

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 11, 2023
Date

Committee on Transportation, Housing & Local Government.

After consideration on the merits, the Committee recommends the following:

HB23-1254 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds and declares that:

5 (a) Colorado has experienced record-breaking wildfires in recent
6 years, including the Marshall fire, which burned over 6,000 acres and
7 nearly 1,100 homes in a highly urbanized area, resulting in more than
8 \$500 million in damages;

9 (b) After the Marshall fire, many renters struggled to secure safe,
10 habitable housing due to significant damage from smoke, ash, and other
11 air contaminants;

12 (c) It is typical for nearby residents to have concerns about the
13 habitability of their residential premises after being subjected to an
14 environmental public health event;

15 (d) After an environmental public health event, residential
16 premises must be returned to a condition that protects the health and
17 safety of residents from environmental contaminants, such as smoke, ash,
18 and other toxic materials related to an environmental public health event;
19 and

20 (e) There is a need to promote the remediation of residential
21 premises so that landlords, tenants, and insurance companies understand
22 what remediation must be done and who is responsible for the
23 remediation to make the premises habitable after an environmental public
24 health event.

25 (2) Therefore, the general assembly declares that it is in the best
26 interest of Colorado residents to protect the health and safety of residents
27 by ensuring that their homes are returned to a healthy, habitable, and safe

1 condition after incurring damage due to an environmental public health
2 event.

3 **SECTION 2.** In Colorado Revised Statutes, 38-12-502, **add** (4.5)
4 and (10) as follows:

5 **38-12-502. Definitions.** As used in this part 5 and part 8 of this
6 article 12, unless the context otherwise requires:

7 (4.5) "ENVIRONMENTAL PUBLIC HEALTH EVENT" MEANS A
8 NATURAL DISASTER OR AN ENVIRONMENTAL EVENT, SUCH AS A WILDFIRE,
9 A FLOOD, OR A RELEASE OF TOXIC CONTAMINANTS, THAT COULD CREATE
10 NEGATIVE HEALTH AND SAFETY IMPACTS FOR TENANTS THAT LIVE IN
11 NEARBY RESIDENTIAL PREMISES.

12 (10) "VULNERABLE POPULATION" MEANS CHILDREN, INDIVIDUALS
13 WITH ASTHMA, INDIVIDUALS WITH DISABILITIES, INDIVIDUALS WHO ARE
14 PREGNANT, OR ANY OTHER GROUP OF INDIVIDUALS THAT HAS HEALTH
15 CONDITIONS THAT COULD MAKE THE INDIVIDUALS MORE SUSCEPTIBLE TO
16 ENVIRONMENTAL CONTAMINANTS.

17 **SECTION 3.** In Colorado Revised Statutes, 38-12-503, **amend**
18 (2)(a), (2.3), (2.5), and (4)(a) introductory portion; and **add** (2.7) as
19 follows:

20 **38-12-503. Warranty of habitability - notice - landlord**
21 **obligations.** (2) Except as described in subsection (2.2) of this section,
22 a landlord breaches the warranty of habitability set forth in subsection (1)
23 of this section if:

24 (a) A residential premises is:

25 (I) Uninhabitable as described in section 38-12-505 or otherwise
26 unfit for human habitation; ~~or~~

27 (II) In a condition that materially interferes with the tenant's life,
28 health, or safety; ~~and~~ OR

29 (III) NOT IN COMPLIANCE WITH THE STANDARDS DESCRIBED IN
30 SECTION 38-12-505 (1)(b)(XIII) FOR THE REMEDIATION AND CLEAN UP OF
31 A RESIDENTIAL PREMISES THAT HAS BEEN DAMAGED DUE TO AN
32 ENVIRONMENTAL PUBLIC HEALTH EVENT; AND

33 (2.3) A tenant who gives a landlord WRITTEN OR electronic notice
34 of a condition shall send ~~such~~ THE notice ~~only to the e-mail address,~~
35 ~~phone number, or electronic portal specified by the landlord in the rental~~
36 ~~agreement for communications. In the absence of such a provision in the~~
37 ~~rental agreement, the tenant shall communicate with the landlord in a~~
38 ~~manner that the landlord has previously used~~ TYPICALLY USES to
39 communicate with the tenant. The tenant shall retain sufficient proof of
40 delivery of the ~~electronic~~ notice.

