

**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**

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**HOUSE SPONSORSHIP**

**Jackson and Weissman,**

**SENATE SPONSORSHIP**

**Williams A. and Bridges,**

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**House Committees**

Public Health Care & Human Services

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING INCREASING TENANT PROTECTIONS RELATING TO THE**  
102 **RESIDENTIAL WARRANTY OF HABITABILITY.**

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**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.

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 **SECTION 2.** In Colorado Revised Statutes, 13-6-403, **amend** (2)

1 introductory portion, (2)(h)(III), and (2)(h)(IV); and **add** (2)(h)(V) as  
2 follows:

3 **13-6-403. Jurisdiction of small claims court - limitations.**

4 (2) The small claims court ~~shall have~~ HAS no jurisdiction except that  
5 specifically conferred upon it by law. In particular, it ~~shall have~~ HAS no  
6 jurisdiction over the following matters:

7 (h) Actions involving injunctive relief, except as required to:

8 (III) Accomplish replevin; **and**

9 (IV) Enter judgments in actions where a party seeks to enforce a  
10 contract by specific performance or to disaffirm, avoid, or rescind a  
11 contract; **AND**

12 (V) ENFORCE SECTION 38-12-507 (1)(b).

13 **SECTION 3.** In Colorado Revised Statutes, 38-12-502, **add** (2.5)  
14 as follows:

15 **38-12-502. Definitions.** As used in this part 5 and part 8 of this  
16 article 12, unless the context otherwise requires:

17 (2.5) "ELECTRONIC NOTICE" MEANS NOTICE BY ELECTRONIC MAIL,  
18 TEXT MESSAGING, OR AN ELECTRONIC PORTAL OR MANAGEMENT  
19 COMMUNICATIONS SYSTEM THAT IS AVAILABLE TO BOTH A LANDLORD AND  
20 A TENANT.

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

23 **38-12-503. Warranty of habitability.** (2) A landlord breaches  
24 the warranty of habitability set forth in subsection (1) of this section if:

25 (a) A residential premises is:

26 (I) Uninhabitable as described in section 38-12-505 or otherwise  
27 unfit for human habitation; **and** OR

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

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

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

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

13           (2.3) A TENANT WHO GIVES ELECTRONIC NOTICE OF A CONDITION  
14 AS DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION SHALL RETAIN  
15 SUFFICIENT PROOF OF DELIVERY, INCLUDING BUT NOT LIMITED TO AN  
16 ELECTRONIC RECEIPT OF DELIVERY OR A CERTIFICATE OF SERVICE  
17 PREPARED BY THE SENDER CONFIRMING THE ELECTRONIC DELIVERY.

18           (2.5) A LANDLORD WHO RECEIVES FROM A TENANT WRITTEN OR  
19 ELECTRONIC NOTICE OF A CONDITION DESCRIBED BY SUBSECTION (2)(a) OF  
20 THIS SECTION SHALL RESPOND TO THE TENANT NOT MORE THAN  
21 TWENTY-FOUR HOURS AFTER RECEIVING THE NOTICE. THE RESPONSE MUST  
22 INDICATE THE LANDLORD'S INTENTIONS FOR REMEDYING THE CONDITION,  
23 INCLUDING AN ESTIMATE OF WHEN THE REMEDIATION WILL COMMENCE  
24 AND WHEN IT WILL BE COMPLETED.

25           (4) (a) ~~In response to~~ If the notice sent pursuant to ~~paragraph (c)~~  
26 ~~of subsection (2)~~ SUBSECTION (2)(b) of this section CONCERNS A  
27 CONDITION THAT IS DESCRIBED BY SUBSECTION (2)(a)(II) OF THIS SECTION,

1 a THE landlord, ~~may, in the landlord's discretion~~ AT THE REQUEST OF THE  
2 TENANT, SHALL ~~move a~~ PROVIDE THE tenant: to

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

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

8 (b) A LANDLORD IS NOT REQUIRED TO PAY FOR ANY OTHER  
9 EXPENSES OF A TENANT THAT ARISE AFTER THE RELOCATION PERIOD. A  
10 TENANT CONTINUES TO BE RESPONSIBLE FOR PAYMENT OF RENT UNDER  
11 THE RENTAL AGREEMENT DURING THE PERIOD OF ANY TEMPORARY  
12 RELOCATION AND FOR THE REMAINDER OF THE TERM OF THE RENTAL  
13 AGREEMENT FOLLOWING THE REMEDIATION.

