



## **SUPPORT the Safe & Healthy Homes Act HB19-1170**

Sponsors: Rep. Jackson, Rep. Weissman, Sen. Bridges & Sen. Williams

**What is the Warranty of Habitability?** This is a Colorado State Statute that requires landlords to uphold and maintain safe and habitable conditions in rental units. With Colorado increasingly becoming a state with more renters than homeowners, not only is this a critical housing matter, but it is also a health, safety, and consumer concern.

**Why it Matters?** With the housing market booming and considering the fact that one in every four Colorado renters spending more than 50 percent of their income on housing, residents are more likely to feel forced to deal with these conditions for fear of eviction or having to find some other affordable unit when we know they are scarce. Without more protections, habitability issues are going to continue to be yet another barrier for tenants who are trying to stay in their homes.

**Colorado's Warranty of Habitability Statute is Not Sufficient.** The current Colorado Warranty of Habitability is lacking in a few ways:

- A presumption in favor of landlords when it comes to retaliation. The law assumes that if a landlord files an eviction or increases rent after a complaint is made by a tenant, the presumption is that the landlord is doing this in "good faith." **No other state in the nation has a law that automatically grants a presumption in favor of the landlord.**
- Tenants do not have sufficient remedies to hold landlords accountable when units are uninhabitable
- The presence of mold is not included as a factor that could deem a unit uninhabitable

**What Progress Looks Like.** This bill gives the following protections to Colorado tenants:

- Eliminate the presumption of retaliation in favor of landlords
- Allow tenants to notify landlords of uninhabitable conditions through written notice, including through electronic means of email and text messaging
- Define what a "reasonable" timeframe for repairs, which would be between 24-72 hours from the time of the complaint for all repairs within human control
- Provide the right to withhold an estimate cost of the repair from rent payment.
- Reinforce the right to break a lease if uninhabitable conditions persist.
- Expand the ability for tenants to receive injunctive relief to county courts and small claims court.
- Recognize that mold can present a significant health risk and adds this as a condition to the Warranty of Habitability statute.
- Removes the burden on tenants to notify their local government of a habitability issue.
- Requires the landlord to pay for comparable accommodations if an uninhabitable unit is not remedied within a reasonable amount of time
- Protects tenants that file a complaint or organize their community from retaliation



# ENDORSEMENTS

<b>Colorado Homes for All</b>	<b>9to5 Colorado</b>
<b>United for a New Economy</b>	<b>Enterprise Community Partners</b>
<b>Colorado Coalition for the Homeless</b>	<b>Padres y Jóvenes Unidos</b>
<b>Mile High Connects</b>	<b>Our Home Our Right</b>
<b>Colorado Center on Law &amp; Policy</b>	<b>Colorado Cross-Disability Coalition</b>
<b>Denver Homeless Out Loud</b>	<b>Denver Artists for Rent Control</b>
<b>The Denver Foundation</b>	<b>The Interfaith Alliance</b>
<b>Urban Land Conservancy</b>	<b>Mi Familia Vota</b>
<b>Re: Vision</b>	<b>Bell Policy Center</b>
<b>Colorado Poverty Law Project</b>	<b>New Era</b>
<b>Westwood Unidos</b>	<b>Colorado Fiscal Institute</b>
<b>Colorado Jobs with Justice</b>	<b>Colorado Village Collaborative</b>
<b>Health Equity Commission</b>	<b>Denver Branch of Party for Socialism and Liberation</b>
<b>Denver Democratic Socialists of America (DSA Denver)</b>	<b>Denver Regional Council of Governments (DRCOG)</b>
<b>Center for Work Education and Employment (CWEE)</b>	<b>Office of Civil Rights, Civil Rights Data Collection</b>
<b>Raise Colorado</b>	<b>Women's Lobby</b>
<b>American Friends Service Committee AFSC</b>	<b>Elevation Land Trust</b>
<b>Second Chance Center</b>	<b>Together Colorado</b>
<b>Denver Indian Family Resource Center (DIFRC)</b>	<b>Boulder Democratic Socialists of America (DSA Boulder)</b>
<b>The Gathering Place</b>	<b>Center for Health Progress</b>
<b>El Paso County Democratic Party</b>	

