LEGISLATIVE UPDATE

COLORADO REAL ESTATE

LAW 2019

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2019 LEGISLATIVE SESSION

The First Regular Session of the 72nd Colorado General Assembly convened January 7 through May 10, 2019. The House introduced 335 bills; the Senate 263 bills: for a total of 598 bills (compare to 471 in 2018) . The Colorado Bar Association ("CBA") took active positions on *48* bills.

The Real Estate Section tracked over 50 bills throughout the Session and requested that the CBA's Legislative Policy Committee ("LPC") take active positions on 13 bills. As a matter of policy, no one can testify on or lobby a bill on behalf of CBA without the knowledge and approval of the LPC and the Director of Legislative Relations. The LPC considers the accuracy and precision of a bill's drafting and its positive effect on the practice of law, among other things. LPC took positions on the 13 bills that Real Estate Section – often in concert with other Sections - identified for action.

The following summary of bills from the 2019 Regular Session of the Colorado legislature includes real estate related bills that Real Estate Section tracked and that were signed into law. In addition, the summaries include some bills that did not pass but were among the bills on which CBA took active positions or which were vetoed. Some of the bills that did not succeed in 2019 may return next year.

REAL ESTATE LEGISLATION

1. Affordable Housing.

HB1009 - Opioid and Other Substance Use Disorders Study Committee. Expands the **housing voucher program** currently within the department of local affairs to include individuals with a substance use disorder and appropriates $4.3 million each of the next 5 fiscal years to support the program (section 1); Requires each recovery residence operating in Colorado to be licensed by the department of public health and environment (section 2); and Creates the opioid crisis recovery fund for money the state receives as settlement or damage awards resulting from opioid-related litigation (section 3).

Governor signed 5/23/2019.

HB1011 and SB182 – Manufactured Homes – State sales and use tax exemption. Exempts from state sales tax, and through operation of another statute also exempts from local sales taxes, 48% of the purchase price for the initial sale of "factory-built housing" and 100% of the purchase price for any subsequent sale of a "manufactured home" (sales tax exemption). The exemption statute references another statute defining "factory-built housing". In **Senate Bill 03-182,** however, the general assembly replaced the **existing definition of "factory-built housing" with a new definition of "factory-built residential structure",** and the statute referenced in the exemption statute actually defines the latter term. The definition of "factory-built residential structure" includes only "structures designed to be installed on a permanent foundation" and therefore arguably limits the sales tax exemption, which had previously clearly applied to structures designed for occupancy in either temporary or permanent locations, to only those structures designed to be installed on permanent foundations. The bill clarifies the scope of the sales tax exemption by allowing it for "manufactured homes", a term that a specifically referenced statute defines broadly to include homes designed to be installed on either temporary or permanent foundations.
Governor signed 2/28/2019.

HB1084 - Notice To Property Owners Whether Area Blighted. Under current law, before an urban renewal authority (authority) may undertake an urban renewal project for an urban renewal area, it must determine that the area is a slum, blighted area, or a combination of such conditions. When the authority determines that the area is not a slum, a blighted area, or a combination of such conditions, the authority is also required under current law to send notice of the determination to any owner of private property located within the area within 30 days of the determination. The bill modifies this latter requirement by requiring notice be provided to such property owners within 5 days of either determination being made.
Governor signed 3/21/2019.

HB1228 – Increase Tax Credit Allocation Affordable Housing. Currently, under the affordable housing tax credit, during each calendar year of the period beginning in 2015 and ending in 2024 the Colorado housing and finance authority (CHFA) may allocate tax credits in an aggregate amount up to $5 million annually. The bill increases the annual aggregate cap to $10 million for the years beginning on January 1, 2020, and ending on December 31, 2024.
Governor signed 5/17/2019.

HB1238 – Clarification of Manufactured Housing Standards. The bill amends the state director of housing's authority to obtain injunctive relief to be consistent with the removal of the requirement that factory-built structures that are only substantially altered or repaired bear an insignia of approval issued by the division of housing. The bill also removes the requirement that factory-built structures that are manufactured or sold for transportation to and installation in another state bear an insignia of approval issued by the division of housing. The bill also removes the requirement that factory-built structures that are only substantially altered or repaired in Colorado bear an insignia of approval issued by the division of housing.
Governor signed 4/25/2019.

HB1245 – Affordable Housing Funding From Vendor Fee Changes. The state treasurer is required to credit an amount equal to the increase in sales taxes attributable to the vendor fee changes that result from the bill to the housing development grant fund, which the division of housing in the department of local affairs (division) uses to make grants and loans to improve, preserve, or expand the supply of affordable housing in the state. The division is required to annually award at least 1/3 of this money for affordable housing projects for households whose annual income is less than or equal to 30% of the area median income. The increase in sales taxes attributable to the vendor fee changes that result from the bill are excluded from the definition of "state sales tax increment revenue" for purposes of the "Colorado Regional Tourism Act" so that the increase is payable to the state and not an applicable financing entity. A retailer who collects state sales tax is currently allowed to retain 3 1/3% of the state sales taxes collected as compensation for the retailer's expenses incurred in collecting and remitting the tax (vendor fee). Beginning January 1, 2020, the bill increases the vendor fee to 4% and establishes a $1,000 monthly cap on the vendor fee. This limit applies regardless of the number of the retailer's locations. A vendor with multiple locations is required to register all locations under one account with the department of revenue. The changes to the state vendor fee do not apply to a local government that imposes a sales tax and permits a vendor fee that is based on the state's vendor fee. The sales and use tax revenue that is deposited in the housing development grant fund for the state fiscal year 2019-20 is reduced by a specified amount to cover the department of revenue's expenses to make the IT changes necessary to implement the bill, which results in a corresponding increase in the general fund. In turn, this amount is appropriated from the general fund to the department of revenue for this purpose.
Governor signed 5/17/2019.

SB225 – Authorize Local Governments to Stabilize Rent. The bill repeals existing statutory language prohibiting counties or municipalities (local governments) from enacting any ordinance or resolution that would control rent on either private residential property or a private residential housing unit (collectively, private residential property). The bill authorizes local governments to enact and enforce any ordinance, resolution, agreement, deed restriction, or other measure that would stabilize rent on private residential property.
Senate Second Reading Laid over to 5-2-2019 - *Watch for this one to return.*

2. Colorado Common Interest Communities.

HB1050 – Encourage Use of Xeriscape in Common Areas. - Section 1 of the bill augments an existing law that establishes the right of unit owners in common interest communities to use water-efficient landscaping, subject to reasonable aesthetic standards, by specifically extending the same policy to common areas under the control of the community's governing board. Sections 2 and 3 extend existing water conservation requirements, currently applicable only to certain public entities that supply water at retail and their customers, to property management districts and other special districts that manage areas of parkland and open space.
Governor signed 3/7/2019.

HB1212 – Recreate Homeowners' Association Community Manager Licensing. Concerning the recreation of the community association manager licensing program.
President of the Senate signed 5/22/2019. Vetoed by Governor 5-31-19.

HB1309 – Mobile Home Park Act Oversight. Concerning the regulation of mobile home parks, and, in connection therewith, granting counties the power to enact ordinances for mobile home parks, extending the time to move or sell a mobile home after eviction proceedings, and creating the "Mobile Home Park Dispute Resolution and Enforcement Program".
Governor signed 5/23/2019.

3. Construction.

SB138 – Bond Requirements for Public Projects Using Private Financing. Under current law, when a person, company, firm, corporation, or contractor (contractor) enters into a contract with a county, municipality, school district, or, in some instances, any other political subdivision of the state to perform work in connection with a project that has specified characteristics, the contractor is required to execute performance bonds and payment bonds. **The bill specifies that some of these bonding requirements apply to certain construction contracts situated or located on publicly owned property using public or private money or public or private financing.** *Attached.*
Governor signed 4/16/2019.

SB196 – Colorado Quality Apprenticeship Training Act of 2019. The bill modifies procurement requirements for state contracts for public projects. The bill makes the following changes: Invitation for bids: Currently, all construction contracts for public projects that do not receive federal money may be solicited by invitation for bids. The bill specifies that only a construction contract for a public project that is reasonably expected to cost $1 million or less may be solicited by invitation for bids. Competitive sealed best value bids: Currently, all construction contracts for public projects that do not receive federal money may be awarded by competitive sealed best value bidding. The bill specifies that, unless prohibited by federal law, a construction contract for a public project that is reasonably expected to cost over $1 million is required to be awarded through competitive sealed best value bidding or integrated project delivery, and a construction contract for a public project that is reasonably expected to cost $1 million or less may be awarded through competitive sealed best value bidding or integrated project delivery. Current law specifies the evaluation factors that are required to be included in an invitation for competitive sealed best value bids for a public project. The bill adds several required evaluation factors including the craft labor staffing plan for the project for the bidder and the bidder's subcontractors, the anticipated utilization by the bidder and its subcontractors of apprentices registered with federal or state apprenticeship agencies to complete the work under the contract, and the safety plan and safety record of the bidder and the bidder's subcontractors. Disclosure of subcontractors: The bill requires any contractor that responds to a competitive solicitation for a public project to disclose, in its initial bid or proposal, the top 5 subcontractor disciplines it plans to use to fulfill the requirements of the contract. The bill specifies how the top 5 subcontractor disciplines are measured and requires contractors to disclose subcontractors for the mechanical, electrical, and plumbing requirements of the contract, even if they are not included in the top 5 disciplines. Apprenticeship utilization requirements: The general contractor for a public project financed in whole or in part by state money in the amount of $1 million or more is required to submit, prior to the contract award, documentation to the contracting agency that certifies that all subcontractors used on the project participate in apprenticeship training programs that have been

approved by a federal or state apprenticeship agency and have a proven record of graduating apprentices for at least 3 of the past 5 years. The contractor is required to provide specified supporting documentation to the contracting agency and the agency is required to make the documentation available to the public on its website. A contractor that plans to submit a bid for a public project may request a waiver of the apprenticeship requirements and the contracting agency is required make public all waivers and the specific rationale for granting the waiver. Integrated project delivery: Current law specifies that integrated project delivery is a project delivery method in which there is a contractual agreement between an agency and a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these services, for a public project. The bill adds additional evaluation factors that a contracting agency is required to use to evaluate proposals and the capabilities of participating entities. The additional factors include information about past performance and experience of the bidder, the bidder's project management plan for the contract, the bidder's staffing plan, the bidder's safety plan and safety record, the bidder's job standards, and the availability and use of domestically produced iron, steel, and related manufactured goods to execute the contract.
Sent to Governor 5/13/2019.

4. Deeds and Plats.

HB1098 – Deeds to Convey Real Property. Concerning deeds for the conveyance of real property, and, in connection therewith, establishing requirements for title insurance entities that prepare deeds and establishing forms for the preparation of deeds in certain circumstances.
Attached.
Governor signed 3/7/2019. Effective: 3-7-19.

HB1274 – Board County Commissioners Delegation Subdivision Platting. The process for review and approval by a county of subdivision plats or other plans and agreements affecting certain land use determinations must be conducted pursuant to county resolutions, ordinances, or regulations. The bill provides that such resolutions, ordinances, or regulations may provide for the delegation by a board of county commissioners (board) to one or more county administrative officials the authority to: Approve or deny final plats, amendments to final plats, and correction plats; Approve subdivision improvement agreements and other agreements required in connection with a final plat, an amendment to a final plat, or correction plat; and Review and approve the data, surveys, analyses, studies, plans and designs submitted in connection with a final plat, amendment to a final plat, or correction plat. Any delegation of authority made pursuant to the bill does not include: The approval of any exception to, waiver of, or deviation from any state or county requirement regarding the subdivision of land; The approval of any agreement for the expenditure of public funds; or The waiver or restriction of any appeal process provided by county resolution, ordinance, or regulation. Any delegation of authority made pursuant to the bill must include procedures for public notice and the submission of written comments prior to the administrative approval or denial of a final plat or amendment to a final plat and for the appeal to a board of such administrative approval or denial.
Governor signed 5/31/2019.

5. Eminent Domain.

SB017 – Requirements for CDOT Land Acquisitions. Capital letters or bold & italic numbers indicate new material to be added to existing statute. provides that when the department of transportation (CDOT) needs to acquire land in order to establish, open, relocate, widen, add mass transit to, or otherwise alter a portion of a state highway, it may only acquire the land after: The chief engineer of CDOT has provided a written report to the transportation commission that describes the project and all land to be acquired for the project, includes a map of the existing and future boundaries of the highway, and estimates the damages and benefits to each affected landowner; and The transportation commission has determined that the project will serve public interest or convenience and adopted a resolution authorizing the chief engineer to offer affected landowners appropriate compensation. The bill authorizes CDOT, acting through the chief engineer, to acquire land in such circumstances by purchase or exchange without providing the report or obtaining transportation commission approval. If CDOT needs to acquire land in such circumstances through condemnation, it must provide the report and obtain transportation commission approval.
Governor signed 3/28/2019.

SB107 – Broadband Infrastructure Installation. Section 1 of the bill authorizes an electric utility or other electricity supplier to install and maintain above-ground broadband internet service infrastructure for internal use, for external use in providing broadband internet service, or for lease of any excess capacity to a broadband internet service provider (provider). Section 1 also authorizes a provider to enter into a contract with a landowner to access an electric utility's existing easement on the landowner's private property if: The provider seeks to access the easement to construct or maintain infrastructure to be used in providing broadband internet service; The provider's access will not violate an exclusivity term in the electric utility's contract with the landowner; and The electric utility has previously determined that the provider's access would not likely interfere with the electric utility's construction, maintenance, or use of any infrastructure placed on the property. A provider seeking access to an electric utility's existing easement on private property is required to seek written authorization from the electric utility, which authorization the electric utility shall not unreasonably withhold or delay. An electric utility authorizing a provider's access to its existing easement on private property may seek reimbursement from the provider for actual and reasonable costs the electric utility incurs as a result of sharing the easement. The public utilities commission may enforce the requirements set forth in the bill by directing the attorney general to commence an action or proceeding in district court seeking to stop or prevent the violations. Sections 2 and 3 make conforming amendments.
Attached.
Sent to Governor 5/10/2019.

6. Energy and Environment.

HB1003 – Creation of Community Solar Gardens. Increasing the maximum size of a CSG from 2 megawatts to 10 megawatts; and Removing the requirement that a CSG subscriber's identified physical location be in the same county as, or a county adjacent to, that of the CSG, while retaining the requirement that it be within the service territory of the same electric utility.
Governor signed 5/30/2019.

HB1006 – Wildfire Matter Review Committee. The bill creates a state grant program to be administered by the Colorado state forest service (forest service) to fund proactive forest management fuels reduction projects to reduce the impacts to life, property, and critical infrastructure caused by wildfires.
Governor signed 5/30/2019.

HB1076 – Clean Indoor Air Act Add E-cigarettes – Remove Exceptions.
The bill amends the "Colorado Clean Indoor Air Act" by adding a definition of "electronic smoking device" (ESD) to include e-cigarettes and similar devices within the scope of the act; Citing the results of recent research on ESD emissions and their effects on human health as part of the legislative declaration; Eliminating the existing exceptions for certain places of business in which smoking may be permitted, such as airport smoking concessions, businesses with 3 or fewer employees, designated smoking rooms in hotels, and designated smoking areas in assisted living facilities; and Repealing the ability of property owners and managers to designate smoking and nonsmoking areas through the posting of signs.
Governor signed 5/29/2019.

HB1113 – Protect Water Quality Adverse Mining Impacts. Current law does not address reliance on perpetual water treatment as the means to minimize impacts to water quality in a reclamation plan for a mining operation. Section 1 of the bill requires most reclamation plans to demonstrate, by substantial evidence, an end date for any water quality treatment necessary to ensure compliance with applicable water quality standards. Current law allows a mining permittee to submit an audited financial statement as proof that the operator has sufficient funds to meet its reclamation liabilities in lieu of a bond or other financial assurance. Section 2 eliminates this self-bonding option and also requires that all reclamation bonds include financial assurances in an amount sufficient to protect water quality, including costs for any necessary treatment and monitoring costs.
Governor signed 4/4/2019.

HB1272 – Housing Authority Property in Colorado New Energy Improvement District. The Colorado new energy improvement district (NEID) administers a commercial property assessed clean energy program through which an owner of eligible real property, which includes residential properties having at least 5 dwelling units (eligible property), may finance energy improvements to the eligible property by joining the NEID and agreeing to pay a NEID special assessment against the eligible property. A city, county, or multijurisdictional housing authority(housing authority) and its property, whether owned or leased, are generally exempt from the payment of special assessments to the state or any political subdivision of the state. The bill clarifies that this exemption does not preclude a housing authority, an entity in which a housing authority has an ownership interest, or a lessor who leases real property to or from a housing authority from voluntarily applying to include eligible real property that it owns into the boundaries of the NEID and accepting the levying of a NEID special assessment against the eligible property.
Governor signed: 5/30/2019.

SB181 – Protect Public Welfare Oil and Gas Operations. The bill **enhances local governments'**

ability to protect public health, safety, and welfare and the environment by clarifying, reinforcing, and establishing their regulatory authority over the surface impacts of oil and gas development. Current law specifies that local governments have so-called "House Bill 1041" powers, which are a type of land use authority over oil and gas mineral extraction areas, only if the Colorado oil and gas conservation commission (commission) has identified a specific area for designation. Sections 1 and 2 of the bill repeal that limitation. Section 3 directs the air quality control commission to adopt rules to: Require an oil and gas operator of an oil and gas facility to install continuous emission monitoring equipment at the facility to monitor for hazardous air pollutants as specified by the commission by rule, as well as for methane and volatile organic compounds; and Minimize emissions of methane and other hydrocarbons and nitrogen oxides from the entire oil and gas fuel cycle. Section 4 clarifies that local governments have land use authority to regulate the siting of oil and gas locations and to regulate land use and surface impacts, including the ability to inspect oil and gas facilities; impose fines for leaks, spills, and emissions; and impose fees on operators or owners to cover the reasonably foreseeable direct and indirect costs of permitting and regulation and the costs of any monitoring and inspection program necessary to address the impacts of development and enforce local governmental requirements. Section 5 repeals an exemption for oil and gas production from counties' authority to regulate noise. The remaining substantive sections of the bill amend the "Oil and Gas Conservation Act" (Act). The legislative declaration for the Act states that it is in the public interest to "foster" the development of oil and gas resources in a manner "consistent" with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources; this has been construed to impose a balancing test between fostering oil and gas development and protecting the public health, safety, and welfare. Section 6 states that the public interest is to "regulate" oil and gas development to "protect" those values. Currently, the Act defines "waste" to include a diminution in the quantity of oil or gas that ultimately may be produced. Section 7 excludes from that definition the nonproduction of oil or gas as necessary to protect public health, safety, and welfare or the environment. Section 7 also repeals the requirement that the commission take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources. The 9-member commission currently includes 3 members who must have substantial experience in the oil and gas industry and one member who must have training or experience in environmental or wildlife protection. Section 8 reduces the number of industry members to one and requires one member with training or substantial experience in wildlife protection; one member with training or substantial experience in environmental protection; one member with training or substantial experience in soil conservation or reclamation; one member who is an active agricultural producer or a royalty owner; and one member with training or substantial experience in public health. Section 9 requires the director of the commission to hire up to 2 deputy directors. The Act currently specifies that the commission has exclusive authority relating to the conservation of oil or gas. Section 10 clarifies that nothing in the Act alters, impairs, or negates the authority of: The air quality control commission to regulate the air pollution associated with oil and gas operations; The water quality control commission to regulate the discharge of water pollutants from oil and gas operations; The state board of health to regulate the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations; The solid and hazardous waste commission to regulate the disposal of hazardous waste and exploration and production waste from oil and gas operations; or A local government to regulate land use related to oil and gas

operations, including specifically the siting of an oil and gas location. Currently, an operator first gets a permit from the commission to drill one or more wells within a drilling unit, which is located within a defined area, and then notifies the applicable local government of the proposed development and seeks any necessary local government approval. Section 11 requires operators to file, with the application for a permit to drill, either: Proof that the operator has already filed an application with the affected local government to approve the siting of the proposed oil and gas location and of the local government's disposition of the application; or proof that the affected local government does not regulate the siting of oil and gas locations. Section 11 also specifies that the commission and the director shall not issue a permit until the commission has promulgated every rule required to be adopted by oil and gas bills enacted in 2019 and the rules have become effective; except that the director may issue a permit if the director determines that the permit does not require additional analysis to ensure the protection of public health, safety, and welfare or the environment or require additional local government or other state agency consultation. Pursuant to commission rule, an operator may submit a statewide blanket financial assurance of $60,000 for fewer than 100 wells or $100,000 for 100 or more wells. Section 11 directs the commission to adopt rules that require financial assurance sufficient to provide adequate coverage for all applicable requirements of the Act. Current law allows the commission to set numerous fees used to administer the Act and sets a $200 or $100 cap on the fees. Section 11 eliminates the caps and requires the commission to set a permit application fee in an amount sufficient to recover the commission's reasonably foreseeable direct and indirect costs in conducting the analysis necessary to assure that permitted operations will be conducted in compliance with all applicable requirements of the Act. Current law gives the commission the authority to regulate oil and gas operations so as to prevent and mitigate "significant" adverse environmental impacts to the extent necessary to protect public health, safety, and welfare, taking into consideration cost-effectiveness and technical feasibility. Section 11 requires the commission to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations. Section 11 also requires the commission to adopt rules that require alternate location analyses for oil and gas facilities that are proposed to be located near populated areas and that evaluate and address the cumulative impacts of oil and gas development. Finally, section 11 directs the commission to promulgate rules to: Ensure proper wellhead integrity of all oil and gas production wells, including the use of nondestructive testing of well joints and requiring certification of oil and gas field welders; Allow public disclosure of flowline information and to evaluate and determine when a deactivated flowline must be inspected before being reactivated; and Evaluate and determine when inactive and shut-in wells must be inspected before being put into production or used for injection. Current law authorizes "forced" or "statutory" pooling, a process by which "any interested person", typically an operator who has at least one lease or royalty interest, may apply to the commission for an order to pool oil and gas resources located within a particularly identified drilling unit. After giving notice to interested parties and holding a hearing, the commission can adopt a pooling order to require an owner of oil and gas resources within the drilling unit who has not consented to the application (nonconsenting owner) to allow the operator to produce the oil and gas within the drilling unit notwithstanding the owner's lack of consent. Section 12 requires that the owners of more than 50% of the mineral interests to be pooled must have joined in the application for a pooling order and that the application include either: Proof that the applicant has already filed an application with the affected local

government to approve the siting of the proposed oil and gas facilities and of the local government's disposition of the application; or proof that the affected local government does not regulate the siting of oil and gas facilities. Section 12 also specifies that the operator cannot use the surface owned by a nonconsenting owner without permission from the nonconsenting owner. Current law also sets the royalty that a nonconsenting owner is entitled to receive at 12.5% of the full royalty rate until the consenting owners have been fully reimbursed (out of the remaining 87.5% of the nonconsenting owner's royalty) for their costs. Section 12 raises a nonconsenting owner's royalty rate during this pay-back period from 12.5% to 15% and makes a corresponding reduction of the portion of the nonconsenting owner's royalty from which the consenting owners' costs are paid. Current law requires the commission to ensure that the 2-year average of the unobligated portion of the oil and gas conservation and environmental response fund does not exceed $6 million and that there is an adequate balance in the environmental response account in the fund to address environmental response needs. Section 13 directs the commission to ensure that the unobligated portion of the fund does not exceed 50% of total appropriations from the fund for the upcoming fiscal year and that there is an adequate balance in the account to support the operations of the commission and to address environmental response needs. Section 15 amends preemption law by specifying that both state agencies and local governments have authority to regulate oil and gas operations and establishes that, where there is a conflict in the exercise of that authority, the more protective standard as to health, safety, and welfare, the environment, and wildlife resources controls. *Attached.*
Governor signed 4/16/2019.

