

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0008.01 Richard Sweetman x4333

HOUSE BILL 19-1170

HOUSE SPONSORSHIP

Jackson and Weissman, Buckner, Buentello, Duran, Exum, Froelich, Galindo, Gonzales-Gutierrez, Herod, Kennedy, Kipp, Lontine, Melton, Michaelson Jenet, Singer, Sirota, Snyder, Titone, Valdez A.

SENATE SPONSORSHIP

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Local Government

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.

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 ~~(4)~~ (6) "Rental agreement" means the agreement, written or oral,
26 embodying the terms and conditions concerning the use and occupancy
27 of a residential premises.

1 ~~(5)~~ (7) "Residential premises" means a dwelling unit, the structure
2 of which the unit is a part, and the common areas.

3 ~~(6)~~ (8) "Tenant" means a person entitled under a rental agreement
4 to occupy a dwelling unit to the exclusion of others.

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

7 **38-12-503. Warranty of habitability.** (2) A landlord breaches
8 the warranty of habitability set forth in subsection (1) of this section if:

9 (a) A residential premises is:

10 (I) Uninhabitable as described in section 38-12-505 or otherwise
11 unfit for human habitation; ~~and~~ OR

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

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

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

22 (II) SEVENTY-TWO HOURS, WHERE THE CONDITION IS AS
23 DESCRIBED IN SUBSECTION (2)(a)(I) OF THIS SECTION.

24 (2.3) A TENANT WHO GIVES A LANDLORD ELECTRONIC NOTICE OF
25 A CONDITION SHALL SEND SUCH NOTICE ONLY TO THE E-MAIL ADDRESS,
26 PHONE NUMBER, OR ELECTRONIC PORTAL SPECIFIED BY THE LANDLORD IN
27 THE RENTAL AGREEMENT FOR COMMUNICATIONS. IN THE ABSENCE OF

1 SUCH A PROVISION IN THE RENTAL AGREEMENT, THE TENANT SHALL
2 COMMUNICATE WITH THE LANDLORD IN A MANNER THAT THE LANDLORD
3 HAS PREVIOUSLY USED TO COMMUNICATE WITH THE TENANT. THE TENANT
4 SHALL RETAIN SUFFICIENT PROOF OF DELIVERY OF THE ELECTRONIC
5 NOTICE.

6 (2.5) A LANDLORD WHO RECEIVES FROM A TENANT WRITTEN OR
7 ELECTRONIC NOTICE OF A CONDITION DESCRIBED BY SUBSECTION (2)(a) OF
8 THIS SECTION SHALL RESPOND TO THE TENANT NOT MORE THAN
9 TWENTY-FOUR HOURS AFTER RECEIVING THE NOTICE. THE RESPONSE MUST
10 INDICATE THE LANDLORD'S INTENTIONS FOR REMEDYING THE CONDITION,
11 INCLUDING AN ESTIMATE OF WHEN THE REMEDIATION WILL COMMENCE
12 AND WHEN IT WILL BE COMPLETED.

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

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

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

23 (b) A LANDLORD IS NOT REQUIRED TO PAY FOR ANY OTHER
24 EXPENSES OF A TENANT THAT ARISE AFTER THE RELOCATION PERIOD. A
25 TENANT CONTINUES TO BE RESPONSIBLE FOR PAYMENT OF RENT UNDER
26 THE RENTAL AGREEMENT DURING THE PERIOD OF ANY TEMPORARY
27 RELOCATION AND FOR THE REMAINDER OF THE TERM OF THE RENTAL

1 AGREEMENT FOLLOWING THE REMEDIATION.

2

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

5 **38-12-505. Uninhabitable residential premises.** (1) A
6 residential premises is deemed uninhabitable if:

7 (a) THERE IS MOLD THAT IS ASSOCIATED WITH DAMPNES, OR
8 THERE IS ANY OTHER CONDITION CAUSING THE RESIDENTIAL PREMISES TO
9 BE DAMP, WHICH CONDITION, IF NOT REMEDIED, WOULD MATERIALLY
10 INTERFERE WITH THE HEALTH OR SAFETY OF THE TENANT; OR

11 (b) It substantially lacks any of the following characteristics:

12 (I) FUNCTIONING APPLIANCES THAT CONFORMED TO APPLICABLE
13 LAW AT THE TIME OF INSTALLATION AND THAT ARE MAINTAINED IN GOOD
14 WORKING ORDER;

15 (a) (II) Waterproofing and weather protection of roof and exterior
16 walls maintained in good working order, including unbroken windows
17 and doors;

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

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

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

27 (e) (VI) Electrical lighting, with wiring and electrical equipment

1 that conformed to applicable law at the time of installation, maintained in
2 good working order;

3 (f) (VII) Common areas and areas under the control of the
4 landlord that are kept reasonably clean, sanitary, and free from all
5 accumulations of debris, filth, rubbish, and garbage and that have
6 appropriate extermination in response to the infestation of rodents or
7 vermin;

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

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

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

13 (j) (XI) Locks on all exterior doors and locks or security devices
14 on windows designed to be opened that are maintained in good working
15 order; or

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

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

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

1 **38-12-506. Exception for certain single-family residences.**

2 (1) FOR A SINGLE-FAMILY RESIDENCE PREMISES FOR WHICH A LANDLORD
3 DOES NOT RECEIVE A SUBSIDY FROM ANY GOVERNMENTAL SOURCE, A
4 LANDLORD AND TENANT MAY AGREE IN WRITING THAT THE TENANT IS TO
5 PERFORM SPECIFIC REPAIRS, MAINTENANCE TASKS, ALTERATIONS, AND
6 REMODELING NECESSARY TO COMPLY WITH SECTION 38-12-503, SUBJECT
7 TO THE FOLLOWING REQUIREMENTS:

