



## **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 Jovenes 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</b>	<b>Elevation Land Trust</b>
<b>Center for Work Education and Employment</b>	<b>Office of Civil Rights, Civil Rights Data Collection</b>
<b>Raise Colorado</b>	<b>Women's Lobby</b>



## 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 residencies 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.