7. Landlord-Tenant.

HB1106 – Rental Application Fees. The bill states that a landlord may not charge a prospective tenant a rental application fee unless the landlord uses the entire amount of the fee to cover the landlord's costs in processing the rental application. A landlord also may not charge a prospective tenant a rental application fee that is in a different amount than a rental application fee charged to another prospective tenant who applies to rent: The same dwelling unit; or If the landlord offers more than one dwelling unit for rent at the same time, any other dwelling unit offered by the landlord. The bill requires a landlord to provide to any prospective tenant who has paid a rental application fee either a disclosure of the landlord's anticipated expenses for which the fee will be used or a receipt that itemizes the landlord's actual expenses incurred. The bill requires that, before accepting a rental application or collecting a rental application fee from a prospective tenant, a landlord shall give the prospective tenant written notice of the landlord's tenant selection criteria and the grounds upon which a rental application may be denied. If a landlord uses rental history or credit history as criteria in consideration of an application, the landlord shall neither inquire into nor consider any rental history or credit history beyond 7 years immediately preceding the date of the application. If a landlord denies a rental application based on any of certain described grounds, the landlord shall provide the prospective tenant a written notice of the denial that states the reasons for the denial. A landlord who violates any of the requirements created in the bill is liable to the person who is charged a rental application fee for twice the amount of the rental application fee, plus court costs and reasonable attorney fees.
Governor signed 4/25/2019.

HB1118 – Time Period to Cure Lease Violation. Current law requires a landlord to provide a

tenant 3 days to cure a violation for unpaid rent or any other condition or covenant of a lease agreement, other than a substantial violation, before the landlord can initiate eviction proceedings based on that unpaid rent or other violation. Current law also requires 3 days' notice prior to a tenancy being terminated for a subsequent violation of a condition or covenant of a lease agreement. The bill requires a landlord to provide a tenant 14 days to cure a violation for unpaid rent or for a first violation of any other condition or covenant of a lease agreement, other than a substantial violation, before the landlord can initiate eviction proceedings. The bill requires 14 days' notice prior to the landlord terminating a lease agreement for a subsequent violation of the same condition or covenant of the agreement. *Attached*
Governor signed 5/20/2019. Effective 5-20-19.

HB1170 – Residential Tenants Health and Safety Act. Concerning increasing tenant protections relating to the residential warranty of habitability. *Attached.*
Governor signed 5/20/2019.

HB1328 – Landlord and Tenant Duties Regarding Bed Bugs. 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 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. *Attached.*
Governor signed 6/3/2019.

SB180 – Eviction Legal Defense Fund. The bill creates the eviction legal defense fund (fund). The state court administrator will award grants from the fund to qualifying nonprofit organizations (organizations) that provide legal advice, counseling, and representation for, and on behalf of, indigent clients who are experiencing an eviction or are at immediate risk of an eviction. The bill lists permissible uses of grant money awarded from the fund. Organizations that receive a grant from the fund are required to report to the state court administrator certain information about services provided by the organization . The state court administrator is required to evaluate the use of grants from the fund every 5 years and submit that evaluation to the general assembly. The bill includes a legislative declaration.
Sent to Governor 5/16/2019.

8. Public Trustees / Treasurers.

HB1295 – County Treasurers to Serve as Public Trustees. Public trustees for Class 2 counties (Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo, and Weld) are currently appointed by the governor. Commencing July 1, 2020, the bill specifies that the county treasurer for each Class 2 county will serve as the public trustee for the county. The county treasurer is required to create a transition plan for assuming the new duties of the public trustee. The county treasurer is authorized to consider incorporating staff of the appointed trustee's office into the treasurer's office.
Governor signed 5/29/2019.

9. Remote Notary.

HB1167 – Remote Notaries Protect Privacy. Current law requires an individual who wishes to have a document notarized to appear personally before the notary public. The bill authorizes notaries public to perform a notarial act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document. To perform a "remote notarization", a notary must use an electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communication. The bill establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the individual seeking the remote notarization. A notary and the operator of a remote notarization system are prohibited from using personal information collected during a remote notarization for any purpose other than completing the notarial act or as necessary to effect, administer, enforce, service, or process the transaction for which the information was provided.
Did not pass – Senate Second Reading Laid Over Daily on 5-1-19. *Watch for this one to return.*
(SB084 – Revised Uniform Law Remote Notarization – Postpone Indefinitely on 1/30/2019).

10. Water.

HB1082 – Water Rights Easements. The bill clarifies that water rights easement holders may maintain, repair, and improve their easement.
Governor signed 3/28/2019.

11. Miscellaneous.

HB1078 – Landowner Consent Listing National Register. Prior to taking any action to approve a national property documentation form (form) or to request the approval of the keeper of the national register of an executed form, the bill requires the state historical society to require the applicant to obtain the consent, evidenced by a notarized signature, of each owner of the land and property described in the form.
Governor signed 4/12/2019.

SENATE BILL 19-138

BY SENATOR(S) Winter and Priola, Court, Gardner, Tate, Todd;
also REPRESENTATIVE(S) Bird, Buentello, Exum, Hooton, Kraft-Tharp, Snyder, Tipper, Becker.

CONCERNING BONDING REQUIREMENTS FOR CONTRACTORS THAT ARE A PARTY TO CERTAIN PUBLIC-PRIVATE INITIATIVES.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Under current law, taxpayers, subcontractors, and material suppliers have payment protection on public construction projects through bonding requirements and on private construction projects through mechanic's liens, but no such payment protection exists on construction projects using a public-private partnership funding agreement.

(b) Bonding protects the public interest, tax dollars, and property owned by the taxpayers of Colorado and helps ensure that subcontractors and materials suppliers involved in the construction or repair of a public property are paid.

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.

(2) Now, therefore, it is the intent of the general assembly to ensure that current payment and performance bonding requirements for public construction projects apply to construction projects using a public-private partnership funding agreement.

SECTION 2. In Colorado Revised Statutes, 24-105-202, **add** (4) as follows:

24-105-202. Contract performance and payment bonds - applicability. (4) THIS SECTION APPLIES TO ALL CONSTRUCTION CONTRACTS AWARDED TO A PRIVATE ENTITY FOR CONSTRUCTION THAT IS SITUATED OR LOCATED ON PUBLICLY OWNED PROPERTY USING ANY PUBLIC OR PRIVATE MONEY OR PUBLIC OR PRIVATE FINANCING.

SECTION 3. In Colorado Revised Statutes, 38-26-105, **amend** (1); and **add** (3) as follows:

38-26-105. Public works contractor's bond - conditions - applicability - definitions. (1) Subject to ~~the provisions of~~ subsection (2) of this section, any person, company, firm, or corporation entering into a contract for more than fifty thousand dollars with any county, municipality, or school district for the construction of any public building or the prosecution or completion of any public works or for repairs upon any public building or public works ~~shall be~~ IS required before commencing work to execute, in addition to all bonds that may be required of it, a penal bond with good and sufficient surety to be approved by the board or boards of county commissioners of the county or counties, the governing body or bodies of the municipality or municipalities, or the district school board or boards, conditioned that such contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing such person or such person's subcontractors with labor, laborers, materials, rental machinery, tools, or equipment used or performed in the prosecution of the work provided for in such contract and that such contractor will indemnify and save harmless the county, municipality, or school district to the extent of any payments in connection with the carrying out of any such contract which the county or counties, municipality or municipalities, and school district or school districts may be required to make under the law. Subcontractors, materialmen, mechanics, suppliers of rental equipment, and others may have a right of action for amounts lawfully due them from the

contractor or subcontractor directly against the principal and surety of such bond. Such action for laborers, materials, rental machinery, tools, or equipment furnished or labor rendered ~~shall~~ MUST be brought within six months after the completion of the work. ~~and not afterwards.~~

(3) THIS SECTION APPLIES TO ALL CONTRACTS FOR MORE THAN FIFTY THOUSAND DOLLARS AWARDED TO A PRIVATE ENTITY FOR THE CONSTRUCTION OF ANY PUBLIC BUILDING OR THE PROSECUTION OR COMPLETION OF ANY PUBLIC WORKS OR FOR REPAIRS UPON ANY PUBLIC BUILDING OR PUBLIC WORKS THAT IS SITUATED OR LOCATED ON PUBLICLY OWNED PROPERTY USING ANY PUBLIC OR PRIVATE MONEY OR PUBLIC OR PRIVATE FINANCING.

SECTION 4. In Colorado Revised Statutes, 38-26-106, **amend** (1); and **add** (3) as follows:

38-26-106. Contractor executes bond - applicability. (1) ~~A contractor who is awarded a contract for more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation, or other public works for any county, city and county, municipality, school district, or other political subdivision of the state, and a contractor who is awarded a contract for more than one hundred fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation, or other public works for this state.~~ Before entering upon the performance of any ~~such~~ work included in the contract, A CONTRACTOR shall duly execute, deliver to, and file with the board, officer, body, or person by whom the contract was awarded a good and sufficient bond or other acceptable surety approved by the contracting board, officer, body, or person, in a penal sum not less than one-half of the total amount payable under the terms of the contract; except that, for a public works contract having a total value of five hundred million dollars or more, a bond or other acceptable surety, including but not limited to a letter of credit, may be issued in a penal sum not less than one-half of the maximum amount payable under the terms of the contract in any calendar year in which the contract is performed. The contracting board, office, body, or person shall ensure that the contract requires that a bond or other acceptable surety, including but not limited to a letter of credit, be filed and current for the duration of the contract.

(3) THIS SECTION APPLIES TO:

(a) A CONTRACTOR WHO IS AWARDED A CONTRACT FOR MORE THAN FIFTY THOUSAND DOLLARS FOR THE CONSTRUCTION, ERECTION, REPAIR, MAINTENANCE, OR IMPROVEMENT OF ANY BUILDING, ROAD, BRIDGE, VIADUCT, TUNNEL, EXCAVATION, OR OTHER PUBLIC WORKS FOR ANY COUNTY, CITY AND COUNTY, MUNICIPALITY, SCHOOL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE;

(b) A CONTRACTOR WHO IS AWARDED A CONTRACT FOR MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS FOR THE CONSTRUCTION, ERECTION, REPAIR, MAINTENANCE, OR IMPROVEMENT OF ANY BUILDING, ROAD, BRIDGE, VIADUCT, TUNNEL, EXCAVATION, OR OTHER PUBLIC WORKS FOR THIS STATE; AND

(c) ALL CONTRACTS FOR MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS AWARDED BY ANY COUNTY, CITY AND COUNTY, MUNICIPALITY, SCHOOL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE TO A PRIVATE ENTITY FOR THE CONSTRUCTION, ERECTION, REPAIR, MAINTENANCE, OR IMPROVEMENT OF ANY BUILDING, ROAD, BRIDGE, VIADUCT, TUNNEL, EXCAVATION, OR OTHER PUBLIC WORKS THAT IS SITUATED OR LOCATED ON PUBLICLY OWNED PROPERTY USING ANY PUBLIC OR PRIVATE MONEY OR PUBLIC OR PRIVATE FINANCING.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, 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 such period, 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED April 16, 2019 at 1:12 p.m.
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

HOUSE BILL 19-1098

BY REPRESENTATIVE(S) Gray, Arndt, Bird, Buentello, Duran, Exum, Galindo, McKean, Snyder, Valdez D., Van Winkle;
also SENATOR(S) Lee, Crowder, Gardner, Marble, Priola.

CONCERNING DEEDS FOR THE CONVEYANCE OF REAL PROPERTY, AND, IN CONNECTION THEREWITH, ESTABLISHING REQUIREMENTS FOR TITLE INSURANCE ENTITIES THAT PREPARE DEEDS AND ESTABLISHING FORMS FOR THE PREPARATION OF DEEDS IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. In Colorado Revised Statutes, **amend** 38-30-113 as follows:

38-30-113. Deeds - short form - acknowledgment - effect. (1) (a) A deed for the conveyance of real property ~~may be~~ IN substantially ~~in~~ the following form AND THAT INCLUDES THE WORDS "AND WARRANT(S) THE TITLE TO THE SAME", OR SUBSTANTIALLY SIMILAR LANGUAGE, IS A WARRANTY DEED WITH COVENANTS OF WARRANTY:

....., whose street address is ....., City or Town of ....., County of ..... and State

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.

of ....., for the consideration of ..... dollars, in hand paid, hereby sell(s) and convey(s) to ..... whose street address is ....., City or Town of ....., County of ..... and State of ....., the following real property in the County of ..... and State of Colorado, to wit: ..... with all its appurtenances and warrant(s) the title to the same, subject to ..... .

Signed this ..... day of ....., 20..... .

.....

(b) ~~Such deed may be acknowledged in accordance with section 38-35-101. Failure to state the address or the county or state of residence of the grantor or grantee shall not affect the validity of such deed.~~ A DEED FOR THE CONVEYANCE OF REAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM AND THAT INCLUDES THE WORDS "AND WARRANT(S) THE TITLE TO THE SAME AGAINST ALL PERSONS CLAIMING UNDER ME", OR SUBSTANTIALLY SIMILAR LANGUAGE, IS A SPECIAL WARRANTY DEED WITH COVENANTS OF WARRANTY AS TO THE GRANTOR'S PERIOD OF OWNERSHIP OF THE PROPERTY:

....., WHOSE STREET ADDRESS IS ....., CITY OR TOWN OF ....., COUNTY OF ..... AND STATE OF ....., FOR THE CONSIDERATION OF ..... DOLLARS, IN HAND PAID, HEREBY SELL(S) AND CONVEY(S) TO ..... WHOSE STREET ADDRESS IS ....., CITY OR TOWN OF ....., COUNTY OF ..... AND STATE OF ....., THE FOLLOWING REAL PROPERTY IN THE COUNTY OF ..... AND STATE OF COLORADO, TO WIT: ..... WITH ALL ITS APPURTENANCES AND WARRANT(S) THE TITLE TO THE SAME AGAINST ALL PERSONS CLAIMING UNDER ME, SUBJECT TO ..... .

SIGNED THIS ..... DAY OF ....., 20..... .

.....

(c) ~~Every deed in substance in the above form, when properly~~

~~executed, shall be a conveyance in fee simple to the grantee, with covenants on the part of the grantor as set forth in subsection (2) of this section.~~ A DEED FOR THE CONVEYANCE OF REAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM THAT DOES NOT INCLUDE WORDS OF WARRANTY HAS THE SAME FORCE AND EFFECT AS A BARGAIN AND SALE DEED AT COMMON LAW, BUT WITHOUT COVENANTS OF WARRANTY, AND PASSES THE AFTER-ACQUIRED TITLE OF THE GRANTOR:

> ....., WHOSE STREET ADDRESS IS ....., CITY OR TOWN OF ....., COUNTY OF ..... AND STATE OF ....., FOR THE CONSIDERATION OF ..... DOLLARS, IN HAND PAID, HEREBY SELL(S) AND CONVEY(S) TO ..... WHOSE STREET ADDRESS IS ....., CITY OR TOWN OF ....., COUNTY OF ..... AND STATE OF ....., THE FOLLOWING REAL PROPERTY IN THE COUNTY OF ..... AND STATE OF COLORADO, TO WIT: ..... WITH ALL ITS APPURTENANCES ..... .
>
> SIGNED THIS ..... DAY OF ....., 20..... .
>
> .....

~~(d) Repealed.~~

(d) A DEED FOR THE CONVEYANCE OF REAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM THAT DOES NOT INCLUDE WORDS OF WARRANTY AND WITH THE WORD "QUITCLAIM(S)" SUBSTITUTED FOR "CONVEY(S)" IS A QUITCLAIM DEED WITHOUT COVENANTS OF WARRANTY THAT PASSES NO AFTER-ACQUIRED TITLE OF THE GRANTOR:

> ....., WHOSE STREET ADDRESS IS ....., CITY OR TOWN OF ....., COUNTY OF ..... AND STATE OF ....., FOR THE CONSIDERATION OF ..... DOLLARS, IN HAND PAID, HEREBY SELL(S) AND QUITCLAIM(S) TO ..... WHOSE STREET ADDRESS IS ....., CITY OR TOWN OF ....., COUNTY OF ..... AND STATE OF ....., THE FOLLOWING REAL PROPERTY IN THE COUNTY OF ..... AND STATE OF COLORADO, TO WIT: ..... WITH ALL ITS

APPURTENANCES ..... .

SIGNED THIS ..... DAY OF ....., 20..... .

.....

(2) ~~The words "warrant(s) the title" in a warranty deed as described in subsection (1)(a) of this section or in a mortgage as described in section 38-30-117 mean that the grantor covenants:~~ ANY DEED DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY BE ACKNOWLEDGED IN ACCORDANCE WITH SECTION 38-35-101 OR 24-21-515. FAILURE TO STATE THE ADDRESS OR THE COUNTY OR STATE OF RESIDENCE OF THE GRANTOR OR GRANTEE DOES NOT AFFECT THE VALIDITY OF THE DEED.

~~(a) That at the time of the making of such instrument he was lawfully seized of an indefeasible estate in fee simple in and to the property therein described and has good right and full power to convey the same;~~

~~(b) That the same was free and clear from all encumbrances, except as stated in the instrument; and~~

~~(c) That he warrants to the grantee and his heirs and assigns the quiet and peaceable possession of such property and will defend the title thereto against all persons who may lawfully claim the same.~~

(3) ~~Such covenants shall be binding upon any grantor and his heirs and personal representatives as fully as if written at length in said instrument~~ EVERY DEED IN SUBSTANCE, IN A FORM DESCRIBED IN SUBSECTION (1) OF THIS SECTION OR IN ANY OTHER FORM PERMITTED BY COLORADO LAW, REGARDLESS OF WHETHER THE DEED RECITES VALUABLE CONSIDERATION OR WHETHER VALUABLE CONSIDERATION HAS BEEN GIVEN FOR THE DEED, WHEN PROPERLY EXECUTED, IS A CONVEYANCE TO THE GRANTEE, WITH COVENANTS ON THE PART OF THE GRANTOR, IF ANY, AS SET FORTH IN SUBSECTION (4) OF THIS SECTION. SUBJECT TO ANY RESERVATIONS SPECIFICALLY SET FORTH IN A DEED, THE FORM OF DEED USED BY THE GRANTOR DOES NOT AFFECT THE ABSOLUTE NATURE OF THE FEE SIMPLE CONVEYANCE OF THE PROPERTY BEING CONVEYED AND IS NOT DEEMED TO CONVEY ANY LESSER ESTATE OR INTEREST SIMPLY BY VIRTUE OF THE FORM OF DEED USED OR WHETHER THE GRANTOR PROVIDED ANY WARRANTIES OF TITLE IN THE DEED.

(4) (a) THE WORDS "WARRANT(S) THE TITLE" IN A WARRANTY DEED AS DESCRIBED IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION OR IN A MORTGAGE AS DESCRIBED IN SECTION 38-30-117 MEAN THAT THE GRANTOR COVENANTS:

(I) THAT, AT THE TIME OF THE MAKING OF THE WARRANTY DEED, THE GRANTOR WAS LAWFULLY SEIZED OF AN INDEFEASIBLE ESTATE IN FEE SIMPLE IN AND TO THE PROPERTY DESCRIBED IN THE DEED AND HAS GOOD RIGHT AND FULL POWER TO CONVEY THE PROPERTY;

(II) THAT THE PROPERTY DESCRIBED IN THE DEED WAS FREE AND CLEAR FROM ALL ENCUMBRANCES, EXCEPT AS STATED IN THE WARRANTY DEED; AND

(III) THAT THE GRANTOR WARRANTS TO THE GRANTEE AND THE GRANTEE'S HEIRS AND ASSIGNS THE QUIET AND PEACEABLE POSSESSION OF THE PROPERTY AND THAT:

(A) WITH RESPECT TO A WARRANTY DEED OR MORTGAGE, THE GRANTOR WILL DEFEND THE TITLE TO THE PROPERTY AGAINST ALL PERSONS WHO MAY CLAIM THE TITLE; AND

(B) WITH RESPECT TO A SPECIAL WARRANTY DEED, THE GRANTOR WILL DEFEND THE TITLE TO THE PROPERTY AGAINST ALL PERSONS WHO MAY CLAIM THE TITLE BUT ONLY AS AGAINST ANY PERSONS CLAIMING TO HOLD TITLE BY, OR THROUGH, THE GRANTOR.

(b) A COVENANT DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION IS BINDING UPON THE GRANTOR AND THE GRANTOR'S HEIRS AND PERSONAL REPRESENTATIVES AS FULLY AS IF IT WERE WRITTEN AT LENGTH IN THE WARRANTY DEED.

(5) (a) A WARRANTY DEED OR SPECIAL WARRANTY DEED INTENDED TO INCLUDE A LIMITATION ON THE WARRANTY OF TITLE PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION MAY USE THE WORDS "SUBJECT TO STATUTORY EXCEPTIONS" OR INCLUDE A DIFFERENT LISTING OR DESCRIPTION OF EXCEPTIONS AS THE GRANTOR AND GRANTEE MAY AGREE. THE WORDS "STATUTORY EXCEPTIONS", WHEN USED IN ANY DEED, MEAN THAT THE GRANTEE ACCEPTS TITLE TO THE CONVEYED PROPERTY SUBJECT TO:

(I) REAL ESTATE TAXES FOR THE CALENDAR YEAR IN WHICH THE CONVEYANCE OCCURRED AND SUBSEQUENT YEARS THAT ARE NOT YET DUE AND PAYABLE;

(II) ALL MATTERS THAT ARE DISCLOSED OR THAT WOULD HAVE BEEN DISCLOSED BY AN IMPROVEMENT SURVEY PLAT, AS DEFINED IN SECTION 38-51-102 (9), OF THE CONVEYED PROPERTY OR COULD HAVE BEEN ASCERTAINED BY AN INSPECTION OF THE CONVEYED PROPERTY AND WHICH MATTERS WERE NOT CREATED OR OTHERWISE KNOWN BY THE GRANTOR; AND

(III) ALL MATTERS RECORDED IN THE REAL ESTATE RECORDS OF THE COUNTY CLERK AND RECORDER FOR THE COUNTY IN WHICH THE CONVEYED PROPERTY IS LOCATED.

(b) IF A WARRANTY DEED OR SPECIAL WARRANTY DEED INCLUDES A BLANK AFTER A REFERENCE TO "STATUTORY EXCEPTIONS" BUT NO ADDITIONAL MATTERS ARE SPECIFICALLY LISTED IN THE BLANK, THE BLANK IS DEEMED TO BE DELETED FROM THE WARRANTY DEED OR SPECIAL WARRANTY DEED, AND THE TITLE CONVEYED IS SUBJECT ONLY TO THE STATUTORY EXCEPTIONS.

SECTION 2. In Colorado Revised Statutes, **add** 38-30-116.5 as follows:

38-30-116.5. Preparation of deeds - definition. (1) IN CONNECTION WITH THE ISSUANCE OF A POLICY OF TITLE INSURANCE, BUT SUBJECT TO THE TERMS OF THIS STATUTE, A LICENSED TITLE INSURANCE ENTITY MAY PREPARE DEEDS FOR THE CONVEYANCE OF REAL PROPERTY IN ACCORDANCE WITH THE FORMS DESCRIBED IN SECTION 38-30-113 (1).

(2) A DEED PREPARED BY A LICENSED TITLE INSURANCE ENTITY CONTAINING A COVENANT OF WARRANTY AS PROVIDED IN SECTION 38-30-113 (1)(a) OR (1)(b) MUST:

(a) INCLUDE A LIMITATION ON THE WARRANTY OF TITLE PURSUANT TO SECTION 38-30-113 (4)(a); AND

(b) USE THE WORDS "SUBJECT TO STATUTORY EXCEPTIONS" AND NO OTHER TERMS OR DESCRIPTIONS, UNLESS THE PREPARING LICENSED TITLE INSURANCE ENTITY IS OTHERWISE INSTRUCTED IN WRITING BY BOTH:

(I) THE GRANTOR OR AN AUTHORIZED AGENT FOR THE GRANTOR; AND

(II) THE GRANTEE OR AN AUTHORIZED AGENT FOR THE GRANTEE.

(3) WHEN PREPARING A DEED PURSUANT TO THIS SECTION IN WHICH THE PHRASE "SUBJECT TO STATUTORY EXCEPTIONS" IS USED, A LICENSED TITLE INSURANCE ENTITY SHALL NOT DISCLAIM, LIMIT, OR SEEK INDEMNIFICATION AGAINST LIABILITY FOR ANY NEGLIGENCE BY THE LICENSED TITLE INSURANCE ENTITY.

(4) AS USED IN THIS SECTION, "LICENSED TITLE INSURANCE ENTITY" MEANS A TITLE INSURANCE ENTITY, AS DEFINED IN SECTION 10-11-102 (11).

