

CHAPTER 426

PROPERTY

HOUSE BILL 19-1328

BY REPRESENTATIVE(S) Herod, Buckner, Caraveo, Cutter, Duran, Galindo, Gonzales-Gutierrez, Gray, Lontine, McCluskie, Melton, Michaelson Jenet, Snyder, Titone, Valdez A., Bird, Hansen, Kipp;
also SENATOR(S) Rodriguez, Bridges, Fenberg, Gonzales, Moreno, Story, Tate, Todd, Williams A., Winter, Garcia.

AN ACT

CONCERNING BED BUGS IN RESIDENTIAL PREMISES, AND, IN CONNECTION THEREWITH, ESTABLISHING DUTIES FOR LANDLORDS AND TENANTS IN ADDRESSING THE PRESENCE OF BED BUGS.

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

SECTION 1. In Colorado Revised Statutes, **add** part 10 to article 12 of title 38 as follows:

**PART 10
BED BUGS IN RESIDENTIAL PREMISES**

38-12-1001. Definitions. AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "BED BUG" MEANS THE COMMON BED BUG, OR CIMEX LECTULARIUS.
- (2) "BED BUG DETECTION TEAM" MEANS A SCENT DETECTION CANINE TEAM THAT HOLDS A CURRENT, INDEPENDENT, THIRD-PARTY CERTIFICATION IN ACCORDANCE WITH THE GUIDELINES FOR MINIMUM STANDARDS FOR CANINE BED BUG DETECTION TEAM CERTIFICATION ESTABLISHED BY THE NATIONAL PEST MANAGEMENT ASSOCIATION OR ITS SUCCESSOR ORGANIZATION.
- (3) "CERTIFIED OPERATOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (1).
- (4) "COMMERCIAL APPLICATOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (2).

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(5) "CONTIGUOUS DWELLING UNIT" MEANS A DWELLING UNIT THAT IS CONTIGUOUS WITH ANOTHER DWELLING UNIT, BOTH OF WHICH UNITS ARE OWNED, MANAGED, LEASED, OR SUBLEASED BY THE SAME LANDLORD.

(6) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE BY A TENANT.

(7) "ELECTRONIC NOTICE" MEANS NOTICE BY E-MAIL OR AN ELECTRONIC PORTAL OR MANAGEMENT COMMUNICATIONS SYSTEM THAT IS AVAILABLE TO BOTH A LANDLORD AND A TENANT.

(8) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR, OR SUBLESSOR OF A RESIDENTIAL PREMISES.

(9) "PEST CONTROL AGENT" MEANS A CERTIFIED OPERATOR, COMMERCIAL APPLICATOR, QUALIFIED SUPERVISOR, OR TECHNICIAN.

(10) "QUALIFIED INSPECTOR" MEANS A BED BUG DETECTION TEAM, LOCAL HEALTH DEPARTMENT OFFICIAL, CERTIFIED OPERATOR, COMMERCIAL APPLICATOR, QUALIFIED SUPERVISOR, OR TECHNICIAN WHO IS RETAINED BY A LANDLORD TO CONDUCT AN INSPECTION FOR BED BUGS.

(11) "QUALIFIED SUPERVISOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (13).

(12) "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL AGREEMENT TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

(13) "TECHNICIAN" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (15).

38-12-1002. Bed bugs - notification to landlord - landlord duties. (1) A TENANT SHALL PROMPTLY NOTIFY THE TENANT'S LANDLORD VIA WRITTEN OR ELECTRONIC NOTICE WHEN THE TENANT KNOWS OR REASONABLY SUSPECTS THAT THE TENANT'S DWELLING UNIT CONTAINS BED BUGS. A TENANT WHO GIVES A LANDLORD ELECTRONIC NOTICE OF A CONDITION SHALL SEND SUCH NOTICE ONLY TO THE E-MAIL ADDRESS, TELEPHONE NUMBER, OR ELECTRONIC PORTAL SPECIFIED BY THE LANDLORD IN THE RENTAL AGREEMENT FOR COMMUNICATIONS. IN THE ABSENCE OF SUCH A PROVISION IN THE RENTAL AGREEMENT, THE TENANT SHALL COMMUNICATE WITH THE LANDLORD IN A MANNER THAT THE LANDLORD HAS PREVIOUSLY USED TO COMMUNICATE WITH THE TENANT. THE TENANT SHALL RETAIN SUFFICIENT PROOF OF THE DELIVERY OF THE ELECTRONIC NOTICE.

