

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 02-0711.01 Ed DeCecco

SENATE BILL 02-118

SENATE SPONSORSHIP

Epps, Entz, Hagedorn, Hernandez, Reeves, and Takis

HOUSE SPONSORSHIP

Jameson,

Senate Committees

Business, Labor, and Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING LANDLORD AND TENANT RELATIONS.**

Bill Summary

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

Requires a landlord to show a prospective tenant a residential premises (premises) prior to the execution of a lease if the tenant requests to see the premises. Allows a tenant whose request is denied to terminate the lease if:

- There is a major defect in the premises or the premises is in a substantially different condition than the unit the landlord showed or described to the tenant; and
- The tenant notifies the landlord in writing within a specified number of days after taking possession that the

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.*

SENATE
3rd Reading Unamended
February 25, 2002

SENATE
Amended 2nd Reading
February 22, 2002

tenant is terminating the lease.

Allows a tenant to terminate a lease 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;
- The tenant notifies the landlord of the defect and the tenant's intent to vacate the premises if the landlord fails to take reasonable steps to remedy the major defect; and
- The landlord fails to take reasonable steps to remedy the defect within a specified number of days after receiving the tenant's notice.

Requires a tenant to notify a landlord that the tenant is terminating the lease because of the major defect. Terminates a tenant's obligation to continue to pay rent after the effective date of the termination of the lease, which is when the tenant surrenders possession of the premises.

Defines "major defect".

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

2 **SECTION 1.** 38-12-102 (1), Colorado Revised Statutes, is
3 amended, and the said 38-12-102 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **38-12-102. Definitions.** As used in this part 1, unless the context
6 otherwise requires:

7 (1) ~~"Normal wear and tear" means that deterioration which~~
8 ~~occurs, based upon the use for which the rental unit is intended, without~~
9 ~~negligence, carelessness, accident, or abuse of the premises or equipment~~
10 ~~or chattels by the tenant or members of his household or their invitees or~~
11 ~~guests~~ "MAJOR DEFECT" MEANS LOSS OF HEAT OR HOT WATER, PLUMBING
12 STOPPAGE, MAJOR LEAK, RODENT OR INSECT INFESTATION, OR ANY
13 OTHER CONDITION THAT SUBSTANTIALLY INTERFERES WITH A TENANT'S
14 ABILITY TO INHABIT A RESIDENTIAL PREMISES, ANY OF WHICH CONTINUES
15 FOR SEVENTY-TWO HOURS OR MORE. "MAJOR DEFECT" ALSO INCLUDES A
16 MAJOR LEAK THAT ORIGINATES FROM THE ROOF OF THE BUILDING AS A

1 RESULT OF RAIN, SNOW, OR OTHER INCLEMENT WEATHER AND CONTINUES
2 FOR TWENTY-FOUR HOURS OR MORE. "MAJOR DEFECT" DOES NOT INCLUDE
3 ANY DEFECT CAUSED BY THE TENANT OR BY AN ENTITY OR FORCE OUTSIDE
4 OF THE LANDLORD'S CONTROL, INCLUDING, BUT NOT LIMITED TO, PUBLIC
5 UTILITIES, NOR ANY DEFECT IN A COMMON AREA.

6 (1.5) "NORMAL WEAR AND TEAR" MEANS THAT DETERIORATION
7 THAT OCCURS, BASED UPON THE USE FOR WHICH THE RENTAL UNIT IS
8 INTENDED, WITHOUT NEGLIGENCE, CARELESSNESS, ACCIDENT, OR ABUSE
9 OF THE PREMISES OR EQUIPMENT OR CHATTELS BY THE TENANT OR
10 MEMBERS OF THE TENANT'S HOUSEHOLD OR THEIR INVITEES OR GUESTS.

11 **SECTION 2.** Part 1 of article 12 of title 38, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
13 SECTIONS to read:

14 **38-12-101.5. Application of part 1.** THIS PART 1 SHALL NOT
15 APPLY TO ANY RELATIONSHIP BETWEEN THE OWNER OF A MOBILE HOME
16 PARK AND THE OWNER OF A MOBILE HOME SITUATED IN SUCH PARK THAT
17 IS OTHERWISE ESTABLISHED BY PART 2 OF THIS ARTICLE.

18 **38-12-105. Right to see premises prior to rental - return of**
19 **security deposit.** (1) PRIOR TO EXECUTING A LEASE FOR A RESIDENTIAL
20 PREMISES, A TENANT SHALL BE ENTITLED TO SEE THE PREMISES IF THE
21 TENANT REQUESTS IN WRITING TO DO SO. THE LANDLORD SHALL PROVIDE
22 A WRITTEN FORM TO THE TENANT FOR THIS PURPOSE.

