

**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. 19-1061.01 Richard Sweetman x4333

HOUSE BILL 19-1328

HOUSE SPONSORSHIP

Herod,

SENATE SPONSORSHIP

Rodriguez,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING BED BUGS IN RESIDENTIAL PREMISES, AND, IN**
102 **CONNECTION THEREWITH, ESTABLISHING DUTIES FOR**
103 **LANDLORDS AND TENANTS IN ADDRESSING THE PRESENCE OF**
104 **BED BUGS.**

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>.)

The bill requires a tenant to promptly notify the tenant's landlord when the tenant knows or reasonably suspects that the tenant's dwelling unit contains bed bugs. Not more than 96 hours after receiving notice of

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.

the presence or possible presence of bed bugs, a landlord:

! Shall inspect or obtain an inspection by a qualified inspector of the dwelling unit and any contiguous dwelling unit of which the landlord is an owner, manager, lessor, or sublessor (contiguous unit); and

! May enter the dwelling unit or any contiguous unit for the purpose of conducting the inspection.

Except as otherwise provided, a landlord is responsible for all costs associated with inspection for, and treatment of, the presence of bed bugs.

If a landlord, qualified inspector, or pest control agent must enter a dwelling unit for the purpose of conducting an inspection for, or treating the presence of, bed bugs, the landlord shall provide the tenant reasonable written or electronic notice of such fact before the landlord, qualified inspector, or pest control agent attempts to enter the dwelling unit. A tenant who receives the notice shall not unreasonably deny the landlord, qualified inspector, or pest control agent access to the dwelling unit.

A tenant shall comply with reasonable measures to permit the inspection for, and treatment of, the presence of bed bugs, and the tenant is responsible for all costs associated with preparing the tenant's dwelling unit for inspection and treatment. A tenant who knowingly and unreasonably fails to comply with inspection and treatment requirements is liable for the cost of subsequent bed bug treatments of the dwelling unit and contiguous units if the need for the treatments arises from the tenant's noncompliance.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 9 to article
3 12 of title 38 as follows:

4 **PART 9**

5 **BED BUGS IN RESIDENTIAL PREMISES**

6 **38-12-901. Definitions.** AS USED IN THIS PART 9, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "BED BUG" MEANS THE COMMON BED BUG, OR CIMEX
9 LECTULARIUS.

10 (2) "BED BUG DETECTION TEAM" MEANS A SCENT DETECTION
11 CANINE TEAM THAT HOLDS A CURRENT, INDEPENDENT, THIRD-PARTY

1 CERTIFICATION IN ACCORDANCE WITH THE GUIDELINES FOR MINIMUM
2 STANDARDS FOR CANINE BED BUG DETECTION TEAM CERTIFICATION
3 ESTABLISHED BY THE NATIONAL PEST MANAGEMENT ASSOCIATION OR ITS
4 SUCCESSOR ORGANIZATION.

5 (3) "CERTIFIED OPERATOR" HAS THE MEANING SET FORTH IN
6 SECTION 35-10-103 (1).

7 (4) "COMMERCIAL APPLICATOR" HAS THE MEANING SET FORTH IN
8 SECTION 35-10-103 (2).

9 (5) "CONTIGUOUS DWELLING UNIT" MEANS A DWELLING UNIT THAT
10 IS CONTIGUOUS WITH ANOTHER DWELLING UNIT, BOTH OF WHICH UNITS
11 ARE OWNED, MANAGED, LEASED, OR SUBLEASED BY THE SAME LANDLORD.

12 (6) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A
13 STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE BY
14 A TENANT.

15 (7) "ELECTRONIC NOTICE" MEANS NOTICE BY E-MAIL OR AN
16 ELECTRONIC PORTAL OR MANAGEMENT COMMUNICATIONS SYSTEM THAT
17 IS AVAILABLE TO BOTH A LANDLORD AND A TENANT.

18 (8) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR, OR
19 SUBLESSOR OF A RESIDENTIAL PREMISES.

20 (9) "PEST CONTROL AGENT" MEANS A CERTIFIED OPERATOR,
21 COMMERCIAL APPLICATOR, QUALIFIED SUPERVISOR, OR TECHNICIAN.

22 (10) "QUALIFIED INSPECTOR" MEANS A BED BUG DETECTION TEAM,
23 LOCAL HEALTH DEPARTMENT OFFICIAL, CERTIFIED OPERATOR,
24 COMMERCIAL APPLICATOR, QUALIFIED SUPERVISOR, OR TECHNICIAN WHO
25 IS RETAINED BY A LANDLORD TO CONDUCT AN INSPECTION FOR BED BUGS.