(2) NOT MORE THAN NINETY-SIX HOURS AFTER RECEIVING NOTICE OF THE PRESENCE OF BED BUGS OR THE POSSIBLE PRESENCE OF BED BUGS, A LANDLORD, AFTER PROVIDING NOTICE TO THE TENANT AS DESCRIBED IN SECTION 38-12-1004(1):

(a) SHALL OBTAIN AN INSPECTION OF THE DWELLING UNIT BY A QUALIFIED INSPECTOR; AND

(b) MAY ENTER THE DWELLING UNIT OR ANY CONTIGUOUS DWELLING UNIT FOR

THE PURPOSE OF ALLOWING THE INSPECTION AS PROVIDED IN SECTION 38-12-1003.

(3) IF THE INSPECTION OF A DWELLING UNIT CONFIRMS THE PRESENCE OF BED BUGS, THE LANDLORD SHALL ALSO CAUSE TO BE PERFORMED AN INSPECTION OF ALL CONTIGUOUS DWELLING UNITS AS PROMPTLY AS IS REASONABLY PRACTICAL.

38-12-1003. Bed bugs - inspections - treatments - costs. (1) IF A LANDLORD OBTAINS AN INSPECTION FOR BED BUGS, THE LANDLORD MUST PROVIDE WRITTEN NOTICE TO THE TENANT WITHIN TWO BUSINESS DAYS AFTER THE INSPECTION INDICATING WHETHER THE DWELLING UNIT CONTAINS BED BUGS.

(2) IF A QUALIFIED INSPECTOR CONDUCTING AN INSPECTION DETERMINES THAT NEITHER THE DWELLING UNIT NOR ANY CONTIGUOUS DWELLING UNIT CONTAINS BED BUGS, THE NOTICE PROVIDED BY THE LANDLORD PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST INFORM THE TENANT THAT IF THE TENANT REMAINS CONCERNED THAT THE DWELLING UNIT CONTAINS BED BUGS, THE TENANT MAY CONTACT THE LOCAL HEALTH DEPARTMENT TO REPORT SUCH CONCERNS.

(3) IF A QUALIFIED INSPECTOR CONDUCTING AN INSPECTION DETERMINES THAT A DWELLING UNIT OR ANY CONTIGUOUS DWELLING UNIT CONTAINS BED BUGS IN ANY STAGE OF THE LIFE CYCLE, THE QUALIFIED INSPECTOR SHALL PROVIDE A REPORT OF THE DETERMINATION TO THE LANDLORD WITHIN TWENTY-FOUR HOURS; EXCEPT THAT, FOR ANY SUCH DETERMINATION THAT IS MADE BY A QUALIFIED INSPECTOR LICENSED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO ARTICLE 10 OF TITLE 35, THE QUALIFIED INSPECTOR SHALL PROVIDE THE REPORT IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO SAID ARTICLE 10. NOT LATER THAN FIVE BUSINESS DAYS AFTER THE DATE OF THE INSPECTION, THE LANDLORD SHALL COMMENCE REASONABLE MEASURES, AS DETERMINED BY THE QUALIFIED INSPECTOR, TO EFFECTIVELY TREAT THE BED BUG PRESENCE, INCLUDING RETAINING THE SERVICES OF A PEST CONTROL AGENT TO TREAT THE DWELLING UNIT AND ANY CONTIGUOUS DWELLING UNIT.

(4) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 10, A LANDLORD IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH AN INSPECTION FOR, AND TREATMENT OF, BED BUGS. NOTHING IN THIS SECTION PROHIBITS A TENANT FROM CONTACTING ANY AGENCY AT ANY TIME CONCERNING THE PRESENCE OF BED BUGS.

