

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

**INTRODUCED**

LLS NO. 23-0848.02 Christopher McMichael x4775

**HOUSE BILL 23-1254**

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**HOUSE SPONSORSHIP**

**Brown and Mabrey,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Transportation, Housing & Local Government

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE CONDITIONS COVERED UNDER THE WARRANTY OF**  
102           **HABITABILITY FOR RESIDENTIAL PREMISES, AND, IN**  
103           **CONNECTION THEREWITH, DIRECTING THE DEPARTMENT OF**  
104           **PUBLIC HEALTH AND ENVIRONMENT TO ESTABLISH HEALTH AND**  
105           **SAFETY STANDARDS REGARDING THE HABITABILITY OF**  
106           **RESIDENTIAL PREMISES.**

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**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>.)*

The bill expands conditions covered under the warranty of

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

habitability for residential premises in relation to indoor air quality, water quality, and other health and safety issues. The bill adds water damage, fire damage, and damage due to a natural or an environmental event as conditions under which a residential premises is deemed uninhabitable.

The bill requires a landlord to have a residential premises inspected and tested by a certified industrial hygienist or an industrial hygienist to determine if the premises is safe for habitability. The bill also clarifies landlord responsibilities in remediating a residential premises to a habitable standard and how a tenant must give notice to a landlord if there are habitability issues with the tenant's residence.

The bill directs the executive director of the department of public health and environment to establish health and safety standards for habitability by January 1, 2026.

The bill prohibits a landlord from retaliating against a tenant for making a good faith complaint about the conditions of the residential premises and provides conditions by which a tenant may terminate a lease if a habitability issue is not remediated.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) Colorado has experienced record-breaking wildfires in recent  
5 years, including the Marshall fire, which burned over 6,000 acres and  
6 nearly 1,100 homes in a highly urbanized area, resulting in more than  
7 \$500 million dollars in damages;

8 (b) After the Marshall fire, many renters struggled to secure safe,  
9 habitable housing due to significant damage from smoke, ash, and other  
10 air contaminants;

11 (c) It is typical for nearby residents to experience air  
12 contamination, water contamination, and other health and safety issues  
13 after being subject to natural or environmental events;

14 (d) After these types of events, residential premises must be  
15 returned to a condition that protects the health and safety of residents  
16 from environmental contaminants, such as smoke, ash, and other toxic

1 materials; and

2 (e) There is a need to promote the remediation of residential  
3 premises so that landlords, tenants, and insurance companies understand  
4 what remediation must be done and who is responsible for the  
5 remediation to make the premises habitable after a natural or an  
6 environmental event.

7 (2) Therefore, the generally assembly declares that it is in the best  
8 interest of Colorado residents to protect the health and safety of residents  
9 by ensuring that their homes are returned to a healthy, habitable, and safe  
10 condition after incurring water damage, fire damage, or other damage due  
11 to a natural or an environmental event.

12 **SECTION 2.** In Colorado Revised Statutes, 38-12-502, **add** (1.5),  
13 (2.5), and (4.5) as follows:

14 **38-12-502. Definitions.** As used in this part 5 and part 8 of this  
15 article 12, unless the context otherwise requires:

16 (1.5) "CERTIFIED INDUSTRIAL HYGIENIST" HAS THE SAME MEANING  
17 AS SET FORTH IN SECTION 24-30-1402 (1).

18 (2.5) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
19 AND ENVIRONMENT CREATED PURSUANT TO SECTION 25-1-102.

20 (4.5) "INDUSTRIAL HYGIENIST" HAS THE SAME MEANING AS SET  
21 FORTH IN SECTION 24-30-1402 (2.2).

22 **SECTION 3.** In Colorado Revised Statutes, 38-12-503, **amend**  
23 (2)(a), (2.3), (2.5), and (4)(a) introductory portion; and **add** (2.7) as  
24 follows:

25 **38-12-503. Warranty of habitability - notice - landlord**  
26 **obligations.** (2) Except as described in subsection (2.2) of this section,  
27 a landlord breaches the warranty of habitability set forth in subsection (1)

1 of this section if:

2 (a) A residential premises is:

3 (I) Uninhabitable as described in section 38-12-505 or otherwise  
4 unfit for human habitation; ~~or~~

5 (II) In a condition that materially interferes with the tenant's life,  
6 health, or safety; ~~and~~ OR

