INCLUDED IN THE NOTICE. THE
18 ESTIMATE MUST BE PREPARED BY A PROFESSIONAL WHO IS UNRELATED TO
19 THE LANDLORD, IS TRAINED TO PERFORM THE WORK FOR WHICH THE
20 ESTIMATE IS BEING PREPARED, AND COMPLIES WITH ALL LICENSING,
21 CERTIFICATION, OR REGISTRATION REQUIREMENTS OF THIS STATE THAT
22 APPLY TO THE PERFORMANCE OF THE WORK. IF THE LANDLORD PREFERENCES TO
23 REPAIR OR REMEDY THE CONDITION BY HIRING A PROFESSIONAL OTHER
24 THAN A PROFESSIONAL WHO PREPARED AN ESTIMATE FOR THE TENANT,
25 THE LANDLORD SHALL SHARE THE PREFERRED PROFESSIONAL'S ESTIMATE
26 WITH THE TENANT AND SHALL COMMENCE WORK TO REPAIR OR REMEDY
27 THE CONDITION AS SOON AS REASONABLY POSSIBLE.

1 (IV) IF THE LANDLORD DOES NOT OBTAIN ANY ADDITIONAL
2 ESTIMATES WITHIN THE FOUR DAYS PRESCRIBED BY SUBSECTION (1)(e)(III)
3 OF THIS SECTION, THE TENANT MAY PROCEED TO DEDUCT COSTS FROM ONE
4 OR MORE RENT PAYMENTS, BASED ON THE ESTIMATE ACQUIRED BY THE
5 TENANT, UNTIL THE ENTIRE AMOUNT OF THE ESTIMATE IS DEDUCTED.

6 (V) A TENANT WHO DEDUCTS COSTS PURSUANT TO SUBSECTION
7 (1)(e)(IV) OF THIS SECTION SHALL NOT REPAIR OR REMEDY THE CONDITION
8 BUT SHALL HIRE A PROFESSIONAL WHO IS UNRELATED TO THE TENANT, IS
9 TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING
10 PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR
11 REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE
12 PERFORMANCE OF THE WORK.

13 (VI) IF A TENANT HIRES A PROFESSIONAL TO REPAIR OR REMEDY A
14 CONDITION CAUSING A BREACH OF THE WARRANTY OF HABITABILITY AND
15 DEDUCTS THE ESTIMATED COST OF SUCH REPAIR OR REMEDY FROM ONE OR
16 MORE RENT PAYMENTS, AS PERMITTED BY THIS SUBSECTION (1)(e), AND
17 THE DEDUCTED ESTIMATED COST EXCEEDS THE ACTUAL COST INCURRED
18 BY THE TENANT, THE TENANT SHALL REMIT THE EXCESS COST TO THE
19 LANDLORD WITHIN TEN BUSINESS DAYS.

20 (VII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION
21 (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE
22 OR MORE RENT PAYMENTS IF THE CONDITION THAT IS THE BASIS FOR THE
23 ALLEGED BREACH OF THE WARRANTY OF HABITABILITY IS CAUSED BY THE
24 MISCONDUCT OF THE TENANT, A MEMBER OF THE TENANT'S HOUSEHOLD,
25 A GUEST OR INVITEE OF THE TENANT, OR A PERSON UNDER THE TENANT'S
26 DIRECTION OR CONTROL; EXCEPT THAT THIS SUBSECTION (1)(e)(VII) DOES
27 NOT APPLY IF:

1 (A) THE TENANT IS A VICTIM OF DOMESTIC VIOLENCE; DOMESTIC
2 ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION
3 16-22-102 (9); OR STALKING;

4 (B) THE CONDITION IS THE RESULT OF DOMESTIC VIOLENCE;
5 DOMESTIC ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN
6 SECTION 16-22-102 (9); OR STALKING; AND

7 (C) THE LANDLORD HAS BEEN GIVEN WRITTEN OR ELECTRONIC
8 NOTICE AND EVIDENCE OF DOMESTIC VIOLENCE; DOMESTIC ABUSE;
9 UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION 16-22-102 (9);
10 OR STALKING.

11 (VIII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION
12 (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE
13 OR MORE RENT PAYMENTS OR MAKE REPAIRS TO A RESIDENTIAL PREMISES
14 IF THE RESIDENTIAL PREMISES WAS CONSTRUCTED, ACQUIRED,
15 DEVELOPED, REHABILITATED, OR MAINTAINED WITH:

16 (A) FUNDING PROVIDED PURSUANT TO SECTION 8 OR 9 OF THE
17 FEDERAL "UNITED STATES HOUSING ACT OF 1937", AS AMENDED, 42
18 U.S.C. SECS. 1437f AND 1437g;

19 (B) FUNDING FROM THE HOME INVESTMENT PARTNERSHIPS
20 PROGRAM OF THE FEDERAL DEPARTMENT OF HOUSING AND URBAN
21 DEVELOPMENT; OR

