

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 24-0173.01 Christopher McMichael x4775

SENATE BILL 24-094

SENATE SPONSORSHIP

Gonzales and Exum,

HOUSE SPONSORSHIP

Lindsay and Froelich,

Senate Committees

Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING SAFE HOUSING FOR RESIDENTIAL TENANTS, AND, IN**
102 **CONNECTION THEREWITH, ESTABLISHING AND CLARIFYING**
103 **PROCEDURES REGARDING A TENANT'S CLAIM OF BREACH OF THE**
104 **WARRANTY OF HABITABILITY.**

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 modifies existing warranty of habitability laws by clarifying actions that constitute a breach of the warranty of habitability (breach) and procedures for both landlords and tenants when a warranty

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

of habitability claim (claim) is alleged by the tenant. Updates to existing warranty of habitability laws include:

- Establishing time frames for when a landlord must communicate with the tenant and commence remedial action after having actual or constructive notice of a condition related to the habitability of a residential premises;
- Requiring a landlord to perform conduct to address an uninhabitable condition until such condition is completely remedied or repaired;
- Establishing a rebuttable presumption that a landlord has failed the landlord's duty to remedy or repair a condition if the condition continues to exist either 7 or 14 days after the landlord has actual or constructive notice of the condition, depending on the condition at issue in the tenant's claim;
- Determining when a landlord is presumed to have actual or constructive notice of a condition;
- Requiring a landlord to provide a tenant with a comparable dwelling unit or hotel room under certain circumstances while the landlord addresses any uninhabitable conditions that materially interfere with the tenant's life, health, or safety;
- Requiring a landlord to maintain all records, including correspondence and other documentation, relevant to a tenant's claim and any remedial actions taken by the landlord;
- Establishing procedures for when a landlord may enter the dwelling unit of a tenant to address an uninhabitable condition and identifying circumstances when a tenant may deny a landlord entry to the dwelling unit;
- Clarifying certain conditions or characteristics of residential premises that are considered uninhabitable;
- Establishing that there is a rebuttable presumption that certain conditions and characteristics of a residential premises materially interfere with a tenant's life, health, or safety; and
- Modifying and clarifying a tenant's option for remedies when bringing a claim against a landlord and modifying procedures for accessing those remedies.

The bill establishes legal standards and court procedures related to claims, including authorizing a tenant to raise a breach as an affirmative defense against a landlord's action for possession or action of collection against the tenant. The bill also establishes legal standards and procedures for a landlord's defense to a claim and limitations on a tenant's claim. The bill instructs the court in its calculation of actual and punitive damages

for breach cases.

The bill prohibits retaliation and specifies what tenant actions are protected by the prohibition on retaliation and what actions constitute retaliation by the landlord.

The bill clarifies the jurisdiction of the attorney general and county and district courts over matters related to violations of the warranty of habitability.

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-12-501, **amend**
3 (2)(b); and **add** (2)(d), (2)(e), and (3) as follows:

4 **38-12-501. Legislative declaration - matter of statewide**
5 **concern - purposes and policies.** (2) The underlying purposes and
6 policies of this part 5 are to:

7 (b) Encourage landlords and tenants to maintain and improve the
8 quality of housing; **and**

9 (d) PROMOTE PUBLIC HEALTH BY ENSURING RENTAL HOUSING IS
10 SAFE AND HEALTHY FOR TENANTS; AND

11 (e) PROTECT AND PROVIDE REMEDIES FOR TENANTS WHO
12 EXPERIENCE UNINHABITABLE CONDITIONS AT THEIR RESIDENTIAL
13 PREMISES.

14 (3) THIS PART 5 SHOULD BE BROADLY INTERPRETED TO ACHIEVE
15 ITS INTENDED PURPOSE.

16 **SECTION 2.** In Colorado Revised Statutes, 38-12-502, **amend**
17 (1), (4.5), (5), and (9); **repeal** (10); and **add** (2.5), (4.6), (4.8), (6.3), (6.5),
18 (6.8), and (11) as follows:

19 **38-12-502. Definitions.** As used in this part 5 and part 8 of this
20 article 12, unless the context otherwise requires:

21 (1) "Appliance" means a refrigerator, range stove, ~~or~~ oven, AIR
22 CONDITIONER, PERMANENT COOLING DEVICE, OR PORTABLE COOLING

1 DEVICE that is included within a residential premises by a landlord. ~~for the~~
2 ~~use of the tenant pursuant to the rental agreement or any other agreement~~
3 ~~between the landlord and the tenant.~~ Nothing in this section PART 5
4 requires a landlord to provide ~~any~~ AN appliance, and ~~section 38-12-505~~
5 THIS PART 5 applies to appliances solely to the extent that appliances are
6 part of a written agreement between the landlord and the tenant or are
7 otherwise actually provided to a tenant by the landlord at the inception of
8 OR DURING the tenant's occupancy of the residential premises.

9 (2.5) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
10 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
11 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
12 REGULATIONS.

13 (4.5) "Environmental public health event" means a ~~natural~~ disaster
14 or an environmental event, such as a wildfire, a flood, or a release of toxic
15 contaminants, that could create negative health and safety impacts OR
16 OTHERWISE MAKES A RESIDENTIAL PREMISES UNINHABITABLE, AS
17 DESCRIBED IN SECTION 38-12-505, for tenants that live in nearby
18 residential premises.

19 (4.6) "EXTREME HEAT EVENT" MEANS A DAY ON WHICH THE
20 NATIONAL WEATHER SERVICE OF THE NATIONAL OCEANIC AND
21 ATMOSPHERIC ADMINISTRATION HAS DECLARED, PREDICTED, OR
22 INDICATED THAT THERE IS A HEAT ADVISORY, EXCESSIVE HEAT WATCH, OR
23 EXCESSIVE HEAT WARNING FOR THE COUNTY IN WHICH A RESIDENTIAL
24 PREMISES IS LOCATED.

25 (4.8) "HOTEL ROOM" MEANS ONE OR MORE ROOMS IN A LICENSED
26 OR PERMITTED COMMERCIAL LODGING.

27 (5) "Landlord" means the owner, manager, lessor, ~~or~~ sublessor,

1 SUCCESSOR IN INTEREST, OR AGENT OF THE OWNER of a residential
2 premises.

3 (6.3) "ORGANIZING" MEANS ANY LAWFUL, CONCERTED ACTIVITY
4 BY A TENANT OR A TENANT'S GUEST OR AN INVITEE FOR THE PURPOSE OF
5 MUTUAL AID OR ESTABLISHING, SUPPORTING, OR OPERATING A TENANTS'
6 ASSOCIATION OR SIMILAR ORGANIZATION OR EXERCISING ANY OTHER
7 RIGHT OR REMEDY PROVIDED BY LAW.

8 (6.5) (a) "PORTABLE COOLING DEVICE" MEANS AN AIR
9 CONDITIONER OR EVAPORATIVE COOLER, INCLUDING DEVICES MOUNTED
10 IN A WINDOW OR THAT ARE DESIGNED TO SIT ON THE FLOOR.

11 (b) "PORTABLE COOLING DEVICE" DOES NOT INCLUDE A
12 PERMANENT COOLING DEVICE OR OTHER DEVICE WHERE INSTALLATION OF
13 THE DEVICE REQUIRES PERMANENT ALTERATION TO THE DWELLING UNIT.

14 (6.8) "REMEDIAL ACTION" MEANS TIMELY AND GOOD FAITH
15 EFFORTS TO REPAIR OR REMEDY AN UNINHABITABLE CONDITION AT A
16 RESIDENTIAL PREMISES OR DWELLING UNIT AND TO MITIGATE ANY
17 NEGATIVE EFFECT OF THE CONDITION.

18 (9) (a) "Tenant" means ~~a person~~ AN INDIVIDUAL entitled under a
19 rental agreement to occupy a dwelling unit to the exclusion of others.

20 (b) "TENANT" INCLUDES ANY MEMBER OF A TENANT'S HOUSEHOLD,
21 INCLUDING ANY INDIVIDUAL WHO HAS A RIGHT TO OCCUPY THE DWELLING
22 UNIT WITH THE TENANT UNDER ANY LOCAL, STATE, OR FEDERAL LAW; THE
23 RENTAL AGREEMENT; OR ANY SEPARATE AGREEMENT WITH THE LANDLORD
24 OR ANY INDIVIDUAL WHO OTHERWISE HAS EXPLICIT OR IMPLICIT
25 PERMISSION FROM THE LANDLORD TO OCCUPY THE DWELLING UNIT.

26 (10) ~~"Vulnerable population" means children, individuals with~~
27 ~~asthma, individuals with disabilities, individuals who are pregnant, or any~~

1 ~~other group of individuals that has health conditions that could make the~~
2 ~~individuals more susceptible to environmental contaminants.~~

3 (11) (a) "WRITTEN", "WRITING", OR "IN WRITING" MEANS ANY
4 RECORD CONVEYING INFORMATION AND THAT IS IN A FORM THE
5 INDIVIDUAL MAY RETAIN, OR IS CAPABLE OF BEING DISPLAYED IN VISUAL
6 TEXT IN A FORM THE INDIVIDUAL MAY RETAIN, INCLUDING PAPER,
7 ELECTRONIC, AND DIGITAL.

8 (b) "WRITTEN", "WRITING", OR "IN WRITING", AS DEFINED IN
9 SUBSECTION (11)(a) OF THIS SECTION, APPLIES ONLY TO THIS PART 5 AND
10 DOES NOT APPLY TO THE WRITTEN NOTICE OR DEMAND REQUIREMENTS IN
11 ARTICLE 40 OF TITLE 13.

12 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**
13 **with amendments,** 38-12-503 as follows:

14 **38-12-503. Warranty of habitability - notice - landlord**
15 **obligations.** (1) IN EVERY RENTAL AGREEMENT, THE LANDLORD IS
16 DEEMED TO WARRANT THAT THE RESIDENTIAL PREMISES IS FIT FOR HUMAN
17 HABITATION AT THE INCEPTION OF THE TENANT'S OCCUPANCY AND
18 THROUGHOUT THE ENTIRE PERIOD THAT THE TENANT LAWFULLY OCCUPIES
19 THE RESIDENTIAL PREMISES OR DWELLING UNIT.

20 (2) A LANDLORD BREACHES THE WARRANTY OF HABITABILITY SET
21 FORTH IN SUBSECTION (1) OF THIS SECTION IF:

22 (a) A RESIDENTIAL PREMISES IS:
23 (I) UNINHABITABLE AS DESCRIBED IN SECTION 38-12-505; OR
24 (II) IN A CONDITION THAT MATERIALLY INTERFERES WITH THE
25 TENANT'S LIFE, HEALTH, OR SAFETY; AND

26 (b) THE LANDLORD HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE
27 CONDITION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION AND:

1 (I) HAS FAILED TO COMMENCE REMEDIAL ACTION IN ACCORDANCE
2 WITH SUBSECTION (4) OF THIS SECTION WITHIN THE FOLLOWING PERIOD
3 AFTER HAVING ACTUAL OR CONSTRUCTIVE NOTICE:

4 (A) TWENTY-FOUR HOURS, WHERE THE CONDITION MATERIALLY
5 INTERFERES WITH THE TENANT'S LIFE, HEALTH, OR SAFETY; OR

6 (B) SEVENTY-TWO HOURS, WHERE THE RESIDENTIAL PREMISES ARE
7 UNINHABITABLE AS DESCRIBED IN SECTION 38-12-505 OR OTHERWISE;

8 (II) HAS COMMENCED REMEDIAL ACTION, IN ACCORDANCE WITH
9 SUBSECTION (4) OF THIS SECTION, WITHIN THE PERIOD DESCRIBED IN
10 SUBSECTION (2)(b)(I) OF THIS SECTION, BUT FAILED TO CONTINUE
11 PERFORMING THE REMEDIAL ACTION AS NEEDED UNTIL THE CONDITION
12 WAS REMEDIED OR REPAIRED;

13 (III) HAS FAILED TO COMPLETELY REMEDY OR REPAIR THE
14 CONDITION WITHIN A REASONABLE TIME AFTER COMMENCING REMEDIAL
15 ACTION; OR

16 (IV) HAS FAILED TO COMPLY WITH SUBSECTION (8) OF THIS
17 SECTION CONCERNING A RESIDENTIAL PREMISES THAT HAS BEEN
18 DAMAGED DUE TO AN ENVIRONMENTAL PUBLIC HEALTH EVENT.