26 (11) "QUALIFIED SUPERVISOR" HAS THE MEANING SET FORTH IN
27 SECTION 35-10-103 (13).

1 (12) "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL
2 AGREEMENT TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

3 (13) "TECHNICIAN" HAS THE MEANING SET FORTH IN SECTION
4 35-10-103 (15).

5 **38-12-902. Bed bugs - notification to landlord - landlord**
6 **duties.** (1) A TENANT SHALL PROMPTLY NOTIFY THE TENANT'S LANDLORD
7 VIA WRITTEN OR ELECTRONIC NOTICE WHEN THE TENANT KNOWS OR
8 REASONABLY SUSPECTS THAT THE TENANT'S DWELLING UNIT CONTAINS
9 BED BUGS. A TENANT WHO GIVES A LANDLORD ELECTRONIC NOTICE OF A
10 CONDITION SHALL SEND SUCH NOTICE ONLY TO THE E-MAIL ADDRESS,
11 TELEPHONE NUMBER, OR ELECTRONIC PORTAL SPECIFIED BY THE
12 LANDLORD IN THE RENTAL AGREEMENT FOR COMMUNICATIONS. IN THE
13 ABSENCE OF SUCH A PROVISION IN THE RENTAL AGREEMENT, THE TENANT
14 SHALL COMMUNICATE WITH THE LANDLORD IN A MANNER THAT THE
15 LANDLORD HAS PREVIOUSLY USED TO COMMUNICATE WITH THE TENANT.
16 THE TENANT SHALL RETAIN SUFFICIENT PROOF OF THE DELIVERY OF THE
17 ELECTRONIC NOTICE.

18 (2) NOT MORE THAN NINETY-SIX HOURS AFTER RECEIVING NOTICE
19 OF THE PRESENCE OF BED BUGS OR THE POSSIBLE PRESENCE OF BED BUGS,
20 A LANDLORD, AFTER PROVIDING NOTICE TO THE TENANT AS DESCRIBED IN
21 SECTION 38-12-904 (1):

22 (a) SHALL OBTAIN AN INSPECTION OF THE DWELLING UNIT BY A
23 QUALIFIED INSPECTOR; AND

24 (b) MAY ENTER THE DWELLING UNIT OR ANY CONTIGUOUS
25 DWELLING UNIT FOR THE PURPOSE OF ALLOWING THE INSPECTION AS
26 PROVIDED IN SECTION 38-12-903.

27 (3) IF THE INSPECTION OF A DWELLING UNIT CONFIRMS THE

1 PRESENCE OF BED BUGS, THE LANDLORD SHALL ALSO CAUSE TO BE
2 PERFORMED AN INSPECTION OF ALL CONTIGUOUS DWELLING UNITS AS
3 PROMPTLY AS IS REASONABLY PRACTICAL.

4 **38-12-903. Bed bugs - inspections - treatments - costs.** (1) IF
5 A LANDLORD OBTAINS AN INSPECTION FOR BED BUGS, THE LANDLORD
6 MUST PROVIDE WRITTEN NOTICE TO THE TENANT WITHIN TWO BUSINESS
7 DAYS AFTER THE INSPECTION INDICATING WHETHER THE DWELLING UNIT
8 CONTAINS BED BUGS.

9 (2) IF A QUALIFIED INSPECTOR CONDUCTING AN INSPECTION
10 DETERMINES THAT NEITHER THE DWELLING UNIT NOR ANY CONTIGUOUS
11 DWELLING UNIT CONTAINS BED BUGS, THE NOTICE PROVIDED BY THE
12 LANDLORD PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST INFORM
13 THE TENANT THAT IF THE TENANT REMAINS CONCERNED THAT THE
14 DWELLING UNIT CONTAINS BED BUGS, THE TENANT MAY CONTACT THE
15 LOCAL HEALTH DEPARTMENT TO REPORT SUCH CONCERNS.

16 (3) IF A QUALIFIED INSPECTOR CONDUCTING AN INSPECTION
17 DETERMINES THAT A DWELLING UNIT OR ANY CONTIGUOUS DWELLING UNIT
18 CONTAINS BED BUGS, THE QUALIFIED INSPECTOR SHALL PROVIDE A REPORT
19 OF THE DETERMINATION TO THE LANDLORD WITHIN TWENTY-FOUR HOURS.
20 NOT LATER THAN FIVE BUSINESS DAYS AFTER THE DATE OF THE
21 INSPECTION, THE LANDLORD SHALL COMMENCE REASONABLE MEASURES,
22 AS DETERMINED BY THE QUALIFIED INSPECTOR, TO EFFECTIVELY TREAT
23 THE BED BUG PRESENCE, INCLUDING RETAINING THE SERVICES OF A PEST
24 CONTROL AGENT TO TREAT THE DWELLING UNIT AND ANY CONTIGUOUS
25 DWELLING UNIT.

