

Colorado Warranty of Habitability

- I. Effective leases signed, renewed extended September 1, 2008
- II. Uninhabitable
 - a. Materially dangerous or hazardous to tenant's life, health, or safety
 - i. Property must be both uninhabitable and dangerous
 - b. Tenant must maintain property
 - i. The tenant must:
 1. Comply with building, health, and housing codes
 2. Keep the premises reasonably clean and safe
 3. Dispose of ashes, garbage, rubbish, and other waste in a safe and legal manner
 4. Use all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, elevators, and other facilities and appliances in a reasonable manner
 5. Conduct themselves and their guests in a manner that does not interfere with the quiet enjoyment of the premises of the other tenants
 6. Promptly notify the landlord of any uninhabitable condition
 - c. Tenant must not cause or allow condition
 - d. Examples:
 - i. Weather proofing of roof or walls
 - ii. Plumbing, gas facilities working
 - iii. Running water, hot water, sewage
 - iv. Electrical lighting
 - v. Heat functioning
 - vi. Rodent, vermin infestations
 - vii. Floors, stairways, and railings are maintained in good repair
 - viii. Locks on doors and windows
 - ix. Violation of building, housing or health codes (mold)
 - x. Otherwise unfit for human habitation (CRS § 38-12-503(2)(a))
- III. Notice and Chance to Cure
 - a. Tenant must give written notice within in more than ten (10) days and less than thirty (30) days of knowledge of the condition
 - b. Landlord has to cure within five (5) business days
 - c. If not cured tenant can terminate the lease
 - i. But, the landlord has the option to move tenant to comparable unit and pay for move
 - ii. Under the new Colorado law, it is advisable for the tenant to provide the landlord with notice of intent to terminate the lease and another opportunity for the landlord to cure
- IV. Tenant Remedies
 - a. Injunction
 - i. Tenant can seek an injunction in District Court

- ii. If an injunction is granted the court shall determine damages at the same time, and upon application by the tenant may release the funds to the tenant immediately
 - iii. When receiving an injunction, the tenant must give notice, to the local government in which the property is located, of the dangerous condition. The act does not set a time requirement for such notice to be provided, but it is a condition precedent to filing for an injunction.
 - b. Defense to FED
 - i. For non-payment of rent, but tenant has to put rent and damages in to registry of the court
 - c. Damages
 - i. Reduction of fair rental value
 - ii. Attorney's fees, costs if prevails
- V. Opt Out Exclusions
 - a. Any agreement reached between the tenant and the landlord that does not interfere with the landlord's obligations to the other tenants
 - b. Mobile home park owners (but rental of mobile homes)
 - c. Hospitals
 - d. Motels
 - e. College housing
 - f. Agricultural
 - g. Owners of less than four units or single family
 - i. If not government subsidized, tenant contracts for repairs
- VI. Landlord Option
 - a. Landlord may terminate unilaterally if due to disaster or catastrophe (38-12-503(6)(2))