

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 01-0357.02 Pam Cybyske

HOUSE BILL 01-1395

HOUSE SPONSORSHIP

Decker

SENATE SPONSORSHIP

Epps

House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A LANDLORD'S OBLIGATION TO CORRECT MAJOR**
102 **DEFECTS THAT SUBSTANTIALLY INTERFERE WITH A TENANT'S**
103 **ABILITY TO INHABIT RESIDENTIAL PREMISES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes legislative findings with respect to landlord and tenant relations.

Allows a tenant to terminate a lease for a residential premises (premises) when the tenant discovers a major defect that substantially interferes with the tenant's ability to inhabit the premises if:

- The defect is not the result of the tenant's breach of the lease;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

- The tenant notifies the landlord of the defect; and
- The landlord fails to take reasonable steps to remedy the defect within 20 days after receiving the tenant's notice.

Requires a tenant to notify a landlord of intent to terminate the lease due to major defect and the termination of the lease to become effective when the tenant surrenders possession of the premises.

Terminates a tenant's obligation to continue to pay rent after the effective date of the termination of the lease.

Allows a landlord to enter the premises to conduct inspection, repair, or maintenance following a 24-hour notice to the tenant. Allows a landlord to enter the premises without notice in the case of an emergency that endangers the safety of the tenant or the premises.

Allows the landlord and tenant to contractually agree to allocate the responsibility for maintenance and repair and to increase or decrease the landlord's right of access.

Defines "major defect".

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

2 **SECTION 1.** 13-54-102 (1) (r), Colorado Revised Statutes, is
3 amended to read:

4 **13-54-102. Property exempt.** (1) The following property is
5 exempt from levy and sale under writ of attachment or writ of execution:

6 (r) For purposes of garnishment proceedings pursuant to the
7 provisions of article 54.5 of this title, any amount held by a third party as
8 a security deposit, as defined in section 38-12-102 (~~2~~) (3), C.R.S., or any
9 amount held by a third party as a utility deposit to secure payment for
10 utility goods or services used or consumed by the debtor or his
11 dependents;

12 **SECTION 2.** 38-12-102, Colorado Revised Statutes, is amended
13 to read:

14 **38-12-102. Definitions.** As used in this part 1, unless the context
15 otherwise requires:

16 (1) "MAJOR DEFECT" MEANS LOSS OF HEAT, HOT WATER, OR

1 PLUMBING STOPPAGE, OR A MAJOR LEAK, AND ALSO INCLUDES COMMON
2 AREAS THAT ARE UNSAFE AND NOT CLEAR OF DEBRIS, ANY OF WHICH
3 CONTINUES FOR SEVENTY-TWO HOURS OR MORE. "MAJOR DEFECT"
4 INCLUDES A MAJOR LEAK THAT ORIGINATES FROM THE ROOF OF THE
5 BUILDING AS A RESULT OF RAIN, SNOW, OR OTHER INCLEMENT WEATHER
6 AND CONTINUES FOR TWELVE HOURS OR MORE. "MAJOR DEFECT" DOES
7 NOT INCLUDE ANY DEFECT CAUSED BY AN ENTITY OR FORCE OUTSIDE OF
8 THE LANDLORD'S CONTROL INCLUDING, BUT NOT LIMITED TO, PUBLIC
9 UTILITIES.

10 (1) (2) "Normal wear and tear" means that deterioration ~~which~~
11 THAT occurs, based upon the use for which the rental unit is intended,
12 without negligence, carelessness, accident, or abuse of the premises or
13 equipment or chattels by the tenant or members of ~~his~~ THE TENANT'S
14 household, or their invitees or guests.

15 (2) (3) "Security deposit" means any advance or deposit of money,
16 regardless of its denomination, the primary function of which is to secure
17 the performance of a rental agreement for residential premises or any part
18 thereof.

19 **SECTION 3.** Part 1 of article 12 of title 38, Colorado Revised
20 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
21 SECTIONS to read:

22 **38-12-105. Legislative declaration - termination of lease -**
23 **return of security deposit - major defects.** (1) IT IS THE INTENT OF THE
24 GENERAL ASSEMBLY TO PROMOTE POSITIVE RELATIONS BETWEEN
25 LANDLORDS AND TENANTS, TO CLARIFY THE LAW GOVERNING THE RENTAL
26 OF RESIDENTIAL PREMISES AND THE RIGHTS AND OBLIGATIONS OF
27 LANDLORDS AND TENANTS, AND TO ENCOURAGE LANDLORDS AND TENANTS

1 TO MAINTAIN AND IMPROVE THE QUALITY OF THE PREMISES.

2 (2) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND
3 DECLARES THAT:

4 (a) IT IS NECESSARY THAT A RESIDENTIAL PREMISES BE KEPT IN A
5 HABITABLE CONDITION BY BOTH THE LANDLORD AND THE TENANT;

6 (b) THERE HAS NOT BEEN ENOUGH GOVERNANCE OF REQUIREMENTS
7 FOR TENANTS AND LANDLORDS APART FROM THEIR LEASE AGREEMENTS;
8 AND

9 (c) IT IS IN THE BEST INTEREST OF TENANTS AND LANDLORDS TO
10 ESTABLISH GUIDELINES AND CLARIFY REQUIREMENTS FOR INHABITING A
11 RESIDENTIAL PREMISES.