41 (2.5) A landlord ~~who~~ THAT receives from a tenant written or
42 electronic notice of a condition described by subsection (2)(a) of this
43 section shall:

1 (a) Respond to the tenant not more than twenty-four hours after
2 receiving the notice. The response must indicate the landlord's intentions
3 for remedying the condition, including an estimate of when the
4 remediation will commence and when it will be completed.

5 (b) INFORM THE TENANT OF THE LANDLORD'S RESPONSIBILITIES
6 UNDER SUBSECTION (4)(a) OF THIS SECTION IF THE REPORTED CONDITION
7 CONCERNS A CONDITION DESCRIBED IN SUBSECTION (2)(a)(II) OR
8 (2)(a)(III) OF THIS SECTION.

9 (2.7) (a) A LANDLORD THAT RECEIVES NOTICE FROM A TENANT OF
10 ANY HABITABILITY ISSUES, AS DESCRIBED IN SECTION 38-12-505 (1), WITH
11 THE TENANT'S PREMISES IS RESPONSIBLE FOR REMEDIATION OF THE
12 RESIDENTIAL PREMISES TO A HABITABLE STANDARD AT THE LANDLORD'S
13 EXPENSE.

14 (b) A LANDLORD THAT RECEIVES NOTICE FROM A TENANT OF A
15 HABITABILITY ISSUE REGARDING A RESIDENTIAL PREMISES THAT HAS BEEN
16 DAMAGED DUE TO AN ENVIRONMENTAL PUBLIC HEALTH EVENT SHALL
17 COMPLY WITH THE STANDARDS DESCRIBED IN SECTION 38-12-505
18 (1)(b)(XIII) WITHIN A REASONABLE AMOUNT OF TIME GIVEN THE
19 CONDITION OF THE PREMISES AND AT THE LANDLORD'S EXPENSE.

20 (c) A LANDLORD THAT HAS REMEDIATED A RESIDENTIAL PREMISES
21 TO A HABITABLE STANDARD FOLLOWING AN ENVIRONMENTAL PUBLIC
22 HEALTH EVENT MUST PROVIDE THE TENANT WITH DOCUMENTATION THAT
23 DEMONSTRATES COMPLIANCE WITH THE STANDARDS DESCRIBED IN
24 SECTION 38-12-505 (1)(b)(XIII).

25 (d) A LANDLORD'S SUBMISSION OF AN INSURANCE CLAIM FOR AN
26 UNINHABITABLE OR A CONTAMINATED RESIDENTIAL PREMISES AFTER THE
27 LANDLORD RECEIVES NOTICE FROM THE TENANT OF HABITABILITY ISSUES
28 AT THE RESIDENTIAL PREMISES IS NOT CONSIDERED EVIDENCE OF
29 REMEDIATION.

30 (4) (a) If the notice sent pursuant to subsection (2)(b) of this
31 section concerns a condition that is described by subsection (2)(a)(II) OR
32 (2)(a)(III) of this section, the landlord, at the request of the tenant, shall
33 provide the tenant:

34 **SECTION 4.** In Colorado Revised Statutes, 38-12-505, **amend**
35 (1)(b)(XI), (1)(b)(XII), and (3); and **add** (1)(b)(XIII) as follows:

36 **38-12-505. Uninhabitable residential premises - habitability**
37 **procedures - rules.** (1) A residential premises is deemed uninhabitable
38 if:

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

40 (XI) Locks on all exterior doors and locks or security devices on
41 windows designed to be opened that are maintained in good working
42 order; or

43 (XII) Compliance with all applicable building, housing, and health

1 codes, the violation of which would constitute a condition that materially
2 interferes with the life, health, or safety of the tenant; OR

3 (XIII) COMPLIANCE WITH APPLICABLE STANDARDS FROM THE
4 AMERICAN NATIONAL STANDARDS INSTITUTE, OR ITS SUCCESSOR
5 ORGANIZATION, FOR THE REMEDIATION AND CLEAN UP OF A RESIDENTIAL
6 PREMISES FOLLOWING AN ENVIRONMENTAL PUBLIC HEALTH EVENT.

