

CHAPTER 401

PROPERTY

HOUSE BILL 25-1249

BY REPRESENTATIVE(S) Ricks and Bacon, Lindsay, Mabrey, Brown, English, Froelich, Garcia, Jackson, Joseph, Smith, Story; also SENATOR(S) Exum and Danielson, Cutter, Gonzales J., Jodeh, Kipp, Michaelson Jenet, Wallace, Weissman, Winter F.

AN ACT

CONCERNING SECURITY DEPOSITS SUBMITTED TO LANDLORDS BY RESIDENTIAL TENANTS.

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

SECTION 1. In Colorado Revised Statutes, 38-12-102, **amend** (4) as follows:

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

(4) "Normal wear and tear" means deterioration, DAMAGE, OR UNCLEANLINESS that occurs, based upon the use for which a rental unit or mobile home space, as defined in section 38-12-201.5 (6.5), is intended OR REASONABLY AND TYPICALLY USED, without negligence, carelessness, accident, or abuse of the premises or equipment or ~~chattels~~ PRIVATE PROPERTY by the tenant or home owner or members of the tenant's or home owner's household or their invitees or guests. "NORMAL WEAR AND TEAR" DOES NOT INCLUDE UNCLEANLINESS THAT RENDERS A DWELLING UNIT SUBSTANTIALLY LESS CLEAN THAN THE DWELLING UNIT WAS WHEN THE LEASE BEGAN.

SECTION 2. In Colorado Revised Statutes, 38-12-103, **amend** (1), (2), (3), (4) introductory portion, and (7); and **add** (1.5), (2.5), (3.5), (8), (9), (10), (11), and (12) as follows:

38-12-103. Return of security deposit. (1) (a) A landlord shall, within ~~one month~~ THIRTY DAYS after the termination of a lease or surrender ~~and acceptance of the~~ OF A premises, whichever occurs last, return to the tenant the full security deposit deposited with the landlord by the tenant, unless the lease agreement specifies a longer period of time, but not to exceed sixty days. ~~No~~ A security deposit shall NOT be retained to cover normal wear and tear OR FOR ANY DAMAGE OR

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DEFECTIVE CONDITION THAT PREEXISTED THE TENANCY. In the event that actual cause exists for retaining any portion of the security deposit, the landlord shall provide the tenant with a written statement listing the exact reasons for the retention of any portion of the security deposit. When the LANDLORD DELIVERS THE statement, ~~is delivered, it~~ THE LANDLORD shall ~~be accompanied by payment of~~ ALSO DELIVER the difference between any sum deposited and the amount retained, ~~The~~ ALONG WITH ANY RELEVANT DOCUMENTATION REQUIRED BY SUBSECTION (8) OF THIS SECTION. A landlord is deemed to have complied with this ~~section~~ REQUIREMENT by ~~mailing said~~ SENDING THE statement, ~~and any~~ REQUIRED payment, AND ANY required DOCUMENTATION to the last-known address of the tenant OR TO ANY EMAIL ADDRESS FOR THE TENANT THAT THE LANDLORD HAS ACTUAL NOTICE OF OR BY SENDING ANY REQUIRED PAYMENT TO THE TENANT IN ACCORDANCE WITH SUBSECTION (10) OF THIS SECTION.

~~(b) Nothing in this section shall preclude the landlord from retaining~~ EXCEPT AS PROVIDED IN SUBSECTION (3.5)(a)(IV) OF THIS SECTION, A LANDLORD HAS ACTUAL CAUSE TO RETAIN REASONABLE AMOUNTS FROM the security deposit ONLY for:

(I) Nonpayment of rent; ~~abandonment of the premises, or~~

(II) Nonpayment of utility charges; ~~repair work, or cleaning contracted for by the tenant.~~

(III) NONPAYMENT OF OTHER LAWFUL CHARGES LISTED IN THE LEASE; OR

(IV) NECESSARY REPAIR WORK FOR DAMAGE OR DEFECTIVE CONDITIONS THAT EXCEED NORMAL WEAR AND TEAR AND DID NOT PREEXIST THE TENANCY.

