

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-1061.01 Richard Sweetman x4333

HOUSE BILL 19-1328

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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.

SENATE
3rd Reading Unamended
May 3, 2019

SENATE
Amended 2nd Reading
May 2, 2019

HOUSE
3rd Reading Unamended
April 26, 2019

HOUSE
Amended 2nd Reading
April 25, 2019

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 IN ANY STAGE OF THE LIFE CYCLE, THE QUALIFIED
19 INSPECTOR SHALL PROVIDE A REPORT OF THE DETERMINATION TO THE
20 LANDLORD WITHIN TWENTY-FOUR HOURS; EXCEPT THAT, FOR ANY SUCH
21 DETERMINATION THAT IS MADE BY A QUALIFIED INSPECTOR LICENSED BY
22 THE COMMISSIONER OF AGRICULTURE PURSUANT TO ARTICLE 10 OF TITLE
23 35, THE QUALIFIED INSPECTOR SHALL PROVIDE THE REPORT IN
24 ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER OF
25 AGRICULTURE PURSUANT TO SAID ARTICLE 10. NOT LATER THAN FIVE
26 BUSINESS DAYS AFTER THE DATE OF THE INSPECTION, THE LANDLORD
27 SHALL COMMENCE REASONABLE MEASURES, AS DETERMINED BY THE

1 QUALIFIED INSPECTOR, TO EFFECTIVELY TREAT THE BED BUG PRESENCE,
2 INCLUDING RETAINING THE SERVICES OF A PEST CONTROL AGENT TO TREAT
3 THE DWELLING UNIT AND ANY CONTIGUOUS DWELLING UNIT.

4 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 9, A LANDLORD
5 IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH AN INSPECTION FOR,
6 AND TREATMENT OF, BED BUGS. NOTHING IN THIS SECTION PROHIBITS A
7 TENANT FROM CONTACTING ANY AGENCY AT ANY TIME CONCERNING THE
8 PRESENCE OF BED BUGS.

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

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

23 (2) A QUALIFIED INSPECTOR WHO IS INSPECTING A DWELLING UNIT
24 FOR BED BUGS MAY CONDUCT AN INITIAL VISUAL AND MANUAL
25 INSPECTION OF A TENANT'S BEDDING AND UPHOLSTERED FURNITURE. THE
26 QUALIFIED INSPECTOR MAY INSPECT ITEMS OTHER THAN BEDDING AND
27 UPHOLSTERED FURNITURE WHEN THE QUALIFIED INSPECTOR DETERMINES

1 THAT SUCH AN INSPECTION IS NECESSARY AND REASONABLE.

2 (3) IF A QUALIFIED INSPECTOR FINDS BED BUGS IN A DWELLING
3 UNIT OR IN ANY CONTIGUOUS DWELLING UNIT, THE QUALIFIED INSPECTOR
4 MAY HAVE SUCH ADDITIONAL ACCESS TO THE TENANT'S PERSONAL
5 BELONGINGS AS THE QUALIFIED INSPECTOR DETERMINES IS NECESSARY
6 AND REASONABLE.

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

17 (5) IF ANY FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL
18 PROPERTY BELONGING TO A TENANT IS FOUND TO CONTAIN BED BUGS, THE
19 QUALIFIED INSPECTOR SHALL ADVISE THE TENANT THAT THE FURNITURE,
20 CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY SHOULD NOT BE
21 REMOVED FROM THE DWELLING UNIT UNTIL A PEST CONTROL AGENT
22 DETERMINES THAT A BED BUG TREATMENT HAS BEEN COMPLETED; EXCEPT
23 THAT, IF THE DETERMINATION THAT ANY FURNITURE, CLOTHING,
24 EQUIPMENT, OR PERSONAL PROPERTY CONTAINS BED BUGS IS MADE BY A
25 QUALIFIED INSPECTOR LICENSED BY THE COMMISSIONER OF AGRICULTURE
26 PURSUANT TO ARTICLE 10 OF TITLE 35, THE QUALIFIED INSPECTOR SHALL
27 ADVISE THE TENANT REGARDING THE REMOVAL OF THE FURNITURE.

1 CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY IN ACCORDANCE WITH
2 RULES PROMULGATED BY THE COMMISSIONER OF AGRICULTURE PURSUANT
3 TO SAID ARTICLE 10. THE TENANT SHALL NOT DISPOSE OF PERSONAL
4 PROPERTY THAT WAS DETERMINED TO CONTAIN BED BUGS IN ANY
5 COMMON AREA WHERE SUCH DISPOSAL MAY RISK THE INFESTATION OF
6 OTHER DWELLING UNITS.

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

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

13 **38-12-905. Bed bugs - renting of dwelling units with bed bugs**
14 **prohibited.** A LANDLORD SHALL NOT OFFER FOR RENT A DWELLING UNIT
15 THAT THE LANDLORD KNOWS OR REASONABLY SUSPECTS TO CONTAIN BED
16 BUGS. UPON REQUEST FROM A PROSPECTIVE TENANT, A LANDLORD SHALL
17 DISCLOSE TO THE PROSPECTIVE TENANT WHETHER, TO THE LANDLORD'S
18 KNOWLEDGE, THE DWELLING UNIT THAT THE LANDLORD IS OFFERING FOR
19 RENT CONTAINED BED BUGS WITHIN THE PREVIOUS EIGHT MONTHS. UPON
20 REQUEST FROM A TENANT OR A PROSPECTIVE TENANT, A LANDLORD SHALL
21 DISCLOSE THE LAST DATE, IF ANY, ON WHICH A DWELLING UNIT BEING
22 RENTED OR OFFERED FOR RENT WAS INSPECTED FOR, AND FOUND TO BE
23 FREE OF, BED BUGS.

24 **38-12-906. Remedies - liability.** (1) A LANDLORD WHO FAILS TO
25 COMPLY WITH THIS PART 9 IS LIABLE TO THE TENANT FOR THE TENANT'S
26 ACTUAL DAMAGES.

27 (2) A LANDLORD MAY APPLY TO A COURT OF COMPETENT

1 **JURISDICTION TO OBTAIN INJUNCTIVE RELIEF AGAINST A TENANT WHO:**

2 (a) REFUSES TO PROVIDE REASONABLE ACCESS TO A DWELLING
3 UNIT; OR

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

6 (3) IF A COURT FINDS THAT A TENANT HAS UNREASONABLY FAILED
7 TO COMPLY WITH ONE OR MORE REQUIREMENTS SET FORTH IN THIS PART
8 9, THE COURT MAY ISSUE A TEMPORARY ORDER TO CARRY OUT THIS PART
9 9, INCLUDING:

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

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

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

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

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

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

25 **38-12-907. Relationship to warranty of habitability.**

26 **NOTWITHSTANDING ANY PROVISION OF PART 5 OF THIS ARTICLE 12 TO THE**
27 **CONTRARY, A LANDLORD WHO COMPLIES WITH THIS PART 9 IS DEEMED TO**

1 HAVE SATISFIED THE REQUIREMENTS OF SAID PART 5 WITH RESPECT TO
2 MATTERS CONCERNING BED BUGS.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 takes effect January 1, 2020; except that, if a referendum petition is filed
5 pursuant to section 1 (3) of article V of the state constitution against this
6 act or an item, section, or part of this act within the ninety-day period
7 after final adjournment of the general assembly, then the act, item,
8 section, or part will not take effect unless approved by the people at the
9 general election to be held in November 2020 and, in such case, will take
10 effect on the date of the official declaration of the vote thereon by the
11 governor.