26 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 9, A LANDLORD
27 IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH AN INSPECTION FOR,

1 AND TREATMENT OF, BED BUGS. NOTHING IN THIS SECTION PROHIBITS A
2 TENANT FROM CONTACTING ANY AGENCY AT ANY TIME CONCERNING THE
3 PRESENCE OF BED BUGS.

4 **38-12-904. Bed bugs - access to dwelling unit and personal**
5 **belongings - notice - costs.** (1) (a) IF A LANDLORD, QUALIFIED
6 INSPECTOR, OR PEST CONTROL AGENT MUST ENTER A DWELLING UNIT FOR
7 THE PURPOSE OF CONDUCTING AN INSPECTION FOR, OR TREATING THE
8 PRESENCE OF, BED BUGS, THE LANDLORD SHALL PROVIDE THE TENANT
9 REASONABLE WRITTEN OR ELECTRONIC NOTICE OF SUCH FACT AT LEAST
10 FORTY-EIGHT HOURS BEFORE THE LANDLORD, QUALIFIED INSPECTOR, OR
11 PEST CONTROL AGENT ATTEMPTS TO ENTER THE DWELLING UNIT; EXCEPT
12 THAT A RENTAL AGREEMENT MAY PROVIDE FOR A DIFFERENT MINIMUM
13 TIME FOR THE NOTICE. A TENANT WHO RECEIVES SUCH NOTICE SHALL NOT
14 UNREASONABLY DENY THE LANDLORD, QUALIFIED INSPECTOR, OR PEST
15 CONTROL AGENT ACCESS TO THE DWELLING UNIT.

16 (b) A TENANT MAY WAIVE THE NOTICE REQUIREMENT DESCRIBED
17 IN SUBSECTION (1)(a) OF THIS SECTION.

18 (2) A QUALIFIED INSPECTOR WHO IS INSPECTING A DWELLING UNIT
19 FOR BED BUGS MAY CONDUCT AN INITIAL VISUAL AND MANUAL
20 INSPECTION OF A TENANT'S BEDDING AND UPHOLSTERED FURNITURE. THE
21 QUALIFIED INSPECTOR MAY INSPECT ITEMS OTHER THAN BEDDING AND
22 UPHOLSTERED FURNITURE WHEN THE QUALIFIED INSPECTOR DETERMINES
23 THAT SUCH AN INSPECTION IS NECESSARY AND REASONABLE.

24 (3) IF A QUALIFIED INSPECTOR FINDS BED BUGS IN A DWELLING
25 UNIT OR IN ANY CONTIGUOUS DWELLING UNIT, THE QUALIFIED INSPECTOR
26 MAY HAVE SUCH ADDITIONAL ACCESS TO THE TENANT'S PERSONAL
27 BELONGINGS AS THE QUALIFIED INSPECTOR DETERMINES IS NECESSARY

1 AND REASONABLE.

2 (4) A TENANT SHALL COMPLY WITH REASONABLE MEASURES TO
3 PERMIT THE INSPECTION FOR, AND THE TREATMENT OF, THE PRESENCE OF
4 BED BUGS AS DETERMINED BY THE QUALIFIED INSPECTOR, AND THE
5 TENANT IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH PREPARING THE
6 TENANT'S DWELLING UNIT FOR INSPECTION AND TREATMENT. A TENANT
7 WHO KNOWINGLY AND UNREASONABLY FAILS TO COMPLY WITH THE
8 INSPECTION AND TREATMENT REQUIREMENTS DESCRIBED IN THIS PART 9
9 IS LIABLE FOR THE COST OF ANY BED BUG TREATMENTS OF THE DWELLING
10 UNIT AND CONTIGUOUS DWELLING UNITS IF THE NEED FOR SUCH
11 TREATMENTS ARISES FROM THE TENANT'S NONCOMPLIANCE.

12 (5) IF ANY FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL
13 PROPERTY BELONGING TO A TENANT IS FOUND TO CONTAIN BED BUGS, THE
14 QUALIFIED INSPECTOR SHALL ADVISE THE TENANT THAT THE FURNITURE,
15 CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY SHOULD NOT BE
16 REMOVED FROM THE DWELLING UNIT UNTIL A PEST CONTROL AGENT
17 DETERMINES THAT A BED BUG TREATMENT HAS BEEN COMPLETED. THE
18 TENANT SHALL NOT DISPOSE OF PERSONAL PROPERTY THAT WAS
19 DETERMINED TO CONTAIN BED BUGS IN ANY COMMON AREA WHERE SUCH
20 DISPOSAL MAY RISK THE INFESTATION OF OTHER DWELLING UNITS.