SECTION 3. In Colorado Revised Statutes, 38-30-117, **amend** (3) as follows:

38-30-117. Mortgages - short form - acknowledgment - effect. (3) Every mortgage in substance in the above form, when properly executed, ~~shall be~~ IS a mortgage to secure the payment of the money ~~therein~~ specified IN THE MORTGAGE, with covenants as expressed in ~~section 38-30-113 (2)~~ SECTION 38-30-113 (4)(a), but if the words "and warrant(s) the title to the same" are omitted, no such covenants ~~shall be~~ ARE implied.

SECTION 4. In Colorado Revised Statutes, **repeal** 38-30-115 as follows:

38-30-115. Deeds - bargain and sale - special warranty. ~~A deed executed according to the form in section 38-30-113 with the words "and warrant the title to the same" omitted therefrom shall have the same force and effect as a bargain and sale deed, without covenants of warranty, at common law and will pass the after-acquired title of the grantor; and the words "and warrant the title against all persons claiming under me" when included in such deed shall be a covenant that the grantor will warrant and defend the title to the grantee and his heirs and assigns against all persons claiming to hold title by, through, or under the grantor.~~

SECTION 5. In Colorado Revised Statutes, **repeal** 38-30-116 as follows:

38-30-116. Deeds - quitclaim. ~~A deed executed according to the form in section 38-30-113 with the word "quitclaim" substituted for "convey" and the words "and warrant the title to the same" omitted therefrom shall be a deed of quitclaim and shall have the same effect as a conveyance as quitclaim deeds now in use.~~

SECTION 6. Applicability. This act applies to deeds for the conveyance of real property that are executed on or after the effective date of this act.

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED March 7th, 2019 at 2:10 p.m.
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

SENATE BILL 19-107

BY SENATOR(S) Donovan, Bridges, Fenberg, Fields, Foote, Gardner, Ginal, Gonzales, Hisey, Holbert, Lee, Marble, Pettersen, Rankin, Rodriguez, Sonnenberg, Story, Todd, Williams A., Garcia;
also REPRESENTATIVE(S) Roberts, Arndt, Bird, Buckner, Buentello, Carver, Catlin, Cutter, Esgar, Exum, Galindo, Gray, Hansen, Herod, Hooton, Kipp, Liston, Lontine, McCluskie, Melton, Michaelson Jenet, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Will, Wilson.

CONCERNING THE INSTALLATION OF BROADBAND INTERNET SERVICE INFRASTRUCTURE.

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

SECTION 1. In Colorado Revised Statutes, **add** part 6 to article 15 of title 40 as follows:

PART 6
ELECTRIC UTILITY EASEMENTS

40-15-601. Definitions. AS USED IN THIS PART 6, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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.

(1) "ATTACHED FACILITY" MEANS A BROADBAND FACILITY, AS DEFINED IN SECTION 38-5.5-102 (2), OR A BROADBAND NETWORK OR ANY PORTION OF A BROADBAND NETWORK, IN EACH CASE LOCATED SUBSTANTIALLY:

(a) ABOVEGROUND AND ATTACHED TO AN ELECTRIC UTILITY'S ELECTRIC SERVICE INFRASTRUCTURE; OR

(b) UNDERGROUND IN AN ELECTRIC EASEMENT AND EXISTING BEFORE THE DELIVERY OF NOTICE PURSUANT TO SECTION 40-15-602 (2).

(2) "BROADBAND AFFILIATE" MEANS A COMMERCIAL BROADBAND SUPPLIER THAT IS A SEPARATE LEGAL ENTITY FROM ANY ELECTRIC UTILITY BUT IS CONTROLLED BY, CONTROLS, OR IS UNDER COMMON CONTROL WITH AN ELECTRIC UTILITY.

(3) "COMMERCIAL BROADBAND SERVICE" MEANS "BROADBAND SERVICE", AS THAT TERM IS DEFINED IN SECTION 38-5.5-102 (1), OR BROADBAND INTERNET SERVICE.

(4) (a) "COMMERCIAL BROADBAND SUPPLIER" MEANS:

(I) A PROVIDER OF BROADBAND INTERNET SERVICE OR AN EXISTING BROADBAND PROVIDER, AS THAT TERM IS DEFINED IN SECTION 38-5.5-102 (3), OR A PERSON THAT INTENDS TO PROVIDE BROADBAND INTERNET SERVICE OR BROADBAND SERVICE; OR

(II) A PERSON THAT DIRECTLY OR INDIRECTLY SELLS, LEASES, OR OTHERWISE TRANSFERS ATTACHED FACILITIES OR A RIGHT TO INSTALL, OPERATE, MAINTAIN, OR USE ATTACHED FACILITIES FOR ANOTHER PERSON'S PROVISION OF COMMERCIAL BROADBAND SERVICE OR A PERSON THAT INTENDS TO SELL, LEASE, OR OTHERWISE TRANSFER ATTACHED FACILITIES OR A RIGHT TO INSTALL, OPERATE, MAINTAIN, OR USE ATTACHED FACILITIES.

(b) "COMMERCIAL BROADBAND SUPPLIER" DOES NOT INCLUDE AN ELECTRIC UTILITY.

(5) "ELECTRIC EASEMENT" MEANS A RECORDED OR UNRECORDED EASEMENT, RIGHT-OF-WAY UNDER SECTION 38-4-103 OR OTHERWISE, OR SIMILAR RIGHT IN OR TO REAL PROPERTY, INCLUDING PRESCRIPTIVE RIGHTS,

NO MATTER HOW ACQUIRED, HELD BY AN ELECTRIC UTILITY FOR THE SITING OF ELECTRIC SERVICE INFRASTRUCTURE OR FOR THE PURPOSE OF DELIVERING ELECTRIC SERVICE, REGARDLESS OF WHETHER:

(a) THE EASEMENT OR OTHER RIGHT IS EXCLUSIVELY FOR THE PROVISION OF ELECTRIC SERVICE OR FOR USE IN CONNECTION WITH COMMERCIAL BROADBAND SERVICE, TELECOMMUNICATION SERVICE, OR ANOTHER PURPOSE; OR

(b) THE ELECTRIC UTILITY OR A COMMERCIAL BROADBAND SUPPLIER USES THE EASEMENT OR OTHER RIGHT TO PROVIDE COMMERCIAL BROADBAND SERVICE.

(6) "ELECTRIC UTILITY" MEANS A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION 40-9.5-102.

(7) "INTEREST HOLDER" MEANS A PROPERTY OWNER OR OTHER PERSON WITH AN INTEREST IN THE REAL PROPERTY UPON WHICH AN ELECTRIC EASEMENT IS LOCATED.

(8) "MEMORANDUM" MEANS A WRITTEN INSTRUMENT THAT INCLUDES, AT A MINIMUM, THE NAME AND ADDRESS OF THE ELECTRIC UTILITY, THE DATE ON WHICH THE NOTICE WAS MAILED, AND THE INFORMATION REQUIRED TO BE INCLUDED IN A NOTICE UNDER SECTION 40-15-602 (2)(b)(III) AND (2)(b)(IV).

(9) "NOTICE" MEANS A WRITTEN LETTER SUBSTANTIALLY COMPLYING WITH THE REQUIREMENTS SET FORTH IN SECTION 40-15-602 (2)(b), WHICH NOTICE SHALL BE DEEMED DELIVERED ON THE DATE POSTMARKED OR OTHERWISE TIME STAMPED.

(10) "PERSON" HAS THE MEANING SET FORTH IN SECTION 40-1-102 (10).

(11) "PROPERTY OWNER" MEANS A PERSON WITH A RECORDED FEE SIMPLE INTEREST IN REAL PROPERTY UPON WHICH AN ELECTRIC EASEMENT IS LOCATED.

(12) "REQUEST FOR NOTICE" MEANS A WRITTEN INSTRUMENT RECORDED BY AN INTEREST HOLDER IN COMPLIANCE WITH THE

REQUIREMENTS SET FORTH IN SECTION 40-15-602 (2)(c).

40-15-602. Electric easements - commercial broadband service - broadband affiliates - notice required. (1) WITH REGARD TO REAL PROPERTY SUBJECT TO AN ELECTRIC EASEMENT, IF AN ELECTRIC UTILITY, OR ANY COMMERCIAL BROADBAND SUPPLIER DESIGNATED BY THE ELECTRIC UTILITY TO ACT ON ITS BEHALF, COMPLIES WITH THE NOTICE AND FILING REQUIREMENTS SET FORTH IN SUBSECTION (2) OF THIS SECTION, THE ELECTRIC UTILITY HOLDING THE ELECTRIC EASEMENT MAY, SUBJECT TO SUBSECTION (4) OF THIS SECTION AND WITHOUT THE CONSENT OF AN INTEREST HOLDER IN THE REAL PROPERTY SUBJECT TO THE ELECTRIC EASEMENT, TAKE THE FOLLOWING ACTIONS TO THE EXTENT NOT ALREADY PERMITTED BY THE ELECTRIC EASEMENT:

(a) INSTALL, MAINTAIN, OR OWN, OR PERMIT ANY COMMERCIAL BROADBAND SUPPLIER, INCLUDING A BROADBAND AFFILIATE, TO INSTALL, MAINTAIN, OR OWN, AN ATTACHED FACILITY FOR OPERATION BY A COMMERCIAL BROADBAND SUPPLIER, INCLUDING A BROADBAND AFFILIATE, IN PROVIDING COMMERCIAL BROADBAND SERVICE; AND

(b) LEASE OR OTHERWISE PROVIDE TO A COMMERCIAL BROADBAND SUPPLIER, INCLUDING A BROADBAND AFFILIATE, ANY EXCESS CAPACITY OF ATTACHED FACILITIES FOR PURPOSES OF PROVIDING COMMERCIAL BROADBAND SERVICE.

(2) (a) AT LEAST THIRTY DAYS BEFORE FIRST EXERCISING ITS RIGHTS UNDER ONE OR BOTH OF SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION WITH RESPECT TO AN ELECTRIC EASEMENT OR PORTION OF AN ELECTRIC EASEMENT, AN ELECTRIC UTILITY OR ITS DESIGNATED COMMERCIAL BROADBAND SUPPLIER MUST SEND NOTICE TO EACH PROPERTY OWNER THAT HOLDS AN INTEREST IN THE REAL PROPERTY SUBJECT TO THE ELECTRIC EASEMENT AND ANY OTHER INTEREST HOLDER THAT HAS RECORDED A REQUEST FOR NOTICE AND MUST RECORD A MEMORANDUM IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN EACH COUNTY IN WHICH THE ELECTRIC UTILITY IS EXERCISING ITS RIGHTS UNDER SUBSECTION (1) OF THIS SECTION. AN ELECTRIC UTILITY OR ITS DESIGNATED COMMERCIAL BROADBAND SUPPLIER MAY ONLY COMMENCE EXERCISING ITS RIGHTS UNDER SUBSECTION (1) OF THIS SECTION UPON DELIVERY OF SUFFICIENT NOTICE.

(b) A LETTER PROVIDING NOTICE PURSUANT TO THIS SUBSECTION (2)

MUST:

(I) BE SENT BY CERTIFIED MAIL FROM OR ON BEHALF OF THE ELECTRIC UTILITY TO THE PROPERTY OWNER AND ANY INTEREST HOLDER THAT HAS RECORDED A REQUEST FOR NOTICE AT EACH OF THE FOLLOWING, AS APPLICABLE:

(A) THE LAST KNOWN ADDRESS FOR THE PROPERTY OWNER BASED ON THE ELECTRIC UTILITY'S RECORDS;

(B) THE ADDRESS LISTED FOR THE PROPERTY OWNER IN THE RECORDS OF THE OFFICE OF THE COUNTY ASSESSOR; AND

(C) THE ADDRESS SET FORTH IN A REQUEST FOR NOTICE;

(II) INCLUDE THE NAME, ADDRESS, TELEPHONE NUMBER, AND NAMED POINT OF CONTACT FOR THE ELECTRIC UTILITY AND, IF DELIVERED BY A COMMERCIAL BROADBAND SUPPLIER DESIGNATED BY THE ELECTRIC UTILITY, THE NAME, ADDRESS, TELEPHONE NUMBER, AND NAMED POINT OF CONTACT FOR THE DESIGNATED COMMERCIAL BROADBAND SUPPLIER;

(III) INCLUDE THE PROPERTY ADDRESS; THE RECORDING NUMBER, IF ANY, OF THE ELECTRIC EASEMENT OR RECORDED MEMORANDUM OF THE ELECTRIC EASEMENT; A GENERAL DESCRIPTION OF ANY EXISTING ELECTRIC SERVICE INFRASTRUCTURE CURRENTLY LOCATED IN THE ELECTRIC EASEMENT; AND THE APPROXIMATE LOCATION OF THE ELECTRIC EASEMENT, WHICH NEED NOT INCLUDE A LEGAL DESCRIPTION, LAND TITLE SURVEY, PLAT, OR OTHER DESIGNATION OF THE EXACT BOUNDARIES OF THE ELECTRIC EASEMENT;

(IV) INCLUDE:

(A) A CITATION TO THIS PART 6; AND

(B) A COPY OF THE LANGUAGE OF SUBSECTION (1) OF THIS SECTION WITH AN INDICATION OF WHETHER THE ELECTRIC UTILITY IS EXERCISING RIGHTS UNDER ONE OR BOTH OF SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION;

(V) GIVE AN ESTIMATED TIME FOR THE START OF INSTALLATION OR

CONSTRUCTION WITH REGARD TO ANY NEW INSTALLATION OR CONSTRUCTION THAT WILL OCCUR IN CONNECTION WITH THE EXERCISE OF RIGHTS UNDER SUBSECTION (1) OF THIS SECTION;

(VI) INCLUDE A STATEMENT REGARDING THE RIGHT AND OBLIGATION OF THE ELECTRIC UTILITY, OR ITS DESIGNATED COMMERCIAL BROADBAND SUPPLIER, TO RECORD A MEMORANDUM; AND

(VII) INCLUDE A STATEMENT REGARDING THE STATUTE OF LIMITATIONS FOR THE INTEREST HOLDER TO FILE A CLAIM WITH RESPECT TO THE ELECTRIC UTILITY'S EXERCISE OF RIGHTS.

(c) AN INTEREST HOLDER THAT DESIRES TO OBTAIN NOTICE UNDER THIS PART 6 AT A SPECIFIC ADDRESS MAY FILE IN THE OFFICE OF THE COUNTY CLERK AND RECORDER FOR THE COUNTY IN WHICH THE REAL PROPERTY IS SITUATED A REQUEST FOR NOTICE THAT IDENTIFIES THE INTEREST HOLDER'S NAME AND ADDRESS, THE INSTRUMENT GRANTING THE INTEREST HOLDER'S INTEREST IN THE PROPERTY, AND THE RECORDING NUMBER OF THE INSTRUMENT OR A RECORDED MEMORANDUM OF THE INSTRUMENT.

(3) UPON EXERCISE OF THE RIGHTS SET FORTH IN SUBSECTION (1) OF THIS SECTION, THE RIGHTS RUN WITH THE LAND AND ARE ASSIGNABLE BY THE ELECTRIC UTILITY.

(4) THE TERMS AND CONDITIONS OF A WRITTEN ELECTRIC EASEMENT APPLY TO AN ELECTRIC UTILITY'S USES OF THE ELECTRIC EASEMENT SET FORTH IN SUBSECTION (1) OF THIS SECTION, EXCEPT THOSE TERMS AND CONDITIONS THAT WOULD PROHIBIT THE ELECTRIC UTILITY'S EXERCISE OF RIGHTS UNDER SUBSECTION (1) OF THIS SECTION. A PROHIBITION ON ABOVEGROUND ELECTRIC SERVICE INFRASTRUCTURE CONTAINED WITHIN A WRITTEN ELECTRIC EASEMENT CONSTITUTES A PROHIBITION ON ABOVEGROUND ATTACHED FACILITIES. IN CONNECTION WITH THE EXERCISE OF RIGHTS UNDER SUBSECTION (1) OF THIS SECTION, AN ELECTRIC UTILITY OR ITS DESIGNATED COMMERCIAL BROADBAND SUPPLIER MUST COMPLY WITH ANY NOTICE REQUIREMENTS CONTAINED IN A WRITTEN ELECTRIC EASEMENT HELD BY THE ELECTRIC UTILITY RELATED TO ENTERING THE REAL PROPERTY SUBJECT TO THE ELECTRIC EASEMENT OR COMMENCING ANY CONSTRUCTION OR INSTALLATION ON THE REAL PROPERTY.

(5) NOTHING IN THIS PART 6 REQUIRES AN ELECTRIC UTILITY TO

COMPLY WITH SUBSECTION (2) OF THIS SECTION IN ORDER TO TAKE ANY ACTION OR EXERCISE ANY RIGHTS UNDER AN ELECTRIC EASEMENT THAT IS ALREADY PERMITTED WITHIN THE SCOPE OF THE ELECTRIC EASEMENT. UNLESS EXPRESSLY PROHIBITED BY THE TERMS OF AN ELECTRIC EASEMENT, AN ELECTRIC EASEMENT WILL BE DEEMED TO ALLOW AN ELECTRIC UTILITY TO INSTALL, MAINTAIN, OR OWN, OR PERMIT A THIRD PARTY TO INSTALL, MAINTAIN, OR OWN FOR BENEFICIAL USE BY THE ELECTRIC UTILITY, TELECOMMUNICATIONS FACILITIES AND EQUIPMENT FOR USE IN CONNECTION WITH THE ELECTRIC UTILITY'S PROVISION OF ELECTRICITY.

40-15-603. Statute of limitations - damages - limitations on damages. (1) (a) NO CLAIM OR CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY OR A COMMERCIAL BROADBAND SUPPLIER CONCERNING THE ELECTRIC UTILITY'S OR COMMERCIAL BROADBAND SUPPLIER'S EXERCISE OF RIGHTS UNDER THIS PART 6 OR ANY ACTIONS THAT THE ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER TAKES BEFORE THE EFFECTIVE DATE OF THIS SECTION THAT, IF TAKEN AFTER THE EFFECTIVE DATE OF THIS SECTION, WOULD BE AUTHORIZED UNDER SECTION 40-15-602 (1) MAY BE BROUGHT BY OR ON BEHALF OF AN INTEREST HOLDER MORE THAN TWO YEARS AFTER THE LATEST OF:

(I) THE EFFECTIVE DATE OF THIS SECTION;

(II) THE DATE OF DELIVERY OF NOTICE PURSUANT TO SECTION 40-15-602 (2); OR

(III) THE DATE OF RECORDING OF A MEMORANDUM PURSUANT TO SECTION 40-15-602 (2).

(b) SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY TO A CLAIM OR CAUSE OF ACTION BASED ON:

(I) PHYSICAL DAMAGE TO PROPERTY;

(II) INJURY TO NATURAL PERSONS; OR

(III) BREACH OF THE TERMS AND CONDITIONS OF A WRITTEN ELECTRIC EASEMENT AS THE TERMS AND CONDITIONS APPLY IN ACCORDANCE WITH SECTION 40-15-602 (4).

(c) NOTHING IN THIS SECTION EXTENDS THE STATUTORY LIMITATION PERIOD APPLICABLE TO A CLAIM OR REVIVES AN EXPIRED CLAIM.

(2) A CLAIM OR CAUSE OF ACTION TO WHICH SUBSECTION (1)(a) OF THIS SECTION APPLIES SHALL NOT BE BROUGHT BY OR ON BEHALF OF AN INTEREST HOLDER AGAINST A COMMERCIAL BROADBAND SUPPLIER FOR ACTIONS THAT THE COMMERCIAL BROADBAND SUPPLIER HAS TAKEN UNDER SECTION 40-15-602 (2) ON BEHALF OF AN ELECTRIC UTILITY. NOTHING IN THIS SUBSECTION (2) PROHIBITS AN ELECTRIC UTILITY AND A COMMERCIAL BROADBAND SUPPLIER FROM CONTRACTING TO ALLOCATE LIABILITY FOR ACTIONS TAKEN UNDER SECTION 40-15-602 (2).

(3) IF AN INTEREST HOLDER BRINGS A TRESPASS CLAIM, INVERSE CONDEMNATION CLAIM, OR ANY OTHER CLAIM OR CAUSE OF ACTION TO WHICH SUBSECTION (1)(a) OF THIS SECTION APPLIES FOR AN ELECTRIC UTILITY'S OR COMMERCIAL BROADBAND SUPPLIER'S EXERCISE OF RIGHTS OR PERFORMANCE OF ACTIONS DESCRIBED IN SECTION 40-15-602 (1)(a) OR (1)(b), THE FOLLOWING APPLIES TO THE CLAIM OR CAUSE OF ACTION:

(a) THE MEASURE OF DAMAGES FOR ALL CLAIMS OR CAUSES OF ACTION TO WHICH SUBSECTION (1)(a) OF THIS SECTION APPLIES, TAKEN TOGETHER, IS THE FAIR MARKET VALUE OF THE REDUCTION IN VALUE OF THE INTEREST HOLDER'S INTEREST IN THE REAL PROPERTY, AS CONTEMPLATED BY SECTION 38-1-121 (1). IN DETERMINING OR PROVIDING THE FAIR MARKET VALUE UNDER THIS SUBSECTION (3)(a):

(I) THE FOLLOWING SHALL NOT BE USED AND ARE NOT ADMISSIBLE AS EVIDENCE IN ANY PROCEEDING:

(A) PROFITS, FEES, OR REVENUE DERIVED FROM THE ATTACHED FACILITIES; OR

(B) THE RENTAL VALUE OF THE REAL PROPERTY INTEREST OR THE ELECTRIC EASEMENT, INCLUDING THE RENTAL VALUE OF ANY ATTACHED FACILITIES OR AN ASSEMBLED BROADBAND CORRIDOR; AND

(II) CONSIDERATION MUST BE GIVEN TO ANY INCREASE IN VALUE TO THE REAL PROPERTY INTEREST RESULTING FROM THE AVAILABILITY OF COMMERCIAL BROADBAND SERVICE TO THE REAL PROPERTY UNDERLYING THE REAL PROPERTY INTEREST THAT ARISES FROM THE INSTALLATION OF

ATTACHED FACILITIES.

(b) THE INTEREST HOLDER MUST MAKE REASONABLE ACCOMMODATIONS FOR THE ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER TO PERFORM AN APPRAISAL OR INSPECTION OF THE REAL PROPERTY WITHIN NINETY DAYS FOLLOWING ANY WRITTEN REQUEST FOR AN APPRAISAL OR INSPECTION. IF AN INTEREST HOLDER FAILS TO MAKE SUCH ACCOMMODATIONS, THE ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER HAS NO FURTHER LIABILITY TO THE INTEREST HOLDER. THE ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER SHALL PROMPTLY PROVIDE TO THE INTEREST HOLDER A COPY OF ANY APPRAISAL PERFORMED PURSUANT TO THIS SUBSECTION (3)(b).

(c) ANY DAMAGES FOR ANY CLAIMS OR CAUSES OF ACTION TO WHICH SUBSECTION (1)(a) OF THIS SECTION APPLIES:

(I) ARE LIMITED TO THOSE DAMAGES THAT EXISTED AT THE TIME THAT THE ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER FIRST EXERCISED THE RIGHTS OR PERFORMED THE ACTIONS; AND

(II) SHALL NOT BE DEEMED TO CONTINUE, ACCRUE, OR ACCUMULATE.

(d) WITH REGARD TO A CLAIM OR CAUSE OF ACTION TO WHICH SUBSECTION (1)(a) OF THIS SECTION APPLIES:

(I) EXCEPT FOR AN ELECTRIC UTILITY'S OR COMMERCIAL BROADBAND SUPPLIER'S FAILURE TO COMPLY WITH SECTION 40-15-602 (2), NEGLIGENCE, OR WILLFUL MISCONDUCT, OR IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF A WRITTEN ELECTRIC EASEMENT AS THE TERMS AND CONDITIONS APPLY IN ACCORDANCE WITH SECTION 40-15-602 (4), AN INTEREST HOLDER IS NOT ENTITLED TO REIMBURSEMENT FROM AN ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER FOR THE COST OF ANY APPRAISAL, ATTORNEY FEES, OR AWARD FOR SPECIAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES.