7 (III) IN A CONDITION THAT CONTAINS AIR, WATER, OR OTHER  
8 CONTAMINANTS AT LEVELS THAT ARE NOT SAFE FOR HABITABILITY AS  
9 DETERMINED BY A CERTIFIED INDUSTRIAL HYGIENIST OR AN INDUSTRIAL  
10 HYGIENIST PURSUANT TO SECTION 38-12-505 (1.5); AND

11 (2.3) A tenant who gives a landlord WRITTEN OR electronic notice  
12 of a condition shall send ~~such~~ THE notice ~~only to the e-mail address,~~  
13 ~~phone number, or electronic portal specified by the landlord in the rental~~  
14 ~~agreement for communications. In the absence of such a provision in the~~  
15 ~~rental agreement, the tenant shall communicate with the landlord in a~~  
16 ~~manner that the landlord has previously used~~ TYPICALLY USES to  
17 communicate with the tenant. The tenant shall retain sufficient proof of  
18 delivery of the ~~electronic~~ notice.

19 (2.5) A landlord ~~who~~ THAT receives from a tenant written or  
20 electronic notice of a condition described by subsection (2)(a) of this  
21 section shall:

22 (a) Respond to the tenant not more than twenty-four hours after  
23 receiving the notice. The response must indicate the landlord's intentions  
24 for remedying the condition, including an estimate of when the  
25 remediation will commence and when it will be completed.

26 (b) INFORM THE TENANT OF THE LANDLORD'S RESPONSIBILITIES  
27 UNDER SUBSECTION (4)(a) OF THIS SECTION IF THE REPORTED CONDITION

1 CONCERNS A CONDITION DESCRIBED IN SUBSECTION (2)(a)(II) OR  
2 (2)(a)(III) OF THIS SECTION.

3 (2.7) (a) (I) A LANDLORD THAT RECEIVES NOTICE FROM A TENANT  
4 OF ANY HABITABILITY ISSUES, AS DESCRIBED IN SECTION 38-12-505 (1),  
5 WITH THE TENANT'S PREMISES IS RESPONSIBLE FOR REMEDIATION OF THE  
6 RESIDENTIAL PREMISES TO A HABITABLE STANDARD IN A REASONABLE  
7 AMOUNT OF TIME.

8 (II) A LANDLORD THAT RECEIVES NOTICE FROM A TENANT OF A  
9 HABITABILITY ISSUE REGARDING A RESIDENTIAL PREMISES THAT HAS BEEN  
10 CONTAMINATED DUE TO WATER DAMAGE, FIRE DAMAGE, OR DAMAGE DUE  
11 TO A NATURAL OR AN ENVIRONMENTAL EVENT SHALL PROVIDE, AT THE  
12 REQUEST OF THE TENANT, INSPECTION AND TESTING BY A CERTIFIED  
13 INDUSTRIAL HYGIENIST OR AN INDUSTRIAL HYGIENIST AT NO COST TO THE  
14 TENANT.

15 (b) (I) A LANDLORD SHALL REMEDIATE TO A HABITABLE  
16 STANDARD A RESIDENTIAL PREMISES THAT HAS BEEN CONTAMINATED DUE  
17 TO WATER DAMAGE, FIRE DAMAGE, OR OTHER DAMAGE DUE TO A NATURAL  
18 OR AN ENVIRONMENTAL EVENT OR DUE TO ANY OTHER HABITABILITY  
19 ISSUE THAT RESULTS IN THE RESIDENTIAL PREMISES NOT BEING SAFE FOR  
20 HABITABILITY AS DETERMINED BY A CERTIFIED INDUSTRIAL HYGIENIST OR  
21 AN INDUSTRIAL HYGIENIST PURSUANT TO SECTION 38-12-505 (1.5).

22 (II) A LANDLORD WHO HAS REMEDIATED A CONTAMINATED  
23 RESIDENTIAL PREMISES TO A HABITABLE STANDARD UNDER SUBSECTION  
24 (2.7)(b)(I) OF THIS SECTION MUST OBTAIN CERTIFICATION FROM A  
25 CERTIFIED INDUSTRIAL HYGIENIST OR AN INDUSTRIAL HYGIENIST THAT THE  
26 RESIDENTIAL PREMISES IS SAFE FOR HABITABILITY.

27 (c) A LANDLORD'S SUBMISSION OF AN INSURANCE CLAIM FOR AN

1 UNINHABITABLE OR A CONTAMINATED RESIDENTIAL PREMISES AFTER THE  
2 LANDLORD RECEIVES NOTICE FROM THE TENANT OF HABITABILITY ISSUES  
3 AT THE RESIDENTIAL PREMISES IS NOT CONSIDERED EVIDENCE OF  
4 REMEDIATION.

