

CHAPTER 97

**AGRICULTURE**

HOUSE BILL 99-1117

BY REPRESENTATIVES McKay, Sullivan, Witwer, Coleman, Decker, Fairbank, Hoppe, King, Lee, Pfiffner, and Windels;  
also SENATOR Hillman.

**AN ACT**

CONCERNING THE "PEST CONTROL ACT".

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

**SECTION 1.** 35-4-107, Colorado Revised Statutes, is amended to read:

**35-4-107. Inspections - notice - treatment - collection of costs.** (1) ~~Any landowner may file a written complaint with a board of county commissioners alleging probable injury by any infestation or infection of pests, indicating the location of such area. Upon the filing of such written complaint, the owner of the property alleged to be infested or infected shall receive written notice by certified mail of such written complaint from the board of county commissioners. After ten days from the date of mailing, county pest inspectors shall have the right of entry to inspect, when necessary to enforce the provisions of this section, orchards, farm and garden crops, timber, and any other premises or objects to determine if any of them are infested or infected with pests which may be disseminated to the injury of others and shall devise means for control of such pests when possible. If such pests are found, the owner shall receive written notice by certified mail of infestation or infection from the county pest inspectors pursuant to section 24-4-105 (2), C.R.S. Such written notice shall order the owner to control the pests concerned under the direction of, and to the satisfaction of, the county pest inspector and within a reasonable period of time specified by the county pest inspector. Such notice shall further state that unless the pests are controlled within the time period specified in the notice, the county pest inspector will control the pests or destroy the articles on which they are found. If the owner disputes the finding of infestation or infection by a county pest inspector, he may request a hearing on that issue before the board of county commissioners of that county within ten days after receiving notice of infestation or infection. Said hearing shall be conducted pursuant to section~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~24-4-105, C.R.S., and any owner requesting such a hearing shall not be required to control such pests pending the outcome of the hearing. If the board of county commissioners conducting the hearing finds there is infestation or infection as alleged in the written notice, it shall order appropriate relief. Any relief ordered pursuant to this article shall be at the expense of the owner, but the cost to any one owner of property involved shall not exceed five hundred dollars annually.~~ (a) THE COUNTY PEST INSPECTOR SHALL HAVE THE RIGHT TO ENTER UPON ANY PUBLIC OR PRIVATE PROPERTY DURING REASONABLE BUSINESS HOURS TO INSPECT FOR PEST INFESTATIONS OR INFECTION AND ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND ANY LOCAL REQUIREMENTS WHEN AT LEAST ONE OF THE FOLLOWING HAS OCCURRED:

(I) THE LANDOWNER OR OCCUPANT HAS REQUESTED AN INSPECTION;

(II) A NEIGHBORING LANDOWNER OR OCCUPANT HAS REPORTED A SUSPECTED PEST INFESTATION OR INFECTION AND REQUESTED AN INSPECTION; OR

(III) AN AUTHORIZED AGENT OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED HAS MADE A VISUAL OBSERVATION FROM A PUBLIC RIGHT-OF-WAY OR AREA AND HAS REASON TO BELIEVE THAT A PEST INFESTATION OR INFECTION EXISTS.

(b) NO ENTRY UPON ANY PROPERTY SHALL BE PERMITTED UNTIL THE LANDOWNER OR OCCUPANT HAS BEEN SENT A NOTIFICATION BY CERTIFIED MAIL TO THE LANDOWNER'S OR OCCUPANT'S LAST-KNOWN ADDRESS, THAT SUCH ENTRY IS PENDING. WHEN POSSIBLE, INSPECTIONS SHALL BE SCHEDULED AND CONDUCTED WITH THE CONCURRENCE OF THE LANDOWNER OR OCCUPANT.

(c) IF, AFTER RECEIVING NOTICE THAT AN INSPECTION IS PENDING, THE LANDOWNER OR OCCUPANT DENIES ACCESS TO THE COUNTY PEST INSPECTOR, THE BOARD OF COUNTY COMMISSIONERS MAY SEEK AN INSPECTION WARRANT ISSUED BY A MUNICIPAL, COUNTY, OR DISTRICT COURT HAVING JURISDICTION OVER THE LAND. THE COURT SHALL ISSUE AN INSPECTION WARRANT UPON PRESENTATION BY THE BOARD OF COUNTY COMMISSIONERS, THROUGH ITS AGENT OR EMPLOYEE, OF AN AFFIDAVIT THAT PROVIDES A SPECIFIC DESCRIPTION OF THE LOCATION OF THE AFFECTED LAND AND SETS FORTH INFORMATION THAT GIVES THE COUNTY PEST INSPECTOR PROBABLE CAUSE TO BELIEVE THAT A PROVISION OF THIS ARTICLE IS BEING OR HAS BEEN VIOLATED AND THE LANDOWNER OR OCCUPANT HAS DENIED ACCESS TO THE COUNTY PEST INSPECTOR. NO LANDOWNER OR OCCUPANT SHALL DENY ACCESS TO SUCH LAND WHEN PRESENTED WITH AN INSPECTION WARRANT.