(II) FOR PURPOSES OF THIS SUBSECTION (3)(d), ANY ACTION OR FAILURE TO ACT BY AN ELECTRIC UTILITY OR COMMERCIAL BROADBAND SUPPLIER IN FURTHERANCE OF THE ELECTRIC UTILITY'S OR COMMERCIAL BROADBAND SUPPLIER'S EXERCISE OF RIGHTS SET FORTH IN SECTION 40-15-602 (1) SHALL NOT BE DEEMED NEGLIGENCE OR WILLFUL

MISCONDUCT.

(4) BY ACCEPTING A DAMAGE AWARD FOR ANY CLAIM OR CAUSE OF ACTION TO WHICH SUBSECTION (1)(a) OF THIS SECTION APPLIES, AN INTEREST HOLDER SHALL BE DEEMED TO HAVE GRANTED AN INCREASE IN THE SCOPE OF THE ELECTRIC EASEMENT, EQUAL IN DURATION TO THE TERM OF THE ELECTRIC EASEMENT AND SUBJECT TO SECTION 40-15-602 (4), TO THE EXTENT OF THE INTEREST HOLDER'S RIGHTS IN THE REAL PROPERTY, FOR ALL OF THE USES OF THE REAL PROPERTY AND ACTIONS SET FORTH IN SECTION 40-15-602 (1).

40-15-604. Electric utility obligations. (1) AN ELECTRIC UTILITY THAT EXERCISES ANY RIGHTS UNDER SECTION 40-15-602 (1)(a) OR (1)(b) FOR THE PROVISION OF COMMERCIAL BROADBAND SERVICE SHALL:

(a) NOT DISCRIMINATE AMONG COMMERCIAL BROADBAND SUPPLIERS, INCLUDING BROADBAND AFFILIATES, IN OFFERING OR GRANTING RIGHTS TO INSTALL OR ATTACH ANY ATTACHED FACILITIES; OR

(b) CHARGE FEES THAT ARE NONDISCRIMINATORY AMONG COMMERCIAL BROADBAND SUPPLIERS FOR A SUBSTANTIALLY SIMILAR LEASE OR USE OF THE CAPACITY OF ATTACHED FACILITIES OWNED OR CONTROLLED BY THE ELECTRIC UTILITY, BUT ONLY TO THE EXTENT AN ELECTRIC UTILITY CHOOSES, IN ITS SOLE DISCRETION, TO OFFER THE LEASE OR USE TO A PARTICULAR COMMERCIAL BROADBAND SUPPLIER.

(2) AN ELECTRIC UTILITY THAT HAS A BROADBAND AFFILIATE AND, IF APPLICABLE, THE BROADBAND AFFILIATE SHALL:

(a) CHARGE JUST AND REASONABLE ATTACHMENT FEES, INCLUDING RECURRING FEES, THAT ARE RELATED TO THE COSTS ASSOCIATED WITH SUCH ATTACHMENTS, SUCH AS A JUST AND REASONABLE SHARE OF THE CARRYING COSTS OF THE PER POLE INVESTMENT, INCLUDING ONGOING MAINTENANCE OF THE POLE BASED ON THE PORTION OF THE USABLE SPACE ON THE POLE OCCUPIED BY THE ATTACHMENT;

(b) PROVIDE ALL COMMERCIAL BROADBAND SUPPLIERS ACCESS TO ALL POLES AND SIMILAR SUPPORT STRUCTURES OWNED BY THE ELECTRIC UTILITY OR BROADBAND AFFILIATE FOR THE PURPOSE OF ATTACHING EQUIPMENT FOR THE PROVISION OF COMMERCIAL BROADBAND SERVICE.

ACCESS PROVIDED IN ACCORDANCE WITH THIS SUBSECTION (2)(b) MUST BE PROVIDED:

(I) ON A JUST, REASONABLE, AND NONDISCRIMINATORY BASIS; AND

(II) UNDER TERMS AND CONDITIONS THAT ARE NO LESS FAVORABLE THAN THE TERMS AND CONDITIONS OFFERED TO BROADBAND AFFILIATES, INCLUDING TERMS AND CONDITIONS REGARDING APPLICATION REQUIREMENTS, TECHNICAL REQUIREMENTS, ELECTRIC LINEWORKER HEALTH AND SAFETY REQUIREMENTS, ADMINISTRATIVE FEES, TIMELINES, AND MAKE-READY REQUIREMENTS; AND

(c) CHARGE FEES THAT ARE NONDISCRIMINATORY AMONG COMMERCIAL BROADBAND SUPPLIERS FOR A SUBSTANTIALLY SIMILAR LEASE OR USE OF THE CAPACITY OF ATTACHED FACILITIES OWNED OR CONTROLLED BY THE ELECTRIC UTILITY OR BROADBAND AFFILIATE AND THAT ARE EQUAL TO OR LESS THAN THE FEES THAT THE ELECTRIC UTILITY CHARGES TO ITS BROADBAND AFFILIATES, BUT ONLY TO THE EXTENT AN ELECTRIC UTILITY OR BROADBAND AFFILIATE CHOOSES, IN ITS SOLE DISCRETION, TO OFFER THE LEASE OR USE TO A PARTICULAR COMMERCIAL BROADBAND SUPPLIER.

(3) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, NOTHING IN THIS SECTION REQUIRES AN ELECTRIC UTILITY TO OFFER OR GRANT A RIGHT TO ACCESS OR USE AN ELECTRIC EASEMENT OR TO USE ATTACHED FACILITIES OR ELECTRIC SERVICE INFRASTRUCTURE OWNED OR CONTROLLED BY THE ELECTRIC UTILITY IN A MANNER THAT WOULD, IN THE ELECTRIC UTILITY'S REASONABLE DISCRETION, MATERIALLY INTERFERE WITH THE ELECTRIC UTILITY'S CONSTRUCTION, MAINTENANCE, OR USE OF ANY ELECTRIC UTILITY INFRASTRUCTURE FOR THE PROVISION OF ELECTRIC SERVICE.

(4) (a) AN ELECTRIC UTILITY WITH A BROADBAND AFFILIATE SHALL NOT UNREASONABLY WITHHOLD AUTHORIZATION OR DELAY ITS DECISION WHETHER TO PROVIDE AUTHORIZATION TO A COMMERCIAL BROADBAND SUPPLIER TO INSTALL, MAINTAIN, OWN, OPERATE, OR USE THE COMMERCIAL BROADBAND SUPPLIER'S ATTACHED FACILITIES ON ELECTRIC SERVICE INFRASTRUCTURE OWNED OR CONTROLLED BY THE ELECTRIC UTILITY. AN ELECTRIC UTILITY MAY ONLY WITHHOLD AUTHORIZATION PURSUANT TO THIS SUBSECTION (4) IF THE REASON FOR WITHHOLDING AUTHORIZATION IS THAT:

(I) THERE IS INSUFFICIENT CAPACITY FOR THE ATTACHED FACILITIES; OR

(II) CONCERNS OF SAFETY OR RELIABILITY OR GENERALLY APPLICABLE ENGINEERING PURPOSES WEIGH AGAINST GRANTING THE AUTHORIZATION.

(b) AN ELECTRIC UTILITY THAT WITHHOLDS AUTHORIZATION PURSUANT TO THIS SUBSECTION (4) SHALL PROMPTLY NOTIFY THE COMMERCIAL BROADBAND SUPPLIER IN WRITING OF THE REASONS FOR WITHHOLDING AUTHORIZATION.

(5) AN ELECTRIC UTILITY SHALL NOT DIRECTLY PROVIDE RETAIL COMMERCIAL BROADBAND SERVICE BUT MAY CAUSE OR ALLOW A BROADBAND AFFILIATE TO OFFER RETAIL COMMERCIAL BROADBAND SERVICE. AS LONG AS AN ELECTRIC UTILITY MAINTAINS ITS EXCLUSIVE RIGHT TO PROVIDE ELECTRIC SERVICE TO CUSTOMERS WITHIN ITS EXCLUSIVE SERVICE TERRITORY, BOTH THE ELECTRIC UTILITY THAT HAS A BROADBAND AFFILIATE AND THE BROADBAND AFFILIATE SHALL:

(a) MAINTAIN OR CAUSE TO BE MAINTAINED AN ACCOUNTING SYSTEM FOR THE BROADBAND AFFILIATE SEPARATE FROM THE ELECTRIC UTILITY'S ACCOUNTING SYSTEM, USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OR ANOTHER REASONABLE AND CUSTOMARY ALLOCATION METHOD;

(b) CAUSE A FINANCIAL AUDIT TO BE PERFORMED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, WITHIN TWO YEARS AFTER COMMENCEMENT OF COMMERCIAL OPERATION OF RETAIL COMMERCIAL BROADBAND SERVICE AND AT LEAST ONCE EVERY TWO YEARS THEREAFTER, WITH RESPECT TO THE BROADBAND AFFILIATE'S PROVISION OF COMMERCIAL BROADBAND SERVICE, INCLUDING AN AUDIT OF THE ALLOCATION OF COSTS FOR PROPERTY AND SERVICES THAT ARE USED IN BOTH THE PROVISION OF COMMERCIAL BROADBAND SERVICE AND THE ELECTRIC UTILITY'S PROVISION OF ELECTRIC SERVICE; AND

(c) (I) NOT CAUSE OR ALLOW THE ELECTRIC UTILITY TO USE ITS EXCLUSIVE RIGHT TO PROVIDE ELECTRIC SERVICES WITHIN ITS EXCLUSIVE TERRITORY TO CROSS-SUBSIDIZE THE BROADBAND AFFILIATE OR ITS PROVISION OF COMMERCIAL BROADBAND SERVICE, WHETHER BY: BELOW

FAIR MARKET VALUE PRICING; PAYMENT OF CAPITAL OR OPERATING COSTS PROPERLY CHARGED TO THE BROADBAND AFFILIATE UNDER APPLICABLE ACCOUNTING RULES; OR USE OF ANY REVENUE FROM OR SUBSIDY FOR THE PROVISION OF ELECTRIC SERVICE TO PROVIDE COMMERCIAL BROADBAND SERVICE BELOW MARKET VALUE, EXCEPT IN CONNECTION WITH THE ELECTRIC UTILITY'S PROVISION OF ELECTRICITY.

(II) NOTHING IN THIS SUBSECTION (5)(c) PROHIBITS AN ELECTRIC UTILITY FROM:

(A) ENTERING INTO A TRANSACTION WITH A BROADBAND AFFILIATE ON TERMS AND CONDITIONS SUBSTANTIALLY SIMILAR TO THOSE THAT WOULD BE AGREED TO BETWEEN TWO SIMILARLY SITUATED PARTIES IN AN ARM'S LENGTH COMMERCIAL TRANSACTION;

(B) LOANING FUNDS TO A BROADBAND AFFILIATE IF THE INTEREST RATE ON THE LOAN IS NO LESS THAN THE ELECTRIC UTILITY'S LOWEST COST OF CAPITAL;

(C) EXCHANGING SERVICES OR MATERIALS FOR OTHER SERVICES OR MATERIALS OF EQUIVALENT VALUE;

(D) PROVIDING REDUCED-COST COMMERCIAL BROADBAND SERVICE TO LOW-INCOME RETAIL CUSTOMERS; OR

(E) CONDUCTING AND FUNDING DUE DILIGENCE, OPERATIONAL ANALYSIS, ENTITY SET-UP, AND ASSOCIATED NONCAPITAL EXPENDITURES RELATING TO AND PRIOR TO THE ESTABLISHMENT OF A BROADBAND AFFILIATE.

(6) UPON REQUEST OF A COMMERCIAL BROADBAND SUPPLIER, AN ELECTRIC UTILITY AND ANY BROADBAND AFFILIATE SUBJECT TO THIS SECTION SHALL CAUSE AN OFFICER OF THE ELECTRIC UTILITY AND AN OFFICER OF THE BROADBAND AFFILIATE TO CERTIFY THAT THE ELECTRIC UTILITY AND THE BROADBAND AFFILIATE, RESPECTIVELY, ARE IN COMPLIANCE WITH THIS SECTION. IF A DISPUTE ARISES BETWEEN AN ELECTRIC UTILITY OR ITS BROADBAND AFFILIATE AND AN UNAFFILIATED COMMERCIAL BROADBAND SUPPLIER:

(a) REGARDING MATTERS ADDRESSED IN THIS PART 6, THE PARTIES

TO THE DISPUTE HAVE STANDING TO FILE A CLAIM OR CAUSE OF ACTION IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE; AND

(b) THE FOLLOWING ARE DISCOVERABLE AND ADMISSIBLE AS EVIDENCE IN COURT REGARDING THE ELECTRIC UTILITY'S AND ITS BROADBAND AFFILIATE'S COMPLIANCE WITH THIS SECTION:

(I) ANY CERTIFICATION REQUESTED AND PRODUCED PURSUANT TO THIS SUBSECTION (6);

(II) THE TERMS AND CONDITIONS APPLIED TO THE ELECTRIC UTILITY'S OR BROADBAND AFFILIATE'S OFFER TO OR GRANT OF A RIGHT TO THE UNAFFILIATED COMMERCIAL BROADBAND SUPPLIER TO INSTALL, MAINTAIN, OWN, OPERATE, OR USE ATTACHED FACILITIES; AND

(III) ANY AUDIT REQUIRED TO BE PERFORMED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(7) NOTWITHSTANDING ANY PROVISION OF THIS PART 6 TO THE CONTRARY, AN ELECTRIC UTILITY THAT IS SUBJECT TO REGULATION UNDER 47 U.S.C. SEC. 224, AS AMENDED, AND THE FCC REGULATIONS PROMULGATED PURSUANT TO THAT FEDERAL LAW, IS NOT SUBJECT TO THIS SECTION.

(8) NOTHING IN THIS PART 6:

(a) SUBJECTS AN ELECTRIC UTILITY TO REGULATION BY THE FCC;

(b) CONSTITUTES AN EXERCISE OF, OR AN OBLIGATION OR INTENTION TO EXERCISE, THE RIGHT OF THE STATE UNDER 47 U.S.C. SEC. 224 (c) TO REGULATE THE RATES, TERMS, AND CONDITIONS FOR POLE ATTACHMENTS, AS DEFINED IN 47 U.S.C. SEC. 224 (a)(4); OR

(c) CONSTITUTES A CERTIFICATION, OR AN OBLIGATION OR INTENTION TO CERTIFY, TO THE FCC UNDER 47 U.S.C. SEC. 224.

SECTION 2. In Colorado Revised Statutes, **amend** 38-4-103 as follows:

38-4-103. Electric power companies. (1) Any foreign or domestic

corporation organized or chartered for the purpose, among other things, of conducting and maintaining electric power ~~transmission~~ lines for providing power or light by means of electricity for hire ~~shall have~~ HAS a right-of-way for the construction, operation, and maintenance of ~~such~~ electric power ~~transmission~~ lines through any patented or unpatented mine or mining claim or other land without the consent of the owner ~~thereof~~ OF THE PATENTED OR UNPATENTED MINE OR MINING CLAIM OR OTHER LAND, if ~~such~~ THE right-of-way is necessary for the purposes proposed.

(2) AN ELECTRIC UTILITY, AS DEFINED IN SECTION 40-15-601 (6), EXERCISING ITS RIGHTS UNDER SUBSECTION (1) OF THIS SECTION MAY, IN ACCORDANCE WITH PART 6 OF ARTICLE 15 OF TITLE 40:

(a) INSTALL OR ALLOW THE INSTALLATION OF ANY ATTACHED FACILITY, AS THAT TERM IS DEFINED IN SECTION 40-15-601 (1); AND

(b) EXERCISE ANY RIGHTS AVAILABLE TO THE ELECTRIC UTILITY UNDER PART 6 OF ARTICLE 15 OF TITLE 40 IN CONNECTION WITH THE INSTALLATION.

SECTION 3. In Colorado Revised Statutes, **amend** 38-5-103 as follows:

38-5-103. Power of companies to contract. (1) Such electric light power, gas, or pipeline company, or such city, ~~or~~ town, OR OTHER LOCAL GOVERNMENT shall have power to contract with any person or corporation, the owner of any lands or any franchise, easement, or interest therein over or under which the line of electric light wire power or pipeline is proposed to be laid or created for the right-of-way for the construction, maintenance, and operation of its electric light wires, pipes, poles, regulator stations, substations, or other property and for the erection, maintenance, occupation, and operation of offices at suitable distances for the public accommodation.

(2) AN ELECTRIC UTILITY, AS DEFINED IN SECTION 40-15-601 (6), EXERCISING ITS RIGHTS UNDER SUBSECTION (1) OF THIS SECTION MAY, IN ACCORDANCE WITH PART 6 OF ARTICLE 15 OF TITLE 40, INSTALL OR ALLOW THE INSTALLATION OF ANY ATTACHED FACILITY FOR COMMERCIAL BROADBAND SERVICE, AS THOSE TERMS ARE DEFINED IN SECTION 40-15-601 (1) AND (3), RESPECTIVELY.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, 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 such period, 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia PRESIDENT OF THE SENATE	KC Becker SPEAKER OF THE HOUSE OF REPRESENTATIVES
Cindi L. Markwell SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____
(Date and Time)

_____
Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

SENATE BILL 19-181

BY SENATOR(S) Fenberg and Foote, Court, Gonzales, Lee, Moreno, Story, Williams A., Winter;
also REPRESENTATIVE(S) Becker and Caraveo, Arndt, Benavidez, Bird, Buckner, Duran, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Valdez A., Weissman.

CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING THE CONDUCT OF OIL AND GAS OPERATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 24-65.1-202, **repeal** (1)(d) as follows:

24-65.1-202. Criteria for administration of areas of state interest. (1) (d) ~~Unless an activity of state interest has been designated or identified or unless it includes part or all of another area of state interest, an area of oil and gas development shall not be designated as an area of state interest unless the state oil and gas conservation commission identifies such~~

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.

~~area for designation.~~

SECTION 2. In Colorado Revised Statutes, 24-65.1-302, **repeal** (3) as follows:

24-65.1-302. Functions of other state agencies. (3) ~~Pursuant to section 24-65.1-202 (1)(d), the oil and gas conservation commission of the state of Colorado may identify an area of oil and gas development for designation by local government as an area of state interest.~~

SECTION 3. In Colorado Revised Statutes, 25-7-109, **add** (10) as follows:

25-7-109. Commission to promulgate emissions control regulations. (10) (a) THE COMMISSION SHALL ADOPT RULES TO MINIMIZE EMISSIONS OF METHANE AND OTHER HYDROCARBONS, VOLATILE ORGANIC COMPOUNDS, AND OXIDES OF NITROGEN FROM OIL AND NATURAL GAS EXPLORATION AND PRODUCTION FACILITIES AND NATURAL GAS FACILITIES IN THE PROCESSING, GATHERING AND BOOSTING, STORAGE, AND TRANSMISSION SEGMENTS OF THE NATURAL GAS SUPPLY CHAIN.

(b) (I) THE COMMISSION SHALL REVIEW ITS RULES FOR OIL AND NATURAL GAS WELL PRODUCTION FACILITIES AND COMPRESSOR STATIONS AND SPECIFICALLY CONSIDER ADOPTING MORE STRINGENT PROVISIONS, INCLUDING:

(A) A REQUIREMENT THAT LEAK DETECTION AND REPAIR INSPECTIONS OCCUR AT ALL WELL PRODUCTION FACILITIES ON, AT A MINIMUM, A SEMIANNUAL BASIS OR THAT AN ALTERNATIVE APPROVED INSTRUMENT MONITORING METHOD IS IN PLACE PURSUANT TO EXISTING RULES;

(B) A REQUIREMENT THAT OWNERS AND OPERATORS OF OIL AND GAS TRANSMISSION PIPELINES AND COMPRESSOR STATIONS MUST INSPECT AND MAINTAIN ALL EQUIPMENT AND PIPELINES ON A REGULAR BASIS;

(C) A REQUIREMENT THAT OIL AND NATURAL GAS OPERATORS MUST INSTALL AND OPERATE CONTINUOUS METHANE EMISSIONS MONITORS AT FACILITIES WITH LARGE EMISSIONS POTENTIAL, AT MULTI-WELL FACILITIES, AND AT FACILITIES IN CLOSE PROXIMITY TO OCCUPIED DWELLINGS; AND

(D) A REQUIREMENT TO REDUCE EMISSIONS FROM PNEUMATIC DEVICES. THE COMMISSION SHALL CONSIDER REQUIRING OIL AND GAS OPERATORS, UNDER APPROPRIATE CIRCUMSTANCES, TO USE PNEUMATIC DEVICES THAT DO NOT VENT NATURAL GAS.

(II) THE COMMISSION MAY, BY RULE, PHASE IN THE REQUIREMENT TO COMPLY WITH THIS SUBSECTION (10)(b) ON THE BASES OF PRODUCTION CAPABILITY, TYPE AND AGE OF OIL AND GAS FACILITY, AND COMMERCIAL AVAILABILITY OF CONTINUOUS MONITORING EQUIPMENT. IF THE COMMISSION PHASES IN THE REQUIREMENT TO COMPLY WITH THIS SUBSECTION (10)(b), IT SHALL INCREASE THE REQUIRED FREQUENCY OF INSPECTIONS AT FACILITIES THAT ARE SUBJECT TO THE PHASE-IN UNTIL THE FACILITIES ACHIEVE CONTINUOUS EMISSION MONITORING.

(c) NOTWITHSTANDING THE GRANT OF AUTHORITY TO THE OIL AND GAS CONSERVATION COMMISSION IN ARTICLE 60 OF TITLE 34, INCLUDING SPECIFICALLY SECTION 34-60-105 (1), THE COMMISSION MAY REGULATE AIR POLLUTION FROM OIL AND GAS FACILITIES LISTED IN SUBSECTION (10)(a) OF THIS SECTION, INCLUDING DURING PRE-PRODUCTION ACTIVITIES, DRILLING, AND COMPLETION.

SECTION 4. In Colorado Revised Statutes, 29-20-104, **amend** (1) introductory portion, (1)(g), and (1)(h); and **add** (1)(i), (2), and (3) as follows:

29-20-104. Powers of local governments - definition. (1) Except as expressly provided in section 29-20-104.5, the power and authority granted by this section ~~shall~~ DOES not limit any power or authority presently exercised or previously granted. Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

(g) Regulating the use of land on the basis of the impact ~~thereof~~ OF THE USE on the community or surrounding areas; ~~and~~

(h) ~~Otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.~~ REGULATING THE SURFACE IMPACTS OF OIL AND GAS OPERATIONS IN A REASONABLE MANNER TO ADDRESS MATTERS SPECIFIED IN THIS SUBSECTION (1)(h) AND TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE

AND THE ENVIRONMENT. NOTHING IN THIS SUBSECTION (1)(h) IS INTENDED TO ALTER, EXPAND, OR DIMINISH THE AUTHORITY OF LOCAL GOVERNMENTS TO REGULATE AIR QUALITY UNDER SECTION 25-7-128. FOR PURPOSES OF THIS SUBSECTION (1)(h), "MINIMIZE ADVERSE IMPACTS" MEANS, TO THE EXTENT NECESSARY AND REASONABLE, TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT BY AVOIDING ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS AND MINIMIZING AND MITIGATING THE EXTENT AND SEVERITY OF THOSE IMPACTS THAT CANNOT BE AVOIDED. THE FOLLOWING MATTERS ARE COVERED BY THIS SUBSECTION (1)(h):

(I) LAND USE;

(II) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND OIL AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION 34-60-103 (6.2) AND (6.4);

(III) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

(IV) WATER QUALITY AND SOURCE, NOISE, VIBRATION, ODOR, LIGHT, DUST, AIR EMISSIONS AND AIR QUALITY, LAND DISTURBANCE, RECLAMATION PROCEDURES, CULTURAL RESOURCES, EMERGENCY PREPAREDNESS AND COORDINATION WITH FIRST RESPONDERS, SECURITY, AND TRAFFIC AND TRANSPORTATION IMPACTS;

(V) FINANCIAL SECURITIES, INDEMNIFICATION, AND INSURANCE AS APPROPRIATE TO ENSURE COMPLIANCE WITH THE REGULATIONS OF THE LOCAL GOVERNMENT; AND

(VI) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS DEVELOPMENT; AND

(i) OTHERWISE PLANNING FOR AND REGULATING THE USE OF LAND SO AS TO PROVIDE PLANNED AND ORDERLY USE OF LAND AND PROTECTION OF THE ENVIRONMENT IN A MANNER CONSISTENT WITH CONSTITUTIONAL RIGHTS.