22 (C) FEDERAL LOW-INCOME HOUSING TAX CREDITS, COLORADO
23 AFFORDABLE HOUSING TAX CREDITS, OR FUNDING PROVIDED UNDER ANY
24 FEDERAL, STATE, OR LOCAL PROGRAM THAT RESTRICTS MAXIMUM RENTS
25 FOR PERSONS OF LOW OR MODERATE INCOME AND THAT IS CURRENTLY
26 SUBJECT TO A USE RESTRICTION THAT IS MONITORED TO ENSURE
27 COMPLIANCE BY THE FEDERAL GOVERNMENT, THE STATE GOVERNMENT,

1 A COUNTY GOVERNMENT, OR A MUNICIPAL GOVERNMENT, OR BY ANY
2 POLITICAL SUBDIVISION OR DESIGNATED AGENCY THEREOF.

3 (IX) A TENANT WHO DEDUCTS COSTS FROM ONE OR MORE RENT
4 PAYMENTS IN ACCORDANCE WITH THIS SUBSECTION (1)(e) MAY SEEK
5 ADDITIONAL REMEDIES PROVIDED BY THIS SECTION.

6 (X) IF A COURT FINDS THAT A TENANT HAS WRONGFULLY
7 DEDUCTED RENT, THE COURT SHALL AWARD THE LANDLORD AN AMOUNT
8 OF MONEY EQUAL TO THE AMOUNT WRONGFULLY WITHHELD. IF THE COURT
9 FINDS THAT THE TENANT ACTED IN BAD FAITH, THE COURT SHALL AWARD
10 THE LANDLORD POSSESSION OF THE RESIDENTIAL PREMISES AND AN
11 AMOUNT OF MONEY EQUAL TO DOUBLE THE AMOUNT WRONGFULLY
12 WITHHELD.

13 (XI) A TENANT WHO DEDUCTS RENT AS A RESULT OF A BREACH OF
14 THE WARRANTY OF HABITABILITY, WHICH BREACH IS BASED ON A
15 CONDITION DESCRIBED IN SECTION 38-12-505 (1)(b)(I), MAY, IN LIEU OF
16 REPAIRING THE MALFUNCTIONING APPLIANCE, REPLACE THE
17 MALFUNCTIONING APPLIANCE SO LONG AS THE REPLACEMENT APPLIANCE
18 IS AT LEAST OF SUBSTANTIALLY COMPARABLE QUALITY AND HAS
19 SUBSTANTIALLY THE SAME FEATURES AS THE ORIGINAL APPLIANCE.

20 (3) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION:

21 (a) IF THE SAME CONDITION THAT SUBSTANTIALLY CAUSED A
22 BREACH OF THE WARRANTY OF HABITABILITY RECURS WITHIN SIX MONTHS
23 AFTER THE CONDITION IS REPAIRED OR REMEDIED, OTHER THAN A BREACH
24 OF SECTION 38-12-505 (1)(b)(I), THE TENANT MAY TERMINATE THE
25 RENTAL AGREEMENT FOURTEEN DAYS AFTER PROVIDING THE LANDLORD
26 WRITTEN OR ELECTRONIC NOTICE OF THE TENANT'S INTENT TO DO SO. THE
27 NOTICE MUST INCLUDE A DESCRIPTION OF THE CONDITION AND THE DATE

1 OF THE TERMINATION OF THE RENTAL AGREEMENT.

2 (b) IF THE SAME CONDITION THAT SUBSTANTIALLY CAUSED A
3 BREACH OF THE WARRANTY OF HABITABILITY RECURS WITHIN SIX MONTHS
4 AFTER THE CONDITION IS REPAIRED OR REMEDIED, AND THE CONDITION IS
5 A BREACH OF SECTION 38-12-505 (1)(b)(I), THE TENANT MAY TERMINATE
6 THE RENTAL AGREEMENT FOURTEEN DAYS AFTER PROVIDING THE
7 LANDLORD WRITTEN OR ELECTRONIC NOTICE OF THE TENANT'S INTENT TO
8 DO SO. THE NOTICE MUST INCLUDE A DESCRIPTION OF THE CONDITION AND
9 THE DATE OF THE TERMINATION OF THE RENTAL AGREEMENT. HOWEVER,
10 IF THE LANDLORD REMEDIES THE CONDITION WITHIN FOURTEEN DAYS
11 AFTER RECEIVING THE NOTICE, THE TENANT MAY NOT TERMINATE THE
12 RENTAL AGREEMENT.

13 **SECTION 7.** In Colorado Revised Statutes, 38-12-508, **amend**
14 (4); and **repeal** (3) as follows:

15 **38-12-508. Landlord's defenses to a claim of breach of**
16 **warranty - limitations on claiming a breach.** (3) ~~A tenant may not~~
17 ~~assert a claim for injunctive relief based upon the landlord's breach of the~~
18 ~~warranty of habitability of a residential premises unless the tenant has~~
19 ~~given notice to a local government within the boundaries of which the~~
20 ~~residential premises is located of the condition underlying the breach that~~
21 ~~is materially dangerous or hazardous to the tenant's life, health, or safety.~~

22 (4) EXCEPT AS PROVIDED IN SECTION 38-12-509 (2), a tenant may
23 not assert a breach of the warranty of habitability as a defense to a
24 landlord's action for possession based upon a nonmonetary violation of
25 the rental agreement or for an action for possession based upon a notice
26 to quit or vacate.

