SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 7, 2012 Date

Committee on Judiciary.

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

<u>SB12-070</u> be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

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

3 "SECTION 1. In Colorado Revised Statutes, 38-12-507, amend
4 (2) as follows:

5 **38-12-507.** Breach of warranty of habitability - tenant's 6 remedies. (2) If a rental agreement contains a provision for either party 7 in an action related to the rental agreement to obtain attorney fees and 8 costs, then The prevailing party in any action brought under this part 5 9 shall be entitled to recover reasonable attorney fees and costs.

10 **SECTION 2.** In Colorado Revised Statutes, **add** 38-12-512 and 38-12-513 as follows:

12 38-12-512. Copy of rental agreement - disclosure. (1) A
13 LANDLORD OR ANY PERSON AUTHORIZED TO ENTER INTO A RENTAL
14 AGREEMENT ON HIS OR HER BEHALF SHALL PROVIDE EACH TENANT WITH
15 A WRITTEN OR ELECTRONIC COPY OF THE RENTAL AGREEMENT.

16 (2) A LANDLORD OR ANY PERSON AUTHORIZED TO ENTER INTO A
17 RENTAL AGREEMENT ON HIS OR HER BEHALF SHALL DISCLOSE TO THE
18 TENANT IN WRITING AT OR BEFORE THE COMMENCEMENT OF THE TENANCY
19 THE NAME AND ADDRESS OF:

20 (a) The TITLE OF THE PERSON AUTHORIZED TO MANAGE THE 21 PREMISES; AND

(b) AN OWNER OF THE PREMISES OR A PERSON AUTHORIZED TO ACT
 FOR AND ON BEHALF OF THE OWNER FOR THE PURPOSE OF SERVICE OF
 PROCESS AND RECEIVING AND RECEIPTING FOR NOTICES AND DEMANDS.

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1 (3) IF THE INFORMATION REQUIRED TO BE FURNISHED BY THIS 2 SECTION CHANGES, THE LANDLORD OR PERSON AUTHORIZED TO ENTER 3 INTO A RENTAL AGREEMENT ON HIS OR HER BEHALF SHALL PROVIDE 4 NOTICE OF THE CHANGE ON THE LANDLORD'S OR AUTHORIZED PERSON'S 5 WEB SITE OR AT A PUBLIC AREA OF THE RESIDENTIAL PREMISES. THIS 6 SECTION EXTENDS TO AND IS ENFORCEABLE AGAINST ANY SUCCESSOR 7 LANDLORD, OWNER, OR MANAGER.

8 **38-12-513.** Access. (1) A TENANT SHALL NOT UNREASONABLY 9 WITHHOLD CONSENT TO THE LANDLORD TO ENTER INTO THE DWELLING 10 UNIT IN ORDER TO INSPECT THE PREMISES, MAKE NECESSARY OR AGREED 11 REPAIRS, DECORATIONS, ALTERATIONS, OR IMPROVEMENTS, SUPPLY 12 NECESSARY OR AGREED SERVICES, OR EXHIBIT THE DWELLING UNIT TO 13 PROSPECTIVE OR ACTUAL PURCHASERS, MORTGAGEES, TENANTS, 14 WORKMEN, OR CONTRACTORS.

15 (2) A LANDLORD MAY ENTER THE DWELLING UNIT WITHOUT
16 CONSENT OF THE TENANT IN CASE OF EMERGENCY IF SUCH CONDUCT IS
17 REASONABLE UNDER THE CIRCUMSTANCES.

(3) A LANDLORD SHALL NOT ABUSE THE RIGHT OF ACCESS OR USE
IT TO HARASS THE TENANT. EXCEPT IN CASE OF EMERGENCY AS SPECIFIED
IN SUBSECTION (2) OF THIS SECTION OR IF THE TENANT EXPRESSLY
CONSENTS TO A SHORTER NOTICE WITH RESPECT TO A PARTICULAR ENTRY,
THE LANDLORD SHALL GIVE THE TENANT AT LEAST FORTY-EIGHT HOURS'
WRITTEN OR OTHER VERIFIABLE FORM OF NOTICE OF HIS OR HER INTENT TO
ENTER AND MAY ENTER ONLY AT REASONABLE TIMES.

(4) A LANDLORD HAS NO OTHER RIGHT OF ACCESS EXCEPT:

25 26

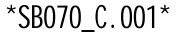
(a) PURSUANT TO COURT ORDER; OR

(b) UNLESS THE TENANT HAS ABANDONED OR SURRENDERED THEPREMISES.

(5) IF THE TENANT REFUSES TO ALLOW LAWFUL ACCESS, THE
LANDLORD MAY OBTAIN INJUNCTIVE RELIEF TO COMPEL ACCESS, OR
TERMINATE THE RENTAL AGREEMENT. IN EITHER CASE THE LANDLORD
MAY RECOVER ACTUAL DAMAGES AND REASONABLE ATTORNEY FEES AND
COSTS.

(6) IF THE LANDLORD MAKES AN UNLAWFUL ENTRY OR A LAWFUL
ENTRY IN AN UNREASONABLE MANNER, THE TENANT MAY OBTAIN
INJUNCTIVE RELIEF TO PREVENT THE RECURRENCE OF THE CONDUCT OR
TERMINATE THE RENTAL AGREEMENT. IN EITHER CASE THE TENANT MAY
RECOVER ACTUAL DAMAGES NOT LESS THAN AN AMOUNT EQUAL TO ONE
MONTH'S RENT AND REASONABLE ATTORNEY FEES AND COSTS.

40 SECTION 3. Act subject to petition - effective date 41 applicability. (1) This act takes effect September 1, 2012; except that,
42 if a referendum petition is filed pursuant to section 1 (3) of article V of



the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

- 7 (2) The provisions of this act apply to rental agreements entered
 8 into or extended or renewed on and after the applicable effective date of
 9 this act.".
- 10 Page 1, line 101, strike "TENANTS, AND, IN" and substitute "TENANTS.".
- 11 Page 1, strike lines 102 and 103.

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