19 (3) (a) THERE IS A REBUTTABLE PRESUMPTION THAT A LANDLORD
20 HAS FAILED TO COMMENCE REMEDIAL ACTION, CONTINUE PERFORMING
21 REMEDIAL ACTION, OR COMPLETELY REMEDY OR REPAIR A CONDITION
22 THAT RENDERS THE RESIDENTIAL PREMISES UNINHABITABLE WITHIN A
23 REASONABLE TIME IF:

24 (I) THE LANDLORD HAS FAILED TO COMMUNICATE WITH THE
25 TENANT AFTER HAVING ACTUAL OR CONSTRUCTIVE NOTICE OF A
26 CONDITION WITHIN THE TIME FRAME REQUIRED UNDER SUBSECTION (6) OF
27 THIS SECTION; OR

1 (II) THE CONDITION CONTINUES TO EXIST:

2 (A) FOURTEEN CALENDAR DAYS AFTER THE LANDLORD RECEIVED
3 ACTUAL OR CONSTRUCTIVE NOTICE OF THE CONDITION, WHERE THE
4 RESIDENTIAL PREMISES ARE UNINHABITABLE AS DESCRIBED IN SECTION
5 38-12-505 OR OTHERWISE; OR

6 (B) SEVEN CALENDAR DAYS AFTER THE LANDLORD RECEIVED
7 ACTUAL OR CONSTRUCTIVE NOTICE OF THE CONDITION, WHERE THE
8 CONDITION MATERIALLY INTERFERES WITH THE TENANT'S LIFE, HEALTH,
9 OR SAFETY.

10 (b) A LANDLORD MAY REBUT THE PRESUMPTION IN SUBSECTION
11 (3)(a) OF THIS SECTION BY ESTABLISHING, THROUGH CLEAR AND
12 CONVINCING EVIDENCE, THAT:

13 (I) THE LANDLORD COMMENCED AND CONTINUED PERFORMING
14 REMEDIAL ACTION BUT THE CONDITION COULD NOT BE COMPLETELY
15 REMEDIED OR REPAIRED DUE TO CIRCUMSTANCES OUTSIDE THE
16 LANDLORD'S REASONABLE CONTROL;

17 (II) REMEDIAL ACTION WOULD REQUIRE ENTRY TO THE TENANT'S
18 DWELLING UNIT AND THE TENANT UNREASONABLY DENIED THE LANDLORD
19 ENTRY TO THE DWELLING UNIT; OR

20 (III) THE TENANT ENGAGED IN CONDUCT THAT UNREASONABLY
21 DELAYED OR OTHERWISE PREVENTED THE LANDLORD FROM COMMENCING
22 REMEDIAL ACTION WITHIN THE TIME PERIOD DESCRIBED IN SUBSECTION
23 (2)(b)(I) OF THIS SECTION, FROM CONTINUING TO PERFORM REMEDIAL
24 ACTION, OR FROM COMPLETELY REMEDYING OR REPAIRING THE CONDITION
25 WITHIN A REASONABLE TIME.

26 (c) NOTWITHSTANDING THE CIRCUMSTANCES DESCRIBED IN
27 SUBSECTION (3)(b) OF THIS SECTION, A LANDLORD MUST REASONABLY

1 CONTINUE TO MAKE EFFORTS TO COMMENCE OR CONTINUE PERFORMING
2 REMEDIAL ACTION TO REMEDY OR REPAIR A CONDITION THAT RENDERS
3 THE TENANT'S RESIDENTIAL PREMISES UNINHABITABLE AND FOR WHICH
4 THE LANDLORD HAS ACTUAL OR CONSTRUCTIVE NOTICE. THESE EFFORTS
5 TO COMMENCE OR CONTINUE PERFORMING REMEDIAL ACTION MAY
6 INCLUDE PROMPT CORRESPONDENCE AND GOOD FAITH COOPERATION WITH
7 THE TENANT, MAINTENANCE STAFF, THIRD-PARTY CONTRACTORS, A
8 GOVERNMENT OFFICIAL, OR ANY OTHER PERSON WHOSE INVOLVEMENT IS
9 NECESSARY TO REMEDY OR REPAIR THE CONDITION.

10 (d) IF A TENANT DENIES ENTRY TO THE DWELLING UNIT AND ENTRY
11 TO THE DWELLING UNIT IS NECESSARY TO COMMENCE OR CONTINUE
12 PERFORMING REMEDIAL ACTION, THE PRESUMPTIVE TIME PERIODS
13 DESCRIBED IN SUBSECTION (3)(a)(II) OF THIS SECTION ARE TOLLED UNTIL
14 THE DATE THAT THE TENANT PROPOSES AS A REASONABLE ALTERNATIVE
15 DATE AND TIME FOR ENTRY OR ANOTHER DATE AND TIME THAT THE
16 LANDLORD PROPOSES AND TO WHICH THE TENANT AGREES IN
17 ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

18 (e) A LANDLORD HAS ACTUAL OR CONSTRUCTIVE NOTICE OF A
19 CONDITION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION IF THERE IS
20 ANY BASIS FOR THE LANDLORD TO SUBSTANTIALLY KNOW THAT THE
21 CONDITION EXISTS OR MAY EXIST, INCLUDING:

22 (I) NOTICE FROM A GOVERNMENTAL ENTITY REGARDING THE
23 CONDITION;

24 (II) NOTICE FROM A THIRD PARTY REGARDING THE CONDITION;

25 (III) NOTICE FROM A TENANT CONCERNING A CONDITION THAT
26 MAY AFFECT MULTIPLE TENANTS;

27 (IV) A TENANT'S CORRESPONDENCE WITH MAINTENANCE STAFF OR

1 A MAINTENANCE SERVICE PROVIDED BY THE LANDLORD, INCLUDING A
2 MAINTENANCE SERVICE PROVIDED BY A THIRD PARTY;

3 (V) OBSERVATIONS OR REPORTS THAT THE LANDLORD HAS
4 OBTAINED PERSONALLY, DIRECTLY, OR INDIRECTLY;

5 (VI) NOTICE FROM THE TENANT REGARDING THE CONDITION,
6 WHICH NOTICE IS SENT IN A MANNER THAT THE LANDLORD TYPICALLY
7 USES TO COMMUNICATE WITH THE TENANT; OR

8 (VII) ANY WRITTEN OR VERBAL NOTICE FROM A TENANT THAT
9 REASONABLY NOTIFIES THE LANDLORD THAT THE CONDITION EXISTS OR
10 MAY EXIST.

11 (4) (a) (I) UPON HAVING ACTUAL OR CONSTRUCTIVE NOTICE OF A
12 CONDITION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, A
13 LANDLORD SHALL COMMENCE REMEDIAL ACTION WITHIN THE TIME PERIOD
14 DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION UNLESS THE
15 CIRCUMSTANCES DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION
16 PREVENTED THE LANDLORD FROM COMMENCING REMEDIAL ACTION.

17 (II) IF THE CONDITION MATERIALLY INTERFERES WITH THE
18 TENANT'S LIFE, HEALTH, OR SAFETY OR IS A CONDITION DESCRIBED IN
19 SECTION 38-12-505 (4)(I), REMEDIAL ACTION MUST INCLUDE A LANDLORD
20 PROVIDING THE TENANT, AT THE REQUEST OF THE TENANT AND WITHIN
21 TWENTY-FOUR HOURS AFTER THE TENANT'S REQUEST:

22 (A) A COMPARABLE DWELLING UNIT, AS SELECTED BY THE
23 LANDLORD, AT NO COST TO THE TENANT; OR

24 (B) A HOTEL ROOM, AS SELECTED BY THE LANDLORD, AT NO COST
25 TO THE TENANT.

26 (b) (I) A COMPARABLE DWELLING UNIT OR HOTEL ROOM MUST
27 INCLUDE THE SAME NUMBER OF BEDS IN THE ROOM OR ROOMS AS THERE

1 ARE BEDS USED IN A TENANT'S DWELLING UNIT.

2 (II) IF A TENANT REQUIRES A COMPARABLE DWELLING UNIT OR
3 HOTEL ROOM FOR MORE THAN FORTY-EIGHT HOURS:

4 (A) THE COMPARABLE DWELLING UNIT OR HOTEL ROOM MUST
5 INCLUDE A REFRIGERATOR WITH A FREEZER AND A RANGE STOVE OR OVEN;
6 OR

7 (B) THE LANDLORD MUST PROVIDE A PER DIEM FOR DAILY MEALS
8 AND INCIDENTALS FOR EACH TENANT IN AN AMOUNT THAT IS AT LEAST
9 EQUAL TO THE COLORADO STATE EMPLOYEE PER DIEM FOR INTRASTATE
10 TRAVEL AS ESTABLISHED BY THE DEPARTMENT OF PERSONNEL. THE
11 LANDLORD MUST PROVIDE THE PER DIEM TO THE TENANT AT THE TIME THE
12 LANDLORD REASONABLY EXPECTS THE TENANT TO BE IN A COMPARABLE
13 DWELLING UNIT OR HOTEL ROOM FOR MORE THAN FORTY-EIGHT HOURS
14 AND FOR EVERY TWENTY-FOUR-HOUR PERIOD THEREAFTER.

15 (III) A COMPARABLE DWELLING UNIT OR HOTEL ROOM MUST BE
16 HABITABLE, ACCESSIBLE TO AN INDIVIDUAL WITH DISABILITIES IF THE
17 TENANT HAS A DISABILITY, AND LOCATED WITHIN FIVE MILES OF THE
18 TENANT'S DWELLING UNIT, UNLESS THE TENANT CONSENTS AT THE TIME OF
19 THE REQUEST OR AFTER THE REQUEST TO A COMPARABLE DWELLING UNIT
20 OR HOTEL ROOM THAT IS FURTHER THAN FIVE MILES FROM THE TENANT'S
21 DWELLING UNIT. IF A COMPARABLE DWELLING UNIT OR HOTEL ROOM
22 WITHIN FIVE MILES OF THE TENANT'S DWELLING UNIT IS NOT AVAILABLE
23 FOR THE TENANT'S USE, THE LANDLORD MUST SELECT THE NEAREST
24 AVAILABLE COMPARABLE DWELLING UNIT OR HOTEL ROOM.

25 (IV) IF A TENANT IS RELOCATED PURSUANT TO SUBSECTION (4)(a)
26 OF THIS SECTION, A LANDLORD IS REQUIRED TO PAY FOR ONLY THE
27 FOLLOWING EXPENSES THAT ARISE FROM RELOCATING THE TENANT:

1 (A) A PER DIEM ALLOWANCE PURSUANT TO SUBSECTION
2 (4)(b)(II)(B) OF THIS SECTION; AND

3 (B) REASONABLE COSTS THAT ARE INCURRED DUE TO THE
4 TENANT'S RELOCATION, INCLUDING STORAGE AND TRANSPORTATION
5 COSTS.

6 (V) A RELOCATED TENANT REMAINS RESPONSIBLE FOR ANY
7 PORTION OF THE RENT PAYMENT OWED UNDER THE RENTAL AGREEMENT
8 DURING THE PERIOD OF ANY TEMPORARY RELOCATION AND FOR THE
9 REMAINDER OF THE TERM OF THE RENTAL AGREEMENT FOLLOWING
10 REMEDIATION.