## **Bed bugs, cockroaches & mice: Woman moves out of Golden Nugget Apartments after infestation**

After Contact7 report on no heat or hot water

**Posted:** 5:07 PM, Oct 15, 2018

**Updated:** 6:03 PM, Oct 15, 2018

***Editor's note:** Contact7 seeks out audience tips and feedback to help people in need, resolve problems and hold the powerful accountable. If you know of a community need our call center could address, or have a story idea for our investigative team to pursue, please email us at [contact7@thedenverchannel.com](mailto:contact7@thedenverchannel.com) or call (720) 462-7777. Find more Contact7 stories [here](#).*

ENGLEWOOD, Colo. -- One week ago Contact7 exposed an Englewood apartment complex without heat and hot water in dozens of units. As the work continues to repair the boilers at the Golden Nugget apartments, our team has learned about even more issues with the complex.

“The first three years I didn’t have problems and then these past couple of years it just got out of control,” said Jennifer Hernandez.

Hernandez recently moved last month after living in the Golden Nugget apartments for five years. She said cockroaches and bed bugs began taking over inside her unit.

“They were just in the kitchen, they were everywhere, all over my food, my dishes,” said Hernandez. “I had to throw everything away because it was just covered in roach poop.”

Hernandez said when she brought the problems to management’s attention nothing was done for weeks, so she paid for an exterminator herself.

“By that point I spent almost \$80 - \$100 getting all of that under control,” said Hernandez.

She said the problem was fixed temporarily, but then the bugs returned and started taking a toll on her health as she cleaned.

“I used to have to wear a mask because of me getting sick and being pregnant, the smell would get me sick, the sprays,” said Hernandez.

Contact7 learned that bugs are not the only complaint in this complex. Another tenant sent us a picture of a mouse she caught on a sticky trap in her apartment just a few days ago.

Residents tell Contact7 that a dumpster sitting in the middle of the complex’s parking lot is known as the bed bug dumpster for people to throw out their mattresses and furniture infested with bugs. Residents also said they have seen people living in the apartments dig through the dumpster and bring items thrown away back into their units.

“Nobody should ever have to live like that, it’s just disgusting,” said Hernandez.

Contact7 brought these concerns to the Tri-County Health Authority who confirmed the reports and inspections of bugs and rodents. However, the department said they can’t do much because there are not proper ordinances to help enforce regulations for people living in section 8 housing. The landlords of the Golden Nugget apartments tell Contact7 they began contracting on Aug. 22 to address the bed bug issue inside the apartment units. They said they are contracting work for crews to clean out 20 units at a time. The landlords said if the residents refuse the work, they are given a three-day notice and a fine to comply for the extermination work to be done.

Hernandez said she is afraid the problems will continue for the people still living there.

“It’s not ok. You are putting everybody’s health and those veterans living there and the older people and people being on oxygen, that’s really bad for people’s immune system and some of them can’t handle it,” said Hernandez.

*<https://www.thedenverchannel.com/news/contact7/bed-bugs-cockroaches-mice-woman-moves-out-of-golden-nugget-apartments-after-infestation>*





## Warranty of Habitability FAQ

**Why isn't the current statute working?** Tenants don't use the habitability statute to address dangerous conditions because the process is too difficult, the law is heavily weighted in favor of the landlord, and there aren't enough options for remedies. The current system can be drawn out and financially crippling for low-income families. The required written notice to report a habitability issue may not include texting or electronic notices because of the way the current statute is written. Renters are also often threatened with eviction, rising rents, or harassment from their landlord if they report unsafe conditions. These are forms of unlawful retaliation, but there is a presumption in favor of landlords if the case goes to court. It is presumed that if a landlord files an eviction or increases rent after a complaint is made by a tenant, the landlord did so in "good faith" and not as retaliation. Tenants face a heavy burden to prove otherwise, which frequently requires hiring a private attorney. **Colorado is the only state that has such a broad presumption in favor of the landlord.**