14

15 **SECTION 5.** In Colorado Revised Statutes, 38-12-505, **amend**  
16 (1) and (3) as follows:

17 **38-12-505. Uninhabitable residential premises.** (1) A  
18 residential premises is deemed uninhabitable if:

19 (a) THERE IS MOLD THAT IS ASSOCIATED WITH DAMPNES, OR  
20 THERE IS ANY OTHER CONDITION CAUSING THE PREMISES TO BE DAMP,  
21 WHICH CONDITION, IF NOT REMEDIED, WOULD MATERIALLY INTERFERE  
22 WITH THE HEALTH OR SAFETY OF THE TENANT; OR

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

24 (I) A FUNCTIONING REFRIGERATOR, RANGE, OR OVEN IF ANY OF  
25 THESE APPLIANCES ARE PROVIDED BY THE LANDLORD PURSUANT TO THE  
26 RENTAL AGREEMENT;

27 (a) (II) Waterproofing and weather protection of roof and exterior

1 walls maintained in good working order, including unbroken windows  
2 and doors;

3 ~~(b)~~ (III) Plumbing or gas facilities that conformed to applicable  
4 law in effect at the time of installation and that are maintained in good  
5 working order;

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

9 ~~(d)~~ (V) Functioning heating facilities that conformed to applicable  
10 law at the time of installation and that are maintained in good working  
11 order;

12 ~~(e)~~ (VI) Electrical lighting, with wiring and electrical equipment  
13 that conformed to applicable law at the time of installation, maintained in  
14 good working order;

15 ~~(f)~~ (VII) Common areas and areas under the control of the  
16 landlord that are kept reasonably clean, sanitary, and free from all  
17 accumulations of debris, filth, rubbish, and garbage and that have  
18 appropriate extermination in response to the infestation of rodents or  
19 vermin;

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

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

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

25 ~~(j)~~ (XI) Locks on all exterior doors and locks or security devices  
26 on windows designed to be opened that are maintained in good working  
27 order; or

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

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

11           **SECTION 6.** In Colorado Revised Statutes, **repeal and reenact,**  
12 **with amendments,** 38-12-506 as follows:

13           **38-12-506. Exception for certain single-family residences.**

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

20           (a) THE AGREEMENT OF THE LANDLORD AND TENANT IS ENTERED  
21 INTO IN GOOD FAITH AND IS SET FORTH IN A WRITING THAT IS SEPARATE  
22 FROM THE RENTAL AGREEMENT, SIGNED BY THE PARTIES, AND SUPPORTED  
23 BY ADEQUATE CONSIDERATION; AND

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

26           (2) TO THE EXTENT THAT PERFORMANCE BY A TENANT RELATES TO  
27 A CHARACTERISTIC SET FORTH IN SECTION 38-12-505 (1), THE TENANT



1     ASSUMES THE OBLIGATION FOR THE CHARACTERISTIC, AND THE LACK OF  
2     THE CHARACTERISTIC DOES NOT MAKE THE RESIDENTIAL PREMISES  
3     UNINHABITABLE. ■■■

4             **SECTION 7.** In Colorado Revised Statutes, 38-12-507, **amend**  
5     (1) introductory portion and (1)(b); and **add** (1)(e) and (3) as follows:

6             **38-12-507. Breach of warranty of habitability - tenant's**  
7     **remedies.** (1) If there is a breach of the warranty of habitability as set  
8     forth in section 38-12-503 (2): ~~the following provisions shall apply:~~