27 **SECTION 8.** In Colorado Revised Statutes, **amend** 38-12-509 as

1 follows:

2 **38-12-509. Prohibition on retaliation.** (1) A landlord shall not
3 retaliate against a tenant ~~for alleging a breach of the warranty of~~
4 ~~habitability~~ by ~~discriminatorily~~ increasing rent or decreasing services or
5 by bringing or threatening to bring an action for possession in response
6 to the tenant:

7 (a) Having made a good faith complaint to the landlord or to a
8 governmental agency alleging a ~~breach of the warranty of habitability~~
9 CONDITION DESCRIBED BY SECTION 38-12-505 (1) OR ANY CONDITION
10 THAT MATERIALLY INTERFERES WITH THE LIFE, HEALTH, OR SAFETY OF THE
11 TENANT; OR

12 (b) ORGANIZING OR BECOMING A MEMBER OF A TENANTS'
13 ASSOCIATION OR SIMILAR ORGANIZATION.

14 (2) ~~A landlord shall not be liable for retaliation under this section~~
15 ~~unless a tenant proves that a landlord breached the warranty of~~
16 ~~habitability~~ IF A LANDLORD RETALIATES AGAINST A TENANT IN VIOLATION
17 OF SUBSECTION (1) OF THIS SECTION, THE TENANT MAY TERMINATE THE
18 RENTAL AGREEMENT AND RECOVER AN AMOUNT NOT MORE THAN THREE
19 MONTHS' PERIODIC RENT OR THREE TIMES THE TENANT'S ACTUAL
20 DAMAGES, WHICHEVER IS GREATER, PLUS REASONABLE ATTORNEY FEES
21 AND COSTS.

22 (3) ~~Regardless of when an action for possession of the premises~~
23 ~~where the landlord is seeking to terminate the tenancy for violation of the~~
24 ~~terms of the rental agreement is brought, there shall be a rebuttable~~
25 ~~presumption in favor of the landlord that his or her decision to terminate~~
26 ~~is not retaliatory. The presumption created by this subsection (3) cannot~~
27 ~~be rebutted by evidence of the timing alone of the landlord's initiation of~~

1 ~~the action.~~ IF A LANDLORD ELECTS TO REPLACE A MALFUNCTIONING
2 APPLIANCE, BUT DOES SO WITH A NEW APPLIANCE THAT IS NOT IDENTICAL
3 TO THE APPLIANCE BEING REPLACED, THERE IS A REBUTTABLE
4 PRESUMPTION IN FAVOR OF THE LANDLORD THAT THE LANDLORD'S
5 SELECTION OF A DIFFERENT APPLIANCE WAS NOT RETALIATORY SO LONG
6 AS THE REPLACEMENT APPLIANCE PROVIDES SUBSTANTIALLY THE SAME
7 FEATURES AS THE ORIGINAL APPLIANCE.

8 (4) ~~If the landlord has a right to increase rent, to decrease service,
9 or to terminate the tenant's tenancy at the end of any term of the rental
10 agreement and the landlord exercises any of these rights, there shall be a
11 rebuttable presumption that the landlord's exercise of any of these rights
12 was not retaliatory. The presumption of this subsection (4) cannot be
13 rebutted by evidence of the timing alone of the landlord's exercise of any
14 of these rights.~~

15 SECTION 9. In Colorado Revised Statutes, amend 38-12-801 as
16 follows:

17 38-12-801. Written rental agreement - copy - tenant. (1) If
18 there is a written rental agreement, then the landlord shall provide the
19 tenant with a copy of the agreement that is signed by the landlord and the
20 tenant, no later than the seventh day after the tenant has signed the
21 agreement. A landlord may provide the tenant with an electronic copy of
22 the agreement, unless the tenant requests a paper copy, in which case the
23 landlord shall provide the tenant with a paper copy.

24 (2) A WRITTEN RENTAL AGREEMENT MUST INCLUDE A STATEMENT
25 INDICATING TO THE TENANT THE NAME AND ADDRESS OF THE PERSON WHO
26 IS THE LANDLORD OR THE LANDLORD'S AUTHORIZED AGENT. IF THE
27 IDENTITY OF A LANDLORD OR A LANDLORD'S AUTHORIZED AGENT

1 CHANGES, THE NEW LANDLORD OR AUTHORIZED AGENT, NOT LATER THAN
2 ONE BUSINESS DAY AFTER SUCH CHANGE, SHALL:

3 (a) PROVIDE EACH TENANT OF THE LANDLORD WRITTEN OR
4 ELECTRONIC NOTICE OF THE CHANGE; OR

5 (b) POST THE IDENTITY OF THE NEW LANDLORD OR NEW
6 AUTHORIZED AGENT IN A CONSPICUOUS LOCATION ON THE RESIDENTIAL
7 PREMISES.

8 **SECTION 10. Applicability.** This act applies to conduct
9 occurring on or after the effective date of this act.

10 **SECTION 11. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2020 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.