5 (4) (a) If the notice sent pursuant to subsection (2)(b) of this  
6 section concerns a condition that is described by subsection (2)(a)(II) OR  
7 (2)(a)(III) of this section, the landlord, at the request of the tenant, shall  
8 provide the tenant:

9 **SECTION 4.** In Colorado Revised Statutes, 38-12-505, **amend**  
10 (1)(a), (1)(b)(XII), and (3); and **add** (1)(c), (1.5), and (4) as follows:

11 **38-12-505. Uninhabitable residential premises - habitability**  
12 **standards - rules.** (1) A residential premises is deemed uninhabitable if:

13 (a) There is mold that is associated with dampness, or there is any  
14 other condition causing the residential premises to be damp, which  
15 condition, if not remedied, would materially interfere with the health or  
16 safety of the tenant, excluding the presence of mold that is minor and  
17 found on surfaces that can accumulate moisture as part of their proper  
18 functioning and intended use; ~~or~~

19 (b) It substantially lacks any of the following characteristics:  
20 (XII) Compliance with all applicable building, housing, and health  
21 codes, the violation of which would constitute a condition that materially  
22 interferes with the life, health, or safety of the tenant; OR

23 (c) THERE IS WATER DAMAGE, FIRE DAMAGE, OR OTHER DAMAGE  
24 DUE TO A NATURAL OR AN ENVIRONMENTAL EVENT OR THERE IS ANY  
25 OTHER HABITABILITY ISSUE THAT RESULTS IN THE RESIDENTIAL PREMISES  
26 BEING CONTAMINATED AT A LEVEL DETERMINED TO NOT BE SAFE FOR  
27 HABITABILITY BY A CERTIFIED INDUSTRIAL HYGIENIST OR AN INDUSTRIAL

1 HYGIENIST PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

2 (1.5) (a) A CERTIFIED INDUSTRIAL HYGIENIST OR AN INDUSTRIAL  
3 HYGIENIST MAY DETERMINE THAT A RESIDENTIAL PREMISES IS NOT SAFE  
4 FOR HABITABILITY IF AIR, WATER, OR OTHER CONTAMINANTS ARE PRESENT  
5 AT LEVELS THAT:

6 (I) EXCEED THE TOXIC AND HAZARDOUS SUBSTANCES STANDARDS  
7 ESTABLISHED BY THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH  
8 ADMINISTRATION AS SET FORTH IN 29 CFR 1910 SUBPART Z OR ANY  
9 SUCCESSOR FEDERAL OCCUPATIONAL SAFETY AND HEALTH  
10 ADMINISTRATION REGULATION REGARDING TOXIC AND HAZARDOUS  
11 SUBSTANCES STANDARDS; OR

12 (II) MATERIALLY INTERFERE WITH THE TENANT'S LIFE, HEALTH, OR  
13 SAFETY.

14 (b) WHEN DETERMINING IF A RESIDENTIAL PREMISES IS NOT SAFE  
15 FOR HABITABILITY DUE TO THE PRESENCE OF AIR, WATER, OR OTHER  
16 CONTAMINANTS AT LEVELS DESCRIBED IN SUBSECTION (1.5)(a) OF THIS  
17 SECTION, THE CERTIFIED INDUSTRIAL HYGIENIST OR INDUSTRIAL  
18 HYGIENIST SHALL CONSIDER HOW THE CONTAMINANT LEVELS OF THE  
19 RESIDENTIAL PREMISES IMPACT CHILDREN, INDIVIDUALS WITH ASTHMA,  
20 INDIVIDUALS WITH DISABILITIES, INDIVIDUALS WHO ARE PREGNANT, AND  
21 ANY OTHER INDIVIDUALS WITH HEALTH CONDITIONS THAT COULD MAKE  
22 THEM MORE SUSCEPTIBLE TO ENVIRONMENTAL CONTAMINANTS.

23 ~~(3) Unless the rental agreement provides otherwise as permitted~~  
24 ~~by section 38-12-506, before a residential premises is leased to a tenant,~~  
25 ~~the~~ A residential premises must comply with the requirements set forth in  
26 section 38-12-503 (1) and (2)(a) BEFORE A RESIDENTIAL PREMISES IS  
27 LEASED TO A TENANT.