7 (3) ~~Unless the rental agreement provides otherwise as permitted~~
8 ~~by section 38-12-506~~, Before a LANDLORD LEASES A residential premises
9 ~~is leased~~ to a tenant, the LANDLORD MUST ENSURE THAT THE residential
10 premises ~~must comply with the requirements set forth in~~ IS FIT FOR
11 HUMAN HABITATION IN ACCORDANCE WITH section 38-12-503 (1) and
12 ~~(2)(a)~~ THAT THE RESIDENTIAL PREMISES IS NOT IN A CONDITION DESCRIBED
13 IN SECTION 38-12-503 (2)(a).

14 **SECTION 5.** In Colorado Revised Statutes, 38-12-506, **add** (3)
15 as follows:

16 **38-12-506. Exception for certain single-family residences.**

17 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION, A
18 LANDLORD AND TENANT SHALL NOT ENTER INTO AN AGREEMENT FOR THE
19 REPAIR, MAINTENANCE, ALTERATION, REMODELING, OR REMEDIATION OF
20 A RESIDENTIAL PREMISES THAT IS NECESSARY TO COMPLY WITH SECTION
21 38-12-503 THAT WOULD ENDANGER THE HEALTH OR SAFETY OF THE
22 TENANT.

23 **SECTION 6.** In Colorado Revised Statutes, 38-12-507, **amend**
24 (1)(b)(I)(B); and **add** (4) and (5) as follows:

25 **38-12-507. Breach of warranty of habitability - tenant's**
26 **remedies.** (1) If there is a breach of the warranty of habitability as set
27 forth in section 38-12-503 (2):

28 (b) (I) A tenant may obtain injunctive relief for breach of the
29 warranty of habitability in any county or district court of competent
30 jurisdiction. In a proceeding for injunctive relief, the court shall
31 determine actual damages for a breach of the warranty at the time the
32 court orders the injunctive relief. A landlord is not subject to any court
33 order for injunctive relief if:

34 (B) The proceeding for injunctive relief does not concern a
35 condition described in section 38-12-503 (2)(a)(II) OR (2)(a)(III) that has
36 not been repaired or remedied.

37 (4) IF A RESIDENTIAL PREMISES IS UNINHABITABLE PURSUANT TO
38 SECTION 38-12-505 (1) AFTER BEING DAMAGED DUE TO AN
39 ENVIRONMENTAL PUBLIC HEALTH EVENT, THE TENANT MAY TERMINATE
40 THE TENANT'S LEASE IF:

41 (a) THE TENANT HAS GIVEN THE LANDLORD WRITTEN OR
42 ELECTRONIC NOTICE THAT THE RESIDENTIAL PREMISES IS NOT SAFE FOR
43 HABITABILITY DUE TO DAMAGE FROM AN ENVIRONMENTAL PUBLIC HEALTH

1 EVENT;

2 (b) THE LANDLORD HAS NOT BEEN ABLE TO REMEDIATE THE
3 CONDITIONS OF THE RESIDENTIAL PREMISES SO THAT IT IS SAFE FOR
4 HABITABILITY WITHIN SIXTY BUSINESS DAYS AFTER THE LANDLORD HAS
5 RECEIVED NOTICE OF THE HABITABILITY ISSUE FROM THE TENANT; AND

6 (c) THE LANDLORD IS NOT ABLE TO PROVIDE ADEQUATE
7 ALTERNATIVE HOUSING ACCOMMODATIONS FOR THE TENANT FOR THE
8 DURATION OF THE TIME THAT THE RESIDENTIAL PREMISES IS BEING
9 REMEDIATED.