11 (5) (a) A LANDLORD SHALL MAINTAIN ACCURATE AND COMPLETE
12 RECORDS OF ALL WRITTEN NOTICES AND CORRESPONDENCE, AS DESCRIBED
13 IN SUBSECTION (3)(e) OF THIS SECTION, AND ALL DOCUMENTATION
14 RELEVANT TO ANY REMEDIAL ACTION TAKEN TO REMEDY OR REPAIR A
15 CONDITION THAT RENDERS A TENANT'S DWELLING UNIT UNINHABITABLE.

16 (b) A LANDLORD MUST MAINTAIN THE RECORDS DESCRIBED IN
17 SUBSECTION (5)(a) OF THIS SECTION FOR THE ENTIRE PERIOD OF THE
18 TENANT'S OCCUPANCY OF THE DWELLING UNIT AND FOR AT LEAST ONE
19 YEAR THEREAFTER.

20 (c) A LANDLORD SHALL PROVIDE TO A TENANT, UPON REQUEST BY
21 THE TENANT, ANY RECORD, NOTICE, CORRESPONDENCE, OR OTHER
22 DOCUMENTATION RELATED TO A CONDITION OR REMEDIAL ACTION WITHIN
23 SEVEN CALENDAR DAYS AFTER THE TENANT'S REQUEST.

24 (6) (a) A LANDLORD THAT HAS ACTUAL OR CONSTRUCTIVE NOTICE
25 OF A CONDITION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION SHALL:

26 (I) CONTACT THE TENANT NOT MORE THAN TWENTY-FOUR HOURS
27 AFTER RECEIVING THE NOTICE; EXCEPT THAT A LANDLORD MAY TAKE UP

1 TO SEVENTY-TWO HOURS TO CONTACT THE TENANT AFTER THE LANDLORD
2 HAS ACTUAL OR CONSTRUCTIVE NOTICE THAT THE RESIDENTIAL PREMISES
3 IS INACCESSIBLE BECAUSE OF AN ENVIRONMENTAL PUBLIC HEALTH EVENT.
4 THE COMMUNICATION MUST INDICATE THE LANDLORD'S INTENTIONS TO
5 REMEDY OR REPAIR THE CONDITION, INCLUDING AN ESTIMATE OF WHEN
6 THE REMEDIAL ACTION WILL COMMENCE AND WHEN IT WILL BE
7 COMPLETED.

8 (II) INFORM THE TENANT OF THE LANDLORD'S RESPONSIBILITIES
9 UNDER SUBSECTION (4) OF THIS SECTION; AND

10 (III) PROVIDE THE TENANT WITH WRITTEN NOTICE AT LEAST
11 TWENTY-FOUR HOURS IN ADVANCE OF ENTRY TO THE DWELLING UNIT IF
12 ENTRY TO THE DWELLING UNIT IS NECESSARY TO COMMENCE OR MAINTAIN
13 REMEDIAL ACTION; EXCEPT THAT THE LANDLORD IS NOT REQUIRED TO
14 PROVIDE ADVANCE NOTICE WHEN THE CONDITION MATERIALLY AND
15 IMMINENTLY THREATENS AN INDIVIDUAL'S LIFE, HEALTH, OR SAFETY.

16 (b) (I) A LANDLORD SHALL PROVIDE THE DATE AND TIME THE
17 LANDLORD INTENDS TO ENTER A TENANT'S DWELLING UNIT AND A
18 REASONABLE ESTIMATE OF THE DURATION THE LANDLORD, OR ANY OTHER
19 PARTY ACTING ON BEHALF OF THE LANDLORD, WILL NEED TO BE IN THE
20 TENANT'S DWELLING UNIT.

21 (II) A TENANT MAY REASONABLY DENY ENTRY TO THE DWELLING
22 UNIT AT THE DATE AND TIME THE LANDLORD REQUESTS ENTRY. THE
23 LANDLORD MUST THEN PROPOSE AND THE TENANT MAY ACCEPT OR
24 PROPOSE A REASONABLE ALTERNATIVE DATE AND TIME FOR THE
25 LANDLORD TO ENTER THE TENANT'S DWELLING UNIT.

26 (III) A TENANT MAY PERMIT THE LANDLORD TO ENTER THE
27 DWELLING UNIT WITH LESS THAN TWENTY-FOUR HOURS ADVANCE NOTICE.

1 (7) A LANDLORD THAT HAS ACTUAL OR CONSTRUCTIVE NOTICE OF
2 A CONDITION, AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, AT
3 THE TENANT'S DWELLING UNIT OR THE RESIDENTIAL PREMISES IS
4 RESPONSIBLE FOR REMEDYING AND REPAIRING THE DWELLING UNIT OR
5 RESIDENTIAL PREMISES TO A HABITABLE STANDARD AT THE LANDLORD'S
6 EXPENSE, EXCEPT AS DESCRIBED IN SUBSECTION (9) OF THIS SECTION.

7 (8) (a) A LANDLORD THAT HAS ACTUAL OR CONSTRUCTIVE NOTICE
8 OF A CONDITION, AS DESCRIBED IN SECTION 38-12-505 (1), AT A
9 RESIDENTIAL PREMISES THAT HAS BEEN DAMAGED DUE TO AN
10 ENVIRONMENTAL PUBLIC HEALTH EVENT SHALL COMPLY WITH THE
11 STANDARDS DESCRIBED IN SECTION 38-12-505 (1)(b)(XIII) WITHIN A
12 REASONABLE AMOUNT OF TIME GIVEN THE CONDITION OF THE PREMISES
13 AND AT THE LANDLORD'S EXPENSE.

14 (b) ONCE A GOVERNMENTAL ENTITY, GOVERNMENT OFFICIAL, LAW
15 ENFORCEMENT OFFICER, OR PUBLIC SAFETY OFFICER DEEMS A TENANT'S
16 DWELLING UNIT SAFE FOR REENTRY AFTER AN ENVIRONMENTAL PUBLIC
17 HEALTH EVENT, THE LANDLORD MUST GRANT THE TENANT OR TENANT'S
18 REPRESENTATIVE ACCESS TO THE DWELLING UNIT FOR THE PURPOSES OF
19 RETRIEVING THE TENANT'S PERSONAL PROPERTY, EVEN IF THE
20 RESIDENTIAL PREMISES THAT INCLUDES THE TENANT'S DWELLING UNIT IS
21 CONSIDERED UNINHABITABLE UNDER THIS SECTION.

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

27 (d) A LANDLORD'S SUBMISSION OF AN INSURANCE CLAIM FOR AN

1 UNINHABITABLE OR A CONTAMINATED RESIDENTIAL PREMISES AFTER THE
2 LANDLORD HAS ACTUAL OR CONSTRUCTIVE NOTICE OF A CONDITION THAT
3 RENDERS THE RESIDENTIAL PREMISES UNINHABITABLE AFTER AN
4 ENVIRONMENTAL PUBLIC HEALTH EVENT IS NOT CONSIDERED EVIDENCE OF
5 REMEDIATION.

6 (9) WHEN A CONDITION DESCRIBED IN SUBSECTION (2)(a) OF THIS
7 SECTION IS SUBSTANTIALLY CAUSED BY THE MISCONDUCT OF THE TENANT,
8 A MEMBER OF THE TENANT'S HOUSEHOLD, A GUEST OR AN INVITEE OF THE
9 TENANT, OR A PERSON UNDER THE TENANT'S DIRECTION OR CONTROL, THE
10 CONDITION DOES NOT CONSTITUTE A BASIS FOR A BREACH OF THE
11 WARRANTY OF HABITABILITY UNDER SUBSECTION (2) OF THIS SECTION. IT
12 IS NOT MISCONDUCT UNDER THIS SUBSECTION (9) BY A VICTIM OF
13 DOMESTIC VIOLENCE; DOMESTIC ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS
14 DESCRIBED IN SECTION 16-22-102 (9); OR STALKING IF THE CONDITION IS
15 THE RESULT OF DOMESTIC VIOLENCE; DOMESTIC ABUSE; UNLAWFUL
16 SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION 16-22-102 (9); OR STALKING
17 AND THE LANDLORD HAS NOTICE OF THE DOMESTIC VIOLENCE; DOMESTIC
18 ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION
19 16-22-102 (9); OR STALKING, AS DESCRIBED IN SECTION 38-12-402 (2)(a).

20 (10) EXCEPT AS SET FORTH IN THIS PART 5, ANY AGREEMENT
21 WAIVING OR MODIFYING ANY RIGHT, REMEDY, OBLIGATION, OR
22 PROHIBITION PROVIDED IN THIS PART 5 IS VOID AS CONTRARY TO PUBLIC
23 POLICY.

24 (11) A LANDLORD MAY TERMINATE A RENTAL AGREEMENT, IF
25 PERMITTED BY THE RENTAL AGREEMENT AND WITHOUT FURTHER
26 LIABILITY TO THE LANDLORD OR TENANT, IF THE RESIDENTIAL PREMISES
27 IS DAMAGED AS A RESULT OF A SUDDEN ENVIRONMENTAL PUBLIC HEALTH

1 EVENT OR AN ACTION TAKEN BY A GOVERNMENTAL AUTHORITY THAT
2 RENDERS CONTINUED OCCUPANCY OF THE RESIDENTIAL PREMISES
3 IMPOSSIBLE OR UNLAWFUL AND:

4 (a) THE LANDLORD WAS NOT ALREADY IN BREACH OF THE
5 WARRANTY OF HABITABILITY PRIOR TO THE SUDDEN ENVIRONMENTAL
6 PUBLIC HEALTH EVENT OR GOVERNMENT ACTION;

7 (b) IT WOULD BE IMPRACTICABLE FOR THE LANDLORD TO REMEDY
8 OR REPAIR THE RESIDENTIAL PREMISES INTO COMPLIANCE WITH THE
9 WARRANTY OF HABITABILITY DUE TO THE SUDDEN ENVIRONMENTAL
10 PUBLIC HEALTH EVENT OR GOVERNMENT ACTION;

11 (c) THE LANDLORD GIVES A MINIMUM OF THIRTY DAYS' WRITTEN
12 NOTICE TO THE TENANT CONCERNING THE TERMINATION OF THE RENTAL
13 AGREEMENT DUE TO THE SUDDEN ENVIRONMENTAL PUBLIC HEALTH EVENT
14 OR GOVERNMENT ACTION AND COMPLIES WITH ALL LANDLORD
15 OBLIGATIONS UNDER THIS PART 5 THROUGH THE DATE OF TERMINATION;

16 (d) THE LANDLORD GRANTS THE TENANT OR TENANT'S
17 REPRESENTATIVE ACCESS TO THE TENANT'S DWELLING UNIT FOR THE
18 PURPOSE OF RETRIEVING THE TENANT'S PERSONAL PROPERTY PRIOR TO THE
19 TERMINATION OF THE RENTAL AGREEMENT; EXCEPT THAT, IF IT IS UNSAFE
20 TO ENTER THE DWELLING UNIT PRIOR TO TERMINATION OF THE RENTAL
21 AGREEMENT, THE LANDLORD SHALL AGREE IN A SIGNED WRITING TO
22 GRANT THE TENANT OR TENANT'S REPRESENTATIVE ACCESS TO THE
23 DWELLING UNIT TO RETRIEVE PERSONAL PROPERTY AT THE EARLIEST
24 POSSIBLE TIME THAT IT IS SAFE TO DO SO;

25 (e) THE LANDLORD RETURNS THE TENANT'S SECURITY DEPOSIT
26 PRIOR TO OR ON THE DATE OF THE TERMINATION OF THE RENTAL
27 AGREEMENT; AND

1 (f) THE LANDLORD PROVIDES A PRORATED DISCOUNT OR REFUND
2 FOR ANY PORTION OF RENT PAID DURING THE TIME THAT THE DWELLING
3 UNIT IS UNINHABITABLE AND FOR WHICH A COMPARABLE DWELLING UNIT
4 OR HOTEL ROOM WAS NOT PROVIDED TO THE TENANT.