(2) TO IMPLEMENT THE POWERS AND AUTHORITY GRANTED IN SUBSECTION (1)(h) OF THIS SECTION, A LOCAL GOVERNMENT WITHIN ITS RESPECTIVE JURISDICTION HAS THE AUTHORITY TO:

(a) INSPECT ALL FACILITIES SUBJECT TO LOCAL GOVERNMENT REGULATION;

(b) IMPOSE FINES FOR LEAKS, SPILLS, AND EMISSIONS; AND

(c) IMPOSE FEES ON OPERATORS OR OWNERS TO COVER THE REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS OF PERMITTING AND REGULATION AND THE COSTS OF ANY MONITORING AND INSPECTION PROGRAM NECESSARY TO ADDRESS THE IMPACTS OF DEVELOPMENT AND TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

(3) (a) TO PROVIDE A LOCAL GOVERNMENT WITH TECHNICAL EXPERTISE REGARDING WHETHER A PRELIMINARY OR FINAL DETERMINATION OF THE LOCATION OF AN OIL AND GAS FACILITY OR OIL AND GAS LOCATION WITHIN ITS RESPECTIVE JURISDICTION COULD AFFECT OIL AND GAS RESOURCE RECOVERY:

(I) ONCE AN OPERATOR, AS DEFINED IN SECTION 34-60-103 (6.8), FILES AN APPLICATION FOR THE LOCATION AND SITING OF AN OIL AND GAS FACILITY OR OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT HAS MADE EITHER A PRELIMINARY OR FINAL DETERMINATION REGARDING THE APPLICATION, THE LOCAL GOVERNMENT HAVING LAND USE JURISDICTION MAY ASK THE DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION PURSUANT TO SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW BOARD TO CONDUCT A TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL DETERMINATION AND ISSUE A REPORT THAT CONTAINS THE BOARD'S CONCLUSIONS.

(II) ONCE A LOCAL GOVERNMENT HAS MADE A FINAL DETERMINATION REGARDING AN APPLICATION SPECIFIED IN SUBSECTION (3)(a)(I) OF THIS SECTION OR IF THE LOCAL GOVERNMENT HAS NOT MADE A FINAL DETERMINATION ON AN APPLICATION WITHIN TWO HUNDRED TEN DAYS AFTER FILING BY THE OPERATOR, THE OPERATOR MAY ASK THE DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION PURSUANT TO SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW BOARD TO CONDUCT A TECHNICAL REVIEW OF THE FINAL DETERMINATION AND ISSUE A REPORT THAT CONTAINS THE BOARD'S CONCLUSIONS.

(b) A LOCAL GOVERNMENT MAY FINALIZE ITS PRELIMINARY DETERMINATION WITHOUT ANY CHANGES BASED ON THE TECHNICAL REVIEW

REPORT, FINALIZE ITS PRELIMINARY DETERMINATION WITH CHANGES BASED ON THE REPORT, OR RECONSIDER OR DO NOTHING WITH REGARD TO ITS ALREADY FINALIZED DETERMINATION.

(c) IF AN APPLICANT OR LOCAL GOVERNMENT REQUESTS A TECHNICAL REVIEW PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE PERIOD TO APPEAL A LOCAL GOVERNMENT'S DETERMINATION PURSUANT TO RULE 106 (a)(4) OF THE COLORADO RULES OF CIVIL PROCEDURE IS TOLLED UNTIL THE REPORT SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION HAS BEEN ISSUED, AND THE APPLICANT IS AFFORDED THE FULL PERIOD TO APPEAL THEREAFTER.

SECTION 5. In Colorado Revised Statutes, 30-15-401, **amend** (1) introductory portion, (1)(m)(II) introductory portion, and (1)(m)(II)(B) as follows:

30-15-401. General regulations - definitions. (1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article 15, the board of county commissioners ~~has the power to~~ MAY adopt ordinances for control or licensing of those matters of purely local concern that are described in the following enumerated powers:

(m) (II) Ordinances enacted to regulate noise on public and private property pursuant to ~~subparagraph (I) of this paragraph (m) shall~~ SUBSECTION (1)(m)(I) OF THIS SECTION DO not apply to:

(B) Property used for: Manufacturing, industrial, or commercial business purposes; AND public utilities regulated pursuant to title 40. ~~C.R.S.; and oil and gas production subject to the provisions of article 60 of title 34, C.R.S.~~

SECTION 6. In Colorado Revised Statutes, 34-60-102, **amend** (1)(a) introductory portion, (1)(a)(I), and (1)(b) as follows:

34-60-102. Legislative declaration. (1) (a) It is declared to be in the public interest AND THE COMMISSION IS DIRECTED to:

(I) ~~Foster~~ REGULATE the ~~responsible, balanced~~ development AND production ~~and utilization~~ of the natural resources of oil and gas in the state of Colorado in a manner ~~consistent with protection of~~ THAT PROTECTS

public health, safety, and welfare, including protection of the environment and wildlife resources;

(b) It is ~~not~~ NEITHER the intent nor the purpose of this ~~article~~ ARTICLE 60 to require or permit the proration or distribution of the production of oil and gas among the fields and pools of Colorado on the basis of market demand. It is the intent and purpose of this ~~article~~ ARTICLE 60 to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES AND THE prevention of waste ~~consistent with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources~~ AS SET FORTH IN SECTION 34-60-106 (2.5) AND (3)(a), and subject further to the enforcement and protection of the coequal and correlative rights of the owners and producers of a common source of oil and gas, so that each common owner and producer may obtain a just and equitable share of production ~~therefrom~~ FROM THE COMMON SOURCE.

SECTION 7. In Colorado Revised Statutes, 34-60-103, **amend** the introductory portion, (5.5), (11), (12), and (13); and **add** (5.3), (6.2), and (6.4) as follows:

34-60-103. Definitions. As used in this ~~article~~ ARTICLE 60, unless the context otherwise requires:

(5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO SECTION 34-60-104 (2)(a)(I), A:

(a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE SITED; OR

(b) COUNTY, IF AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE SITED WITHIN THE BOUNDARIES OF THE COUNTY BUT IS NOT LOCATED WITHIN A MUNICIPALITY OR CITY AND COUNTY.

(5.5) "Minimize adverse impacts" means, to ~~wherever reasonably practicable~~ THE EXTENT NECESSARY AND REASONABLE TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES, TO:

(a) Avoid adverse impacts from oil and gas operations; ~~on wildlife resources;~~ AND

(b) Minimize AND MITIGATE the extent and severity of those impacts that cannot be avoided.

~~(c) Mitigate the effects of unavoidable remaining impacts; and~~

~~(d) Take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources.~~

(6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION WASTE, OR GAS.

(6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

(11) "Waste", as applied to gas:

(a) Includes the escape, blowing, or releasing, directly or indirectly into the open air, of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as unreasonably reduces reservoir pressure or, SUBJECT TO SUBSECTION (11)(b) OF THIS SECTION, unreasonably diminishes the quantity of oil or gas that ultimately may be produced; excepting gas that is reasonably necessary in the drilling, completing, testing, and in furnishing power for the production of wells; AND

(b) DOES NOT INCLUDE THE NONPRODUCTION OF GAS FROM A FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED BY THE COMMISSION.

(12) "Waste", as applied to oil:

(a) Includes underground waste; inefficient, excessive, or improper use or dissipation of reservoir energy, including gas energy and water drive; surface waste; open-pit storage; and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open-pit storage, reasonably necessary for building up or maintaining crude stocks and products ~~thereof~~ OF CRUDE STOCKS for consumption, use, and sale; AND

(b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL FROM A FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED BY THE COMMISSION.

(13) "Waste", in addition to the meanings as set forth in subsections (11) and (12) of this section:

(a) Means, SUBJECT TO SUBSECTION (13)(b) OF THIS SECTION:

~~(a)~~ (I) Physical waste, as that term is generally understood in the oil and gas industry;

~~(b)~~ (II) The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner ~~which~~ THAT causes or tends to cause reduction in quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or ~~which~~ THAT causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; AND

~~(c)~~ (III) Abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas ~~therefrom~~ FROM THE POOL, causing reasonably avoidable drainage between tracts of land or resulting in one or more producers or owners in ~~such~~ THE pool producing more than ~~his~~ AN equitable share of the oil or gas from ~~such~~ THE pool; AND

(b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL OR GAS FROM A FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED BY THE COMMISSION.

SECTION 8. In Colorado Revised Statutes, 34-60-104, **amend** (1), (2)(a)(I), and (2)(a)(II) as follows:

34-60-104. Oil and gas conservation commission - report - publication - repeal. (1) (a) There is hereby created, in the department of natural resources, the oil and gas conservation commission. ~~of the state of Colorado.~~

(b) THIS SECTION IS REPEALED ON THE EARLIER OF JULY 1, 2020, OR THE DATE ON WHICH ALL RULES REQUIRED TO BE ADOPTED BY SECTION 34-60-106 (2.5)(a), (11)(c), AND (19) HAVE BECOME EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (1)(b) HAS OCCURRED BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US.

(2) (a) (I) Effective ~~July 1, 2007~~ ON THE EFFECTIVE DATE OF THIS SECTION (2)(a)(I), AS AMENDED, the commission ~~shall consist~~ CONSISTS of nine members, seven of whom shall be appointed by the governor with the consent of the senate. ~~and two of whom,~~ The executive director of the department of natural resources and the executive director of the department of public health and environment, ~~shall be~~ OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE ex officio voting members. At least two members shall be appointed from west of the continental divide, and, to the extent possible, consistent with this ~~paragraph (a)~~ SUBSECTION (2)(a), the other members shall be appointed taking into account the need for geographical representation of ~~other~~ areas of the state with high levels of CURRENT OR ANTICIPATED oil and gas activity or employment. ~~Three members shall~~ ONE MEMBER MUST be ~~individuals~~ AN INDIVIDUAL with substantial experience in the oil and gas industry; ~~and at least two of said three members shall have a college degree in petroleum geology or petroleum engineering;~~ one member ~~shall~~ MUST be a local government official; one member ~~shall~~ MUST have formal training or substantial experience in environmental ~~or wildlife~~ protection; one member ~~shall~~ MUST have formal training or substantial experience in WILDLIFE PROTECTION; ONE MEMBER MUST HAVE TECHNICAL EXPERTISE RELEVANT TO THE ISSUES CONSIDERED BY THE COMMISSION OR FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; ~~and~~ one member ~~shall~~ MUST be actively engaged in agricultural production ~~and also~~ OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH.

Excluding the executive directors from consideration, no more than four members of the commission ~~shall~~ MAY be members of the same political party.

(II) Subject to ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION, nothing in this ~~paragraph (a) shall be construed to require~~ SUBSECTION (2)(a) REQUIRES a holdover member of the commission holding office on July 1, ~~2007~~ 2019, to comply with ~~the provisions of this paragraph (a)~~ THIS SUBSECTION (2)(a), as amended, unless ~~such~~ THE person is reappointed to the commission for another term of office. Nothing in this ~~subparagraph (II) shall alter, impair, or negate~~ SUBSECTION (2)(a) ALTERS, IMPAIRS, OR NEGATES the authority of the governor to remove or appoint members of the commission pursuant to ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION.

SECTION 9. In Colorado Revised Statutes, **add** 34-60-104.3 as follows:

34-60-104.3. Oil and gas conservation commission - report - publication. (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF NATURAL RESOURCES, THE OIL AND GAS CONSERVATION COMMISSION.

(2) (a) THE COMMISSION CONSISTS OF SEVEN MEMBERS, FIVE OF WHOM SHALL BE APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE SENATE. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE EX OFFICIO NONVOTING MEMBERS. A MAJORITY OF THE VOTING COMMISSIONERS CONSTITUTE A QUORUM FOR THE TRANSACTION OF ITS BUSINESS.

(b) EACH APPOINTED COMMISSIONER MUST BE A QUALIFIED ELECTOR OF THIS STATE. EACH APPOINTED COMMISSIONER, BEFORE ENTERING UPON THE DUTIES OF OFFICE, SHALL TAKE THE CONSTITUTIONAL OATH OF OFFICE. EXCLUDING THE EXECUTIVE DIRECTORS FROM CONSIDERATION, NO MORE THAN THREE MEMBERS OF THE COMMISSION MAY BE MEMBERS OF THE SAME POLITICAL PARTY. TO THE EXTENT POSSIBLE, CONSISTENT WITH THIS SUBSECTION (2), THE MEMBERS SHALL BE APPOINTED TAKING INTO ACCOUNT THE NEED FOR GEOGRAPHICAL REPRESENTATION OF AREAS OF THE STATE WITH HIGH LEVELS OF CURRENT OR ANTICIPATED OIL AND GAS ACTIVITY OR

EMPLOYMENT. THE APPOINTED MEMBERS OF THE COMMISSION SHALL DEVOTE THEIR ENTIRE TIME TO THE DUTIES OF THEIR OFFICES TO THE EXCLUSION OF ANY OTHER EMPLOYMENT AND ARE ENTITLED TO RECEIVE COMPENSATION AS DESIGNATED BY LAW.

(c) ONE APPOINTED MEMBER MUST BE AN INDIVIDUAL WITH SUBSTANTIAL EXPERIENCE IN THE OIL AND GAS INDUSTRY; ONE APPOINTED MEMBER MUST HAVE SUBSTANTIAL EXPERTISE IN PLANNING OR LAND USE; ONE APPOINTED MEMBER MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN ENVIRONMENTAL PROTECTION, WILDLIFE PROTECTION, OR RECLAMATION; ONE APPOINTED MEMBER MUST HAVE PROFESSIONAL EXPERIENCE DEMONSTRATING AN ABILITY TO CONTRIBUTE TO THE COMMISSION'S BODY OF EXPERTISE THAT WILL AID THE COMMISSION IN MAKING SOUND, BALANCED DECISIONS; AND ONE APPOINTED MEMBER MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH.

(d) NO PERSON MAY BE APPOINTED TO SERVE ON THE COMMISSION OR HOLD THE OFFICE OF COMMISSIONER IF THE PERSON HAS A CONFLICT OF INTEREST WITH OIL AND GAS DEVELOPMENT IN COLORADO. EXAMPLES OF CONFLICTS OF INTEREST INCLUDE BEING REGISTERED AS A LOBBYIST AT THE LOCAL OR STATE LEVELS, SERVING IN THE GENERAL ASSEMBLY WITHIN THE PRIOR THREE YEARS, OR SERVING IN AN OFFICIAL CAPACITY WITH AN ENTITY THAT EDUCATES OR ADVOCATES FOR OR AGAINST OIL AND GAS ACTIVITY. THIS SUBSECTION (2)(d) SHALL BE CONSTRUED REASONABLY WITH THE OBJECTIVE OF DISQUALIFYING FROM THE COMMISSION ANY PERSON WHO MIGHT HAVE AN IMMEDIATE CONFLICT OF INTEREST OR WHO MAY NOT BE ABLE TO MAKE BALANCED DECISIONS ABOUT OIL AND GAS REGULATION IN COLORADO. A PERSON WHO HAS WORKED WITH OR FOR AN ENERGY OR ENVIRONMENTAL ENTITY NEED NOT BE DISQUALIFIED IF THE PERSON'S EXPERIENCE SHOWS SUBJECT MATTER KNOWLEDGE COUPLED WITH AN ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED DECISION-MAKING.

(e) MEMBERS OF THE COMMISSION SHALL BE APPOINTED FOR TERMS OF FOUR YEARS EACH; EXCEPT THAT THE INITIAL TERMS OF TWO MEMBERS ARE TWO YEARS. THE GOVERNOR SHALL DESIGNATE ONE MEMBER OF THE COMMISSION AS CHAIR OF THE COMMISSION. THE CHAIR SHALL DELEGATE ROLES AND RESPONSIBILITIES TO COMMISSIONERS AND THE DIRECTOR. THE GOVERNOR MAY AT ANY TIME REMOVE ANY APPOINTED MEMBER OF THE COMMISSION, AND BY APPOINTMENT THE GOVERNOR SHALL FILL ANY

VACANCY ON THE COMMISSION. IN CASE ONE OR MORE VACANCIES OCCUR ON THE SAME DAY, THE GOVERNOR SHALL DESIGNATE THE ORDER OF FILLING VACANCIES.

(3) THE COMMISSION SHALL REPORT TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AT SUCH TIMES AND ON SUCH MATTERS AS THE EXECUTIVE DIRECTOR MAY REQUIRE.

(4) PUBLICATIONS OF THE COMMISSION CIRCULATED IN QUANTITY OUTSIDE THE EXECUTIVE BRANCH ARE SUBJECT TO THE APPROVAL AND CONTROL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES.

(5) THIS SECTION TAKES EFFECT ON THE EARLIER OF JULY 1, 2020, OR THE DATE ON WHICH ALL RULES REQUIRED TO BE ADOPTED BY SECTION 34-60-106 (2.5)(a), (11)(c), AND (19) HAVE BECOME EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (5) HAS OCCURRED BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US.

SECTION 10. In Colorado Revised Statutes, 34-60-104.5, **amend** (2)(d); and **add** (3) as follows:

34-60-104.5. Director of commission - duties. (2) The director of the commission shall:

(d) (I) Appoint, pursuant to section 13 of article XII of the state constitution, such clerical and professional staff and consultants as may be necessary for the efficient and effective operation of the commission, INCLUDING AT LEAST ONE AND UP TO TWO DEPUTY DIRECTORS; and ~~shall~~

(II) Exercise general supervisory control over ~~said~~ THE staff; and

(3) (a) UPON RECEIPT OF REQUEST FOR TECHNICAL REVIEW FILED PURSUANT TO SECTION 29-20-104 (3)(a), THE DIRECTOR OF THE COMMISSION SHALL APPOINT TECHNICAL REVIEW BOARD MEMBERS. THE MEMBERSHIP OF THE TECHNICAL REVIEW BOARD MUST INCLUDE SUBJECT MATTER EXPERTS IN LOCAL LAND USE PLANNING AND OIL AND GAS EXPLORATION AND PRODUCTION AND MAY INCLUDE SUBJECT MATTER EXPERTS IN ENVIRONMENTAL SCIENCES, PUBLIC HEALTH SCIENCES, OR OTHER

DISCIPLINES RELEVANT TO THE DISPUTED ISSUES, AS DETERMINED BY THE DIRECTOR. THE TECHNICAL REVIEW BOARD SHALL CONDUCT A TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL SITING DETERMINATION PURSUANT TO THE CRITERIA SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION AND, AT ITS DISCRETION, MAY MEET TO CONFER INFORMALLY WITH THE PARTIES. THE TECHNICAL REVIEW MUST BE COMPLETED BY ISSUANCE OF A REPORT WITHIN SIXTY DAYS AFTER THE DIRECTOR APPOINTS THE EXPERTS.

(b) A TECHNICAL REVIEW:

(I) MUST ADDRESS THE ISSUES IN DISPUTE AS IDENTIFIED BY THE OPERATOR AND THE LOCAL GOVERNMENT, WHICH MAY INCLUDE IMPACTS TO THE RECOVERY OF THE RESOURCE BY THE PRELIMINARY OR FINAL SITING DETERMINATION OF THE LOCAL GOVERNMENT; WHETHER THE LOCAL GOVERNMENT'S DETERMINATION WOULD REQUIRE TECHNOLOGIES THAT ARE NOT AVAILABLE OR ARE IMPRACTICABLE GIVEN THE CONTEXT OF THE PERMIT APPLICATION; AND WHETHER THE OPERATOR IS PROPOSING TO USE BEST MANAGEMENT PRACTICES; AND

(II) MUST NOT ADDRESS THE ECONOMIC EFFECTS OF THE PRELIMINARY OR FINAL DETERMINATION AND MUST RESULT IN THE ISSUANCE OF A REPORT.

SECTION 11. In Colorado Revised Statutes, 34-60-105, **amend** (1); and **add** (4) as follows:

34-60-105. Powers of commission. (1) (a) The commission has jurisdiction over all persons and property, public and private, necessary to enforce ~~the provisions of this article, and has~~ THIS ARTICLE 60, the power to make and enforce rules ~~regulations,~~ and orders pursuant to this ~~article~~ ARTICLE 60, and to do whatever may reasonably be necessary to carry out ~~the provisions of this article~~ THIS ARTICLE 60.

(b) Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the conservation of oil or gas, or either of them, is hereby rescinded and withdrawn, and ~~such~~ THAT authority is unqualifiedly conferred upon the commission, as provided in this section; EXCEPT THAT, AS FURTHER SPECIFIED IN SECTION 34-60-131, NOTHING IN THIS ARTICLE 60 ALTERS, IMPAIRS, OR NEGATES THE AUTHORITY OF:

(I) THE AIR QUALITY CONTROL COMMISSION TO REGULATE, PURSUANT TO ARTICLE 7 OF TITLE 25, THE EMISSION OF AIR POLLUTANTS FROM OIL AND GAS OPERATIONS;

(II) THE WATER QUALITY CONTROL COMMISSION TO REGULATE, PURSUANT TO ARTICLE 8 OF TITLE 25, THE DISCHARGE OF WATER POLLUTANTS FROM OIL AND GAS OPERATIONS;

(III) THE STATE BOARD OF HEALTH TO REGULATE, PURSUANT TO SECTION 25-11-104, THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS AND TECHNOLOGICALLY ENHANCED NATURALLY OCCURRING RADIOACTIVE MATERIALS FROM OIL AND GAS OPERATIONS;

(IV) THE SOLID AND HAZARDOUS WASTE COMMISSION TO:

(A) REGULATE, PURSUANT TO ARTICLE 15 OF TITLE 25, THE DISPOSAL OF HAZARDOUS WASTE FROM OIL AND GAS OPERATIONS; OR

(B) REGULATE, PURSUANT TO SECTION 30-20-109 (1.5), THE DISPOSAL OF EXPLORATION AND PRODUCTION WASTE FROM OIL AND GAS OPERATIONS; AND

(V) A LOCAL GOVERNMENT TO REGULATE OIL AND GAS OPERATIONS PURSUANT TO SECTION 29-20-104;

(c) Any person, or the attorney general on behalf of the state, may apply for ~~any~~ A hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this ~~article~~ ARTICLE 60, and jurisdiction is conferred upon the commission to hear and determine the ~~same~~ QUESTION and enter its rule ~~regulation,~~ or order with respect ~~thereto~~ TO THE QUESTION.

(4) (a) EXCEPT AS SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION, NOTHING IN THIS ARTICLE 60 AUTHORIZES THE STATE OR ITS LOCAL GOVERNMENTS, INCLUDING THE COMMISSION, BOARDS OF COUNTY COMMISSIONERS, AND MUNICIPALITIES, TO REGULATE THE ACTIVITIES OF:

(I) FEDERALLY RECOGNIZED INDIAN TRIBES, THEIR POLITICAL SUBDIVISIONS, OR TRIBALLY CONTROLLED AFFILIATES, UNDERTAKEN OR TO BE UNDERTAKEN WITH RESPECT TO MINERAL EVALUATION, EXPLORATION,

OR DEVELOPMENT ON LANDS WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION LOCATED WITHIN THE STATE; OR

(II) THIRD PARTIES, UNDERTAKEN OR TO BE UNDERTAKEN WITH RESPECT TO MINERAL EVALUATION, EXPLORATION, OR DEVELOPMENT ON INDIAN TRUST LANDS WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION LOCATED WITHIN THE STATE.

(b) REGULATION BY THE STATE OR ITS LOCAL GOVERNMENTS, INCLUDING THE COMMISSION, BOARDS OF COUNTY COMMISSIONERS, AND MUNICIPALITIES, APPLICABLE TO NON-INDIANS CONDUCTING OIL AND GAS OPERATIONS ON LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION MAY APPLY TO LANDS WHERE BOTH THE SURFACE AND THE OIL AND GAS ESTATES ARE OWNED IN FEE BY A PERSON OTHER THAN THE SOUTHERN UTE INDIAN TRIBE, REGARDLESS OF WHETHER THE LANDS ARE COMMUNITIZED OR POOLED WITH INDIAN MINERAL LANDS.