10 (5) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, IF A
11 TENANT IS A MEMBER OF A VULNERABLE POPULATION, THE TENANT MAY
12 TERMINATE THE TENANT'S LEASE OR AGREEMENT AFTER THE RESIDENTIAL
13 PREMISES HAS BEEN DAMAGED DUE TO AN ENVIRONMENTAL PUBLIC
14 HEALTH EVENT IF:

15 (a) THE TENANT HAS GIVEN THE LANDLORD WRITTEN OR
16 ELECTRONIC NOTICE THAT THE RESIDENTIAL PREMISES IS NOT SAFE FOR
17 HABITABILITY DUE TO DAMAGE FROM AN ENVIRONMENTAL PUBLIC HEALTH
18 EVENT;

19 (b) THE LANDLORD HAS NOT BEEN ABLE TO REMEDIATE THE
20 CONDITIONS OF THE RESIDENTIAL PREMISES SO THAT IT IS SAFE FOR
21 HABITABILITY FOR THE TENANT WHO IS A MEMBER OF A VULNERABLE
22 POPULATION;

23 (c) THE LANDLORD IS NOT ABLE TO PROVIDE ADEQUATE
24 ALTERNATIVE HOUSING ACCOMMODATIONS FOR THE TENANT FOR THE
25 DURATION OF THE TIME THAT THE RESIDENTIAL PREMISES IS BEING
26 REMEDIATED; AND

27 (d) THE TENANT PROVIDES THE LANDLORD WITH EVIDENCE FROM
28 A LICENSED MEDICAL DOCTOR THAT THE TENANT'S CONDITION IS SUCH
29 THAT TO CONTINUE LIVING IN A RESIDENTIAL PREMISES THAT HAS BEEN
30 DAMAGED DUE TO AN ENVIRONMENTAL PUBLIC HEALTH EVENT WOULD BE
31 DETRIMENTAL TO THE TENANT'S HEALTH, SAFETY, OR QUALITY OF LIFE.

32 **SECTION 7.** In Colorado Revised Statutes, 38-12-509, **amend**
33 (1); and **add** (1.5) as follows:

34 **38-12-509. Prohibition on retaliation.** (1) (a) A landlord shall
35 not retaliate against a tenant by ~~increasing rent or decreasing services or~~
36 ~~by bringing or threatening to bring an action for possession~~ ENGAGING IN
37 ANY OF THE ACTIVITIES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION
38 in response to the tenant:

39 (a) (I) Having made a good faith complaint to the landlord or to
40 a governmental agency alleging a condition described by section
41 38-12-505 (1) or any condition that materially interferes with the life,
42 health, or safety of the tenant; or

43 (b) (II) Organizing or becoming a member of a tenants'

1 association or similar organization.
2 (b) PROHIBITED RETALIATION INCLUDES:
3 (I) INCREASING RENT OR DECREASING SERVICES;
4 (II) TERMINATING A LEASE OR CONTRACT WITHOUT WRITTEN
5 CONSENT OF THE TENANT EXCEPT AS OTHERWISE PROVIDED BY LAW;
6 (III) BRINGING OR THREATENING TO BRING AN ACTION FOR
7 POSSESSION; OR
8 (IV) TAKING ACTION THAT IN ANY MANNER INTIMIDATES,
9 THREATENS, DISCRIMINATES, OR RETALIATES AGAINST A TENANT.
10 (1.5) A TENANT MAY ASSERT AS A DEFENSE TO A LANDLORD'S
11 ACTION FOR POSSESSION, INCLUDING AN ACTION FOR POSSESSION BASED
12 ON A NONMONETARY VIOLATION OF THE RENTAL AGREEMENT OR AN
13 ACTION FOR POSSESSION BASED UPON A NOTICE TO QUIT OR VACATE, THAT
14 THE LANDLORD RETALIATED AGAINST THE TENANT IN VIOLATION OF
15 SUBSECTION (1) OF THIS SECTION.
16 **SECTION 8. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety."

19 Page 1, strike lines 103 through 106 and substitute "CONNECTION
20 THEREWITH, SPECIFYING A LANDLORD'S REQUIREMENTS TO
21 REMEDIATE A RESIDENTIAL PREMISES THAT IS DAMAGED DUE TO AN
22 ENVIRONMENTAL PUBLIC HEALTH EVENT, EXPANDING WHAT
23 CONSTITUTES RETALIATION BY A LANDLORD, AND DESCRIBING
24 SITUATIONS IN WHICH A TENANT MAY TERMINATE A LEASE AFTER THE
25 PREMISES HAS BEEN DAMAGED DUE TO AN ENVIRONMENTAL PUBLIC
26 HEALTH EVENT."

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