5 (12) (a) UNLESS THE CIRCUMSTANCES DESCRIBED IN SUBSECTION
6 (3)(b) OF THIS SECTION PREVENTED A LANDLORD FROM COMMENCING
7 REMEDIAL ACTION, THE LANDLORD SHALL COMMENCE REMEDIAL ACTION
8 WITHIN THE PERIOD DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION
9 UPON HAVING ACTUAL OR CONSTRUCTIVE NOTICE OF:

10 (I) MOLD ASSOCIATED WITH DAMPNES IN A DWELLING UNIT; OR

11 (II) ANY OTHER CONDITION CAUSING THE RESIDENTIAL PREMISES
12 TO BE DAMP, WHICH CONDITION, IF UNREMEDIED OR UNREPAIRED, COULD
13 CREATE MOLD OR WOULD MATERIALLY INTERFERE WITH THE LIFE, HEALTH,
14 OR SAFETY OF A TENANT.

15 (b) THE REMEDIAL ACTION REQUIRED PURSUANT TO SUBSECTION
16 (12)(a) OF THIS SECTION MUST INCLUDE PERFORMING ALL OF THE
17 FOLLOWING APPLICABLE TASKS WITHIN A REASONABLE AMOUNT OF TIME:

18 (I) MITIGATING IMMEDIATE RISK FROM MOLD BY INSTALLING A
19 CONTAINMENT, STOPPING ACTIVE SOURCES OF WATER CONTRIBUTING TO
20 THE MOLD, INSTALLING A HIGH-EFFICIENCY PARTICULATE AIR FILTRATION
21 DEVICE TO REDUCE A TENANT'S EXPOSURE TO MOLD, AND PERFORMING ALL
22 OF THESE TASKS WITHIN SEVENTY-TWO HOURS AFTER RECEIVING ACTUAL
23 OR CONSTRUCTIVE NOTICE OF THE CONDITION;

24 (II) MAINTAINING THE CONTAINMENT DESCRIBED IN SUBSECTION
25 (12)(b)(I) OF THIS SECTION THROUGHOUT THE REMEDIATION AND REPAIR
26 PROCESS;

27 (III) ESTABLISHING ANY ADDITIONAL PROTECTIONS FOR WORKERS

- 1 AND OCCUPANTS THAT MAY BE APPROPRIATE GIVEN THE CONDITION;
- 2 (IV) ELIMINATING OR LIMITING MOISTURE SOURCES AND DRYING
- 3 ALL MATERIALS IMPACTED BY THE MOLD OR DAMPNESS;
- 4 (V) DECONTAMINATING OR REMOVING MATERIALS DAMAGED BY
- 5 MOLD OR DAMPNESS;
- 6 (VI) EVALUATING WHETHER THE RESIDENTIAL PREMISES HAS BEEN
- 7 SUCCESSFULLY REMEDIATED, INCLUDING POST-REMEDATION TESTING FOR
- 8 THE EXISTENCE OF MOLD; AND
- 9 (VII) REASSEMBLING THE RESIDENTIAL PREMISES TO CONTROL
- 10 SOURCES OF MOISTURE TO PREVENT OR LIMIT THE RECURRENCE OF MOLD
- 11 OR DAMPNESS.

12 (c) IF THE CONDITION DESCRIBED IN SUBSECTION (12)(a) OF THIS

13 SECTION WOULD INTERFERE WITH THE TENANT'S LIFE, HEALTH, OR SAFETY,

14 THE LANDLORD MUST PROVIDE, AT THE REQUEST OF THE TENANT, A

15 COMPARABLE DWELLING UNIT OR HOTEL ROOM IN ACCORDANCE WITH

16 SUBSECTION (4)(b) OF THIS SECTION.

17 **SECTION 4.** In Colorado Revised Statutes, 38-12-504, **amend**

18 (3) as follows:

19 **38-12-504. Tenant's maintenance of premises.** (3) Nothing in

20 this section shall be construed to authorize a modification of a landlord's

21 obligations under ~~the warranty of habitability~~ THIS PART 5.

22 **SECTION 5.** In Colorado Revised Statutes, 38-12-505, **amend**

23 (1)(a), (1)(b)(IV), (1)(b)(VII), (1)(b)(VIII), (1)(b)(IX), (1)(b)(X),

24 (1)(b)(XIII), (2), and (3); and **add** (1)(b)(XV), (1)(b)(XVI), (1)(c), (4),

25 (5), (6), and (7) as follows:

26 **38-12-505. Uninhabitable residential premises - habitability**

27 **procedures - rules - definition.** (1) A residential premises is deemed

1 uninhabitable if:

2 (a) There is mold that is associated with dampness, or there is any
3 other condition causing the residential premises to be damp, which
4 condition, if not remedied, would materially interfere with the health or
5 safety of the tenant, excluding the presence of mold that is minor and
6 found on surfaces that can accumulate moisture as part of their proper
7 functioning and intended use; ~~or~~

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

9 (IV) Running water AT ALL TIMES and ~~reasonable amounts of hot~~
10 water ~~at all times~~ IN AN AMOUNT NECESSARY FOR THE TENANT TO
11 PERFORM ALL ORDINARY ACTIVITIES RELATED TO MAINTAINING
12 CLEANLINESS AND HEALTH, furnished to appropriate fixtures and
13 connected to a sewage disposal system approved under applicable law;

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

19 (VIII) Appropriate extermination in response to the infestation of
20 rodents, ~~or~~ vermin, PESTS, OR INSECTS throughout a residential premises,
21 INCLUDING COMPLIANCE WITH ALL REQUIREMENTS UNDER PART 10 OF THIS
22 ARTICLE 12;

23 (IX) An adequate number of appropriate exterior receptacles for
24 garbage, WASTE, and rubbish, in good repair, SERVICED AND EMPTIED AT
25 SUFFICIENT INTERVALS TO ENSURE CONTAINMENT AND PROPER DISPOSAL
26 OF ALL TRASH, WASTE, AND RUBBISH;

27 (X) Floors, stairways, ELEVATORS, and railings maintained in

1 good repair;

2 (XIII) Compliance with applicable standards from the American
3 National Standards Institute, or its successor organization, AND ALL
4 APPLICABLE PROVISIONS OF BUILDING, FIRE, HEALTH, AND HOUSING CODES
5 for the remediation and ~~clean-up~~ CLEANUP of a residential premises
6 following an environmental public health event; ~~or~~

7 (XV) COMPLIANCE WITH ALL REQUIREMENTS IN SECTION
8 38-12-803; OR

9 (XVI) COMPLIANCE WITH ALL REQUIREMENTS RELATED TO
10 COOLING DEVICES ESTABLISHED IN SUBSECTION (7) OF THIS SECTION; OR

11 (c) IT IS OTHERWISE UNFIT FOR HUMAN HABITATION.

12 (2) ~~No~~ A deficiency in the common area shall NOT render a
13 residential premises uninhabitable as set forth in subsection (1) of this
14 section, unless it materially ~~and substantially limits~~ AFFECTS the tenant's
15 use of ~~his or her~~ THE TENANT'S dwelling unit.

16 (3) (a) Before a landlord leases a residential premises to a tenant,
17 the landlord must ensure that the residential premises is fit for human
18 habitation in accordance with section 38-12-503 (1) and that the
19 residential premises is not in a condition described in ~~section 38-12-503~~
20 ~~(2)(a)~~ SUBSECTION (1) OF THIS SECTION.

21 (b) A LANDLORD THAT LEASES A RESIDENTIAL PREMISES THAT IS
22 NOT IN COMPLIANCE WITH THIS SECTION BREACHES THE WARRANTY OF
23 HABITABILITY PURSUANT TO SECTION 38-12-503 (1), AND THE TENANT
24 MAY PURSUE ANY REMEDY UNDER SECTION 38-12-507.

25 (4) THERE IS A REBUTTABLE PRESUMPTION THAT THE FOLLOWING
26 CONDITIONS AT A RESIDENTIAL PREMISES MATERIALLY INTERFERE WITH A
27 TENANT'S LIFE, HEALTH, OR SAFETY PURSUANT TO SECTION 38-12-503

1 (2)(a)(II):

2 (a) LACK OF WATERPROOFING AND WEATHER PROTECTION FOR THE
3 ROOF, EXTERIOR WALLS, EXTERIOR DOORS, AND EXTERIOR WINDOWS OF A
4 DWELLING UNIT SO THAT WEATHER-RELATED ELEMENTS CAN ENTER THE
5 DWELLING UNIT;

6 (b) ANY HAZARDOUS CONDITION OF GAS PIPING, GAS FACILITIES,
7 GAS APPLIANCES, OR OTHER GAS EQUIPMENT;

8 (c) INADEQUATE RUNNING WATER OR INADEQUATE RUNNING HOT
9 WATER, EXCEPT FOR TEMPORARY DISRUPTIONS IN WATER SERVICE THAT
10 ARE LESS THAN FOUR HOURS IN DURATION DUE TO NECESSARY
11 MAINTENANCE, REPAIR, OR CONSTRUCTION THAT IS BEING PERFORMED;

12 (d) LACK OF FUNCTIONING HEATING FACILITIES AND EQUIPMENT
13 FROM OCTOBER THROUGH APRIL OF EACH YEAR;

14 (e) ANY HAZARDOUS CONDITION OF ELECTRICAL WIRING,
15 ELECTRICAL FACILITIES, ELECTRICAL APPLIANCES, OR OTHER ELECTRICAL
16 EQUIPMENT;

17 (f) LACK OF ELECTRICITY OR DISRUPTIONS OF ELECTRICITY THAT
18 ARE CAUSED BY A LANDLORD'S FAILURE TO MAINTAIN ELECTRICAL WIRING,
19 ELECTRICAL FACILITIES, ELECTRICAL APPLIANCES, OR ELECTRICAL
20 EQUIPMENT;

21 (g) LACK OF WORKING LOCKS OR SECURITY DEVICES ON ALL
22 EXTERIOR DOORS AND WINDOWS THAT ARE DESIGNED TO BE OPENED;

23 (h) LACK OF WORKING PLUMBING OR SEWAGE DISPOSAL OR ANY
24 CONDITION THAT ALLOWS SEWAGE, WATER, MOISTURE, OR OTHER
25 CONTAMINANTS TO ENTER THE RESIDENTIAL PREMISES OTHER THAN
26 THROUGH PROPERLY WORKING PLUMBING AND SEWAGE DISPOSAL
27 SYSTEMS;

1 (i) AN INFESTATION OF RODENTS, VERMIN, PESTS, OR INSECTS;

2 (j) ANY INACCESSIBLE FIRE EXITS OR EGRESS IN ACCORDANCE
3 WITH APPLICABLE BUILDING, HOUSING, FIRE, AND HEALTH CODES;

4 (k) ANY MISSING, DAMAGED, IMPROPER, OR MISALIGNED CHIMNEY
5 OR VENTING ON ANY FUEL-FIRED HEATING, VENTILATION, OR COOLING
6 SYSTEM; OR

7 (l) AN INOPERABLE ELEVATOR WHEN THE TENANT HAS A
8 DISABILITY THAT PREVENTS THE TENANT FROM BEING ABLE TO USE THE
9 STAIRS TO ACCESS THE TENANT'S DWELLING UNIT OR THE TENANT RELIES
10 ON AN ELEVATOR TO ACCESS THE TENANT'S DWELLING UNIT AND THERE
11 ARE NO OTHER OPERABLE ELEVATORS THAT PROVIDE ACCESS TO THE
12 TENANT'S UNIT.

13 (5) A LANDLORD MAY REBUT THE PRESUMPTION IN SUBSECTION (4)
14 OF THIS SECTION BY DEMONSTRATING, THROUGH CLEAR AND CONVINCING
15 EVIDENCE, THAT A CONDITION LISTED IN SUBSECTION (4) OF THIS SECTION
16 DOES NOT MATERIALLY INTERFERE WITH A TENANT'S LIFE, HEALTH, OR
17 SAFETY.