### **Will this bill increase costs for renters?**

Special interests often claim that policies that may require additional spending by business owners or landlords will result in additional costs for consumers. Colorado recently passed a raise in the minimum wage, and despite the threat that it would be passed down to the consumer, all evidence shows otherwise. According to a case study report by Urban Habitat, less than 10% of rent increases went back into the community through reinvestment and taxes. Additionally, rents are already rising at unprecedented rates, and since we do not have safeguards for tenants to limit rent hikes, we should pass laws to ensure that they have access to safe living conditions and aren't subjected to black mold, bed bugs, freezing temperatures due to lack of heat in the winter, and the lack of clean water. Shouldn't landlords be held to a minimal standard of keeping their residences safe and habitable? And shouldn't tenants who are fearing their health, safety or life be able to ask for better living conditions without fear of retaliation? This bill will not impact landlords that are keeping their residences safe for tenants, it will simply ensure that tenants can hold bad actors accountable without fear of retaliation.

### **What is the timeframe for landlords to repair a defective condition?**

Under this bill, a landlord must repair life-threatening defects within 24 hours. If the defect involves a major appliance such as refrigerators or plumbing, landlords must make repairs within 72 hours. All other defects must be repaired within 10 days, except for defects resulting from emergencies outside of human control, but still the process of fixing has to at least have to have commenced within the given time periods.

### **What remedies do tenants have if landlords do not make necessary repairs?**

If a landlord does not make repairs within the required timeframe, tenants would have several potential remedies to pursue under this bill. A tenant can file an injunction with a local court and receive damages from the landlord for their failure to act or be released from their rental contract. A tenant may also provide written or electronic notice to the landlord after they have failed to act that the tenant intends to deduct the estimated cost of the repairs from future rent payment(s). The tenant must get an estimate for the cost of the repair, allow at least 10 days before deducting the cost from their payment and retain a copy

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of their written or electronic notice. The tenant can also request to be put in a comparable unit until all repairs are made at no cost to the tenant.

**Does this bill protect tenants from landlord retaliation if they choose to pursue these remedies?**

This bill would level the playing field in court if landlords retaliate against tenants for asserting their rights under this bill. Under current law, it is presumed that landlords are not retaliating in these types of cases. This makes it almost impossible for tenants to prevail in court, as it is hard to overcome such a presumption, especially since most tenants do not have legal representation in eviction cases. This bill would remove this presumption to make the process fair and allow either party to prevail based on the actual merits of their case. This bill also creates more substantial penalties for retaliatory landlords. If a landlord retaliates against a tenant for bringing a legitimate habitability complaint, the tenant can receive damages in the form of attorney's fees and either three months' rent or three times the tenant's actual damages as determined by the court, whichever is greater.

**How does this bill protect landlords?**

If a tenant deducts rent for a condition that does not meet the standard set out in the bill, the court can award the landlord either the re-possession of the premises or an amount of money equal to the amount that was wrongfully withheld. Additionally, if the court finds that the tenant has acted in bad faith they can award the landlord double the amount that was wrongfully withheld.



# Colorado Springs tenants facing mold hazards left out in the cold

By: [Rachel Riley](#) Jun 7, 2017

Julie Schober first noticed a musty odor in the bathroom of her Old Colorado City apartment in April.

Saturated with moisture from a leaky pipe and a funky substance that a lab test has since confirmed was mold, a patch of dry wall on her ceiling soon crumbled, marking the beginning of the end of her residency in the Wilhelmina Avenue home.

Schober believes her landlord has failed to properly remove the mold, which has exacerbated the health issues of her and her 12-year-old border collie-mutt, Dudley. But she doesn't blame her landlord; instead, she condemns the lack of policies that safeguard local renters dealing with subpar living conditions.

"This is about all renters in Colorado," she said. "All renters should be protected."

Colorado Springs, El Paso County and the state have no policies that explicitly require landlords to clean up mold, even when the fungus becomes a health issue. Colorado law offers few options, such as seeking legal recourse or withholding rent, for renters dealing with uninhabitable conditions that are not covered by local codes.

"In other states, there are more protections," said Denver attorney April L. Jones, who works at a firm that represents tenants involved in disputes with landlords. "Here, the landlord has a lot of wiggle room."

Since late summer, Schober said she has experienced issues with rashes and headaches and has had her eyes grafted five times due to dryness. Her dog, Dudley, will eventually have to be put down when she can no longer afford to medicate him for the respiratory problems he's developed, she said.