38-12-1004. Bed bugs - access to dwelling unit and personal belongings - notice - costs. (1) (a) IF A LANDLORD, QUALIFIED INSPECTOR, OR PEST CONTROL AGENT MUST ENTER A DWELLING UNIT FOR THE PURPOSE OF CONDUCTING AN INSPECTION FOR, OR TREATING THE PRESENCE OF, BED BUGS, THE LANDLORD SHALL PROVIDE THE TENANT REASONABLE WRITTEN OR ELECTRONIC NOTICE OF SUCH FACT AT LEAST FORTY-EIGHT HOURS BEFORE THE LANDLORD, QUALIFIED INSPECTOR, OR PEST CONTROL AGENT ATTEMPTS TO ENTER THE DWELLING UNIT; EXCEPT THAT A RENTAL AGREEMENT MAY PROVIDE FOR A DIFFERENT MINIMUM TIME FOR THE NOTICE. A TENANT WHO RECEIVES SUCH NOTICE SHALL NOT UNREASONABLY DENY THE LANDLORD, QUALIFIED INSPECTOR, OR PEST CONTROL AGENT ACCESS TO THE DWELLING UNIT.

(b) A TENANT MAY WAIVE THE NOTICE REQUIREMENT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION.

(2) A QUALIFIED INSPECTOR WHO IS INSPECTING A DWELLING UNIT FOR BED BUGS MAY CONDUCT AN INITIAL VISUAL AND MANUAL INSPECTION OF A TENANT'S BEDDING AND UPHOLSTERED FURNITURE. THE QUALIFIED INSPECTOR MAY INSPECT ITEMS OTHER THAN BEDDING AND UPHOLSTERED FURNITURE WHEN THE QUALIFIED INSPECTOR DETERMINES THAT SUCH AN INSPECTION IS NECESSARY AND REASONABLE.

(3) IF A QUALIFIED INSPECTOR FINDS BED BUGS IN A DWELLING UNIT OR IN ANY CONTIGUOUS DWELLING UNIT, THE QUALIFIED INSPECTOR MAY HAVE SUCH ADDITIONAL ACCESS TO THE TENANT'S PERSONAL BELONGINGS AS THE QUALIFIED INSPECTOR DETERMINES IS NECESSARY AND REASONABLE.

(4) A TENANT SHALL COMPLY WITH REASONABLE MEASURES TO PERMIT THE INSPECTION FOR, AND THE TREATMENT OF, THE PRESENCE OF BED BUGS AS DETERMINED BY THE QUALIFIED INSPECTOR, AND THE TENANT IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH PREPARING THE TENANT'S DWELLING UNIT FOR INSPECTION AND TREATMENT. A TENANT WHO KNOWINGLY AND UNREASONABLY FAILS TO COMPLY WITH THE INSPECTION AND TREATMENT REQUIREMENTS DESCRIBED IN THIS PART 10 IS LIABLE FOR THE COST OF ANY BED BUG TREATMENTS OF THE DWELLING UNIT AND CONTIGUOUS DWELLING UNITS IF THE NEED FOR SUCH TREATMENTS ARISES FROM THE TENANT'S NONCOMPLIANCE.

(5) IF ANY FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY BELONGING TO A TENANT IS FOUND TO CONTAIN BED BUGS, THE QUALIFIED INSPECTOR SHALL ADVISE THE TENANT THAT THE FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY SHOULD NOT BE REMOVED FROM THE DWELLING UNIT UNTIL A PEST CONTROL AGENT DETERMINES THAT A BED BUG TREATMENT HAS BEEN COMPLETED; EXCEPT THAT, IF THE DETERMINATION THAT ANY FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY CONTAINS BED BUGS IS MADE BY A QUALIFIED INSPECTOR LICENSED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO ARTICLE 10 OF TITLE 35, THE QUALIFIED INSPECTOR SHALL ADVISE THE TENANT REGARDING THE REMOVAL OF THE FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO SAID ARTICLE 10. THE TENANT SHALL NOT DISPOSE OF PERSONAL PROPERTY THAT WAS DETERMINED TO CONTAIN BED BUGS IN ANY COMMON AREA WHERE SUCH DISPOSAL MAY RISK THE INFESTATION OF OTHER DWELLING UNITS.