18 (6) NOTHING IN THIS SECTION PREVENTS A COURT OR JURY FROM
19 FINDING THAT ANY CONDITION OR COMBINATION OF CONDITIONS
20 DESCRIBED IN THIS SECTION MATERIALLY INTERFERES WITH A TENANT'S
21 LIFE, HEALTH, OR SAFETY.

22 (7) (a) A LANDLORD SHALL NOT PROHIBIT OR RESTRICT A TENANT
23 FROM INSTALLING OR USING A PORTABLE COOLING DEVICE, INCLUDING
24 UNDER ANY RENTAL AGREEMENT OR OTHER AGREEMENT BETWEEN THE
25 LANDLORD AND THE TENANT; EXCEPT THAT THE LANDLORD MAY PROHIBIT
26 OR RESTRICT THE INSTALLATION OR USE OF A PORTABLE COOLING DEVICE
27 IF THE INSTALLATION OR USE OF THE PORTABLE COOLING DEVICE WOULD:

1 (I) VIOLATE ANY BUILDING CODES, STATE LAW, OR FEDERAL LAW;

2 (II) VIOLATE THE PORTABLE COOLING DEVICE MANUFACTURER'S
3 WRITTEN SAFETY GUIDELINES FOR INSTALLING OR USING THE DEVICE;

4 (III) DAMAGE THE PREMISES OR RENDER THE PREMISES
5 UNINHABITABLE; OR

6 (IV) REQUIRE MORE AMPERAGE TO POWER THE PORTABLE
7 COOLING DEVICE THAN CAN BE ACCOMMODATED BY THE RESIDENTIAL
8 PREMISES', DWELLING UNIT'S, OR CIRCUIT'S ELECTRICAL CAPACITY.

9 (b) A LANDLORD THAT RESTRICTS THE INSTALLATION OR USE OF
10 PORTABLE COOLING DEVICES AT A RESIDENTIAL PREMISES WITH MULTIPLE
11 DWELLING UNITS UNDER SUBSECTION (7)(a)(IV) OF THIS SECTION SHALL
12 PRIORITIZE ALLOWING A TENANT WHO MAY REQUIRE A PORTABLE COOLING
13 DEVICE TO ACCOMMODATE A DISABILITY OVER OTHER TENANTS' USAGE.

14 (c) A LANDLORD THAT RESTRICTS THE INSTALLATION OR USE OF A
15 PORTABLE COOLING DEVICE AT A RESIDENTIAL PREMISES UNDER
16 SUBSECTION (7)(a) OF THIS SECTION SHALL:

17 (I) DISCLOSE ANY RESTRICTIONS ON THE INSTALLATION OR USE OF
18 PORTABLE COOLING DEVICES TO A TENANT OR PROSPECTIVE TENANT IN
19 WRITING;

20 (II) PROVIDE INFORMATION ABOUT WHETHER THE LANDLORD
21 INTENDS TO OPERATE ONE OR MORE COMMON SPACES AT THE RESIDENTIAL
22 PREMISES THAT WILL BE COOLED BY A PORTABLE COOLING DEVICE OR
23 PERMANENT COOLING DEVICE AND AVAILABLE TO THE TENANT DURING AN
24 EXTREME HEAT EVENT; AND

25 (III) IF THE LANDLORD DOES NOT INTEND TO OPERATE COMMON
26 SPACES AT THE RESIDENTIAL PREMISES THAT WILL BE COOLED BY A
27 PORTABLE COOLING DEVICE OR PERMANENT COOLING DEVICE, PROVIDE

1 INFORMATION ON COMMUNITY COOLING SPACES THAT ARE LOCATED NEAR
2 THE RESIDENTIAL PREMISES AND ACCESSIBLE TO THE TENANT DURING AN
3 EXTREME HEAT EVENT.

4 (d) (I) AS USED IN THIS SUBSECTION (7), UNLESS THE CONTEXT
5 OTHERWISE REQUIRES, "COMMUNITY COOLING SPACES" MEANS PUBLIC
6 SPACES THAT ARE AVAILABLE TO A TENANT AND THAT ARE LOCATED ON
7 OR NEAR THE RESIDENTIAL PREMISES AND THAT MAINTAIN A
8 TEMPERATURE THAT IS NOT HIGHER THAN EIGHTY DEGREES FAHRENHEIT.

9 (II) "COMMUNITY COOLING SPACES" MAY INCLUDE RECREATION
10 CENTERS, COMMUNITY CENTERS, AND PUBLIC LIBRARIES.

11 **SECTION 6.** In Colorado Revised Statutes, **repeal and reenact,**
12 **with amendments,** 38-12-507 as follows:

13 **38-12-507. Breach of warranty of habitability - tenant's**
14 **remedies.** (1) IF THERE IS A BREACH OF THE WARRANTY OF HABITABILITY
15 AS SET FORTH IN SECTION 38-12-503, A TENANT MAY EXERCISE ONE OR
16 MORE OF THE FOLLOWING REMEDIES:

17 (a) (I) A TENANT MAY TERMINATE A RENTAL AGREEMENT
18 WITHOUT ANY LIABILITY OR FINANCIAL PENALTY TO THE TENANT IF THE
19 CONDITION THAT CAUSED THE BREACH REMAINS UNREMEDIED OR
20 UNREPAIRED AND THE TENANT PROVIDES THE LANDLORD TEN TO SIXTY
21 DAYS' WRITTEN NOTICE THAT SPECIFIES:

22 (A) THE UNINHABITABLE CONDITION OR CONDITIONS THAT REMAIN
23 UNREMEDIED OR UNREPAIRED;

24 (B) THE TENANT'S INTENT TO TERMINATE THE LEASE AND VACATE
25 THE DWELLING UNIT; AND

26 (C) THE DATE UPON WHICH THE TENANT INTENDS TO TERMINATE
27 THE LEASE, WHICH DATE MUST BE AT LEAST TEN DAYS AFTER THE DATE

1 THAT THE NOTICE IS PROVIDED TO THE LANDLORD.

2 (II) IF THE LANDLORD COMPLETELY REMEDIES OR REPAIRS THE
3 CONDITION STATED IN THE TENANT'S NOTICE BEFORE THE TERMINATION
4 DATE PROVIDED BY THE TENANT IN ACCORDANCE WITH SUBSECTION
5 (1)(a)(I)(C) OF THIS SECTION, THE LANDLORD AND TENANT MAY AGREE,
6 IN WRITING AT THE TIME THE CONDITION IS BEING REMEDIED OR REPAIRED
7 OR AFTER THE CONDITION HAS BEEN REMEDIED OR REPAIRED, TO RESCIND
8 THE TENANT'S INTENT TO TERMINATE THE LEASE AND CONTINUE THE
9 HOUSING ARRANGEMENT UNDER THE LANDLORD AND TENANT'S EXISTING
10 RENTAL AGREEMENT.

11 (b) A TENANT MAY TERMINATE A RENTAL AGREEMENT WITHOUT
12 ANY LIABILITY OR FINANCIAL PENALTY TO THE TENANT IF A CONDITION
13 THAT CAUSED A BREACH OF WARRANTY OF HABITABILITY RECURS WITHIN
14 SIX MONTHS AFTER THE CONDITION WAS ORIGINALLY REMEDIED OR
15 REPAIRED AND THE TENANT, WITHIN THIRTY DAYS AFTER THE CONDITION
16 RECURS, PROVIDES THE LANDLORD:

17 (I) AT LEAST FOURTEEN DAYS' WRITTEN NOTICE THAT SPECIFIES
18 THAT THE SAME UNINHABITABLE CONDITION HAS RECURRED; AND

19 (II) THE DATE THAT THE TENANT INTENDS TO TERMINATE THE
20 RENTAL AGREEMENT AND VACATE THE DWELLING UNIT.

21 (c)(I) A TENANT MAY WITHHOLD RENT AFTER PROVIDING WRITTEN
22 NOTICE TO THE LANDLORD THAT:

23 (A) SPECIFIES AN UNINHABITABLE CONDITION REMAINS
24 UNREMEDIED OR UNREPAIRED;

25 (B) NOTIFIES THE LANDLORD THAT THE LANDLORD HAS THREE
26 DAYS AFTER THE DATE OF THE RECEIPT OF THE NOTICE TO REMEDY OR
27 REPAIR THE CONDITION; AND

1 (C) STATES THAT THE TENANT WILL WITHHOLD RENT FOR THE
2 NEXT RENTAL PERIOD AND THEREAFTER UNTIL THE REPAIR OR
3 REMEDIATION IS COMPLETE.

4 (II) UPON RECEIPT OF THE WRITTEN NOTICE, THE LANDLORD MUST
5 COMPLETELY REMEDY OR REPAIR THE CONDITION WITHIN THREE DAYS.

6 (III) IF THE LANDLORD COMPLETELY REMEDIES OR REPAIRS THE
7 CONDITION WITHIN THREE DAYS AFTER RECEIVING THE TENANT'S NOTICE,
8 THE TENANT MUST PAY, WITHIN FORTY-FIVE DAYS AFTER COMPLETION OF
9 THE REMEDY OR REPAIR, THE FULL AMOUNT OF ANY RENT WITHHELD.

10 (IV) IF THE LANDLORD DOES NOT COMPLETELY REMEDY OR REPAIR
11 THE CONDITION WITHIN THREE DAYS AFTER RECEIVING NOTICE FROM THE
12 TENANT PURSUANT TO SUBSECTION (1)(c)(I) OF THIS SECTION, THE TENANT
13 MAY EXTEND THE TIME PERIOD FOR THE LANDLORD TO REMEDY OR REPAIR
14 THE CONDITION BY WRITTEN AGREEMENT WITH THE LANDLORD, WHICH
15 WRITTEN AGREEMENT MUST BE AGREED UPON AT THE TIME THE CONDITION
16 IS BEING REMEDIED OR REPAIRED OR AFTER THE CONDITION HAS BEEN
17 REMEDIED OR REPAIRED.

18 (V) IF THE LANDLORD DOES NOT COMPLETELY REMEDY OR REPAIR
19 THE CONDITION WITHIN THE INITIAL THREE-DAY PERIOD OR WITHIN ANY
20 EXTENDED TIME PERIOD AGREED UPON BETWEEN THE TENANT AND
21 LANDLORD PURSUANT TO SUBSECTION (1)(c)(IV) OF THIS SECTION, THE
22 TENANT MAY:

23 (A) TERMINATE THE RENTAL AGREEMENT AFTER PROVIDING AT
24 LEAST THREE DAYS' WRITTEN NOTICE OF THE TENANT'S INTENT TO
25 TERMINATE THE RENTAL AGREEMENT AND VACATE THE DWELLING UNIT,
26 RETAIN ANY AMOUNT OF RENT WITHHELD, AND AVOID ANY LIABILITY FOR
27 FUTURE RENT OR CHARGES UNDER THE RENTAL AGREEMENT; OR

1 (B) CONTINUE WITHHOLDING RENT UNTIL THE LANDLORD
2 COMPLETES THE REPAIR OR REMEDIATION AND THEN REMIT FIFTY PERCENT
3 OF THE RENT WITHHELD TO THE LANDLORD UPON COMPLETION OF THE
4 REMEDY OR REPAIR.