(d) THE COUNTY PEST INSPECTOR SHALL HAVE THE AUTHORITY TO NOTIFY AND ADVISE THE LANDOWNER OR OCCUPANT IN WRITING BY CERTIFIED MAIL OF THE FINDINGS OF THE INSPECTION. IF SUCH FINDINGS INDICATE A PEST INFESTATION OR INFECTION, SUCH NOTICE SHALL NAME THE PEST, ADVISE THE LANDOWNER OR OCCUPANT TO MANAGE THE PEST, AND SPECIFY THE AVAILABLE CONTROL METHODS OF INTEGRATED PEST MANAGEMENT, INCLUDING MECHANICAL, CHEMICAL, AND BIOLOGICAL METHODS. SUCH NOTICE SHALL INFORM THE LANDOWNER OR OCCUPANT THAT THE STATE FORESTER OR COUNTY EXTENSION OFFICE MAY BE CONSULTED CONCERNING INTEGRATED PEST MANAGEMENT. WHERE POSSIBLE, THE COUNTY PEST INSPECTOR SHALL CONSULT WITH SUCH LANDOWNER OR OCCUPANT IN THE DEVELOPMENT OF A PLAN FOR THE MANAGEMENT OF PEST INFESTATIONS AND

## INFECTIONS ON THE PREMISES OR LANDS.

(e) WITHIN TEN DAYS AFTER RECEIPT OF NOTIFICATION OF A PEST INFESTATION OR INFECTION, THE LANDOWNER OR OCCUPANT:

(I) SHALL COMPLY WITH THE TERMS OF THE NOTIFICATION;

(II) SHALL ACKNOWLEDGE THE TERMS OF THE NOTIFICATION AND SUBMIT AN ACCEPTABLE PLAN AND SCHEDULE FOR THE COMPLETION OF A PLAN FOR COMPLIANCE; OR

(III) IF THE LANDOWNER OR OCCUPANT DISPUTES THE FINDING OF INFESTATION OR INFECTION BY THE COUNTY PEST INSPECTOR, MAY REQUEST A HEARING BEFORE THE BOARD OF COUNTY COMMISSIONERS OR A PANEL APPOINTED BY THE BOARD. ANY OWNER REQUESTING SUCH A HEARING SHALL NOT BE REQUIRED TO TAKE ACTION TO CONTROL PESTS PENDING THE OUTCOME OF THE HEARING. THE BOARD OF COUNTY COMMISSIONERS CONDUCTING THE HEARING SHALL ORDER APPROPRIATE RELIEF IF IT FINDS THERE IS INFESTATION OR INFECTION AS ALLEGED IN THE WRITTEN NOTICE. ANY RELIEF ORDERED PURSUANT TO THIS ARTICLE SHALL BE AT THE EXPENSE OF THE OWNER, BUT THE COST TO THE OWNER OR OWNERS OF ANY ONE PARCEL, INCLUDING PARCELS CONTIGUOUS THERETO, SHALL NOT EXCEED FIVE THOUSAND DOLLARS ANNUALLY.

(2) When necessary to enforce the provisions of this article, a county pest inspector, after notice of PEST infestation or infection to the owner pursuant to subsection (1) of this section, shall treat to control the pests on plant host material, buildings, or other property. Such treatment shall not be commenced by a county pest inspector pending the outcome of any hearing requested pursuant to subsection (1) of this section. Upon the completion of such work, a statement of the cost and expense thereof ALONG with a description of the property upon which such work was done shall be filed with the board of county commissioners, who shall pay same without unnecessary delay.

(3) Upon payment by the board of county commissioners of any ~~such~~ cost and expense OF TREATING PEST INFESTATION OR INFECTION PURSUANT TO SUBSECTION (2) OF THIS SECTION, it shall make demand in writing upon such owner, in person or by mail addressed to ~~him~~ SUCH OWNER at his OR HER last-known place of residence, for reimbursement to the county for the amount of ~~such cost and expense~~ THE COUNTY'S DIRECT COSTS AND EXPENSES ONLY. NO SUCH WRITTEN DEMAND FOR REIMBURSEMENT OF PEST INFESTATION OR INFECTION COSTS AND EXPENSES SHALL BE IN EXCESS OF FIVE THOUSAND DOLLARS ANNUALLY. Such written notice shall inform such owner ~~that he may~~ OF THE RIGHT TO appear before the board of county commissioners at any meeting thereof, as fixed by law, to be held within the following four months, and be heard as to the amount of such claims. If the claim, as originally demanded by the board or as adjusted upon such hearing, is not paid at the end of such period, the board shall certify such claim to the county treasurer ~~who~~ OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE COUNTY TREASURER shall add the amount ~~thereof~~ OF THE CLAIM to any taxes due, or to become due, from the owner, and, if not paid in due course, the same shall be collected by the county treasurer as delinquent taxes. THE BOARD OF COUNTY COMMISSIONERS SHALL WORK WITH ANY LANDOWNER TO DEVELOP A PAYMENT SCHEDULE FOR THE COST OF AN

ASSESSMENT FOR PEST TREATMENT UPON A DEMONSTRATION BY SUCH LANDOWNER OF AN ECONOMIC HARDSHIP. All such accounts when collected shall be paid into the general fund of the county.

(4) If the board of county commissioners finds that A PEST infestation or infection is a result of or can be attributed to an infestation or infection on land owned by any federal, state, or local governmental unit ~~which~~ THAT has not been treated or is not under control, the landowner shall not be charged for any relief ordered pursuant to this section.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 1999