(1.5) UPON A LANDLORD'S OR TENANT'S REQUEST, IF REASONABLE AND PRACTICABLE, THE LANDLORD AND TENANT SHALL CONDUCT A WALK-THROUGH INSPECTION, EITHER IN PERSON OR VIA A TELECOMMUNICATION-ASSISTED INTERACTIVE WALK-THROUGH, OF THE DWELLING UNIT TO IDENTIFY IN WRITING ANY DAMAGE OR DEFECTIVE CONDITIONS THAT ARE BEYOND NORMAL WEAR AND TEAR AND THAT DID NOT PREEXIST THE TENANCY. THE LANDLORD SHALL PROVIDE A WALK-THROUGH INSPECTION AT A TENANT'S REQUEST, AT A TIME THAT IS MUTUALLY CONVENIENT TO THE PARTIES, BEFORE THE TERMINATION OF THE LEASE OR THE SURRENDER OF THE PREMISES, AND AFTER THE TENANT HAS HAD THE OPPORTUNITY TO REMOVE FURNITURE.

~~(2) The failure of If a landlord FAILS to provide a written statement within the required time specified in subsection (1) of~~ COMPLY WITH THE REQUIREMENTS OF this section ~~shall work a forfeiture of all his~~ OR OTHERWISE WRONGFULLY WITHHOLDS A SECURITY DEPOSIT OR ANY PORTION OF A SECURITY DEPOSIT, THE LANDLORD FORFEITS THE LANDLORD'S rights to withhold any portion of the security deposit under this section.

(2.5) A LANDLORD IS DEEMED TO HAVE WRONGFULLY WITHHELD A SECURITY DEPOSIT OR ANY PORTION OF IT IN VIOLATION OF THIS SECTION IF THE LANDLORD:

(a) FAILS TO TIMELY PROVIDE THE WRITTEN STATEMENT REQUIRED BY

SUBSECTION (1) OF THIS SECTION AND ALL RELEVANT DOCUMENTATION REQUIRED BY SUBSECTION (8) OF THIS SECTION;

(b) PROVIDES A WRITTEN STATEMENT THAT FAILS TO LIST THE EXACT REASONS FOR THE RETENTION OF ANY PORTION OF THE SECURITY DEPOSIT;

(c) FAILS TO RETURN THE DIFFERENCE BETWEEN ANY SUM DEPOSITED AND THE AMOUNT RETAINED WITHIN THE TIME SPECIFIED IN SUBSECTION (1) OF THIS SECTION; OR

(d) RETAINS A SECURITY DEPOSIT OR ANY PORTION OF IT IN BAD FAITH AS DESCRIBED IN SUBSECTION (3.5) OF THIS SECTION.

(3) (a) ~~The willful~~ WRONGFUL retention of a security deposit in violation of this section ~~shall render~~ RENDERS a landlord liable for treble the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney fees and court costs; except that the tenant ~~has the obligation to give notice to~~ SHALL NOTIFY the landlord of ~~his~~ THE TENANT'S DEMAND FOR THE RETURN OF THE SECURITY DEPOSIT AND intention to file legal proceedings ~~a minimum of~~ AT LEAST seven days ~~prior to~~ BEFORE filing ~~said~~ THE action.

(b) In ~~any~~ A court action brought by a tenant under this section, the landlord ~~shall bear~~ BEARS the burden of proving that ~~his~~ THE LANDLORD'S withholding of the security deposit or any portion of it was not wrongful AND THAT THE LANDLORD COMPLIED WITH THE REQUIREMENTS OF THIS SECTION.

(c) A TENANT MAY BRING A COURT ACTION FOR TREBLE DAMAGES, REASONABLE ATTORNEY FEES, AND COURT COSTS ONLY IF THE LANDLORD FAILS TO RETURN THE ENTIRE SECURITY DEPOSIT OR ANY WITHHELD PORTION TO THE TENANT WITHIN SEVEN DAYS AFTER RECEIVING A DEMAND AND NOTICE OF THE TENANT'S INTENTION TO FILE LEGAL PROCEEDINGS AS DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION.