5 (d) (I) THE TENANT MAY DEDUCT FROM ONE OR MORE RENT
6 PAYMENTS THE COST OF REPAIRING OR REMEDYING A CONDITION THAT IS
7 THE BASIS OF A BREACH OF THE WARRANTY OF HABITABILITY, AS
8 DESCRIBED IN SECTION 38-12-503, IF:

9 (A) THE TENANT GIVES THE LANDLORD AT LEAST TEN DAYS'
10 ADVANCE WRITTEN NOTICE OF THE TENANT'S INTENT TO HIRE A LICENSED
11 OR OTHERWISE QUALIFIED PROFESSIONAL TO REMEDY OR REPAIR THE
12 CONDITION OR CONDITIONS; EXCEPT THAT THE TENANT MAY PROVIDE
13 ONLY FORTY-EIGHT HOURS' ADVANCE WRITTEN NOTICE IF THE TENANT HAS
14 A GOOD FAITH BELIEF THAT THE CONDITION MATERIALLY INTERFERES
15 WITH THE TENANT'S LIFE, HEALTH, OR SAFETY;

16 (B) THE LANDLORD FAILS TO SUFFICIENTLY REMEDY OR REPAIR
17 THE CONDITION WITHIN THE NOTICE PERIOD DESCRIBED IN SUBSECTION
18 (1)(d)(I)(A) OF THIS SECTION OR THE LANDLORD FAILS TO PROVIDE A
19 COMPARABLE DWELLING UNIT OR HOTEL ROOM PURSUANT TO SECTION
20 38-12-503 (4)(b);

21 (C) THE LICENSED OR OTHERWISE QUALIFIED PROFESSIONAL IS NOT
22 A RELATIVE OF THE TENANT AND PROVIDES AN ESTIMATE FOR REMEDYING
23 OR REPAIRING THE CONDITION OR CONDITIONS THAT IS REASONABLY
24 CONSISTENT WITH INDUSTRY STANDARDS;

25 (D) THE TENANT HIRES THE LICENSED OR OTHERWISE QUALIFIED
26 PROFESSIONAL TO REMEDY OR REPAIR THE CONDITION; AND

27 (E) THE TENANT PROVIDES THE LANDLORD WITH A RECEIPT,

1 INVOICE, OR PROOF OF PAYMENT FOR WORK COMPLETED BY THE LICENSED
2 OR OTHERWISE QUALIFIED PROFESSIONAL WITHIN A REASONABLE AMOUNT
3 OF TIME AFTER COMPLETION OF THE WORK OR WITHIN THIRTY DAYS AFTER
4 THE LANDLORD REQUESTS THE RECEIPT, INVOICE, OR PROOF OF PAYMENT.

5 (II) A TENANT MAY, IN LIEU OF REPAIRING A BROKEN OR
6 MALFUNCTIONING APPLIANCE, REPLACE THE BROKEN OR MALFUNCTIONING
7 APPLIANCE AND DEDUCT THE COST FROM ONE OR MORE RENT PAYMENTS
8 IF:

9 (A) THE TENANT GIVES THE LANDLORD AT LEAST THREE DAYS'
10 ADVANCE WRITTEN NOTICE OF THE TENANT'S INTENT TO PURCHASE AND
11 REPLACE THE BROKEN OR MALFUNCTIONING APPLIANCE WITH A
12 REPLACEMENT APPLIANCE;

13 (B) THE LANDLORD FAILS TO SUFFICIENTLY REPAIR OR REPLACE
14 THE BROKEN OR MALFUNCTIONING APPLIANCE WITHIN THE NOTICE PERIOD
15 DESCRIBED IN SUBSECTION (1)(d)(II)(A) OF THIS SECTION;

16 (C) THE REPLACEMENT APPLIANCE IS OF COMPARABLE QUALITY
17 AND HAS SUBSTANTIALLY THE SAME FEATURES AS THE ORIGINAL
18 APPLIANCE; AND

19 (D) THE TENANT PROVIDES THE LANDLORD WITH A RECEIPT,
20 INVOICE, OR PROOF OF PAYMENT FOR THE REPLACEMENT APPLIANCE
21 WITHIN A REASONABLE AMOUNT OF TIME AFTER COMPLETION OF THE
22 WORK OR WITHIN THIRTY DAYS AFTER THE LANDLORD REQUESTS THE
23 RECEIPT, INVOICE, OR PROOF OF PAYMENT.

24 (III) A TENANT THAT DEDUCTS RENT OVER TWO OR MORE RENTAL
25 PERIODS PURSUANT TO SUBSECTION (1)(c), (1)(d)(I), OR (1)(d)(II) OF THIS
26 SECTION IS ONLY REQUIRED TO PROVIDE ONE NOTICE TO THE LANDLORD OF
27 THE TENANT'S INTENT TO DEDUCT THE COST OF REPAIRING OR REMEDYING

1 A CONDITION FROM THE RENTAL PAYMENTS.

2 (e) A TENANT MAY ASSERT AS A CLAIM OR COUNTERCLAIM, IN A
3 COURT OF COMPETENT JURISDICTION, A LANDLORD'S BREACH OF THE
4 WARRANTY OF HABITABILITY AS DESCRIBED IN SECTION 38-12-503 AND
5 THE TENANT MAY RECOVER ACTUAL OR PUNITIVE DAMAGES DIRECTLY
6 ARISING FROM THE BREACH OF THE WARRANTY OF HABITABILITY, WHICH
7 MAY INCLUDE:

8 (I) ANY REDUCTION IN THE FAIR RENTAL VALUE OF THE DWELLING
9 UNIT DURING ANY PERIOD THAT THE RESIDENTIAL PREMISES WERE
10 UNINHABITABLE PURSUANT TO SUBSECTION (3) OF THIS SECTION;

11 (II) COURT COSTS;

12 (III) REASONABLE ATTORNEY FEES; AND

13 (IV) ANY OTHER DAMAGES AS ORDERED BY THE COURT.

14 (f) (I) A TENANT MAY OBTAIN PRELIMINARY OR PERMANENT
15 INJUNCTIVE RELIEF FOR BREACH OF THE WARRANTY OF HABITABILITY,
16 INCLUDING AN ORDER FOR SPECIFIC PERFORMANCE, IN ANY COUNTY OR
17 DISTRICT COURT OF COMPETENT JURISDICTION. IF PERMANENT INJUNCTIVE
18 RELIEF OR SPECIFIC PERFORMANCE IS ORDERED, THE COURT'S JURISDICTION
19 CONTINUES OVER THE MATTER FOR THE PURPOSE OF ENSURING
20 COMPLIANCE WITH THE ORDER. AN ORDER REQUIRING INJUNCTIVE RELIEF
21 OR SPECIFIC PERFORMANCE MAY INCLUDE:

22 (A) AN ORDER TO REMEDY ANY EXISTING VIOLATIONS OF THIS
23 PART 5, INCLUDING RELIEF TO ANY SIMILARLY SITUATED TENANTS WHO
24 ARE REASONABLY LIKELY TO BE AFFECTED BY THE CONDITION AS
25 DESCRIBED IN SECTION 38-12-503;

26 (B) AN ORDER FOR A LANDLORD TO MODIFY OR CEASE PRACTICES
27 THAT GIVE RISE TO A VIOLATION OF THIS PART 5; AND

1 (C) AN ORDER FOR THE LANDLORD TO ADOPT POLICIES OR
2 PRACTICES THAT ENSURE COMPLIANCE WITH THIS PART 5 TO MINIMIZE OR
3 ELIMINATE THE LIKELIHOOD OF FUTURE VIOLATIONS.

4 (II) IN A PROCEEDING FOR INJUNCTIVE RELIEF, THE COURT MAY
5 DETERMINE ACTUAL DAMAGES FOR A BREACH OF THE WARRANTY OF
6 HABITABILITY AT THE TIME THE COURT ORDERS THE INJUNCTIVE RELIEF OR
7 AT A LATER TIME AS DEEMED APPROPRIATE BY THE COURT.

8 (III) IF THE LANDLORD PAYS DAMAGES TO THE COURT PURSUANT
9 TO THIS SUBSECTION (1)(f), AND UPON APPLICATION BY THE TENANT, THE
10 COURT SHALL IMMEDIATELY RELEASE TO THE TENANT THE DAMAGES PAID
11 BY THE LANDLORD. IF THE TENANT VACATES THE LEASED RESIDENTIAL
12 PREMISES, THE LANDLORD SHALL NOT RENT THE RESIDENTIAL PREMISES
13 AGAIN UNTIL THE UNIT IS IN COMPLIANCE WITH THE WARRANTY OF
14 HABITABILITY SET FORTH IN SECTION 38-12-503 (1).

15 (g) (I) A TENANT MAY OBTAIN AN IMMEDIATE TEMPORARY
16 RESTRAINING ORDER WITHOUT NOTICE TO THE LANDLORD IN ANY COUNTY
17 COURT OR DISTRICT COURT OF COMPETENT JURISDICTION, WHICH SHALL
18 REQUIRE THE LANDLORD TO COMPLY WITH THIS PART 5.

19 (II) THE TENANT'S REQUEST FOR AN IMMEDIATE TEMPORARY
20 RESTRAINING ORDER THAT REQUIRES THE LANDLORD TO COMPLY WITH
21 THIS PART 5 MAY BE ISSUED IF THE COURT FINDS, FROM SPECIFIC FACTS
22 SHOWN BY THE TENANT'S AFFIDAVIT, VERIFIED COMPLAINT, OR
23 TESTIMONY, THAT:

24 (A) THE TENANT'S DWELLING UNIT IS IN A CONDITION THAT
25 MATERIALLY INTERFERES WITH THE TENANT'S LIFE, HEALTH, OR SAFETY;

26 (B) THE LANDLORD HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE
27 CONDITION;

1 (C) THE LANDLORD HAS FAILED TO COMPLY WITH THIS PART 5;
2 AND

3 (D) THE TENANT CERTIFIES TO THE COURT IN WRITING OR ON THE
4 RECORD ANY EFFORTS THE TENANT HAS MADE TO OBTAIN THE LANDLORD'S
5 COMPLIANCE WITH THIS PART 5.

6 (III) THE TENANT'S REQUEST FOR AN IMMEDIATE TEMPORARY
7 RESTRAINING ORDER MAY BE GRANTED, DISSOLVED, OR MODIFIED IN
8 ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE COLORADO
9 RULES OF CIVIL PROCEDURE; EXCEPT THAT THE TENANT IS NOT REQUIRED
10 TO POST SECURITY OR PROOF OF IRREPARABLE INJURY, LOSS, OR DAMAGE.

11 (IV) A COURT OF COMPETENT JURISDICTION SHALL CONSIDER AND
12 RULE ON ANY MOTION FOR AN IMMEDIATE TEMPORARY RESTRAINING
13 ORDER PURSUANT TO THIS SUBSECTION (1)(g) AT THE EARLIEST POSSIBLE
14 TIME, AND THE MOTION TAKES PRECEDENCE OVER ALL MATTERS EXCEPT
15 OLDER MOTIONS FOR IMMEDIATE TEMPORARY RESTRAINING ORDERS.

16 (2) (a) IF THERE IS A BREACH OF THE WARRANTY OF HABITABILITY
17 AS DESCRIBED IN SECTION 38-12-503, A TENANT MAY RAISE THE BREACH
18 AS AN AFFIRMATIVE DEFENSE TO A LANDLORD'S ACTION FOR POSSESSION
19 OR AN ACTION FOR COLLECTION OF RENT.

20 (b) A TENANT MAY RAISE A BREACH OF THE WARRANTY OF
21 HABITABILITY AS AN AFFIRMATIVE DEFENSE IN THE TENANT'S ANSWER OR
22 PRETRIAL COURT FILING. A COURT SHALL LIBERALLY CONSTRUE A
23 TENANT'S ANSWER OR OTHER FILING TO DETERMINE WHETHER THE TENANT
24 IS RAISING AN AFFIRMATIVE DEFENSE.