(c) NOTHING IN THIS ARTICLE 60 ALTERS THE AUTHORITY FOR THE REGULATION OF AIR POLLUTION ON THE SOUTHERN UTE INDIAN RESERVATION AS SET FORTH IN ARTICLE 62 OF TITLE 24 AND PART 13 OF ARTICLE 7 OF TITLE 25.

SECTION 12. In Colorado Revised Statutes, 34-60-106, **amend** (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (6), (7), (13), and (15); **repeal** (2)(d); and **add** (2.5), (11)(c), (18), (19), and (20) as follows:

34-60-106. Additional powers of commission - rules - repeal. (1) The commission also ~~has authority to~~ SHALL require:

(f) (I) That no operations for the drilling of a well for oil and gas shall be commenced without first:

(A) ~~Giving to the commission notice of intention~~ APPLYING FOR A PERMIT to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR THE LOCAL GOVERNMENT WITH JURISDICTION DOES NOT

REGULATE THE SITING OF OIL AND GAS LOCATIONS; and ~~without first~~

(B) Obtaining a permit from the commission, under ~~such~~ rules ~~and regulations as may be~~ prescribed by the commission; ~~and~~

(II) Paying to the commission a filing and service fee to be established by the commission for the purpose of paying the expense of administering this ~~article~~ ARTICLE 60 as provided in section 34-60-122, which fee may be transferable or refundable, at the option of the commission, if ~~such~~ THE permit is not used; ~~but no such fee shall exceed two hundred dollars;~~ AND

(III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING SUBSECTION (11) OF THIS SECTION, UNTIL THE COMMISSION HAS PROMULGATED ANY RULES REQUIRED TO BE ADOPTED BY SUBSECTIONS (2.5)(a), (11)(c), AND (19) OF THIS SECTION AND EACH RULE SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS BECOME EFFECTIVE, THE DIRECTOR MAY DELAY THE FINAL DETERMINATION REGARDING A PERMIT APPLICATION IF THE DIRECTOR DETERMINES, PURSUANT TO OBJECTIVE CRITERIA TO BE PUBLISHED BY THE DIRECTOR WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(f)(III) AND FOLLOWING A PUBLIC COMMENT PERIOD, THAT THE PERMIT REQUIRES ADDITIONAL ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE OR THE ENVIRONMENT OR REQUIRES ADDITIONAL LOCAL GOVERNMENT OR OTHER STATE AGENCY CONSULTATION.

(B) THIS SUBSECTION (1)(f)(III) WILL BE REPEALED IF THE RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH ALL RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SUBSECTION (1)(f)(III) IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

(2) The commission ~~has the authority to~~ MAY regulate:

(b) The ~~shooting~~ STIMULATING and chemical treatment of wells;

AND

(c) The spacing AND NUMBER of wells ALLOWED IN A DRILLING UNIT. ~~and~~

(d) ~~Oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility.~~

(2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS ARTICLE 60, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS IN A REASONABLE MANNER TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES AND SHALL PROTECT AGAINST ADVERSE ENVIRONMENTAL IMPACTS ON ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL AND GAS OPERATIONS.

(b) THE NONPRODUCTION OF OIL AND GAS RESULTING FROM A CONDITIONAL APPROVAL OR DENIAL AUTHORIZED BY THIS SUBSECTION (2.5) DOES NOT CONSTITUTE WASTE.

(6) The commission has the authority, as it deems necessary and convenient, to conduct any hearings or to make any determinations it is otherwise empowered to conduct or make by means of an appointed ADMINISTRATIVE LAW JUDGE OR hearing officer, but recommended findings, determinations, or orders of any ADMINISTRATIVE LAW JUDGE OR hearing officer ~~shall not~~ become final ~~until adopted by the commission~~ IN ACCORDANCE WITH SECTION 34-60-108 (9). Upon appointment by the commission, a member of the commission may act as a hearing officer.

(7) (a) The commission ~~has the authority to~~ MAY establish, charge, and collect docket fees for the filing of applications, petitions, protests, responses, and other pleadings. ~~No such fees shall exceed two hundred dollars for any application, petition, or other pleading initiating a proceeding nor one hundred dollars for any protest or other responsive pleadings, and any party to any commission proceeding shall pay no more than one such fee for each proceeding in which it is a party.~~ All ~~such~~ fees

shall be deposited in the oil and gas conservation and environmental response fund established by section 34-60-122 and ~~shall be~~ ARE subject to appropriations by the general assembly for the purposes of this ~~article~~ ARTICLE 60.

(b) THE COMMISSION SHALL BY RULE ESTABLISH THE FEES FOR THE FILING OF APPLICATIONS IN AMOUNTS SUFFICIENT TO RECOVER THE COMMISSION'S REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS IN CONDUCTING THE ANALYSIS, INCLUDING THE ANNUAL REVIEW OF FINANCIAL ASSURANCE PURSUANT TO SUBSECTION (13) OF THIS SECTION, NECESSARY TO ASSURE THAT PERMITTED OPERATIONS WILL BE CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF THIS ARTICLE 60.

(11) (c) THE COMMISSION SHALL ADOPT RULES THAT:

(I) ADOPT AN ALTERNATIVE LOCATION ANALYSIS PROCESS AND SPECIFY CRITERIA USED TO IDENTIFY OIL AND GAS LOCATIONS AND FACILITIES PROPOSED TO BE LOCATED NEAR POPULATED AREAS THAT WILL BE SUBJECT TO THE ALTERNATIVE LOCATION ANALYSIS PROCESS; AND

(II) IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, EVALUATE AND ADDRESS THE POTENTIAL CUMULATIVE IMPACTS OF OIL AND GAS DEVELOPMENT.

(13) The commission shall require every operator to provide assurance that it is financially capable of fulfilling ~~any~~ EVERY obligation imposed ~~under subsections (11), (12), and (17) of this section~~ BY THIS ARTICLE 60 AS SPECIFIED IN RULES ADOPTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (13), AS AMENDED. THE RULE-MAKING MUST CONSIDER: INCREASING FINANCIAL ASSURANCE FOR INACTIVE WELLS AND FOR WELLS TRANSFERRED TO A NEW OWNER; REQUIRING A FINANCIAL ASSURANCE ACCOUNT, WHICH MUST REMAIN TIED TO THE WELL IN THE EVENT OF A TRANSFER OF OWNERSHIP, TO BE FULLY FUNDED IN THE INITIAL YEARS OF OPERATION FOR EACH NEW WELL TO COVER FUTURE COSTS TO PLUG, RECLAIM, AND REMEDIATE THE WELL; AND CREATING A POOLED FUND TO ADDRESS ORPHANED WELLS FOR WHICH NO OWNER, OPERATOR, OR RESPONSIBLE PARTY IS CAPABLE OF COVERING THE COSTS OF PLUGGING, RECLAMATION, AND REMEDIATION. For purposes of this subsection (13), references to "operator" ~~shall~~ include an operator of an underground natural gas storage cavern and an applicant for a certificate of closure under

subsection (17) of this section. In complying with this requirement, an operator may submit for commission approval, without limitation, one or more of the following:

(a) A guarantee of performance where the operator can demonstrate to the commission's satisfaction that it has sufficient net worth to guarantee performance of ~~any~~ EVERY obligation imposed by ~~rule under subsections (11), (12), and (17) of this section. Such~~ THIS ARTICLE 60. THE COMMISSION SHALL ANNUALLY REVIEW THE guarantee and demonstration of net worth. ~~shall be annually reviewed by the commission.~~

(b) A certificate of general liability insurance in a form acceptable to the commission ~~which~~ THAT names the state as an additional insured and ~~which~~ covers occurrences during the policy period of a nature relevant to an obligation imposed by ~~rule under subsections (11), (12), and (17) of this section~~ THIS ARTICLE 60;

(c) A bond or other surety instrument;

(d) A letter of credit, certificate of deposit, or other financial instrument;

(e) An escrow account or sinking fund dedicated to the performance of ~~any~~ EVERY obligation imposed by ~~rule under subsections (11), (12), and (17) of this section~~ THIS ARTICLE 60;

(f) A lien or other security interest in real or personal property of the operator. ~~Such~~ THE lien or security interest ~~shall~~ MUST be in a form and priority acceptable to the commission in its sole discretion. ~~and shall be reviewed annually by~~ The commission SHALL ANNUALLY REVIEW THE LIEN OR SECURITY.

(15) The commission may, as it deems appropriate, assign its inspection and monitoring function, but not its enforcement authority, through intergovernmental agreement or by private contract; except that ~~no such~~ AN assignment ~~shall~~ MUST NOT allow for the imposition of any new tax or fee by the assignee in order to conduct ~~such~~ THE assigned inspection and monitoring and ~~no such assignment shall~~ MUST NOT provide for compensation contingent on the number or nature of alleged violations referred to the commission by the assignee. ~~No local government may~~

~~charge a tax or fee to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order, or permit condition administered by the commission. Nothing in this subsection (15) shall affect the ability of a local government to charge a reasonable and nondiscriminatory fee for inspection and monitoring for road damage and compliance with local fire codes, land use permit conditions, and local building codes.~~

(18) THE COMMISSION SHALL PROMULGATE RULES TO ENSURE PROPER WELLBORE INTEGRITY OF ALL OIL AND GAS PRODUCTION WELLS. IN PROMULGATING THE RULES, THE COMMISSION SHALL CONSIDER INCORPORATING RECOMMENDATIONS FROM THE STATE OIL AND GAS REGULATORY EXCHANGE AND SHALL INCLUDE PROVISIONS TO:

(a) ADDRESS THE PERMITTING, CONSTRUCTION, OPERATION, AND CLOSURE OF PRODUCTION WELLS;

(b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT BLOWOUTS;

(c) ENHANCE SAFETY AND ENVIRONMENTAL PROTECTIONS DURING OPERATIONS SUCH AS DRILLING AND HYDRAULIC FRACTURING;

(d) REQUIRE REGULAR INTEGRITY ASSESSMENTS FOR ALL OIL AND GAS PRODUCTION WELLS, SUCH AS SURFACE PRESSURE MONITORING DURING PRODUCTION; AND

(e) ADDRESS THE USE OF NONDESTRUCTIVE TESTING OF WELD JOINTS.

(19) THE COMMISSION SHALL REVIEW AND AMEND ITS FLOWLINE AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES TO THE EXTENT NECESSARY TO ENSURE THAT THE RULES PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT, INCLUDING BY:

(a) ALLOWING PUBLIC DISCLOSURE OF FLOWLINE INFORMATION AND EVALUATING AND DETERMINING WHEN A DEACTIVATED FLOWLINE MUST BE INSPECTED BEFORE BEING REACTIVATED; AND

(b) EVALUATING AND DETERMINING WHEN INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELLS MUST BE INSPECTED BEFORE BEING PUT INTO PRODUCTION OR USED FOR INJECTION.

(20) THE COMMISSION SHALL ADOPT RULES TO REQUIRE CERTIFICATION FOR WORKERS IN THE FOLLOWING FIELDS:

(a) COMPLIANCE OFFICERS WITH REGARD TO THE FEDERAL "OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970", 29 U.S.C. SEC. 651 ET SEQ., INCLUDING SPECIFICALLY WORKING IN CONFINED SPACES;

(b) COMPLIANCE OFFICERS WITH REGARD TO CODES PUBLISHED BY THE AMERICAN PETROLEUM INSTITUTE AND AMERICAN SOCIETY OF MECHANICAL ENGINEERS, OR THEIR SUCCESSOR ORGANIZATIONS;

(c) THE HANDLING OF HAZARDOUS MATERIALS;

(d) WELDERS WORKING ON OIL AND GAS PROCESS LINES, INCLUDING:

(I) KNOWLEDGE OF THE FLOWLINE RULES PROMULGATED PURSUANT TO SUBSECTION (19) OF THIS SECTION;

(II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED ON-THE-JOB TRAINING, WHICH REQUIREMENT CAN BE MET BY AN EMPLOYEE WORKING UNDER THE SUPERVISION OF A PERSON WITH THE REQUISITE SEVEN THOUSAND HOURS OF TRAINING; AND

(III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31, NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.

SECTION 13. In Colorado Revised Statutes, 34-60-108, **add** (9) as follows:

34-60-108. Rules - hearings - process. (9) WHENEVER ANY HEARING OR OTHER PROCEEDING IS ASSIGNED TO AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR INDIVIDUAL COMMISSIONER FOR HEARING, THE ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR COMMISSIONER, AFTER THE CONCLUSION OF THE HEARING, SHALL PROMPTLY TRANSMIT TO THE

COMMISSION AND THE PARTIES THE RECORD AND EXHIBITS OF THE PROCEEDING AND A WRITTEN RECOMMENDED DECISION THAT CONTAINS THE FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDED ORDER. A PARTY MAY FILE AN EXCEPTION TO THE RECOMMENDED ORDER; BUT IF NO EXCEPTIONS ARE FILED WITHIN TWENTY DAYS AFTER SERVICE UPON THE PARTIES, OR UNLESS THE COMMISSION STAYS THE RECOMMENDED ORDER WITHIN THAT TIME UPON ITS OWN MOTION, THE RECOMMENDED ORDER BECOMES THE DECISION OF THE COMMISSION AND SUBJECT TO SECTION 34-60-111. THE COMMISSION UPON ITS OWN MOTION MAY AND, WHERE EXCEPTIONS ARE FILED SHALL, CONDUCT A DE NOVO REVIEW OF THE MATTER UPON THE SAME RECORD, AND THE RECOMMENDED ORDER IS STAYED PENDING THE COMMISSION'S FINAL DETERMINATION OF THE MATTER. THE COMMISSION MAY ADOPT, REJECT, OR MODIFY THE RECOMMENDED ORDER.

SECTION 14. In Colorado Revised Statutes, 34-60-116, **amend** (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and **add** (7)(a)(IV) as follows:

34-60-116. Drilling units - pooling interests. (1) (a) To prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as provided in this section, may establish one or more drilling units of specified size and shape covering any pool or portion of a pool.

(b) THE APPLICATION MUST INCLUDE PROOF THAT EITHER:

(I) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT HAVING JURISDICTION TO APPROVE THE SITING OF THE PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR

(II) THE LOCAL GOVERNMENT HAVING JURISDICTION DOES NOT REGULATE THE SITING OF OIL AND GAS LOCATIONS.

(3) The order establishing a drilling unit:

(a) IS SUBJECT TO SECTION 34-60-106 (2.5); AND

(b) May authorize one or more wells to be drilled and produced

from the common source of supply on a drilling unit.

(6) (a) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of the drilling unit, then persons owning ~~such~~ THE interests may pool their interests for the development and operation of the drilling unit.

(b) (I) In the absence of voluntary pooling, the commission, upon the application of ~~any interested person~~ A PERSON WHO OWNS, OR HAS SECURED THE CONSENT OF THE OWNERS OF, MORE THAN FORTY-FIVE PERCENT OF THE MINERAL INTERESTS TO BE POOLED, may enter an order pooling all interests in the drilling unit for the development and operation ~~thereof. Each such~~ OF THE DRILLING UNIT. MINERAL INTERESTS THAT ARE OWNED BY A PERSON WHO CANNOT BE LOCATED THROUGH REASONABLE DILIGENCE ARE EXCLUDED FROM THE CALCULATION.

(II) THE pooling order shall be made after notice and A hearing and ~~shall~~ MUST be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the drilling unit the opportunity to recover or receive, without unnecessary expense, ~~his~~ A just and equitable share.

(c) Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of ~~such~~ operations upon each separately owned tract in the unit by the several owners ~~thereof~~ OF EACH SEPARATELY OWNED TRACT. That portion of the production allocated or applicable to each tract included in a unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from ~~such~~ THE tract by a well drilled ~~thereon~~ ON IT.

(7) (a) Each pooling order must:

(II) Determine the interest of each owner in the unit and provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production from the wells applicable to the owner's interest in the wells and, unless the owner has agreed otherwise, a proportionate part of the nonconsenting owner's share of the production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to the owner's

interest in the unit after the consenting owners have recovered the nonconsenting owner's share of the costs out of production; ~~and~~

(III) Specify that a nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the drilling unit; AND

(IV) PROHIBIT THE OPERATOR FROM USING THE SURFACE OWNED BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE NONCONSENTING OWNER.

(c) (I) A nonconsenting owner of a tract in a drilling unit that is not subject to any lease or other contract for ~~the development thereof for~~ oil and gas DEVELOPMENT shall be deemed to have a landowner's proportionate royalty of:

(A) ~~twelve and one-half~~ FOR A GAS WELL, THIRTEEN percent until ~~such time as~~ the consenting owners recover, only out of the nonconsenting owner's proportionate ~~seven-eighths~~ EIGHTY-SEVEN-PERCENT share of production, the costs specified in subsection (7)(b) of this section; OR

(B) FOR AN OIL WELL, SIXTEEN PERCENT UNTIL THE CONSENTING OWNERS RECOVER, ONLY OUT OF THE NONCONSENTING OWNER'S PROPORTIONATE EIGHTY-FOUR-PERCENT SHARE OF PRODUCTION, THE COSTS SPECIFIED IN SUBSECTION (7)(b) OF THIS SECTION.

(II) After recovery of the costs, the nonconsenting owner then owns his or her full proportionate share of the wells, surface facilities, and production and then is liable for further costs as if the NONCONSENTING owner had originally agreed to drilling of the wells.

(d) (I) THE COMMISSION SHALL NOT ENTER an order pooling an unleased nonconsenting mineral owner ~~shall not be entered by the commission~~ under subsection (6) of this section over protest of the owner unless the commission has received evidence that the unleased mineral owner has been tendered, no less than sixty days before the hearing, a reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less favorable than those currently prevailing in the area at the time application for the order is made and that ~~such~~ THE unleased mineral owner has been furnished in writing the owner's share of the estimated drilling and

completion cost of the wells, the location and objective depth of the wells, and the estimated spud date for the wells or range of time within which spudding is to occur. The offer must include a copy of or link to a brochure supplied by the commission that clearly and concisely describes the pooling procedures specified in this section and the mineral owner's options pursuant to those procedures.

SECTION 15. In Colorado Revised Statutes, 34-60-122, **amend** (1)(b) as follows:

34-60-122. Expenses - fund created. (1) (b) On and after July 1, ~~2014~~ 2019, the commission shall ensure that the ~~two-year average of the~~ unobligated portion of the fund does not exceed ~~six million dollars~~ FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE UPCOMING FISCAL YEAR and that there is an adequate balance in the ~~environmental response account created pursuant to subsection (5) of this section~~ FUND TO SUPPORT THE OPERATIONS OF THE COMMISSION AND to address environmental response needs.

SECTION 16. In Colorado Revised Statutes, 34-60-128, **amend** (3)(b); and **repeal** (4) as follows:

34-60-128. Habitat stewardship - rules. (3) In order to minimize adverse impacts to wildlife resources, the commission shall:

(b) Provide for commission consultation and consent of the affected surface owner, or the surface owner's appointed tenant, on permit-specific conditions for wildlife habitat protection THAT DIRECTLY IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR USE OF THAT PROPERTY. Such PERMIT-SPECIFIC conditions FOR WILDLIFE HABITAT PROTECTION shall be discontinued when final reclamation has occurred. PERMIT-SPECIFIC CONDITIONS FOR WILDLIFE HABITAT PROTECTION THAT DO NOT DIRECTLY IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR USE OF THAT PROPERTY, SUCH AS OFF-SITE COMPENSATORY MITIGATION REQUIREMENTS, DO NOT REQUIRE THE CONSENT OF THE SURFACE OWNER OR THE SURFACE OWNER'S APPOINTED TENANT.

(4) ~~Nothing in this section shall establish, alter, impair, or negate the authority of local and county governments to regulate land use related to oil and gas operations.~~

SECTION 17. In Colorado Revised Statutes, **add** 34-60-131 as follows:

34-60-131. No land use preemption. LOCAL GOVERNMENTS AND STATE AGENCIES, INCLUDING THE COMMISSION AND AGENCIES LISTED IN SECTION 34-60-105 (1)(b), HAVE REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT, INCLUDING AS SPECIFIED IN SECTION 34-60-105 (1)(b). A LOCAL GOVERNMENT'S REGULATIONS MAY BE MORE PROTECTIVE OR STRICTER THAN STATE REQUIREMENTS.

SECTION 18. Appropriation. (1) For the 2019-20 state fiscal year, $851,010 is appropriated to the department of natural resources. This appropriation consists of $763,180 cash funds from the oil and gas conservation and environmental response fund created in section 34-60-122 (5)(a), C.R.S., and $87,830 cash funds from the wildlife cash fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) $535,508 from the oil and gas conservation and environmental response fund for use by the oil and gas conservation commission for program costs, which amount is based on an assumption that the oil and gas conservation commission will require an additional 5.0 FTE;

(b) $83,930 from the wildlife cash fund for wildlife operations, which amount is based on an assumption that the division of parks and wildlife will require an additional 1.0 FTE;

(c) $6,038, which consists of $3,900 from the wildlife cash fund and $2,138 from the oil and gas conservation and environmental response fund, for vehicle lease payments;

(d) $39,000 from the oil and gas conservation and environmental response fund for leased space; and

(e) $186,534 from the oil and gas conservation and environmental response fund for the purchase of legal services.

(2) For the 2019-20 state fiscal year, $186,534 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of natural resources under subsection (1)(e) of this

section and is based on an assumption that the department of law will require an additional 1.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of natural resources.

SECTION 19. Applicability. This act applies to conduct occurring on or after the effective date of this act, including determinations of applications pending on the effective date.

SECTION 20. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED April 16, 2019 at 4:08 p.m.
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

HOUSE BILL 19-1118

BY REPRESENTATIVE(S) Jackson and Galindo, Buentello, Cutter, Duran, Gonzales-Gutierrez, Hooton, Jaquez Lewis, Kennedy, Roberts, Snyder, Buckner, Caraveo, Coleman, Exum, Hansen, Herod, Lontine, Melton, Michaelson Jenet, Singer, Valdez A., Weissman, Froelich, Sirota, Bird;
also SENATOR(S) Williams A., Court, Danielson, Fenberg, Fields, Lee, Rodriguez, Winter, Gonzales, Priola.

CONCERNING THE TIME ALLOWED FOR A TENANT TO CURE A LEASE VIOLATION THAT IS NOT A SUBSTANTIAL VIOLATION.

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

SECTION 1. In Colorado Revised Statutes, 13-40-104, **amend** (1)(d), (1)(e), and (1)(e.5)(II); and **add** (5) as follows:

13-40-104. Unlawful detention defined. (1) Any person is guilty of an unlawful detention of real property in the following cases:

(d) When such tenant or lessee holds over without permission of ~~his~~ THE TENANT'S OR LESSEE'S landlord after any default in the payment of rent pursuant to the agreement under which ~~he~~ THE TENANT OR LESSEE holds,

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.

and, ~~three~~ TEN days' notice in writing has been duly served upon the tenant or lessee holding over, requiring in the alternative the payment of the rent or the possession of the premises; EXCEPT THAT, FOR A NONRESIDENTIAL AGREEMENT OR AN EMPLOYER-PROVIDED HOUSING AGREEMENT, THREE DAYS' NOTICE IS REQUIRED PURSUANT TO THIS SECTION, AND FOR AN EXEMPT RESIDENTIAL AGREEMENT, FIVE DAYS' NOTICE IS REQUIRED PURSUANT TO THIS SECTION. No such agreement shall contain a waiver by the tenant of the ~~three days'~~ notice requirement of this ~~paragraph (d)~~ SUBSECTION (1)(d). It ~~shall~~ IS not ~~be~~ necessary, in order to work a forfeiture of such agreement, for nonpayment of rent, to make a demand for such rent on the day on which the same becomes due; but a failure to pay such rent upon demand, when made, works a forfeiture.

(e) When such tenant or lessee holds over, without such permission, contrary to any other condition or covenant of the agreement under which such tenant or lessee holds, and ~~three~~ TEN days' notice in writing has been duly served upon such tenant or lessee requiring in the alternative the compliance with such condition or covenant or the delivery of the possession of the premises so held; EXCEPT THAT, FOR A NONRESIDENTIAL AGREEMENT OR AN EMPLOYER-PROVIDED HOUSING AGREEMENT, THREE DAYS' NOTICE IS REQUIRED PURSUANT TO THIS SECTION, AND FOR AN EXEMPT RESIDENTIAL AGREEMENT, FIVE DAYS' NOTICE IS REQUIRED PURSUANT TO THIS SECTION.