(6) (a) NOTHING IN THIS SECTION REQUIRES A LANDLORD TO PROVIDE A TENANT WITH ALTERNATIVE LODGING OR TO PAY TO REPLACE A TENANT'S PERSONAL PROPERTY.

(b) NOTHING IN THIS SECTION PREEMPTS OR RESTRICTS THE APPLICATION OF ANY STATE OR FEDERAL LAW CONCERNING REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES.

38-12-1005. Bed bugs - renting of dwelling units with bed bugs prohibited. A LANDLORD SHALL NOT OFFER FOR RENT A DWELLING UNIT THAT THE LANDLORD KNOWS OR REASONABLY SUSPECTS TO CONTAIN BED BUGS. UPON REQUEST FROM A PROSPECTIVE TENANT, A LANDLORD SHALL DISCLOSE TO THE PROSPECTIVE TENANT WHETHER, TO THE LANDLORD'S KNOWLEDGE, THE DWELLING UNIT THAT THE

LANDLORD IS OFFERING FOR RENT CONTAINED BED BUGS WITHIN THE PREVIOUS EIGHT MONTHS. UPON REQUEST FROM A TENANT OR A PROSPECTIVE TENANT, A LANDLORD SHALL DISCLOSE THE LAST DATE, IF ANY, ON WHICH A DWELLING UNIT BEING RENTED OR OFFERED FOR RENT WAS INSPECTED FOR, AND FOUND TO BE FREE OF, BED BUGS.

38-12-1006. Remedies - liability. (1) A LANDLORD WHO FAILS TO COMPLY WITH THIS PART 10 IS LIABLE TO THE TENANT FOR THE TENANT'S ACTUAL DAMAGES.

(2) A LANDLORD MAY APPLY TO A COURT OF COMPETENT JURISDICTION TO OBTAIN INJUNCTIVE RELIEF AGAINST A TENANT WHO:

(a) REFUSES TO PROVIDE REASONABLE ACCESS TO A DWELLING UNIT; OR

(b) FAILS TO COMPLY WITH A REASONABLE REQUEST FOR INSPECTION OR TREATMENT OF A DWELLING UNIT.

(3) IF A COURT FINDS THAT A TENANT HAS UNREASONABLY FAILED TO COMPLY WITH ONE OR MORE REQUIREMENTS SET FORTH IN THIS PART 10, THE COURT MAY ISSUE A TEMPORARY ORDER TO CARRY OUT THIS PART 10, INCLUDING:

(a) GRANTING THE LANDLORD ACCESS TO THE DWELLING UNIT FOR THE PURPOSES SET FORTH IN THIS PART 10;

(b) GRANTING THE LANDLORD THE RIGHT TO ENGAGE IN BED BUG INSPECTION AND TREATMENT MEASURES IN THE DWELLING UNIT; AND

(c) REQUIRING THE TENANT TO COMPLY WITH SPECIFIC BED BUG INSPECTION AND TREATMENT MEASURES OR ASSESSING THE TENANT WITH COSTS AND DAMAGES RELATED TO THE TENANT'S NONCOMPLIANCE.

(4) ANY COURT ORDER GRANTING A LANDLORD ACCESS TO A DWELLING UNIT MUST BE SERVED UPON THE TENANT AT LEAST TWENTY-FOUR HOURS BEFORE A LANDLORD, QUALIFIED INSPECTOR, OR PEST CONTROL AGENT ENTERS THE DWELLING UNIT.

(5)(a) THE REMEDIES IN THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY TO ANY PERSON.

(b) THIS SECTION DOES NOT LIMIT OR RESTRICT THE AUTHORITY OF ANY STATE OR LOCAL HOUSING OR HEALTH CODE ENFORCEMENT AGENCY.

38-12-1007. Relationship to warranty of habitability. NOTWITHSTANDING ANY PROVISION OF PART 5 OF THIS ARTICLE 12 TO THE CONTRARY, A LANDLORD WHO COMPLIES WITH THIS PART 10 IS DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF SAID PART 5 WITH RESPECT TO MATTERS CONCERNING BED BUGS.

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2020; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general

assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 3, 2019