12 (3) ANY TIME A TENANT DISCOVERS A MAJOR DEFECT IN A
13 RESIDENTIAL PREMISES THAT SUBSTANTIALLY INTERFERES WITH THE
14 TENANT'S ABILITY TO INHABIT THE RESIDENTIAL PREMISES, THE TENANT
15 MAY TERMINATE THE LEASE FOR THE RESIDENTIAL PREMISES PRIOR TO THE
16 TERMINATION DATE AGREED UPON IN THE LEASE IF:

17 (a) THE MAJOR DEFECT IS NOT THE RESULT OF A BREACH OF THE
18 LEASE BY THE TENANT, INCLUDING ANY AGREEMENT BY THE LANDLORD
19 AND THE TENANT FOR MAINTENANCE AND REPAIR BY THE TENANT;

20 (b) THE TENANT NOTIFIES THE LANDLORD IN WRITING OF THE
21 MAJOR DEFECT AND THE TENANT'S INTENT TO VACATE THE RESIDENTIAL
22 PREMISES IF THE LANDLORD FAILS TO TAKE REASONABLE STEPS TO REMEDY
23 THE MAJOR DEFECT; AND

24 (c) THE LANDLORD, WITHIN TWENTY DAYS AFTER RECEIVING THE
25 TENANT'S WRITTEN NOTICE, FAILS TO TAKE REASONABLE STEPS TO REMEDY
26 THE MAJOR DEFECT.

27 (4) TO TERMINATE THE LEASE, THE TENANT SHALL NOTIFY THE

1 LANDLORD IN WRITING THAT THE TENANT IS TERMINATING THE LEASE
2 BECAUSE OF THE MAJOR DEFECT. THE TERMINATION SHALL TAKE EFFECT
3 ON THE DATE THE TENANT SURRENDERS POSSESSION OF THE RESIDENTIAL
4 PREMISES.

5 (5) THE TENANT SHALL HAVE NO OBLIGATION TO PAY RENT FOR THE
6 PERIOD AFTER THE EFFECTIVE DATE OF A TERMINATION OF A LEASE AS
7 PROVIDED IN THIS SECTION AND THE LANDLORD SHALL RETURN OR
8 ACCOUNT FOR ANY SECURITY DEPOSIT HELD BY THE LANDLORD IN
9 ACCORDANCE WITH SECTION 38-12-103 (3).

10 **38-12-106. Landlord's right of entry.** A LANDLORD SHALL HAVE
11 THE RIGHT TO ENTER A RESIDENTIAL PREMISES FOR THE PURPOSE OF
12 INSPECTING, REPAIRING, OR MAINTAINING THE RESIDENTIAL PREMISES,
13 FOLLOWING A TWENTY-FOUR-HOUR NOTICE TO THE TENANT. A LANDLORD
14 SHALL HAVE THE RIGHT TO ENTER A RESIDENTIAL PREMISES WITHOUT PRIOR
15 NOTICE TO A TENANT IN THE EVENT OF A MAINTENANCE EMERGENCY THAT
16 ENDANGERS THE SAFETY OF THE TENANT OR THE RESIDENTIAL PREMISES.

17 **38-12-107. Contractual agreements regarding maintenance and**
18 **entry.** (1) NOTHING IN THIS PART 1 SHALL PROHIBIT A LANDLORD AND A
19 TENANT FROM CONTRACTUALLY AGREEING THAT ALL OR A PART OF THE
20 RESPONSIBILITY FOR THE REPAIR OR MAINTENANCE OF A RESIDENTIAL
21 PREMISES SHALL BE THE RESPONSIBILITY OF THE LANDLORD OR THE
22 TENANT.

23 (2) NOTHING IN THIS PART 1 SHALL PROHIBIT A LANDLORD AND A
24 TENANT FROM CONTRACTUALLY AGREEING TO GREATER OR MORE
25 RESTRICTIVE RIGHTS OF THE LANDLORD TO ENTER THE RESIDENTIAL
26 PREMISES.

27 **SECTION 4. Effective date.** This act shall take effect at 12:01

1 a.m. on the day following the expiration of the ninety-day period after
2 final adjournment of the general assembly that is allowed for submitting
3 a referendum petition pursuant to article V, section 1 (3) of the state
4 constitution; except that, if a referendum petition is filed against this act
5 or an item, section, or part of this act within such period, then the act,
6 item, section, or part, if approved by the people, shall take effect on the
7 date of the official declaration of the vote thereon by proclamation of the
8 governor.