21 (6) (a) NOTHING IN THIS SECTION REQUIRES A LANDLORD TO
22 PROVIDE A TENANT WITH ALTERNATIVE LODGING OR TO PAY TO REPLACE
23 A TENANT'S PERSONAL PROPERTY.

24 (b) NOTHING IN THIS SECTION PREEMPTS OR RESTRICTS THE
25 APPLICATION OF ANY STATE OR FEDERAL LAW CONCERNING REASONABLE
26 ACCOMMODATIONS FOR PERSONS WITH DISABILITIES.

27 **38-12-905. Bed bugs - renting of dwelling units with bed bugs**

1 **prohibited.** A LANDLORD SHALL NOT OFFER FOR RENT A DWELLING UNIT
2 THAT THE LANDLORD KNOWS OR REASONABLY SUSPECTS TO CONTAIN BED
3 BUGS. BEFORE RENTING A DWELLING UNIT, A LANDLORD SHALL DISCLOSE
4 TO A PROSPECTIVE TENANT WHETHER, TO THE LANDLORD'S KNOWLEDGE,
5 THE DWELLING UNIT THE LANDLORD IS OFFERING FOR RENT OR ANY
6 CONTIGUOUS DWELLING UNIT EVER CONTAINED BED BUGS. UPON REQUEST
7 FROM A TENANT OR A PROSPECTIVE TENANT, A LANDLORD SHALL DISCLOSE
8 THE LAST DATE, IF ANY, ON WHICH A DWELLING UNIT BEING RENTED OR
9 OFFERED FOR RENT WAS INSPECTED FOR, AND FOUND TO BE FREE OF, BED
10 BUGS.

11 **38-12-906. Remedies - liability.** (1) A LANDLORD WHO FAILS TO
12 COMPLY WITH THIS PART 9 IS LIABLE TO THE TENANT FOR THE TENANT'S
13 ACTUAL DAMAGES.

14 (2) A LANDLORD MAY APPLY TO A COURT OF COMPETENT
15 JURISDICTION TO OBTAIN INJUNCTIVE RELIEF AGAINST A TENANT WHO:

16 (a) REFUSES TO PROVIDE REASONABLE ACCESS TO A DWELLING
17 UNIT; OR

18 (b) FAILS TO COMPLY WITH A REASONABLE REQUEST FOR
19 INSPECTION OR TREATMENT OF A DWELLING UNIT.

20 (3) IF A COURT FINDS THAT A TENANT HAS UNREASONABLY FAILED
21 TO COMPLY WITH ONE OR MORE REQUIREMENTS SET FORTH IN THIS PART
22 9, THE COURT MAY ISSUE A TEMPORARY ORDER TO CARRY OUT THIS PART
23 9, INCLUDING:

24 (a) GRANTING THE LANDLORD ACCESS TO THE DWELLING UNIT FOR
25 THE PURPOSES SET FORTH IN THIS PART 9;

26 (b) GRANTING THE LANDLORD THE RIGHT TO ENGAGE IN BED BUG
27 INSPECTION AND TREATMENT MEASURES IN THE DWELLING UNIT; AND

1 (c) REQUIRING THE TENANT TO COMPLY WITH SPECIFIC BED BUG
2 INSPECTION AND TREATMENT MEASURES OR ASSESSING THE TENANT WITH
3 COSTS AND DAMAGES RELATED TO THE TENANT'S NONCOMPLIANCE.

4 (4) ANY COURT ORDER GRANTING A LANDLORD ACCESS TO A
5 DWELLING UNIT MUST BE SERVED UPON THE TENANT AT LEAST
6 TWENTY-FOUR HOURS BEFORE A LANDLORD, QUALIFIED INSPECTOR, OR
7 PEST CONTROL AGENT ENTERS THE DWELLING UNIT.

8 (5) (a) THE REMEDIES IN THIS SECTION ARE IN ADDITION TO ANY
9 OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY TO ANY PERSON.

10 (b) THIS SECTION DOES NOT LIMIT OR RESTRICT THE AUTHORITY OF
11 ANY STATE OR LOCAL HOUSING OR HEALTH CODE ENFORCEMENT AGENCY.

12 **38-12-907. Relationship to warranty of habitability.**
13 NOTWITHSTANDING ANY PROVISION OF PART 5 OF THIS ARTICLE 12 TO THE
14 CONTRARY, A LANDLORD WHO COMPLIES WITH THIS PART 9 IS DEEMED TO
15 HAVE SATISFIED THE REQUIREMENTS OF SAID PART 5 WITH RESPECT TO
16 MATTERS CONCERNING BED BUGS.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.