Exposure to mold indoors isn't a health hazard for everyone, but some people are especially sensitive to the fungus, according to the Centers for Disease Control and Prevention. Symptoms may include nasal congestion, wheezing and irritation of the skin and eyes, the CDC states on its website.

Schober's landlord, Ty Vacca, said he responded to her concerns about the mold within a few days after she notified him. When he busted open the ceiling to repair the leaking plumbing, parts of the

dry wall were damp, but he didn't spot any mold - only discoloration caused by moisture, he said. Following the advice of a mold removal company Schober suggested, he sprayed the area with bleach and another bacteria-killing agent and allowed it to dry out for a few days before patching up the ceiling and painting over it. "I did my part," he said. "I addressed it as soon as possible."

Three days after he sprayed the area, Schober gathered samples for a mail-in "DIY Mold Test" that would eventually yield positive results.

The test confirmed that four types of mold were present in parts of the bathroom and ceiling, including "medium" levels of stachybotrys, known as "black mold" in the U.S.

With her symptoms worsening and no money to pay for the clean up herself, Schober left the apartment and moved to Carbondale.

Mold removal can cost thousands of dollars, depending on how extensive the fungus is, said David Wayne, owner of Colorado Springs-based Restoration King. He said he receives calls weekly from tenants concerned about mold in their home. His lawyer advised him to always consult a property's owner before moving forward with a job.

"It's a tough spot for tenants," he said. Schober's landlord said he did not tell the tenants that have taken her place about the issue.

### **State law**

Fourteen states have enacted laws related to mold, although not all apply to renters, according to the most recent available data from the National Conference of State Legislatures. Several states have set standards for mold assessment and remediation services. A few have created task forces or advisory boards to study the public health risks related to mold and recommend policies.

In 2015, Virginia enacted a law that mandates landlords remove visible mold in accordance with certain requirements and subsequently re-inspect units to ensure the mold is gone. California also enacted a law that year that classified mold as "a type of inadequate sanitation" and "substandard condition."

Like many states, Colorado has a "warranty of habitability" law, which requires landlords to meet certain standards to ensure that a property is livable. The criteria include working plumbing, adequate heating and lighting and sanitation requirements, but mold is not mentioned.

The law offers some advice to tenants dealing with uninhabitable conditions. If the tenant has provided a landlord with written notice of the problem, and the landlord has failed to fix it "within a reasonable time," a tenant may terminate their lease, file a lawsuit or withhold rent.



Jones, an attorney with Denver-based Colorado Affordable Legal Services, said the "warranty of habitability" is supplemented with additional laws in other states, such as policies that require landlords to pay for a tenant's temporary relocation while a home is being repaired.

She said tenants shouldn't withhold rent without seeking an attorney's advice.

### **Local protections**

Colorado Springs Code Enforcement is limited in what it can do to help tenants with mold issues. City code, which covers standards related to sanitary conditions, does not specifically name mold in its standards, said Mitch Hammes, neighborhood services manager with the city's Planning and Development Department. But the code does require that plumbing is free of defects, so landlords must repair any leaks that may have fostered mold growth, Hammes said.

City Council President Richard Skorman expressed interest in re-evaluating city policies to ensure that tenants are protected when it comes to mold. After Schober contacted him about her predicament, he told The Gazette he planned to ask city staff to research what recourse the city can offer and how other local governments handle such issues.

"It's a real health risk that we should help address as much as we can," he said. "It's something that landlords should absolutely be diligent about."

Across the country, some local health departments offer inspection services for residents dealing with unhealthy living conditions and uncooperative landlords.

Last year, mold was added to Denver's housing standards, said Nicol Hogg, a manager for the public health inspections division of the city's Department of Environmental Health.

Under the division's complaint-based residential health and housing program, city and county residents may request an inspection. If the resident can confirm the presence of mold with a lab test, the agency can order the landlord to remove the mold, Hogg said.

She was not aware of any other local health departments in Colorado with rules covering mold.

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[https://gazette.com/business/colorado-springs-tenants-facing-mold-hazards-left-out-in-the/article\\_4f2bb346-811d-516a-8e2d-40a643cfc762.html](https://gazette.com/business/colorado-springs-tenants-facing-mold-hazards-left-out-in-the/article_4f2bb346-811d-516a-8e2d-40a643cfc762.html)