1           (4) (a) ON OR AFTER JANUARY 1, 2025, AND BEFORE JANUARY 1,  
2 2026, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, IN CONSULTATION  
3 WITH THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION  
4 25-7-104, THE WATER QUALITY CONTROL COMMISSION CREATED IN  
5 SECTION 25-8-201, AND THE STATE BOARD OF HEALTH CREATED IN  
6 SECTION 25-1-103, SHALL PROMULGATE RULES TO ESTABLISH HEALTH AND  
7 SAFETY STANDARDS FOR HABITABILITY PERTAINING TO THE FOLLOWING:

8           (I) INDOOR AIR QUALITY STANDARDS FOR PARTICULATE MATTER,  
9 VOLATILE ORGANIC COMPOUNDS, AND OTHER AIR QUALITY  
10 CONTAMINANTS;

11           (II) WATER QUALITY STANDARDS FOR DRINKING WATER,  
12 INCLUDING LEVELS OF LEAD, OTHER HEAVY METALS, AND OTHER WATER  
13 CONTAMINANTS; AND

14           (III) OTHER HEALTH AND SAFETY STANDARDS REGARDING THE  
15 HABITABILITY OF RESIDENTIAL PREMISES AS DEEMED NECESSARY BY THE  
16 EXECUTIVE DIRECTOR OF THE DEPARTMENT.

17           (b) THE STANDARDS FOR HABITABILITY ESTABLISHED BY RULES  
18 PROMULGATED PURSUANT TO THIS SUBSECTION (4) MUST BE PROTECTIVE  
19 OF CHILDREN, INDIVIDUALS WITH ASTHMA, INDIVIDUALS WITH  
20 DISABILITIES, INDIVIDUALS WHO ARE PREGNANT, AND ANY OTHER  
21 INDIVIDUALS WITH HEALTH CONDITIONS THAT COULD MAKE THEM MORE  
22 SUSCEPTIBLE TO ENVIRONMENTAL CONTAMINANTS.

23           (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY UPDATE  
24 THE RULES PROMULGATED PURSUANT TO THIS SUBSECTION (4) AS  
25 NECESSARY TO REFLECT UPDATED SCIENTIFIC AND ENVIRONMENTAL  
26 INFORMATION.

27           (d) IN PROMULGATING THE RULES DESCRIBED IN SUBSECTION (4)(a)



1 OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL  
2 CONSULT WITH TENANTS, NATIONAL PUBLIC HEALTH EXPERTS, STATE  
3 PUBLIC HEALTH EXPERTS, LANDLORDS, CERTIFIED INDUSTRIAL HYGIENISTS  
4 AND INDUSTRIAL HYGIENISTS, AND OTHER STAKEHOLDERS.

5 (e) THIS SUBSECTION (4) TAKES EFFECT JANUARY 1, 2025.

6 **SECTION 5.** In Colorado Revised Statutes, **repeal** 38-12-506 as  
7 follows:

8 **38-12-506. Exception for certain single-family residences.**

9 ~~(1) For a single-family residence premises for which a landlord does not~~  
10 ~~receive a subsidy from any governmental source, a landlord and tenant~~  
11 ~~may agree in writing that the tenant is to perform specific repairs,~~  
12 ~~maintenance tasks, alterations, and remodeling necessary to comply with~~  
13 ~~section 38-12-503, subject to the following requirements:~~

14 ~~(a) The agreement of the landlord and tenant is entered into in~~  
15 ~~good faith and is set forth in a writing that is separate from the rental~~  
16 ~~agreement, signed by the parties, and supported by adequate~~  
17 ~~consideration; and~~

18 ~~(b) The tenant has the requisite skills to perform the work required~~  
19 ~~to comply with section 38-12-503 (1).~~

20 ~~(2) To the extent that performance by a tenant relates to a~~  
21 ~~characteristic set forth in section 38-12-505 (1), the tenant assumes the~~  
22 ~~obligation for the characteristic, and the lack of the characteristic does not~~  
23 ~~make the residential premises uninhabitable.~~

24 **SECTION 6.** In Colorado Revised Statutes, 38-12-507, **amend**  
25 **(1)(b)(I)(B); and add (4) as follows:**

26 **38-12-507. Breach of warranty of habitability - tenant's**  
27 **remedies.** (1) If there is a breach of the warranty of habitability as set

1     forth in section 38-12-503 (2):

2             (b) (I) A tenant may obtain injunctive relief for breach of the  
3     warranty of habitability in any county or district court of competent  
4     jurisdiction. In a proceeding for injunctive relief, the court shall  
5     determine actual damages for a breach of the warranty at the time the  
6     court orders the injunctive relief. A landlord is not subject to any court  
7     order for injunctive relief if:

8             (B) The proceeding for injunctive relief does not concern a  
9     condition described in section 38-12-503 (2)(a)(II) OR (2)(a)(III) that has  
10    not been repaired or remedied.