9             (b) (I) A tenant may obtain injunctive relief for breach of the  
10     warranty of habitability in any COUNTY OR DISTRICT court of competent  
11     jurisdiction. In ~~any~~ A proceeding for injunctive relief, the court shall  
12     determine actual damages for a breach of the warranty at the time the  
13     court orders the injunctive relief. A landlord ~~shall~~ IS not ~~be~~ subject to any  
14     court order for injunctive relief if:

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

17             (B) THE PROCEEDING FOR INJUNCTIVE RELIEF DOES NOT CONCERN  
18     A CONDITION DESCRIBED IN SECTION 38-12-505 (1) THAT HAS NOT BEEN  
19     REPAIRED OR REMEDIED.

20             (II) Upon application by the tenant, the court shall immediately  
21     release to the tenant the damages paid by the landlord. If the tenant  
22     vacates the leased premises, the landlord shall not ~~be permitted to~~ rent the  
23     premises again until ~~such time as the unit would be in compliance~~  
24     COMPLIES with the warranty of habitability set forth in section 38-12-503  
25     (1).

26             (e) (I) PURSUANT TO THIS SUBSECTION (1)(e), THE TENANT MAY  
27     DEDUCT FROM ONE OR MORE RENT PAYMENTS THE COST OF REPAIRING OR

1 REMEDYING A CONDITION THAT IS THE BASIS OF A BREACH OF THE  
2 WARRANTY OF HABITABILITY DESCRIBED IN SECTION 38-12-503, IF THE  
3 TENANT PROVIDES NOTICE OF THE CONDITION TO THE LANDLORD AS  
4 DESCRIBED IN SECTION 38-12-503 (2)(b) AND THE LANDLORD FAILS TO  
5 COMMENCE REMEDIAL ACTION BY EMPLOYING REASONABLE EFFORTS  
6 WITHIN THE APPLICABLE PERIOD DESCRIBED IN SECTION 38-12-503 (2)(b).

7 (II) AT LEAST TEN DAYS BEFORE DEDUCTING COSTS FROM A RENT  
8 PAYMENT AS DESCRIBED IN THIS SUBSECTION (1)(e), A TENANT SHALL  
9 PROVIDE THE LANDLORD WITH WRITTEN OR ELECTRONIC NOTICE OF THE  
10 TENANT'S INTENT TO DO SO. THE NOTICE MUST SPECIFY THE DATE OF  
11 NOTIFICATION, THE NAME OF THE LANDLORD OR PROPERTY MANAGER, THE  
12 ADDRESS OF THE RENTAL PROPERTY, THE CONDITION THAT REQUIRES A  
13 REPAIR OR REMEDY, THE DATE UPON WHICH THE TENANT PROVIDED  
14 NOTICE TO THE LANDLORD OF THE CONDITION THAT REQUIRES A REPAIR OR  
15 REMEDY, AND A COPY OF AT LEAST ONE GOOD-FAITH ESTIMATE OF COSTS  
16 TO REPAIR OR REMEDY THE CONDITION, WHICH ESTIMATE HAS BEEN  
17 PREPARED BY A PROFESSIONAL WHO IS UNRELATED TO THE TENANT, IS  
18 TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING  
19 PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR  
20 REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE  
21 PERFORMANCE OF THE WORK. A TENANT WITHHOLDING RENT OVER  
22 MULTIPLE PAYMENT PERIODS IS REQUIRED TO PROVIDE NOTICE ONLY ONCE.  
23 THE TENANT SHALL RETAIN A COPY OF THE NOTICE.