23 (2) WHEN A LANDLORD FAILS TO SHOW THE PREMISES TO THE
24 TENANT AFTER HE OR SHE HAS REQUESTED TO SEE THE PREMISES, THE
25 TENANT SHALL BE ENTITLED TO TERMINATE THE LEASE IF:

26 (a) THERE IS A MAJOR DEFECT IN THE PREMISES OR THE PREMISES
27 IS IN A SUBSTANTIALLY DIFFERENT CONDITION THAN THE UNIT THE

1 LANDLORD SHOWED OR DESCRIBED TO THE TENANT; AND

2 (b) THE TENANT NOTIFIES THE LANDLORD IN WRITING WITHIN TEN
3 DAYS AFTER TAKING POSSESSION THAT THE TENANT IS TERMINATING THE
4 LEASE.

5 (3) THE TERMINATION SHALL TAKE EFFECT ON THE DATE THE
6 TENANT SURRENDERS POSSESSION OF THE RESIDENTIAL PREMISES. THE
7 TENANT SHALL PAY RENT FOR ANY TIME HE OR SHE IS IN POSSESSION OF
8 THE PREMISES PRIOR TO THE TERMINATION OF THE LEASE.

9 (4) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION
10 38-12-103(1), THE LANDLORD SHALL HAVE FIFTEEN DAYS FOLLOWING THE
11 TERMINATION OF THE LEASE TO DELIVER TO THE TENANT ALL OF, OR THE
12 APPROPRIATE PORTION OF, THE SECURITY DEPOSIT PLUS ANY RENT REBATE
13 OWED TO THE TENANT FOR RENT PAID BY THE TENANT. ALL OTHER
14 PROVISIONS OF SECTION 38-12-103 SHALL APPLY TO THE RETURN OF THE
15 SECURITY DEPOSIT.

16 (5) THE REMEDIES SPECIFIED IN THIS SECTION SHALL BE IN
17 ADDITION TO AND NOT IN LIMITATION OF ANY OTHER REMEDIES PROVIDED
18 FOR BY COMMON LAW OR THE LAWS OF THIS STATE.

19 **38-12-106. Termination of lease - major defects - return of**
20 **security deposit.** (1) ANY TIME A TENANT DISCOVERS A MAJOR DEFECT
21 IN A _____ RESIDENTIAL PREMISES, THE TENANT MAY TERMINATE THE
22 LEASE FOR THE RESIDENTIAL PREMISES PRIOR TO THE TERMINATION DATE
23 AGREED UPON IN THE LEASE IF:

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

27 (b) THE TENANT NOTIFIES THE LANDLORD IN WRITING OF THE

1 MAJOR DEFECT AND THE TENANT’S INTENT TO VACATE THE RESIDENTIAL
2 PREMISES IF THE LANDLORD FAILS TO TAKE REASONABLE STEPS TO REMEDY
3 THE MAJOR DEFECT; AND

4 (c) THE LANDLORD, WITHIN FIFTEEN CALENDAR DAYS AFTER
5 RECEIVING THE TENANT’S WRITTEN NOTICE, FAILS TO TAKE REASONABLE
6 STEPS TO REMEDY THE MAJOR DEFECT.

7 (2) TO TERMINATE THE LEASE, THE TENANT SHALL NOTIFY THE
8 LANDLORD IN WRITING THAT THE TENANT IS TERMINATING THE LEASE
9 BECAUSE OF THE MAJOR DEFECT. THE TERMINATION SHALL TAKE EFFECT
10 ON THE DATE THE TENANT SURRENDERS POSSESSION OF THE RESIDENTIAL
11 PREMISES.

12 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION
13 38-12-103 (1), THE LANDLORD SHALL HAVE FIFTEEN DAYS FOLLOWING THE
14 TERMINATION OF THE LEASE TO DELIVER TO THE TENANT ALL OF, OR THE
15 APPROPRIATE PORTION OF, THE SECURITY DEPOSIT PLUS ANY RENT REBATE
16 OWED TO THE TENANT FOR RENT PAID BY THE TENANT. ALL OTHER
17 PROVISIONS OF SECTION 38-12-103 SHALL APPLY TO THE RETURN OF THE
18 SECURITY DEPOSIT.

19 (4) THE REMEDIES SPECIFIED IN THIS SECTION SHALL BE IN
20 ADDITION TO AND NOT IN LIMITATION OF ANY OTHER REMEDIES PROVIDED
21 FOR BY COMMON LAW OR THE LAWS OF THIS STATE.

22 **SECTION 3. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.