(3.5) (a) A LANDLORD RETAINS A SECURITY DEPOSIT OR ANY PORTION OF IT IN BAD FAITH IF THE AMOUNT RETAINED BY THE LANDLORD:

(I) UNREASONABLY EXCEEDS THE AMOUNT OF ACTUAL DAMAGES THE LANDLORD INCURRED;

(II) IS RETAINED WITHOUT ACTUAL CAUSE EXISTING FOR THE RETENTION OF THE AMOUNT;

(III) IS AN AMOUNT THE LANDLORD KNEW OR SHOULD HAVE KNOWN EXCEEDED THE ACTUAL DAMAGES THE LANDLORD INCURRED OR WOULD INCUR; OR

(IV) IS RETAINED SOLELY OR IN PART FOR AN UNLAWFUL, RETALIATORY, OR DISCRIMINATORY PURPOSE.

(b) AN AMOUNT RETAINED BY A LANDLORD IS PRESUMED TO UNREASONABLY EXCEED THE AMOUNT OF ACTUAL DAMAGES THE LANDLORD INCURRED IF THE AMOUNT RETAINED IS ONE HUNDRED TWENTY-FIVE PERCENT OR GREATER THAN THE ACTUAL DAMAGES INCURRED. NOTHING IN THIS SUBSECTION (3.5)(b) PREVENTS A

COURT OR JURY FROM FINDING THAT A LESSER AMOUNT RETAINED BY A LANDLORD UNREASONABLY EXCEEDS THE AMOUNT OF ACTUAL DAMAGES THE LANDLORD INCURRED.

(c) IN A COURT ACTION BROUGHT BY A TENANT UNDER THIS SECTION, THE LANDLORD BEARS THE BURDEN OF PROVING THE AMOUNT OF ACTUAL DAMAGES THE LANDLORD INCURRED.

(d) IF A LANDLORD RETAINS A SECURITY DEPOSIT OR ANY PORTION OF IT IN GOOD FAITH AND OTHERWISE COMPLIES WITH ALL REQUIREMENTS OF THIS SECTION BUT IS FOUND IN A CIVIL ACTION TO HAVE REASONABLY RETAINED AN AMOUNT THAT EXCEEDED THE ACTUAL DAMAGES THE LANDLORD INCURRED, THE LANDLORD SHALL BE LIABLE TO THE TENANT ONLY FOR THE EXCESS AMOUNT RETAINED AND COURT COSTS.

(4) Upon cessation of ~~his~~ A LANDLORD'S interest in ~~the~~ A dwelling unit, whether by sale, assignment, death, appointment of a receiver, or otherwise, the person in possession of the TENANT'S security deposit, including ~~but not limited to the landlord, his~~ THE LANDLORD'S agent, or ~~his~~ THE LANDLORD'S executor, shall, within ~~a reasonable time~~ SIXTY DAYS:

(7) (a) Any provision, whether oral or written, in or pertaining to a rental agreement whereby ~~any~~ A provision of this ~~section~~ PART 1 THAT IS for the benefit of a tenant or members of ~~his~~ THE TENANT'S household is waived ~~shall be~~ OR MODIFIED IS deemed to be against public policy and ~~shall be~~ void.

(b) A PROVISION, WHETHER ORAL OR WRITTEN, IN OR PERTAINING TO A RENTAL AGREEMENT, WHICH PROVISION ASSIGNS A FEE OR CHARGE TO A TENANT FOR REPAIRS, CLEANING, OR OTHER NECESSARY WORK DUE TO NORMAL WEAR AND TEAR OR FOR ANY DAMAGE OR DEFECTIVE CONDITION THAT PREEXISTS THE TENANCY, IS DEEMED TO BE AGAINST PUBLIC POLICY AND VOID.