(e.5) (II) A tenancy PURSUANT TO A RESIDENTIAL AGREEMENT may be terminated at any time pursuant to this ~~paragraph (e.5)~~ SUBSECTION (1)(e.5) on the basis of a subsequent violation OF THE SAME CONDITION OR COVENANT OF THE AGREEMENT. The termination ~~shall be~~ OF A RESIDENTIAL TENANCY IS effective ~~three~~ TEN days after service of written notice to quit. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (1)(e.5)(II), A TENANCY PURSUANT TO A NONRESIDENTIAL AGREEMENT, AN EXEMPT RESIDENTIAL AGREEMENT, OR AN EMPLOYER-PROVIDED HOUSING AGREEMENT MAY BE TERMINATED AT ANY TIME PURSUANT TO THIS SUBSECTION (1)(e.5) ON THE BASIS OF A SUBSEQUENT VIOLATION. THE TERMINATION OF A NONRESIDENTIAL TENANCY OR AN EMPLOYER-PROVIDED HOUSING TENANCY IS EFFECTIVE THREE DAYS AFTER SERVICE OF WRITTEN NOTICE TO QUIT, AND THE TERMINATION OF A TENANCY PURSUANT TO AN EXEMPT RESIDENTIAL AGREEMENT IS EFFECTIVE FIVE DAYS AFTER SERVICE OF WRITTEN NOTICE TO QUIT.

(5) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMPLOYER-PROVIDED HOUSING AGREEMENT" MEANS A RESIDENTIAL TENANCY AGREEMENT BETWEEN AN EMPLOYEE AND AN EMPLOYER WHEN THE EMPLOYER OR AN AFFILIATE OF THE EMPLOYER ACTS AS A LANDLORD.

(b) "EXEMPT RESIDENTIAL AGREEMENT" MEANS A RESIDENTIAL AGREEMENT LEASING A SINGLE FAMILY HOME BY A LANDLORD WHO OWNS FIVE OR FEWER SINGLE FAMILY RENTAL HOMES AND WHO PROVIDES NOTICE IN THE AGREEMENT THAT A TEN-DAY NOTICE PERIOD REQUIRED PURSUANT TO THIS SECTION DOES NOT APPLY TO THE TENANCY ENTERED INTO PURSUANT TO THE AGREEMENT.

SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED May 20, 2019 at 4:27 p.m.
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

HOUSE BILL 19-1170

BY REPRESENTATIVE(S) Jackson and Weissman, Buckner, Buentello, Duran, Exum, Froelich, Galindo, Gonzales-Gutierrez, Herod, Kennedy, Kipp, Lontine, Melton, Michaelson Jenet, Singer, Sirota, Snyder, Titone, Valdez A., Bird, Caraveo, Hooton;
also SENATOR(S) Williams A. and Bridges, Court, Gonzales, Moreno, Pettersen, Rodriguez, Winter.

CONCERNING INCREASING TENANT PROTECTIONS RELATING TO THE RESIDENTIAL WARRANTY OF HABITABILITY.

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

SECTION 1. In Colorado Revised Statutes, 13-6-105, **amend** (1) introductory portion and (1)(f) as follows:

13-6-105. Specific limits on civil jurisdiction. (1) The county court ~~shall have~~ HAS no civil jurisdiction except that specifically conferred upon it by law. In particular, it ~~shall have~~ HAS no jurisdiction over the following matters:

(f) Original proceedings for the issuance of injunctions, except:

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.

(I) As provided in ~~section 13-6-104 (5), except~~ SECTIONS 13-6-104 (5) AND 38-12-507 (1)(b);

(II) As required to enforce restrictive covenants on residential property and to enforce ~~the provisions of~~ section 6-1-702.5; ~~C.R.S.,~~ and ~~except~~

(III) As otherwise specifically authorized in this ~~article~~ ARTICLE 6 or, if there is no authorization, by rule of the Colorado supreme court.

SECTION 2. In Colorado Revised Statutes, **amend** 38-12-502 as follows:

38-12-502. Definitions. As used in this part 5 and part 8 of this article 12, unless the context otherwise requires:

(1) "APPLIANCE" MEANS A REFRIGERATOR, RANGE STOVE, OR OVEN THAT IS INCLUDED WITHIN A RESIDENTIAL PREMISES BY A LANDLORD FOR THE USE OF THE TENANT PURSUANT TO THE RENTAL AGREEMENT OR ANY OTHER AGREEMENT BETWEEN THE LANDLORD AND THE TENANT. NOTHING IN THIS SECTION REQUIRES A LANDLORD TO PROVIDE ANY APPLIANCE, AND SECTION 38-12-505 APPLIES TO APPLIANCES SOLELY TO THE EXTENT THAT APPLIANCES ARE PART OF A WRITTEN AGREEMENT BETWEEN THE LANDLORD AND THE TENANT OR ARE OTHERWISE ACTUALLY PROVIDED TO A TENANT BY THE LANDLORD AT THE INCEPTION OF THE TENANT'S OCCUPANCY OF THE RESIDENTIAL PREMISES.

~~(1)~~ (2) "Common areas" means the facilities and appurtenances to a residential premises, including the grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to a tenant.

~~(2)~~ (3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a tenant.

(4) "ELECTRONIC NOTICE" MEANS NOTICE BY ELECTRONIC MAIL OR AN ELECTRONIC PORTAL OR MANAGEMENT COMMUNICATIONS SYSTEM THAT IS AVAILABLE TO BOTH A LANDLORD AND A TENANT.

~~(3)~~ (5) "Landlord" means the owner, manager, lessor, or sublessor of a residential premises.

(6) "MOLD" MEANS MICROSCOPIC ORGANISMS OR FUNGI THAT CAN GROW IN DAMP CONDITIONS IN THE INTERIOR OF A BUILDING.

~~(4)~~ (7) "Rental agreement" means the agreement, written or oral, embodying the terms and conditions concerning the use and occupancy of a residential premises.

~~(5)~~ (8) "Residential premises" means a dwelling unit, the structure of which the unit is a part, and the common areas.

~~(6)~~ (9) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

SECTION 3. In Colorado Revised Statutes, 38-12-503, **amend** (2), (3), and (4); and **add** (2.2), (2.3), and (2.5) as follows:

38-12-503. Warranty of habitability. (2) EXCEPT AS DESCRIBED IN SUBSECTION (2.2) OF THIS SECTION, a landlord breaches the warranty of habitability set forth in subsection (1) of this section if:

(a) A residential premises is:

(I) Uninhabitable as described in section 38-12-505 or otherwise unfit for human habitation; ~~and~~ OR

~~(b)~~ (II) ~~The residential premises is~~ In a condition that ~~is~~ materially ~~dangerous or hazardous to~~ INTERFERES WITH the tenant's life, health, or safety; and

~~(c)~~ (b) The landlord has received REASONABLY COMPLETE written OR ELECTRONIC notice of the condition described in ~~paragraphs (a) and (b) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION and failed to ~~cure the problem~~ COMMENCE REMEDIAL ACTION BY EMPLOYING REASONABLE EFFORTS within ~~a reasonable time~~ THE FOLLOWING PERIOD AFTER RECEIVING THE NOTICE:

(I) TWENTY-FOUR HOURS, WHERE THE CONDITION IS AS DESCRIBED IN SUBSECTION (2)(a)(II) OF THIS SECTION; OR

(II) NINETY-SIX HOURS, WHERE THE CONDITION IS AS DESCRIBED IN

SUBSECTION (2)(a)(I) OF THIS SECTION AND THE TENANT HAS INCLUDED WITH THE NOTICE PERMISSION TO THE LANDLORD OR TO THE LANDLORD'S AUTHORIZED AGENT TO ENTER THE RESIDENTIAL PREMISES.

(2.2) IN A CASE IN WHICH A RESIDENTIAL PREMISES HAS MOLD THAT IS ASSOCIATED WITH DAMPNESS, OR THERE IS ANY OTHER CONDITION CAUSING THE RESIDENTIAL PREMISES TO BE DAMP, WHICH CONDITION, IF NOT REMEDIED, WOULD MATERIALLY INTERFERE WITH THE LIFE, HEALTH, OR SAFETY OF A TENANT, A LANDLORD BREACHES THE WARRANTY OF HABITABILITY IF THE LANDLORD FAILS:

(a) WITHIN NINETY-SIX HOURS AFTER RECEIVING REASONABLY COMPLETE WRITTEN OR ELECTRONIC NOTICE OF THE CONDITION, TO MITIGATE IMMEDIATE RISK FROM MOLD BY INSTALLING A CONTAINMENT, STOPPING ACTIVE SOURCES OF WATER TO THE MOLD, AND INSTALLING A HIGH-EFFICIENCY PARTICULATE AIR FILTRATION DEVICE TO REDUCE TENANTS' EXPOSURE TO MOLD;

(b) TO MAINTAIN THE CONTAINMENT DESCRIBED IN SUBSECTION (2.2)(a) OF THIS SECTION UNTIL THE ACTIONS DESCRIBED IN SUBSECTION (2.2)(c) OF THIS SECTION ARE EXECUTED; AND

(c) WITHIN A REASONABLE AMOUNT OF TIME, TO EXECUTE THE FOLLOWING REMEDIAL ACTIONS TO REMOVE THE HEALTH RISK POSED BY MOLD:

(I) ESTABLISH APPROPRIATE PROTECTIONS FOR WORKERS AND OCCUPANTS;

(II) ELIMINATE OR LIMIT MOISTURE SOURCES AND DRY ALL MATERIALS;

(III) DECONTAMINATE OR REMOVE DAMAGED MATERIALS AS APPROPRIATE;

(IV) EVALUATE WHETHER THE PREMISES HAS BEEN SUCCESSFULLY REMEDIATED; AND

(V) REASSEMBLE THE PREMISES TO CONTROL SOURCES OF MOISTURE AND NUTRIENTS AND THEREBY PREVENT OR LIMIT THE RECURRENCE OF

MOLD.

(2.3) A TENANT WHO GIVES A LANDLORD ELECTRONIC NOTICE OF A CONDITION SHALL SEND SUCH NOTICE ONLY TO THE E-MAIL ADDRESS, PHONE NUMBER, OR ELECTRONIC PORTAL SPECIFIED BY THE LANDLORD IN THE RENTAL AGREEMENT FOR COMMUNICATIONS. IN THE ABSENCE OF SUCH A PROVISION IN THE RENTAL AGREEMENT, THE TENANT SHALL COMMUNICATE WITH THE LANDLORD IN A MANNER THAT THE LANDLORD HAS PREVIOUSLY USED TO COMMUNICATE WITH THE TENANT. THE TENANT SHALL RETAIN SUFFICIENT PROOF OF DELIVERY OF THE ELECTRONIC NOTICE.

(2.5) A LANDLORD WHO RECEIVES FROM A TENANT WRITTEN OR ELECTRONIC NOTICE OF A CONDITION DESCRIBED BY SUBSECTION (2)(a) OF THIS SECTION SHALL RESPOND TO THE TENANT NOT MORE THAN TWENTY-FOUR HOURS AFTER RECEIVING THE NOTICE. THE RESPONSE MUST INDICATE THE LANDLORD'S INTENTIONS FOR REMEDYING THE CONDITION, INCLUDING AN ESTIMATE OF WHEN THE REMEDIATION WILL COMMENCE AND WHEN IT WILL BE COMPLETED.

(3) When any condition described in subsection (2) of this section is caused by the misconduct of the tenant, a member of the tenant's household, a guest or invitee of the tenant, or a person under the tenant's direction or control, the condition does not constitute a breach of the warranty of habitability. It is not misconduct by a victim of domestic violence; domestic abuse; unlawful sexual behavior, as described in section 16-22-102 (9); or stalking under this subsection (3) if the condition is the result of domestic violence; domestic abuse; unlawful sexual behavior, as described in section 16-22-102 (9); or stalking and the landlord has been given written OR ELECTRONIC notice and evidence of domestic violence; domestic abuse; unlawful sexual behavior, as described in section 16-22-102 (9); or stalking, as described in section 38-12-402 (2)(a).

(4) (a) ~~In response to~~ IF the notice sent pursuant to ~~paragraph (c) of subsection (2)~~ SUBSECTION (2)(b) of this section CONCERNS A CONDITION THAT IS DESCRIBED BY SUBSECTION (2)(a)(II) OF THIS SECTION, ~~a~~ THE landlord, ~~may, in the landlord's discretion~~ AT THE REQUEST OF THE TENANT, SHALL ~~move a~~ PROVIDE THE tenant: ~~to~~

(I) A comparable DWELLING unit, ~~after paying the reasonable costs, actually incurred, incident to the move.~~ AS SELECTED BY THE LANDLORD, AT

NO EXPENSE OR COST TO THE TENANT; OR

(II) A HOTEL ROOM, AS SELECTED BY THE LANDLORD, AT NO EXPENSE OR COST TO THE TENANT.

(b) A LANDLORD IS NOT REQUIRED TO PAY FOR ANY OTHER EXPENSES OF A TENANT THAT ARISE AFTER THE RELOCATION PERIOD. A TENANT CONTINUES TO BE RESPONSIBLE FOR PAYMENT OF RENT UNDER THE RENTAL AGREEMENT DURING THE PERIOD OF ANY TEMPORARY RELOCATION AND FOR THE REMAINDER OF THE TERM OF THE RENTAL AGREEMENT FOLLOWING THE REMEDIATION.

SECTION 4. In Colorado Revised Statutes, 38-12-505, **amend** (1) and (3) as follows:

38-12-505. Uninhabitable residential premises. (1) A residential premises is deemed uninhabitable if:

(a) THERE IS MOLD THAT IS ASSOCIATED WITH DAMPNESS, OR THERE IS ANY OTHER CONDITION CAUSING THE RESIDENTIAL PREMISES TO BE DAMP, WHICH CONDITION, IF NOT REMEDIED, WOULD MATERIALLY INTERFERE WITH THE HEALTH OR SAFETY OF THE TENANT, EXCLUDING THE PRESENCE OF MOLD THAT IS MINOR AND FOUND ON SURFACES THAT CAN ACCUMULATE MOISTURE AS PART OF THEIR PROPER FUNCTIONING AND INTENDED USE; OR

(b) It substantially lacks any of the following characteristics:

(I) FUNCTIONING APPLIANCES THAT CONFORMED TO APPLICABLE LAW AT THE TIME OF INSTALLATION AND THAT ARE MAINTAINED IN GOOD WORKING ORDER;

~~(a)~~ (II) Waterproofing and weather protection of roof and exterior walls maintained in good working order, including unbroken windows and doors;

~~(b)~~ (III) Plumbing or gas facilities that conformed to applicable law in effect at the time of installation and that are maintained in good working order;

~~(c)~~ (IV) Running water and reasonable amounts of hot water at all

times furnished to appropriate fixtures and connected to a sewage disposal system approved under applicable law;

~~(d)~~ (V) Functioning heating facilities that conformed to applicable law at the time of installation and that are maintained in good working order;

~~(e)~~ (VI) Electrical lighting, with wiring and electrical equipment that conformed to applicable law at the time of installation, maintained in good working order;

~~(f)~~ (VII) Common areas and areas under the control of the landlord that are kept reasonably clean, sanitary, and free from all accumulations of debris, filth, rubbish, and garbage and that have appropriate extermination in response to the infestation of rodents or vermin;

~~(g)~~ (VIII) Appropriate extermination in response to the infestation of rodents or vermin throughout a residential premises;

~~(h)~~ (IX) An adequate number of appropriate exterior receptacles for garbage and rubbish, in good repair;

~~(i)~~ (X) Floors, stairways, and railings maintained in good repair;

~~(j)~~ (XI) Locks on all exterior doors and locks or security devices on windows designed to be opened that are maintained in good working order; or

~~(k)~~ (XII) Compliance with all applicable building, housing, and health codes, THE VIOLATION OF which ~~if violated,~~ would constitute a condition that ~~is dangerous or hazardous to a tenant's life, health, or safety~~ MATERIALLY INTERFERES WITH THE LIFE, HEALTH, OR SAFETY OF THE TENANT.

(3) Unless THE RENTAL AGREEMENT PROVIDES otherwise ~~stated in~~ AS PERMITTED BY section 38-12-506, ~~prior to being~~ BEFORE A RESIDENTIAL PREMISES IS leased to a tenant, ~~a residential~~ THE RESIDENTIAL premises must comply with the requirements set forth in section 38-12-503 (1) AND (2)(a). ~~and (2)(b).~~

SECTION 5. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 38-12-506 as follows:

38-12-506. Exception for certain single-family residences. (1) FOR A SINGLE-FAMILY RESIDENCE PREMISES FOR WHICH A LANDLORD DOES NOT RECEIVE A SUBSIDY FROM ANY GOVERNMENTAL SOURCE, A LANDLORD AND TENANT MAY AGREE IN WRITING THAT THE TENANT IS TO PERFORM SPECIFIC REPAIRS, MAINTENANCE TASKS, ALTERATIONS, AND REMODELING NECESSARY TO COMPLY WITH SECTION 38-12-503, SUBJECT TO THE FOLLOWING REQUIREMENTS:

(a) THE AGREEMENT OF THE LANDLORD AND TENANT IS ENTERED INTO IN GOOD FAITH AND IS SET FORTH IN A WRITING THAT IS SEPARATE FROM THE RENTAL AGREEMENT, SIGNED BY THE PARTIES, AND SUPPORTED BY ADEQUATE CONSIDERATION; AND

(b) THE TENANT HAS THE REQUISITE SKILLS TO PERFORM THE WORK REQUIRED TO COMPLY WITH SECTION 38-12-503 (1).

(2) TO THE EXTENT THAT PERFORMANCE BY A TENANT RELATES TO A CHARACTERISTIC SET FORTH IN SECTION 38-12-505 (1), THE TENANT ASSUMES THE OBLIGATION FOR THE CHARACTERISTIC, AND THE LACK OF THE CHARACTERISTIC DOES NOT MAKE THE RESIDENTIAL PREMISES UNINHABITABLE.

SECTION 6. In Colorado Revised Statutes, 38-12-507, **amend** (1) introductory portion and (1)(b); and **add** (1)(e) and (3) as follows:

38-12-507. Breach of warranty of habitability - tenant's remedies. (1) If there is a breach of the warranty of habitability as set forth in section 38-12-503 (2): ~~the following provisions shall apply:~~

(b) (I) A tenant may obtain injunctive relief for breach of the warranty of habitability in any COUNTY OR DISTRICT court of competent jurisdiction. In ~~any~~ A proceeding for injunctive relief, the court shall determine actual damages for a breach of the warranty at the time the court orders the injunctive relief. A landlord ~~shall~~ IS not ~~be~~ subject to any court order for injunctive relief if:

(A) The landlord tenders the actual damages to the court within two

business days ~~of~~ AFTER the order; AND

(B) THE PROCEEDING FOR INJUNCTIVE RELIEF DOES NOT CONCERN A CONDITION DESCRIBED IN SECTION 38-12-503 (2)(a)(II) THAT HAS NOT BEEN REPAIRED OR REMEDIED.

(II) Upon application by the tenant, the court shall immediately release to the tenant the damages paid by the landlord. If the tenant vacates the leased RESIDENTIAL premises, the landlord shall not ~~be permitted to~~ rent the RESIDENTIAL premises again until ~~such time as~~ the unit ~~would be in compliance~~ COMPLIES with the warranty of habitability set forth in section 38-12-503 (1).

(e) (I) PURSUANT TO THIS SUBSECTION (1)(e), THE TENANT MAY DEDUCT FROM ONE OR MORE RENT PAYMENTS THE COST OF REPAIRING OR REMEDYING A CONDITION THAT IS THE BASIS OF A BREACH OF THE WARRANTY OF HABITABILITY DESCRIBED IN SECTION 38-12-503, IF THE TENANT PROVIDES NOTICE OF THE CONDITION TO THE LANDLORD AS DESCRIBED IN SECTION 38-12-503 (2)(b) OR (2.2) AND THE LANDLORD FAILS TO:

(A) COMMENCE REMEDIAL ACTION BY EMPLOYING REASONABLE EFFORTS WITHIN THE APPLICABLE PERIOD DESCRIBED IN SECTION 38-12-503 (2)(b); OR

(B) COMPLETE THE ACTIONS DESCRIBED IN SECTION 38-12-503 (2.2).

(II) AT LEAST TEN DAYS BEFORE DEDUCTING COSTS FROM A RENT PAYMENT AS DESCRIBED IN THIS SUBSECTION (1)(e), A TENANT SHALL PROVIDE THE LANDLORD WITH WRITTEN OR ELECTRONIC NOTICE OF THE TENANT'S INTENT TO DO SO. THE NOTICE MUST SPECIFY THE DATE OF NOTIFICATION, THE NAME OF THE LANDLORD OR PROPERTY MANAGER, THE ADDRESS OF THE RENTAL PROPERTY, THE CONDITION THAT REQUIRES A REPAIR OR REMEDY, THE DATE UPON WHICH THE TENANT PROVIDED NOTICE TO THE LANDLORD OF THE CONDITION THAT REQUIRES A REPAIR OR REMEDY, AND A COPY OF AT LEAST ONE GOOD-FAITH ESTIMATE OF COSTS TO REPAIR OR REMEDY THE CONDITION, WHICH ESTIMATE HAS BEEN PREPARED BY A PROFESSIONAL WHO IS UNRELATED TO THE TENANT, IS TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR REGISTRATION REQUIREMENTS OF

THIS STATE THAT APPLY TO THE PERFORMANCE OF THE WORK. A TENANT WITHHOLDING RENT OVER MULTIPLE PAYMENT PERIODS IS REQUIRED TO PROVIDE NOTICE ONLY ONCE. THE TENANT SHALL RETAIN A COPY OF THE NOTICE.

(III) AFTER A TENANT PROVIDES A LANDLORD NOTICE OF THE TENANT'S INTENT TO DEDUCT COSTS PURSUANT TO SUBSECTION (1)(e)(II) OF THIS SECTION, THE LANDLORD HAS FOUR BUSINESS DAYS TO OBTAIN ONE OR MORE GOOD-FAITH ESTIMATES OF SUCH COSTS IN ADDITION TO ANY ESTIMATE THAT THE TENANT INCLUDED IN THE NOTICE. THE ESTIMATE MUST BE PREPARED BY A PROFESSIONAL WHO IS UNRELATED TO THE LANDLORD, IS TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE PERFORMANCE OF THE WORK. IF THE LANDLORD PREFERS TO REPAIR OR REMEDY THE CONDITION BY HIRING A PROFESSIONAL OTHER THAN A PROFESSIONAL WHO PREPARED AN ESTIMATE FOR THE TENANT, THE LANDLORD SHALL SHARE THE PREFERRED PROFESSIONAL'S ESTIMATE WITH THE TENANT AND SHALL COMMENCE WORK TO REPAIR OR REMEDY THE CONDITION AS SOON AS REASONABLY POSSIBLE.

(IV) IF THE LANDLORD DOES NOT OBTAIN ANY ADDITIONAL ESTIMATES WITHIN THE FOUR DAYS PRESCRIBED BY SUBSECTION (1)(e)(III) OF THIS SECTION, THE TENANT MAY PROCEED TO DEDUCT COSTS FROM ONE OR MORE RENT PAYMENTS, BASED ON THE ESTIMATE ACQUIRED BY THE TENANT, UNTIL THE ENTIRE AMOUNT OF THE ESTIMATE IS DEDUCTED.

(V) A TENANT WHO DEDUCTS COSTS PURSUANT TO SUBSECTION (1)(e)(IV) OF THIS SECTION SHALL NOT REPAIR OR REMEDY THE CONDITION BUT SHALL HIRE A PROFESSIONAL WHO IS UNRELATED TO THE TENANT, IS TRAINED TO PERFORM THE WORK FOR WHICH THE ESTIMATE IS BEING PREPARED, AND COMPLIES WITH ALL LICENSING, CERTIFICATION, OR REGISTRATION REQUIREMENTS OF THIS STATE THAT APPLY TO THE PERFORMANCE OF THE WORK.