24 (III) AFTER A TENANT PROVIDES A LANDLORD NOTICE OF THE  
25 TENANT'S INTENT TO DEDUCT COSTS PURSUANT TO SUBSECTION (1)(e)(II)  
26 OF THIS SECTION, THE LANDLORD HAS TWO BUSINESS DAYS TO OBTAIN ONE  
27 OR MORE GOOD-FAITH ESTIMATES OF SUCH COSTS IN ADDITION TO ANY

1 ESTIMATE THAT THE TENANT INCLUDED IN THE NOTICE. THE ESTIMATE  
2 MUST BE PREPARED BY A PROFESSIONAL WHO IS UNRELATED TO THE  
3 LANDLORD, IS TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE  
4 IS BEING PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION,  
5 OR REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE  
6 PERFORMANCE OF THE WORK. IF THE LANDLORD PREFERS TO REPAIR OR  
7 REMEDY THE CONDITION BY HIRING A PROFESSIONAL OTHER THAN A  
8 PROFESSIONAL WHO PREPARED AN ESTIMATE FOR THE TENANT, THE  
9 LANDLORD SHALL SHARE THE PREFERRED PROFESSIONAL'S ESTIMATE WITH  
10 THE TENANT AND SHALL COMMENCE WORK TO REPAIR OR REMEDY THE  
11 CONDITION AS SOON AS REASONABLY POSSIBLE.

12 (IV) IF THE LANDLORD DOES NOT OBTAIN ANY ADDITIONAL  
13 ESTIMATES WITHIN THE TWO DAYS PRESCRIBED BY SUBSECTION (1)(e)(III)  
14 OF THIS SECTION, THE TENANT MAY PROCEED TO DEDUCT COSTS FROM ONE  
15 OR MORE RENT PAYMENTS, BASED ON THE ESTIMATE ACQUIRED BY THE  
16 TENANT, UNTIL THE ENTIRE AMOUNT OF THE ESTIMATE IS DEDUCTED.

17 (V) A TENANT WHO DEDUCTS COSTS PURSUANT TO SUBSECTION  
18 (1)(e)(IV) OF THIS SECTION SHALL NOT REPAIR OR REMEDY THE CONDITION  
19 BUT SHALL HIRE A PROFESSIONAL WHO IS UNRELATED TO THE TENANT, IS  
20 TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING  
21 PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR  
22 REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE  
23 PERFORMANCE OF THE WORK.

24 (VI) IF A TENANT HIRES A PROFESSIONAL TO REPAIR OR REMEDY A  
25 CONDITION CAUSING A BREACH OF THE WARRANTY OF HABITABILITY AND  
26 DEDUCTS THE ESTIMATED COST OF SUCH REPAIR OR REMEDY FROM ONE OR  
27 MORE RENT PAYMENTS, AS PERMITTED BY THIS SUBSECTION (1)(e), AND

1 THE DEDUCTED ESTIMATED COST EXCEEDS THE ACTUAL COST INCURRED  
2 BY THE TENANT, THE TENANT SHALL REMIT THE EXCESS COST TO THE  
3 LANDLORD WITHIN TEN BUSINESS DAYS.

4 (VII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION  
5 (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE  
6 OR MORE RENT PAYMENTS IF THE CONDITION THAT IS THE BASIS FOR THE  
7 ALLEGED BREACH OF THE WARRANTY OF HABITABILITY IS CAUSED BY THE  
8 MISCONDUCT OF THE TENANT, A MEMBER OF THE TENANT'S HOUSEHOLD,  
9 A GUEST OR INVITEE OF THE TENANT, OR A PERSON UNDER THE TENANT'S  
10 DIRECTION OR CONTROL; EXCEPT THAT THIS SUBSECTION (1)(e)(VII) DOES  
11 NOT APPLY IF:

12 (A) THE TENANT IS A VICTIM OF DOMESTIC VIOLENCE; DOMESTIC  
13 ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION  
14 16-22-102 (9); OR STALKING;

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

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

22 (VIII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION  
23 (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE  
24 OR MORE RENT PAYMENTS IF THE PREMISES ARE INSPECTED PERIODICALLY  
25 BY:

26 (A) THE REAL ESTATE ASSESSMENT CENTER WITHIN THE FEDERAL  
27 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; OR

1 (B) A STATE OR LOCAL GOVERNMENT AGENCY CHARGED WITH THE  
2 ADMINISTRATION OF THE FEDERAL HOUSING CHOICE VOUCHER PROGRAM  
3 OF THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
4 DESCRIBED AT 24 CFR 982.1, ET SEQ., AND THE ENFORCEMENT OF THE  
5 HOUSING QUALITY STANDARDS DESCRIBED AT 24 CFR 982.401, ET SEQ.