(8) FOR A TERMINATION OF A LEASE OR A SURRENDER OF THE PREMISES ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, IF A LANDLORD PROVIDES A TENANT WITH A WRITTEN STATEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION WITHIN FOURTEEN DAYS AFTER A WRITTEN REQUEST BY THE TENANT, THE LANDLORD SHALL PROVIDE DOCUMENTATION IN THE LANDLORD'S POSSESSION OR CONTROL, INCLUDING PHOTOGRAPHS, INSPECTION FORMS OR REPORTS, RECEIPTS, INVOICES, OR ESTIMATES, THAT IS RELEVANT TO THE RETENTION OF THE TENANT'S SECURITY DEPOSIT OR ANY PORTION OF THE SECURITY DEPOSIT.

(9) IF A LANDLORD'S PAYMENT REFUNDING A TENANT'S SECURITY DEPOSIT OR ANY PORTION OF IT AS REQUIRED BY THIS SECTION IS RETURNED TO THE LANDLORD AFTER IT IS SENT TO THE TENANT'S LAST-KNOWN ADDRESS, THE LANDLORD SHALL HOLD THE PAYMENT FOR AT LEAST ONE YEAR AFTER RECEIVING IT AND SHALL DISBURSE THE PAYMENT TO THE TENANT WITHIN FIFTEEN CALENDAR DAYS AFTER THE TENANT'S REQUEST.

(10) A LANDLORD MAY SEND A PAYMENT REFUNDING A TENANT'S SECURITY DEPOSIT OR ANY PORTION OF IT AS REQUIRED BY THIS SECTION TO THE TENANT BY

MAILING THE PAYMENT TO THE TENANT'S LAST-KNOWN ADDRESS OR, WITH THE TENANT'S CONSENT, BY USING A SECURED ELECTRONIC TRANSFER OF FUNDS.

(11) (a) A LANDLORD DOES NOT HAVE ACTUAL CAUSE TO RETAIN ANY AMOUNT OF A SECURITY DEPOSIT TO PAY FOR THE REPLACEMENT OF CARPET THROUGHOUT A DWELLING UNIT UNLESS THERE IS SUBSTANTIAL AND IRREPARABLE DAMAGE TO THE CARPET THAT EXCEEDS NORMAL WEAR AND TEAR AND DID NOT PREEXIST THE TENANCY. NOTHING IN THIS SUBSECTION (11)(a) PRECLUDES A LANDLORD FROM HAVING ACTUAL CAUSE TO RETAIN ANY AMOUNT OF A SECURITY DEPOSIT TO PAY FOR THE REPLACEMENT OF CARPET IN A PORTION OR PORTIONS OF THE DWELLING UNIT IF THERE IS SUBSTANTIAL AND IRREPARABLE DAMAGE TO A PORTION OR PORTIONS OF THE CARPET THAT EXCEEDS NORMAL WEAR AND TEAR AND DID NOT PREEXIST THE TENANCY.

(b) A LANDLORD DOES NOT HAVE ACTUAL CAUSE TO RETAIN ANY AMOUNT OF A SECURITY DEPOSIT TO PAY FOR PAINTING THROUGHOUT THE INTERIOR OF A DWELLING UNIT UNLESS THERE IS SUBSTANTIAL DAMAGE TO THE PAINT OF THE INTERIOR WALLS OR CEILING THROUGHOUT THE ENTIRE DWELLING UNIT THAT EXCEEDS NORMAL WEAR AND TEAR AND DID NOT PREEXIST THE TENANCY. NOTHING IN THIS SUBSECTION (11)(b) PRECLUDES A LANDLORD FROM HAVING ACTUAL CAUSE TO RETAIN ANY AMOUNT OF A SECURITY DEPOSIT TO PAY FOR THE REPLACEMENT OF PAINT IN A PORTION OR PORTIONS OF THE DWELLING UNIT IF THERE IS SUBSTANTIAL DAMAGE TO A PORTION OR PORTIONS OF THE PAINT ON THE INTERIOR WALLS OR CEILING THAT EXCEEDS NORMAL WEAR AND TEAR AND DID NOT PREEXIST THE TENANCY.