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

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

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

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

21 **38-12-507. Breach of warranty of habitability - tenant's**
22 **remedies.** (1) If there is a breach of the warranty of habitability as set
23 forth in section 38-12-503 (2): ~~the following provisions shall apply:~~

24 (b) (I) A tenant may obtain injunctive relief for breach of the
25 warranty of habitability in any COUNTY OR DISTRICT court of competent
26 jurisdiction. In ~~any~~ A proceeding for injunctive relief, the court shall
27 determine actual damages for a breach of the warranty at the time the

1 court orders the injunctive relief. A landlord shall IS not be subject to any
2 court order for injunctive relief if:

3 (A) The landlord tenders the actual damages to the court within
4 two business days of AFTER the order; AND

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

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

14 (e) (I) PURSUANT TO THIS SUBSECTION (1)(e), THE TENANT MAY
15 DEDUCT FROM ONE OR MORE RENT PAYMENTS THE COST OF REPAIRING OR
16 REMEDYING A CONDITION THAT IS THE BASIS OF A BREACH OF THE
17 WARRANTY OF HABITABILITY DESCRIBED IN SECTION 38-12-503, IF THE
18 TENANT PROVIDES NOTICE OF THE CONDITION TO THE LANDLORD AS
19 DESCRIBED IN SECTION 38-12-503 (2)(b) AND THE LANDLORD FAILS TO
20 COMMENCE REMEDIAL ACTION BY EMPLOYING REASONABLE EFFORTS
21 WITHIN THE APPLICABLE PERIOD DESCRIBED IN SECTION 38-12-503 (2)(b).

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

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

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

27 (IV) IF THE LANDLORD DOES NOT OBTAIN ANY ADDITIONAL

1 ESTIMATES WITHIN THE TWO DAYS PRESCRIBED BY SUBSECTION (1)(e)(III)
2 OF THIS SECTION, THE TENANT MAY PROCEED TO DEDUCT COSTS FROM ONE
3 OR MORE RENT PAYMENTS, BASED ON THE ESTIMATE ACQUIRED BY THE
4 TENANT, UNTIL THE ENTIRE AMOUNT OF THE ESTIMATE IS DEDUCTED.

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

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

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

27 (A) THE TENANT IS A VICTIM OF DOMESTIC VIOLENCE; DOMESTIC

1 ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION
2 16-22-102 (9); OR STALKING;

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

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

10 (VIII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION
11 (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE
12 OR MORE RENT PAYMENTS IF THE RESIDENTIAL PREMISES:

13 (A) SATISFIES THE REQUIREMENTS FOR A LOW-INCOME HOUSING
14 CREDIT PURSUANT TO 26 U.S.C. SEC. 42;

15 (B) WAS CONSTRUCTED, ACQUIRED, DEVELOPED, OR
16 REHABILITATED WITH FUNDING PROVIDED PURSUANT TO SECTION 8 OR 9
17 OF THE FEDERAL "UNITED STATES HOUSING ACT OF 1937", AS AMENDED,
18 CODIFIED AT 42 U.S.C. SECS. 1437f AND 1437g;

19 (C) WAS CONSTRUCTED, ACQUIRED, DEVELOPED, OR
20 REHABILITATED WITH FUNDING PROVIDED FROM THE HOME INVESTMENT
21 PARTNERSHIPS PROGRAM OF THE FEDERAL DEPARTMENT OF HOUSING AND
22 URBAN DEVELOPMENT; OR

23 (D) INCLUDES UNITS THAT WERE CONSTRUCTED WITH FUNDING
24 PROVIDED BY ANY FEDERAL OR STATE PROGRAM THAT RESTRICTS
25 MAXIMUM RENTS FOR PERSONS OF LOW OR MODERATE INCOME AND THAT
26 CURRENTLY HAS A RECORDED LAND USE RESTRICTION THAT IS MONITORED
27 BY A FEDERAL, STATE, COUNTY, OR MUNICIPAL AGENCY TO ENSURE

1 COMPLIANCE.

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

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

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

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

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

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

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

14 **38-12-508. Landlord's defenses to a claim of breach of**
15 **warranty - limitations on claiming a breach.** (3) ~~A tenant may not~~
16 ~~assert a claim for injunctive relief based upon the landlord's breach of the~~
17 ~~warranty of habitability of a residential premises unless the tenant has~~
18 ~~given notice to a local government within the boundaries of which the~~
19 ~~residential premises is located of the condition underlying the breach that~~
20 ~~is materially dangerous or hazardous to the tenant's life, health, or safety.~~

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

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

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

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

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

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

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

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

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

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

16 38-12-801. Written rental agreement - copy - tenant. (1) If
17 there is a written rental agreement, then the landlord shall provide the
18 tenant with a copy of the agreement that is signed by the landlord and the
19 tenant, no later than the seventh day after the tenant has signed the
20 agreement. A landlord may provide the tenant with an electronic copy of
21 the agreement, unless the tenant requests a paper copy, in which case the
22 landlord shall provide the tenant with a paper copy.

23 (2) A WRITTEN RENTAL AGREEMENT MUST INCLUDE A STATEMENT
24 INDICATING TO THE TENANT THE NAME AND ADDRESS OF THE PERSON WHO
25 IS THE LANDLORD OR THE LANDLORD'S AUTHORIZED AGENT. IF THE
26 IDENTITY OF A LANDLORD OR A LANDLORD'S AUTHORIZED AGENT
27 CHANGES, THE NEW LANDLORD OR AUTHORIZED AGENT, NOT LATER THAN

1 ONE BUSINESS DAY AFTER SUCH CHANGE, SHALL:

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

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

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

9 **SECTION 11. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.