(VI) IF A TENANT HIRES A PROFESSIONAL TO REPAIR OR REMEDY A CONDITION CAUSING A BREACH OF THE WARRANTY OF HABITABILITY AND DEDUCTS THE ESTIMATED COST OF SUCH REPAIR OR REMEDY FROM ONE OR MORE RENT PAYMENTS, AS PERMITTED BY THIS SUBSECTION (1)(e), AND THE DEDUCTED ESTIMATED COST EXCEEDS THE ACTUAL COST INCURRED BY THE

TENANT, THE TENANT SHALL REMIT THE EXCESS COST TO THE LANDLORD WITHIN TEN BUSINESS DAYS.

(VII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE OR MORE RENT PAYMENTS IF THE CONDITION THAT IS THE BASIS FOR THE ALLEGED BREACH OF THE WARRANTY OF HABITABILITY IS CAUSED BY THE MISCONDUCT OF THE TENANT, A MEMBER OF THE TENANT'S HOUSEHOLD, A GUEST OR INVITEE OF THE TENANT, OR A PERSON UNDER THE TENANT'S DIRECTION OR CONTROL; EXCEPT THAT THIS SUBSECTION (1)(e)(VII) DOES NOT APPLY IF:

(A) THE TENANT IS A VICTIM OF DOMESTIC VIOLENCE; DOMESTIC ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION 16-22-102 (9); OR STALKING;

(B) THE CONDITION IS THE RESULT OF DOMESTIC VIOLENCE; DOMESTIC ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION 16-22-102 (9); OR STALKING; AND

(C) THE LANDLORD HAS BEEN GIVEN WRITTEN OR ELECTRONIC NOTICE AND EVIDENCE OF DOMESTIC VIOLENCE; DOMESTIC ABUSE; UNLAWFUL SEXUAL BEHAVIOR, AS DESCRIBED IN SECTION 16-22-102 (9); OR STALKING.

(VIII) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (1)(e) TO THE CONTRARY, A TENANT SHALL NOT DEDUCT COSTS FROM ONE OR MORE RENT PAYMENTS OR MAKE REPAIRS TO A RESIDENTIAL PREMISES IF THE RESIDENTIAL PREMISES WAS CONSTRUCTED, ACQUIRED, DEVELOPED, REHABILITATED, OR MAINTAINED WITH:

(A) FUNDING PROVIDED PURSUANT TO SECTION 8 OR 9 OF THE FEDERAL "UNITED STATES HOUSING ACT OF 1937", AS AMENDED, 42 U.S.C. SECS. 1437f AND 1437g;

(B) FUNDING FROM THE HOME INVESTMENT PARTNERSHIPS PROGRAM OF THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; OR

(C) FEDERAL LOW-INCOME HOUSING TAX CREDITS, COLORADO AFFORDABLE HOUSING TAX CREDITS, OR FUNDING PROVIDED UNDER ANY

FEDERAL, STATE, OR LOCAL PROGRAM THAT RESTRICTS MAXIMUM RENTS FOR PERSONS OF LOW OR MODERATE INCOME AND THAT IS CURRENTLY SUBJECT TO A USE RESTRICTION THAT IS MONITORED TO ENSURE COMPLIANCE BY THE FEDERAL GOVERNMENT, THE STATE GOVERNMENT, A COUNTY GOVERNMENT, OR A MUNICIPAL GOVERNMENT, OR BY ANY POLITICAL SUBDIVISION OR DESIGNATED AGENCY THEREOF.

(IX) A TENANT WHO DEDUCTS COSTS FROM ONE OR MORE RENT PAYMENTS IN ACCORDANCE WITH THIS SUBSECTION (1)(e) MAY SEEK ADDITIONAL REMEDIES PROVIDED BY THIS SECTION.

(X) IF A COURT FINDS THAT A TENANT HAS WRONGFULLY DEDUCTED RENT, THE COURT SHALL AWARD THE LANDLORD AN AMOUNT OF MONEY EQUAL TO THE AMOUNT WRONGFULLY WITHHELD. IF THE COURT FINDS THAT THE TENANT ACTED IN BAD FAITH, THE COURT SHALL AWARD THE LANDLORD POSSESSION OF THE RESIDENTIAL PREMISES AND AN AMOUNT OF MONEY EQUAL TO DOUBLE THE AMOUNT WRONGFULLY WITHHELD.

(XI) A TENANT WHO DEDUCTS RENT AS A RESULT OF A BREACH OF THE WARRANTY OF HABITABILITY, WHICH BREACH IS BASED ON A CONDITION DESCRIBED IN SECTION 38-12-505 (1)(b)(I), MAY, IN LIEU OF REPAIRING THE MALFUNCTIONING APPLIANCE, REPLACE THE MALFUNCTIONING APPLIANCE SO LONG AS THE REPLACEMENT APPLIANCE IS AT LEAST OF SUBSTANTIALLY COMPARABLE QUALITY AND HAS SUBSTANTIALLY THE SAME FEATURES AS THE ORIGINAL APPLIANCE.

(3) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION:

(a) IF THE SAME CONDITION THAT SUBSTANTIALLY CAUSED A BREACH OF THE WARRANTY OF HABITABILITY RECURS WITHIN SIX MONTHS AFTER THE CONDITION IS REPAIRED OR REMEDIED, OTHER THAN A BREACH OF SECTION 38-12-505 (1)(b)(I), THE TENANT MAY TERMINATE THE RENTAL AGREEMENT FOURTEEN DAYS AFTER PROVIDING THE LANDLORD WRITTEN OR ELECTRONIC NOTICE OF THE TENANT'S INTENT TO DO SO. THE NOTICE MUST INCLUDE A DESCRIPTION OF THE CONDITION AND THE DATE OF THE TERMINATION OF THE RENTAL AGREEMENT.

(b) IF THE SAME CONDITION THAT SUBSTANTIALLY CAUSED A BREACH OF THE WARRANTY OF HABITABILITY RECURS WITHIN SIX MONTHS AFTER THE CONDITION IS REPAIRED OR REMEDIED, AND THE CONDITION IS A

BREACH OF SECTION 38-12-505 (1)(b)(I), THE TENANT MAY TERMINATE THE RENTAL AGREEMENT FOURTEEN DAYS AFTER PROVIDING THE LANDLORD WRITTEN OR ELECTRONIC NOTICE OF THE TENANT'S INTENT TO DO SO. THE NOTICE MUST INCLUDE A DESCRIPTION OF THE CONDITION AND THE DATE OF THE TERMINATION OF THE RENTAL AGREEMENT. HOWEVER, IF THE LANDLORD REMEDIES THE CONDITION WITHIN FOURTEEN DAYS AFTER RECEIVING THE NOTICE, THE TENANT MAY NOT TERMINATE THE RENTAL AGREEMENT.

SECTION 7. In Colorado Revised Statutes, 38-12-508, **amend** (4); and **repeal** (3) as follows:

38-12-508. Landlord's defenses to a claim of breach of warranty - limitations on claiming a breach. (3) ~~A tenant may not assert a claim for injunctive relief based upon the landlord's breach of the warranty of habitability of a residential premises unless the tenant has given notice to a local government within the boundaries of which the residential premises is located of the condition underlying the breach that is materially dangerous or hazardous to the tenant's life, health, or safety.~~

(4) EXCEPT AS PROVIDED IN SECTION 38-12-509 (2), a tenant may not assert a breach of the warranty of habitability as a defense to a landlord's action for possession based upon a nonmonetary violation of the rental agreement or for an action for possession based upon a notice to quit or vacate.

SECTION 8. In Colorado Revised Statutes, **amend** 38-12-509 as follows:

38-12-509. Prohibition on retaliation. (1) A landlord shall not retaliate against a tenant ~~for alleging a breach of the warranty of habitability~~ by ~~discriminatorily~~ increasing rent or decreasing services or by bringing or threatening to bring an action for possession in response to the tenant:

(a) Having made a good faith complaint to the landlord or to a governmental agency alleging a ~~breach of the warranty of habitability~~ CONDITION DESCRIBED BY SECTION 38-12-505 (1) OR ANY CONDITION THAT MATERIALLY INTERFERES WITH THE LIFE, HEALTH, OR SAFETY OF THE TENANT; OR

(b) ORGANIZING OR BECOMING A MEMBER OF A TENANTS' ASSOCIATION OR SIMILAR ORGANIZATION.

(2) ~~A landlord shall not be liable for retaliation under this section unless a tenant proves that a landlord breached the warranty of habitability~~ IF A LANDLORD RETALIATES AGAINST A TENANT IN VIOLATION OF SUBSECTION (1) OF THIS SECTION, THE TENANT MAY TERMINATE THE RENTAL AGREEMENT AND RECOVER AN AMOUNT NOT MORE THAN THREE MONTHS' PERIODIC RENT OR THREE TIMES THE TENANT'S ACTUAL DAMAGES, WHICHEVER IS GREATER, PLUS REASONABLE ATTORNEY FEES AND COSTS.

(3) ~~Regardless of when an action for possession of the premises where the landlord is seeking to terminate the tenancy for violation of the terms of the rental agreement is brought, there shall be a rebuttable presumption in favor of the landlord that his or her decision to terminate is not retaliatory. The presumption created by this subsection (3) cannot be rebutted by evidence of the timing alone of the landlord's initiation of the action.~~ IF A LANDLORD ELECTS TO REPLACE A MALFUNCTIONING APPLIANCE, BUT DOES SO WITH A NEW APPLIANCE THAT IS NOT IDENTICAL TO THE APPLIANCE BEING REPLACED, THERE IS A REBUTTABLE PRESUMPTION IN FAVOR OF THE LANDLORD THAT THE LANDLORD'S SELECTION OF A DIFFERENT APPLIANCE WAS NOT RETALIATORY SO LONG AS THE REPLACEMENT APPLIANCE PROVIDES SUBSTANTIALLY THE SAME FEATURES AS THE ORIGINAL APPLIANCE.

(4) ~~If the landlord has a right to increase rent, to decrease service, or to terminate the tenant's tenancy at the end of any term of the rental agreement and the landlord exercises any of these rights, there shall be a rebuttable presumption that the landlord's exercise of any of these rights was not retaliatory. The presumption of this subsection (4) cannot be rebutted by evidence of the timing alone of the landlord's exercise of any of these rights.~~

SECTION 9. In Colorado Revised Statutes, **amend** 38-12-801 as follows:

38-12-801. Written rental agreement - copy - tenant. (1) If there is a written rental agreement, ~~then~~ the landlord shall provide the tenant with a copy of the agreement that is signed by the landlord and the tenant, no later than the seventh day after the tenant has signed the agreement. A

landlord may provide the tenant with an electronic copy of the agreement, unless the tenant requests a paper copy, in which case the landlord shall provide the tenant with a paper copy.

(2) A WRITTEN RENTAL AGREEMENT MUST INCLUDE A STATEMENT INDICATING TO THE TENANT THE NAME AND ADDRESS OF THE PERSON WHO IS THE LANDLORD OR THE LANDLORD'S AUTHORIZED AGENT. IF THE IDENTITY OF A LANDLORD OR A LANDLORD'S AUTHORIZED AGENT CHANGES, THE NEW LANDLORD OR AUTHORIZED AGENT, NOT LATER THAN ONE BUSINESS DAY AFTER SUCH CHANGE, SHALL:

(a) PROVIDE EACH TENANT OF THE LANDLORD WRITTEN OR ELECTRONIC NOTICE OF THE CHANGE; OR

(b) POST THE IDENTITY OF THE NEW LANDLORD OR NEW AUTHORIZED AGENT IN A CONSPICUOUS LOCATION ON THE RESIDENTIAL PREMISES.

SECTION 10. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 11. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, 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 such period, 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 2020

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

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED May 20, 2019 at 4:24 PM.
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 19-1328

BY REPRESENTATIVE(S) Herod, Buckner, Caraveo, Cutter, Duran, Galindo, Gonzales-Gutierrez, Gray, Lontine, McCluskie, Melton, Michaelson Jenet, Snyder, Titone, Valdez A., Bird, Hansen, Kipp;
also SENATOR(S) Rodriguez, Bridges, Fenberg, Gonzales, Moreno, Story, Tate, Todd, Williams A., Winter, Garcia.

CONCERNING BED BUGS IN RESIDENTIAL PREMISES, AND, IN CONNECTION THEREWITH, ESTABLISHING DUTIES FOR LANDLORDS AND TENANTS IN ADDRESSING THE PRESENCE OF BED BUGS.

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

SECTION 1. In Colorado Revised Statutes, **add** part 10 to article 12 of title 38 as follows:

PART 10
BED BUGS IN RESIDENTIAL PREMISES

38-12-1001. Definitions. AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BED BUG" MEANS THE COMMON BED BUG, OR CIMEX

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.

LECTULARIUS.

(2) "BED BUG DETECTION TEAM" MEANS A SCENT DETECTION CANINE TEAM THAT HOLDS A CURRENT, INDEPENDENT, THIRD-PARTY CERTIFICATION IN ACCORDANCE WITH THE GUIDELINES FOR MINIMUM STANDARDS FOR CANINE BED BUG DETECTION TEAM CERTIFICATION ESTABLISHED BY THE NATIONAL PEST MANAGEMENT ASSOCIATION OR ITS SUCCESSOR ORGANIZATION.

(3) "CERTIFIED OPERATOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (1).

(4) "COMMERCIAL APPLICATOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (2).

(5) "CONTIGUOUS DWELLING UNIT" MEANS A DWELLING UNIT THAT IS CONTIGUOUS WITH ANOTHER DWELLING UNIT, BOTH OF WHICH UNITS ARE OWNED, MANAGED, LEASED, OR SUBLEASED BY THE SAME LANDLORD.

(6) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE BY A TENANT.

(7) "ELECTRONIC NOTICE" MEANS NOTICE BY E-MAIL OR AN ELECTRONIC PORTAL OR MANAGEMENT COMMUNICATIONS SYSTEM THAT IS AVAILABLE TO BOTH A LANDLORD AND A TENANT.

(8) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR, OR SUBLESSOR OF A RESIDENTIAL PREMISES.

(9) "PEST CONTROL AGENT" MEANS A CERTIFIED OPERATOR, COMMERCIAL APPLICATOR, QUALIFIED SUPERVISOR, OR TECHNICIAN.

(10) "QUALIFIED INSPECTOR" MEANS A BED BUG DETECTION TEAM, LOCAL HEALTH DEPARTMENT OFFICIAL, CERTIFIED OPERATOR, COMMERCIAL APPLICATOR, QUALIFIED SUPERVISOR, OR TECHNICIAN WHO IS RETAINED BY A LANDLORD TO CONDUCT AN INSPECTION FOR BED BUGS.

(11) "QUALIFIED SUPERVISOR" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (13).

(12) "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL AGREEMENT TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

(13) "TECHNICIAN" HAS THE MEANING SET FORTH IN SECTION 35-10-103 (15).

38-12-1002. Bed bugs - notification to landlord - landlord duties. (1) A TENANT SHALL PROMPTLY NOTIFY THE TENANT'S LANDLORD VIA WRITTEN OR ELECTRONIC NOTICE WHEN THE TENANT KNOWS OR REASONABLY SUSPECTS THAT THE TENANT'S DWELLING UNIT CONTAINS BED BUGS. A TENANT WHO GIVES A LANDLORD ELECTRONIC NOTICE OF A CONDITION SHALL SEND SUCH NOTICE ONLY TO THE E-MAIL ADDRESS, TELEPHONE NUMBER, OR ELECTRONIC PORTAL SPECIFIED BY THE LANDLORD IN THE RENTAL AGREEMENT FOR COMMUNICATIONS. IN THE ABSENCE OF SUCH A PROVISION IN THE RENTAL AGREEMENT, THE TENANT SHALL COMMUNICATE WITH THE LANDLORD IN A MANNER THAT THE LANDLORD HAS PREVIOUSLY USED TO COMMUNICATE WITH THE TENANT. THE TENANT SHALL RETAIN SUFFICIENT PROOF OF THE DELIVERY OF THE ELECTRONIC NOTICE.

(2) NOT MORE THAN NINETY-SIX HOURS AFTER RECEIVING NOTICE OF THE PRESENCE OF BED BUGS OR THE POSSIBLE PRESENCE OF BED BUGS, A LANDLORD, AFTER PROVIDING NOTICE TO THE TENANT AS DESCRIBED IN SECTION 38-12-1004 (1):

(a) SHALL OBTAIN AN INSPECTION OF THE DWELLING UNIT BY A QUALIFIED INSPECTOR; AND

(b) MAY ENTER THE DWELLING UNIT OR ANY CONTIGUOUS DWELLING UNIT FOR THE PURPOSE OF ALLOWING THE INSPECTION AS PROVIDED IN SECTION 38-12-1003.

(3) IF THE INSPECTION OF A DWELLING UNIT CONFIRMS THE PRESENCE OF BED BUGS, THE LANDLORD SHALL ALSO CAUSE TO BE PERFORMED AN INSPECTION OF ALL CONTIGUOUS DWELLING UNITS AS PROMPTLY AS IS REASONABLY PRACTICAL.

38-12-1003. Bed bugs - inspections - treatments - costs. (1) IF A LANDLORD OBTAINS AN INSPECTION FOR BED BUGS, THE LANDLORD MUST PROVIDE WRITTEN NOTICE TO THE TENANT WITHIN TWO BUSINESS DAYS AFTER THE INSPECTION INDICATING WHETHER THE DWELLING UNIT CONTAINS

BED BUGS.

(2) IF A QUALIFIED INSPECTOR CONDUCTING AN INSPECTION DETERMINES THAT NEITHER THE DWELLING UNIT NOR ANY CONTIGUOUS DWELLING UNIT CONTAINS BED BUGS, THE NOTICE PROVIDED BY THE LANDLORD PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST INFORM THE TENANT THAT IF THE TENANT REMAINS CONCERNED THAT THE DWELLING UNIT CONTAINS BED BUGS, THE TENANT MAY CONTACT THE LOCAL HEALTH DEPARTMENT TO REPORT SUCH CONCERNS.

(3) IF A QUALIFIED INSPECTOR CONDUCTING AN INSPECTION DETERMINES THAT A DWELLING UNIT OR ANY CONTIGUOUS DWELLING UNIT CONTAINS BED BUGS IN ANY STAGE OF THE LIFE CYCLE, THE QUALIFIED INSPECTOR SHALL PROVIDE A REPORT OF THE DETERMINATION TO THE LANDLORD WITHIN TWENTY-FOUR HOURS; EXCEPT THAT, FOR ANY SUCH DETERMINATION THAT IS MADE BY A QUALIFIED INSPECTOR LICENSED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO ARTICLE 10 OF TITLE 35, THE QUALIFIED INSPECTOR SHALL PROVIDE THE REPORT IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO SAID ARTICLE 10. NOT LATER THAN FIVE BUSINESS DAYS AFTER THE DATE OF THE INSPECTION, THE LANDLORD SHALL COMMENCE REASONABLE MEASURES, AS DETERMINED BY THE QUALIFIED INSPECTOR, TO EFFECTIVELY TREAT THE BED BUG PRESENCE, INCLUDING RETAINING THE SERVICES OF A PEST CONTROL AGENT TO TREAT THE DWELLING UNIT AND ANY CONTIGUOUS DWELLING UNIT.

(4) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 10, A LANDLORD IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH AN INSPECTION FOR, AND TREATMENT OF, BED BUGS. NOTHING IN THIS SECTION PROHIBITS A TENANT FROM CONTACTING ANY AGENCY AT ANY TIME CONCERNING THE PRESENCE OF BED BUGS.

38-12-1004. Bed bugs - access to dwelling unit and personal belongings - notice - costs. (1) (a) 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 AT LEAST FORTY-EIGHT HOURS BEFORE THE LANDLORD, QUALIFIED INSPECTOR, OR PEST CONTROL AGENT ATTEMPTS TO ENTER THE DWELLING UNIT; EXCEPT THAT A RENTAL

AGREEMENT MAY PROVIDE FOR A DIFFERENT MINIMUM TIME FOR THE NOTICE. A TENANT WHO RECEIVES SUCH NOTICE SHALL NOT UNREASONABLY DENY THE LANDLORD, QUALIFIED INSPECTOR, OR PEST CONTROL AGENT ACCESS TO THE DWELLING UNIT.

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

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

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

(4) A TENANT SHALL COMPLY WITH REASONABLE MEASURES TO PERMIT THE INSPECTION FOR, AND THE TREATMENT OF, THE PRESENCE OF BED BUGS AS DETERMINED BY THE QUALIFIED INSPECTOR, 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 THE INSPECTION AND TREATMENT REQUIREMENTS DESCRIBED IN THIS PART 10 IS LIABLE FOR THE COST OF ANY BED BUG TREATMENTS OF THE DWELLING UNIT AND CONTIGUOUS DWELLING UNITS IF THE NEED FOR SUCH TREATMENTS ARISES FROM THE TENANT'S NONCOMPLIANCE.

(5) IF ANY FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY BELONGING TO A TENANT IS FOUND TO CONTAIN BED BUGS, THE QUALIFIED INSPECTOR SHALL ADVISE THE TENANT THAT THE FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY SHOULD NOT BE REMOVED FROM THE DWELLING UNIT UNTIL A PEST CONTROL AGENT DETERMINES THAT A BED BUG TREATMENT HAS BEEN COMPLETED; EXCEPT THAT, IF THE DETERMINATION THAT ANY FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY CONTAINS BED BUGS IS MADE BY A QUALIFIED INSPECTOR LICENSED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO

ARTICLE 10 OF TITLE 35, THE QUALIFIED INSPECTOR SHALL ADVISE THE TENANT REGARDING THE REMOVAL OF THE FURNITURE, CLOTHING, EQUIPMENT, OR PERSONAL PROPERTY IN ACCORDANCE WITH RULES PROMULGATED BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO SAID ARTICLE 10. THE TENANT SHALL NOT DISPOSE OF PERSONAL PROPERTY THAT WAS DETERMINED TO CONTAIN BED BUGS IN ANY COMMON AREA WHERE SUCH DISPOSAL MAY RISK THE INFESTATION OF OTHER DWELLING UNITS.

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

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

38-12-1005. Bed bugs - renting of dwelling units with bed bugs prohibited. A LANDLORD SHALL NOT OFFER FOR RENT A DWELLING UNIT THAT THE LANDLORD KNOWS OR REASONABLY SUSPECTS TO CONTAIN BED BUGS. UPON REQUEST FROM A PROSPECTIVE TENANT, A LANDLORD SHALL DISCLOSE TO THE PROSPECTIVE TENANT WHETHER, TO THE LANDLORD'S KNOWLEDGE, THE DWELLING UNIT THAT THE LANDLORD IS OFFERING FOR RENT CONTAINED BED BUGS WITHIN THE PREVIOUS EIGHT MONTHS. UPON REQUEST FROM A TENANT OR A PROSPECTIVE TENANT, A LANDLORD SHALL DISCLOSE THE LAST DATE, IF ANY, ON WHICH A DWELLING UNIT BEING RENTED OR OFFERED FOR RENT WAS INSPECTED FOR, AND FOUND TO BE FREE OF, BED BUGS.

38-12-1006. Remedies - liability. (1) A LANDLORD WHO FAILS TO COMPLY WITH THIS PART 10 IS LIABLE TO THE TENANT FOR THE TENANT'S ACTUAL DAMAGES.

(2) A LANDLORD MAY APPLY TO A COURT OF COMPETENT JURISDICTION TO OBTAIN INJUNCTIVE RELIEF AGAINST A TENANT WHO:

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

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

(3) IF A COURT FINDS THAT A TENANT HAS UNREASONABLY FAILED TO COMPLY WITH ONE OR MORE REQUIREMENTS SET FORTH IN THIS PART 10, THE COURT MAY ISSUE A TEMPORARY ORDER TO CARRY OUT THIS PART 10, INCLUDING:

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

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

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

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

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

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

38-12-1007. Relationship to warranty of habitability. NOTWITHSTANDING ANY PROVISION OF PART 5 OF THIS ARTICLE 12 TO THE CONTRARY, A LANDLORD WHO COMPLIES WITH THIS PART 10 IS DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF SAID PART 5 WITH RESPECT TO MATTERS CONCERNING BED BUGS.

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2020; except that, 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

KC Becker SPEAKER OF THE HOUSE OF REPRESENTATIVES	Leroy M. Garcia PRESIDENT OF THE SENATE
Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Cindi L. Markwell SECRETARY OF THE SENATE

APPROVED_____
(Date and Time)

_____
Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO