



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

**Drafting Number:** LLS 18-0120  
**Prime Sponsors:** Rep. Jackson  
 Sen. Moreno

**Date:** April 23, 2018  
**Bill Status:** House Health, Insurance, and  
 Environment  
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**Bill Topic:** LANDLORD TENANT WARRANTY OF HABITABILITY

- Summary of Fiscal Impact:**
- State Revenue
  - State Expenditure
  - State Transfer
  - TABOR Refund
  - Local Government
  - Statutory Public Entity

The bill modifies the implied warranty of habitability inherent in a residential lease between a landlord and a tenant. The bill minimally increases state revenue from court fees, and workload for state and local housing agencies on an ongoing basis.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

**Table 1**  
**State Fiscal Impacts Under HB 18-1397**

		FY 2018-19	FY 2019-20
<b>Revenue</b>	Cash Funds	less than \$5,000	less than \$5,000
<b>Expenditures</b>		-	-
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## Summary of Legislation

Under current law, a landlord is deemed to warrant that a residential property is fit for human habitation as part of every rental agreement between a landlord and a tenant. This is referred to as a warranty of habitability. This bill:

- modifies the conditions for a breach of the warranty, the method for notifying a landlord of problems with the premises, and time lines for the landlord to address defective conditions;
- under certain circumstances, allows a tenant to deduct from subsequent rent payments the cost to repair defective conditions caused by a breach of the warranty of habitability;
- permits a county court, including a small claims court, to provide injunctive relief for a breach of the warranty of habitability, and repeals the current law requirement that a tenant notify a local government prior to seeking an injunction; and
- modifies the current law prohibition on retaliation for a tenant's alleging a breach to specify damages and remove presumptions.

## State Revenue

The bill permits a tenant to seek a civil ruling in county courts in the Judicial Department and will generate state cash fund revenue from filing fees, currently about \$97 per case filed in county court and about \$225 per case filed in district court. Total new revenue in any fiscal year is anticipated to be less than \$5,000.

## TABOR Impact

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18.

Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## State Expenditures

The Division of Housing in the Department of Local Affairs provides rental assistance statewide through local housing authorities and non-profit service organizations. The bill will minimally increase workload in the division to update information sources and provide guidance concerning the law to clients and partner service agencies. This effort does not require additional appropriations.

This fiscal note assumes a high level of compliance among real estate professionals, and that new civil cases pursuant to the bill will be minimal. As such, any increase in workload for the Judicial Department is expected to be minimal and absorbable within existing appropriations.

**Local Government**

Similar to state expenditures, local housing authorities and other local government programs will have a slight increase in workload efforts to adjust internal documents and assist housing clients with landlord tenant disputes.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to conduct occurring on or after that date.

**State and Local Government Contacts**

Counties  
Municipalities

Judicial  
Regulatory Agencies

Local Affairs