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

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

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

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

24 (b) IF THE SAME CONDITION THAT SUBSTANTIALLY CAUSED A  
25 BREACH OF THE WARRANTY OF HABITABILITY RECURS WITHIN SIX MONTHS  
26 AFTER THE CONDITION IS REPAIRED OR REMEDIED, AND THE CONDITION IS  
27 A BREACH OF SECTION 38-12-505 (1)(b)(I), THE TENANT MAY TERMINATE

1 THE RENTAL AGREEMENT FOURTEEN DAYS AFTER PROVIDING THE  
2 LANDLORD WRITTEN OR ELECTRONIC NOTICE OF THE TENANT'S INTENT TO  
3 DO SO. THE NOTICE MUST INCLUDE A DESCRIPTION OF THE CONDITION AND  
4 THE DATE OF THE TERMINATION OF THE RENTAL AGREEMENT. HOWEVER,  
5 IF THE LANDLORD REMEDIES THE CONDITION WITHIN FOURTEEN DAYS  
6 AFTER RECEIVING THE NOTICE, THE TENANT MAY NOT TERMINATE THE  
7 RENTAL AGREEMENT.

8 **SECTION 8.** In Colorado Revised Statutes, 38-12-508, **amend**  
9 (4); and **repeal** (3) as follows:

10 **38-12-508. Landlord's defenses to a claim of breach of**  
11 **warranty - limitations on claiming a breach.** (3) ~~A tenant may not~~  
12 ~~assert a claim for injunctive relief based upon the landlord's breach of the~~  
13 ~~warranty of habitability of a residential premises unless the tenant has~~  
14 ~~given notice to a local government within the boundaries of which the~~  
15 ~~residential premises is located of the condition underlying the breach that~~  
16 ~~is materially dangerous or hazardous to the tenant's life, health, or safety.~~

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

22 **SECTION 9.** In Colorado Revised Statutes, 38-12-509, **amend**  
23 (1) and (2); and **repeal** (3) and (4) as follows:

24 **38-12-509. Prohibition on retaliation.** (1) A landlord shall not  
25 retaliate against a tenant ~~for alleging a breach of the warranty of~~  
26 ~~habitability by discriminatorily increasing rent or decreasing services or~~  
27 ~~by bringing or threatening to bring an action for possession in response~~

1 to the tenant:

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

7 (b) ORGANIZING OR BECOMING A MEMBER OF A TENANTS'  
8 ASSOCIATION OR SIMILAR ORGANIZATION.

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

17 (3) ~~Regardless of when an action for possession of the premises~~  
18 ~~where the landlord is seeking to terminate the tenancy for violation of the~~  
19 ~~terms of the rental agreement is brought, there shall be a rebuttable~~  
20 ~~presumption in favor of the landlord that his or her decision to terminate~~  
21 ~~is not retaliatory. The presumption created by this subsection (3) cannot~~  
22 ~~be rebutted by evidence of the timing alone of the landlord's initiation of~~  
23 ~~the action.~~

24 (4) ~~If the landlord has a right to increase rent, to decrease service,~~  
25 ~~or to terminate the tenant's tenancy at the end of any term of the rental~~  
26 ~~agreement and the landlord exercises any of these rights, there shall be a~~  
27 ~~rebuttable presumption that the landlord's exercise of any of these rights~~

1 ~~was not retaliatory. The presumption of this subsection (4) cannot be~~  
2 ~~rebutted by evidence of the timing alone of the landlord's exercise of any~~  
3 ~~of these rights.~~

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

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