25 (c) TO PROVE AN AFFIRMATIVE DEFENSE AS DESCRIBED IN THIS
26 SUBSECTION (2), A TENANT IS NOT REQUIRED TO:

27 (I) DEPOSIT A BOND TO ASSERT OR PERFECT A BREACH OF THE

1 WARRANTY OF HABITABILITY AS AN AFFIRMATIVE DEFENSE;

2 (II) HAVE ACCRUED ANY EXPENSE RELATED TO THE BREACH OF

3 THE WARRANTY OF HABITABILITY; OR

4 (III) HAVE EXERCISED ANY OTHER REMEDY IN THIS SECTION IN

5 RESPONSE TO THE LANDLORD'S BREACH OF THE WARRANTY OF

6 HABITABILITY, INCLUDING THE WITHHOLDING OF RENT AS DESCRIBED IN

7 SUBSECTIONS (1)(c) AND (1)(d) OF THIS SECTION.

8 (d) (I) IF A TENANT RAISES A BREACH OF THE WARRANTY OF

9 HABITABILITY AS AN AFFIRMATIVE DEFENSE AS DESCRIBED IN THIS

10 SUBSECTION (2), THE COURT SHALL ORDER THAT THE LANDLORD OR

11 TENANT PROVIDE ANY DOCUMENTATION RELEVANT TO THE BREACH OF

12 THE WARRANTY OF HABITABILITY THAT EITHER PARTY REQUESTS

13 PURSUANT TO SECTION 13-40-111 (6)(b) TO THE OPPOSING PARTY NO LESS

14 THAN NINETY-SIX HOURS BEFORE THE DAY OF TRIAL. SUCH

15 DOCUMENTATION MAY INCLUDE:

16 (A) ANY RECORDS, INCLUDING REPORTS, CORRESPONDENCE, OR

17 OTHER DOCUMENTS RELATED TO SECTION 38-12-503 (3)(e); AND

18 (B) ANY DOCUMENTATION RELATED TO ANY REMEDIAL ACTION

19 TAKEN BY THE LANDLORD PURSUANT TO SECTION 38-12-503 (5).

20 (II) A LANDLORD'S FAILURE TO TIMELY PROVIDE ALL RELEVANT

21 DOCUMENTATION IS GOOD CAUSE FOR A TENANT TO SEEK APPROPRIATE

22 SANCTIONS, INCLUDING A CONTINUANCE OF THE TRIAL.

23 (III) A COURT MAY PROHIBIT OR LIMIT THE ADMISSION OF

24 DOCUMENTS AT TRIAL BASED ON A TENANT'S FAILURE TO PROVIDE ALL

25 RELEVANT DOCUMENTATION WITHOUT GOOD CAUSE IF THE COURT FINDS

26 THAT THE OPPOSING PARTY WOULD BE SUBSTANTIALLY PREJUDICED BY

27 THE DELAY IN PROVIDING SUCH DOCUMENTATION.

1 (e) (I) TO PROVE THE AFFIRMATIVE DEFENSE DESCRIBED IN THIS
2 SUBSECTION (2) IN RESPONSE TO AN ACTION FOR POSSESSION BASED ON
3 NONPAYMENT OF ANY MONETARY AMOUNT DUE PURSUANT TO THE
4 RENTAL AGREEMENT, THE TENANT MUST ONLY ESTABLISH THAT THE
5 LANDLORD BREACHED THE WARRANTY OF HABITABILITY:

6 (A) WITHIN SIXTY DAYS BEFORE OR AT ANY TIME DURING THE
7 PERIOD IN WHICH THE TENANT IS ALLEGED TO OWE RENT OR ANY OTHER
8 MONETARY AMOUNT DUE PURSUANT TO THE RENTAL AGREEMENT; OR

9 (B) AT ANY TIME DURING THE TENANCY, AND THE UNINHABITABLE
10 CONDITION CONTINUED TO EXIST INTO THE PERIOD IN WHICH THE TENANT
11 IS ALLEGED TO OWE RENT OR THE MONETARY AMOUNT DUE PURSUANT TO
12 THE RENTAL AGREEMENT.

13 (II) A TENANT DOES NOT NEED TO DEMONSTRATE THAT THE
14 UNINHABITABLE CONDITION AS DESCRIBED IN SECTION 38-12-503 EXISTS
15 AT THE TIME OF TRIAL.

16 (f) (I) TO PROVE THE AFFIRMATIVE DEFENSE DESCRIBED IN THIS
17 SUBSECTION (2) IN RESPONSE TO AN ACTION FOR POSSESSION BASED ON AN
18 ALLEGED NONMONETARY VIOLATION OF THE LEASE, A TENANT MUST
19 DEMONSTRATE THAT THE ALLEGED NONMONETARY LEASE VIOLATION
20 PRIMARILY AROSE FROM A BREACH OF THE WARRANTY OF HABITABILITY.

21 (II) IT IS NOT AN AFFIRMATIVE DEFENSE DESCRIBED IN THIS
22 SUBSECTION (2) TO AN ACTION FOR POSSESSION IF THE LANDLORD PROVES
23 THE TENANT COMMITTED A SUBSTANTIAL VIOLATION PURSUANT TO
24 SECTION 13-40-107.5.

25 (g) IF A TENANT PROVES AN AFFIRMATIVE DEFENSE CLAIM
26 PURSUANT TO THIS SUBSECTION (2) BY A PREPONDERANCE OF THE
27 EVIDENCE, THE COURT SHALL:

1 (I) DENY POSSESSION TO THE LANDLORD AND DEEM THE TENANT
2 TO BE THE PREVAILING PARTY, CONDITIONED ON THE PAYMENT OF ANY
3 RENT OWED TO THE LANDLORD OR INTO THE COURT REGISTRY WITHIN
4 THIRTY DAYS AFTER THE AMOUNT OWED IS DETERMINED PURSUANT TO
5 SUBSECTION (2)(g)(VII) OF THIS SECTION;

6 (II) ORDER THAT ANY EXISTING UNINHABITABLE CONDITION BE
7 REMEDIED OR REPAIRED, INCLUDING:

8 (A) THE CONTINUANCE OF ANY ONGOING REMEDIAL ACTION
9 TAKEN BY THE LANDLORD;

10 (B) COMPLIANCE WITH ANY LANDLORD OBLIGATIONS PURSUANT
11 TO THIS PART 5;

12 (C) SPECIFIC PERFORMANCE OR INJUNCTIVE RELIEF PURSUANT TO
13 SUBSECTIONS (1)(f) AND (1)(g) OF THIS SECTION; OR

14 (D) ANY OTHER RELIEF THE COURT DEEMS NECESSARY;

15 (III) ORDER A REDUCTION IN THE FAIR RENTAL VALUE OF THE
16 DWELLING UNIT IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.
17 ANY SUCH REDUCTION IN FAIR RENTAL VALUE APPLIES FROM WHEN THE
18 UNINHABITABLE CONDITION BEGAN UNTIL THE CONDITION WAS REMEDIED
19 OR REPAIRED.

20 (IV) ORDER THE LANDLORD TO REIMBURSE THE TENANT ANY
21 DIFFERENCE IN RENT BETWEEN THE REDUCED FAIR RENTAL VALUE AND
22 ANY GREATER AMOUNT OF RENT THAT THE TENANT PAID PURSUANT TO
23 THE RENTAL AGREEMENT WHILE A BREACH OF THE WARRANTY OF
24 HABITABILITY AT THE RESIDENTIAL PREMISES EXISTED;

25 (V) DETERMINE AND AWARD THE TENANT ACTUAL DAMAGES
26 ARISING FROM ANY BREACH OF THE WARRANTY OF HABITABILITY; EXCEPT
27 THAT THE TENANT MAY ELECT TO CONTINUE THE CASE FOR FURTHER

1 HEARING ON THE DETERMINATION AND AWARD OF DAMAGES;

2 (VI) AWARD THE TENANT COSTS AND ATTORNEY FEES; AND

3 (VII) DETERMINE WHETHER THE LANDLORD HAS PROVEN THAT
4 ANY OUTSTANDING RENT IS OWED UP TO THE DATE OF TRIAL AFTER
5 ADJUSTING THE RENT IN ACCORDANCE WITH THE FAIR RENTAL VALUE
6 CALCULATED PURSUANT TO SUBSECTION (3) OF THIS SECTION AND
7 DEDUCTING ANY OF THE FOLLOWING:

8 (A) ANY EXPENSES INCURRED BY THE TENANT OR ACTUAL
9 DAMAGES ARISING FROM THE BREACH OF THE WARRANTY OF
10 HABITABILITY;

11 (B) ANY ATTORNEY FEES AND COURT COSTS AWARDED TO THE
12 TENANT; AND

13 (C) ANY AWARDED MONETARY DAMAGES ARISING FROM SEPARATE
14 COUNTERCLAIMS AGAINST THE LANDLORD THAT THE TENANT ASSERTED
15 AND PREVAILED ON.

16 (h) (I) IF THE TENANT CLAIMS, BUT FAILS TO PROVE AT TRIAL, THE
17 AFFIRMATIVE DEFENSE DESCRIBED IN THIS SUBSECTION (2) BY A
18 PREPONDERANCE OF THE EVIDENCE IN A NONPAYMENT EVICTION, AND THE
19 LANDLORD OTHERWISE PREVAILS ON THE LANDLORD'S NONPAYMENT
20 EVICTION CLAIM, THE COURT SHALL PROVIDE THE TENANT FOURTEEN DAYS
21 TO REMIT TO THE LANDLORD OR THE COURT ANY AMOUNT OF RENT OR
22 OTHER MONETARY AMOUNT DUE UNDER THE RENTAL AGREEMENT THAT IS
23 OWED TO THE LANDLORD. IF THE TENANT PAYS THE AMOUNT THAT IS
24 OWED TO THE LANDLORD WITHIN FOURTEEN DAYS, THE COURT SHALL
25 DISMISS THE NONPAYMENT CLAIM WITH PREJUDICE. IF THE TENANT FAILS
26 TO PAY THE AMOUNT THAT IS OWED WITHIN FOURTEEN DAYS, THE COURT
27 MAY ENTER A JUDGMENT FOR POSSESSION.

1 (II) IF THE COURT DETERMINES THAT THE TENANT BROUGHT THE
2 AFFIRMATIVE DEFENSE CLAIM IN BAD FAITH, THE COURT'S ORDER FOR
3 POSSESSION IS NOT SUBJECT TO THE FOURTEEN-DAY WAITING PERIOD IN
4 ACCORDANCE WITH SUBSECTION (2)(h)(I) OF THIS SECTION.

5 (3) IF A COURT FINDS A BREACH OF THE WARRANTY OF
6 HABITABILITY, THEN THE FAIR RENTAL VALUE OF THE DWELLING UNIT IS
7 REBUTTABLY PRESUMED TO BE:

8 (a) ZERO DOLLARS IF THE UNDERLYING CONDITION OR
9 COMBINATION OF CONDITIONS MATERIALLY INTERFERES WITH THE
10 TENANT'S LIFE, HEALTH, OR SAFETY AS DESCRIBED IN SECTION 38-12-503
11 FOR THE ENTIRE PERIOD IN WHICH THE CONDITION OR CONDITIONS
12 REMAINED UNREMEDIED OR UNREPAIRED; OR

13 (b) FIFTY PERCENT OF THE RENT ACCORDING TO THE RENTAL
14 AGREEMENT IF THE UNDERLYING CONDITION OR COMBINATION OF
15 CONDITIONS DOES NOT MATERIALLY INTERFERE WITH A TENANT'S LIFE,
16 HEALTH, OR SAFETY AS DESCRIBED IN SECTION 38-12-503 FOR THE ENTIRE
17 PERIOD IN WHICH THE CONDITION OR CONDITIONS REMAINED UNREMEDIED
18 OR UNREPAIRED.

19 (4) IF A RENTAL AGREEMENT CONTAINS A PROVISION THAT ALLOWS
20 A PREVAILING PARTY IN AN ACTION RELATED TO THE RENTAL AGREEMENT
21 TO OBTAIN ATTORNEY FEES AND COSTS, AND IF THE COURT DETERMINES
22 THAT THERE IS A PREVAILING PARTY, THEN THE PREVAILING PARTY IN AN
23 ACTION BROUGHT UNDER THIS PART 5 IS ENTITLED TO RECOVER
24 REASONABLE ATTORNEY FEES AND COSTS; EXCEPT THAT A COURT SHALL
25 ONLY AWARD A LANDLORD REASONABLE ATTORNEY FEES AND COSTS IF
26 THE COURT FINDS THAT A TENANT HAS FILED A FRIVOLOUS COMPLAINT OR
27 COUNTERCLAIM UNDER THIS PART 5.