11            (4) IF A CERTIFIED INDUSTRIAL HYGIENIST OR AN INDUSTRIAL  
12    HYGIENIST DETERMINES THAT A RESIDENTIAL PREMISES IS NOT SAFE FOR  
13    HABITABILITY PURSUANT TO SECTION 38-12-505 (1.5), AND A LANDLORD  
14    HAS NOT REMEDIATED THE RESIDENTIAL PREMISES IN A REASONABLE  
15    AMOUNT OF TIME, THE TENANT MAY CANCEL THE TENANT'S LEASE IF:

16            (a) THE TENANT HAS GIVEN THE LANDLORD NOTICE THAT THE  
17    RESIDENTIAL PREMISES IS NOT SAFE FOR HABITABILITY DUE TO THE  
18    PRESENCE OF AIR, WATER, OR OTHER CONTAMINANTS;

19            (b) THE LANDLORD HAS NOT BEEN ABLE TO REMEDIATE THE  
20    CONDITIONS OF THE RESIDENTIAL PREMISES SO THAT IT IS SAFE FOR  
21    HABITABILITY WITHIN TEN BUSINESS DAYS FROM THE COMPLETION OF THE  
22    INSPECTION AND TESTING BY A CERTIFIED INDUSTRIAL HYGIENIST OR AN  
23    INDUSTRIAL HYGIENIST;

24            (c) THE LANDLORD IS NOT ABLE TO PROVIDE ADEQUATE HOUSING  
25    ACCOMMODATIONS FOR THE TENANT FOR THE DURATION OF THE TIME  
26    THAT THE RESIDENTIAL PREMISES IS BEING REMEDIATED; AND

27            (d) THE TENANT PROVIDES EVIDENCE FROM A DOCTOR THAT THE

1 PRESENCE OF CONTAMINANTS AT THE RESIDENTIAL PREMISES IS  
2 MATERIALLY INTERFERING WITH THE TENANT'S LIFE, HEALTH, OR SAFETY.

3 **SECTION 7.** In Colorado Revised Statutes, 38-12-509, **amend**  
4 (1); and **add** (1.5) as follows:

5 **38-12-509. Prohibition on retaliation.** (1) (a) A landlord shall  
6 not retaliate against a tenant by ~~increasing rent or decreasing services or~~  
7 ~~by bringing or threatening to bring an action for possession~~ ENGAGING IN  
8 ANY OF THE ACTIVITIES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION  
9 in response to the tenant:

10 (a) (I) Having made a good faith complaint to the landlord or to  
11 a governmental agency alleging a condition described by section  
12 38-12-505 (1) or any condition that materially interferes with the life,  
13 health, or safety of the tenant; or

14 (b) (II) Organizing or becoming a member of a tenants'  
15 association or similar organization.

16 (b) PROHIBITED RETALIATION INCLUDES:

17 (I) INCREASING RENT OR DECREASING SERVICES;

18 (II) TERMINATING A LEASE OR CONTRACT WITHOUT WRITTEN  
19 CONSENT OF THE TENANT EXCEPT AS OTHERWISE PROVIDED BY LAW;

20 (III) BRINGING OR THREATENING TO BRING AN ACTION FOR  
21 POSSESSION; OR

22 (IV) TAKING ACTION THAT IN ANY MANNER INTIMIDATES,  
23 THREATENS, DISCRIMINATES, OR RETALIATES AGAINST A TENANT.

24 (1.5) THERE IS A REBUTTABLE PRESUMPTION THAT A LANDLORD  
25 RETALIATED AGAINST THE TENANT IF THE TENANT SUBMITTED A GOOD  
26 FAITH COMPLAINT ABOUT A HABITABILITY ISSUE CONCERNING THE  
27 TENANT'S RESIDENTIAL PREMISES AND THE LANDLORD SUBSEQUENTLY

1 TERMINATED A LEASE OR CONTRACT WITH THE TENANT, UNLESS THE  
2 LANDLORD HAS DOCUMENTED EVIDENCE OF OTHER REASONS TO  
3 TERMINATE THE TENANT'S LEASE OR CONTRACT OR THE TERMINATION IS  
4 OTHERWISE AUTHORIZED BY LAW.

5 **SECTION 8. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, or safety.