(c) A LANDLORD SHALL NOT DEEM CARPET TO BE SUBSTANTIALLY AND IRREPARABLY DAMAGED IF THE CARPET HAS NOT BEEN REPLACED WITH NEW CARPET WITHIN TEN YEARS PRECEDING THE TERMINATION OF THE LEASE OR SURRENDER OF THE PREMISES.

(12) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, SUBSECTIONS (1.5) AND (11) OF THIS SECTION DO NOT APPLY TO A RENTAL AGREEMENT CONCERNING THE OCCUPANCY OF A MOBILE HOME, AS DEFINED IN SECTION 38-12-201.5 (5), IN A MOBILE HOME PARK, AS DEFINED IN SECTION 38-12-201.5 (6).

SECTION 3. In Colorado Revised Statutes, 38-12-103, **amend as amended by House Bill 25-1168** (1) as follows:

38-12-103. Return of security deposit. (1) (a) A landlord shall, within ~~one month~~ THIRTY DAYS after the termination of a lease or surrender ~~and acceptance of the~~ OF A premises, whichever occurs last, return to the tenant the full security deposit deposited with the landlord by the tenant, unless the lease agreement specifies a longer period of time, but not to exceed sixty days. A landlord shall not retain the security deposit to cover normal wear and tear OR FOR ANY DAMAGE OR DEFECTIVE CONDITION THAT PREEXISTED THE TENANCY. If a tenant terminates the lease pursuant to section 38-12-402 (2)(a) and provides the documentation required pursuant to section 38-12-402 (2)(a.5), the tenant is not liable for damage to the dwelling unit caused by the responsible party or during the course of an incident of unlawful sexual behavior, stalking, domestic violence, or domestic abuse, and any

amount of money that the landlord retains from the security deposit must comply with section 38-12-402 (2)(b). In the event that actual cause exists for retaining any portion of the security deposit, the landlord shall provide the tenant with a written statement listing the exact reasons for the retention of any portion of the security deposit. When the LANDLORD DELIVERS THE statement ~~is delivered, it must be accompanied by payment of~~ THE LANDLORD SHALL ALSO DELIVER the difference between any sum deposited and the amount retained, ALONG WITH ANY RELEVANT DOCUMENTATION REQUIRED BY SUBSECTION (8) OF THIS SECTION. A landlord is deemed to have complied with this ~~section~~ REQUIREMENT ~~by mailing~~ SENDING the statement, ~~and any~~ REQUIRED payment, AND ANY required DOCUMENTATION to the last-known address of the tenant OR TO ANY EMAIL ADDRESS FOR THE TENANT THAT THE LANDLORD HAS ACTUAL NOTICE OF BY SENDING ANY REQUIRED PAYMENT TO THE TENANT IN ACCORDANCE WITH SUBSECTION (10) OF THIS SECTION.

~~(b) This section does not preclude a landlord from retaining~~ EXCEPT AS PROVIDED IN SUBSECTION (3.5)(a)(IV) OF THIS SECTION, A LANDLORD HAS ACTUAL CAUSE TO RETAIN REASONABLE AMOUNTS FROM the security deposit ONLY for:

(I) Nonpayment of rent; ~~abandonment of the premises, or~~

(II) Nonpayment of utility charges; ~~repair work, or cleaning contracted for by the tenant.~~

(III) NONPAYMENT OF OTHER LAWFUL CHARGES LISTED IN THE LEASE; OR

(IV) NECESSARY REPAIR WORK FOR DAMAGE OR DEFECTIVE CONDITIONS THAT EXCEED NORMAL WEAR AND TEAR AND DID NOT PREEXIST THE TENANCY.

SECTION 4. Act subject to petition - effective date - applicability.

(1) Except as otherwise provided in this section, this act takes effect January 1, 2026.

(2) Section 38-12-103 (1), Colorado Revised Statutes, as amended in section 2 of this act, takes effect only if House Bill 25-1168 does not become law.

(3) Section 3 of this act takes effect only if House Bill 25-1168 becomes law, in which case section 3 of this act takes effect on the applicable effective date of this act.

(4) 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 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(5) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: June 3, 2025