1 (5) (a) A RENTAL AGREEMENT OR OTHER AGREEMENT BETWEEN A
2 LANDLORD AND A TENANT ENTERED INTO ON OR AFTER THE EFFECTIVE
3 DATE OF THIS SECTION, AS AMENDED, THAT WAIVES OR MODIFIES A RIGHT
4 OR REMEDY PROVIDED IN THIS PART 5 IS UNLAWFUL, VOID, AND
5 UNENFORCEABLE, INCLUDING ANY PROVISION IN A RENTAL AGREEMENT OR
6 OTHER AGREEMENT THAT CHARGES A COST, FEE, OR PENALTY TO A
7 TENANT BECAUSE THE TENANT EXERCISED OR ATTEMPTED TO EXERCISE A
8 RIGHT OR REMEDY PROVIDED IN THIS PART 5.

9 (b) THE EXERCISE OF ONE OR MORE RIGHTS OR REMEDIES
10 PROVIDED IN THIS SECTION DOES NOT LIMIT A TENANT'S RIGHTS TO
11 EXERCISE OR ATTEMPT TO EXERCISE ANY OTHER RIGHT OR REMEDY
12 PROVIDED BY LAW.

13 (c) A WRITTEN NOTICE REQUIRED BY A REMEDY DESCRIBED IN THIS
14 SECTION IS VALID IF IT SUBSTANTIALLY COMPLIES WITH THE
15 REQUIREMENTS OF THIS SECTION.

16 **SECTION 7.** In Colorado Revised Statutes, 38-12-508, **amend**
17 (1) and (5); and **repeal** (2) and (4) as follows:

18 **38-12-508. Landlord's defenses to a claim of breach of**
19 **warranty - limitations on claiming a breach.** (1) It shall be IS a defense
20 to a tenant's claim of breach of the warranty of habitability that the
21 tenant's actions or inactions prevented the landlord from ~~curing~~
22 REMEDYING OR REPAIRING the condition underlying the breach of the
23 warranty of habitability. FOR A LANDLORD TO PREVAIL ON SUCH DEFENSE
24 TO A TENANT'S CLAIM OF BREACH OF THE WARRANTY OF HABITABILITY, A
25 LANDLORD MUST DEMONSTRATE THAT:

26 (a) THE TENANT:
27 (I) REFUSED TO PROVIDE OR ACCEPT A PROPOSED REASONABLE

1 ALTERNATIVE DATE AND TIME FOR ENTRY INTO THE DWELLING UNIT;
2 (II) UNREASONABLY DENIED ENTRY TO THE DWELLING UNIT; OR
3 (III) ENGAGED IN ANY OTHER ACTION OR INACTION THAT
4 UNREASONABLY DELAYED OR OTHERWISE PREVENTED THE LANDLORD
5 FROM COMMENCING, MAINTAINING, OR COMPLETING THE REMEDIAL
6 ACTION; AND

7 (b) THE TENANT'S ACTIONS DESCRIBED IN SUBSECTION (1)(a) OF
8 THIS SECTION MADE IT IMPRACTICABLE FOR THE LANDLORD TO
9 REASONABLY REMEDY OR REPAIR THE CONDITION.

10 ~~(2) Only parties to the rental agreement or other adult residents~~
11 ~~listed on the rental agreement who are also lawfully residing in the~~
12 ~~dwelling unit may assert a claim for a breach of the warranty of~~
13 ~~habitability.~~

14 ~~(4) Except as provided in section 38-12-509 (2), a tenant may not~~
15 ~~assert a breach of the warranty of habitability as a defense to a landlord's~~
16 ~~action for possession based upon a nonmonetary violation of the rental~~
17 ~~agreement or for an action for possession based upon a notice to quit or~~
18 ~~vacate.~~

19 (5) If the condition alleged to breach the warranty of habitability
20 is the result of the action or inaction of a ~~tenant in another dwelling unit~~
21 ~~or another~~ third party not under the direction and control of the landlord
22 and the landlord has taken reasonable, necessary, and timely steps to
23 ~~abate~~ REMEDY OR REPAIR the condition, but is unable to ~~abate~~ REMEDY OR
24 REPAIR the condition due to circumstances beyond the landlord's
25 reasonable control, the tenant's only remedy ~~shall be~~ IS termination of the
26 rental agreement consistent with section 38-12-507 (1)(a).

27 **SECTION 8.** In Colorado Revised Statutes, 38-12-509, **amend**

1 (1), (1.5), and (2); and **add** (1.7) as follows:

2 **38-12-509. Prohibition on retaliation.** (1) (a) A landlord shall
3 not retaliate against a tenant by engaging in any of the activities specified
4 in subsection (1)(b) of this section in response to the tenant:

5 (I) Having made a good faith complaint to the landlord, TO A
6 NONPROFIT ORGANIZATION OR THIRD PARTY, or to a governmental agency
7 alleging a condition described by section 38-12-505 (1) or any condition
8 that materially interferes with the life, health, or safety of the tenant; ~~or~~

9 (II) Organizing or becoming a member of a tenants' association or
10 similar organization; OR

11 (III) EXERCISING OR ATTEMPTING TO EXERCISE IN GOOD FAITH ANY
12 RIGHT OR REMEDY AFFORDED TO A TENANT PURSUANT TO SECTION
13 38-12-507.

14 (b) Prohibited retaliation includes:

15 (I) Increasing rent or decreasing services;

16 (II) Terminating OR NOT RENEWING a ~~lease~~ RENTAL AGREEMENT
17 or contract without written consent of the tenant; ~~except as otherwise~~
18 ~~provided by law;~~

19 (III) Bringing or threatening to bring an action for possession; ~~or~~

20 (IV) Taking action that in any manner intimidates, threatens,
21 discriminates against, HARASSES, or retaliates against a tenant; OR

22 (V) CHARGING THE TENANT OR SEEKING TO COLLECT FROM THE
23 TENANT ANY FEE, COST, OR PENALTY.

24 (1.5) A tenant may assert THAT THE LANDLORD RETALIATED
25 AGAINST THE TENANT IN VIOLATION OF SUBSECTION (1) OF THIS SECTION
26 as a defense to a landlord's action for possession, including ~~an~~ A
27 LANDLORD'S action for possession based on:

1 (a) A MONETARY OR nonmonetary violation of the rental
2 agreement; ~~or an action for possession based upon~~

3 (b) A notice to quit or vacate; ~~that the landlord retaliated against~~
4 ~~the tenant in violation of subsection (1) of this section.~~

5 (c) AN EXPIRATION OF THE TENANT'S RENTAL AGREEMENT; OR

6 (d) THE NONPAYMENT OF RENT RESULTING FROM A RETALIATORY
7 RENT INCREASE.

8 (1.7) TO PROVE A CLAIM OR DEFENSE UNDER THIS SECTION, A
9 TENANT DOES NOT NEED TO PROVE THAT RETALIATION WAS THE SOLE
10 REASON A LANDLORD ENGAGED IN ANY OF THE ACTIVITIES DESCRIBED IN
11 SUBSECTION (1)(b) OF THIS SECTION; A TENANT NEED ONLY DEMONSTRATE
12 THAT THE TENANT'S PROTECTED ACTIVITY UNDER SUBSECTION (1)(a) OF
13 THIS SECTION WAS A MOTIVATING FACTOR THAT INFLUENCED THE
14 LANDLORD'S DECISION TO ENGAGE IN ANY OF THE ACTIVITIES DESCRIBED
15 IN SUBSECTION (1)(b) OF THIS SECTION.

16 (2) If a landlord retaliates against a tenant in violation of
17 subsection (1) of this section, the tenant: ~~may terminate the rental~~
18 ~~agreement and~~

19 (a) SHALL recover DAMAGES IN an amount not more than three
20 months' periodic rent or three times the tenant's actual damages,
21 whichever is greater, plus reasonable attorney fees and costs; AND

22 (b) MAY TERMINATE THE RENTAL AGREEMENT.

23 **SECTION 9.** In Colorado Revised Statutes, 38-12-510, **amend**
24 (2) as follows:

25 **38-12-510. Unlawful removal or exclusion.** (2) A tenant
26 affected by ~~any~~ A violation of this section may bring a civil action IN A
27 COUNTY COURT OR DISTRICT COURT OF COMPETENT JURISDICTION to

1 restrain further violations and to recover damages, costs, and reasonable
2 attorney fees. In the case of a violation, the tenant must be awarded
3 statutory damages equal to the tenant's actual damages and the higher
4 amount of either three times the monthly rent or five thousand dollars, as
5 well as any other damages, attorney fees, and costs that may be owed.

6 **SECTION 10.** In Colorado Revised Statutes, 38-12-511, **amend**
7 (1)(b) and (2); and **add** (3) and (4) as follows:

8 **38-12-511. Application.** (1) Unless created to avoid its
9 application, this part 5 shall not apply to any of the following
10 arrangements:

11 (b) Occupancy under a contract of sale of a dwelling unit or the
12 property of which it is a part, if the occupant is the purchaser, seller, or a
13 person who succeeds to ~~his or her~~ THE OCCUPANT'S interest; EXCEPT THAT
14 THIS SUBSECTION (1)(b) DOES NOT APPLY TO A TENANT OCCUPYING A
15 DWELLING UNIT UNDER A LEASE-TO-OWN CONTRACT;

16 (2) Nothing in this ~~section~~ PART 5 shall be construed to limit
17 remedies available elsewhere in law for a tenant to seek to maintain safe
18 and sanitary housing.

19 (3) EXCEPT AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION,
20 THIS PART 5 APPLIES TO ALL RESIDENTIAL PREMISES OCCUPIED BY A
21 TENANT REGARDLESS OF HOW THE TENANCY, RENTAL AGREEMENT, OR
22 HOUSING ARRANGEMENT IS DENOMINATED.

23 (4) A CLAIM, COUNTERCLAIM, OR ACTION BROUGHT UNDER THIS
24 PART 5 SHALL NOT HAVE ANY PRECLUSIVE EFFECT ON A TENANT'S ABILITY
25 TO ASSERT OTHER CLAIMS IN A SUBSEQUENT ACTION AGAINST THE
26 LANDLORD FOR THE SAME INJURY OR ARISING FROM THE SAME SUBJECT
27 MATTER OR TRANSACTION.

1 **SECTION 11.** In Colorado Revised Statutes, 24-31-101, **amend**
2 (1)(i)(XVII) and (1)(i)(XVIII); and **add** (1)(i)(XIX) as follows:

3 **24-31-101. Powers and duties of attorney general.** (1) The
4 attorney general:

5 (i) May independently initiate and bring civil and criminal actions
6 to enforce state laws, including actions brought pursuant to:

7 (XVII) The "Rental Application Fairness Act", part 9 of article 12
8 of title 38; ~~and~~

9 (XVIII) The "Reproductive Health Equity Act", part 4 of article
10 6 of title 25; AND

11 (XIX) PART 5 OF ARTICLE 12 OF TITLE 38.

12 **SECTION 12.** In Colorado Revised Statutes, 13-6-105, **amend**
13 (1)(f)(I) as follows:

14 **13-6-105. Specific limits on civil jurisdiction.** (1) The county
15 court has no civil jurisdiction except that specifically conferred upon it by
16 law. In particular, it has no jurisdiction over the following matters:

17 (f) Original proceedings for the issuance of injunctions, except:

18 (I) As provided in sections 13-6-104 (5), ~~and 38-12-507 (1)(b)~~
19 38-12-507, AND 38-12-510;

20 **SECTION 13. Applicability.** This act applies to actions related
21 to violations of part 5 of article 12 of title 38 that are filed on or after the
22 effective date of this act.

23 **SECTION 14. Safety clause.** The general assembly finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, or safety or for appropriations for
26 the support and maintenance of the departments of the state and state
27 institutions.