

## Colorado Bar Association

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### Chapter 5 - Housing

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#### Public and Subsidized Housing

##### Public Housing

Public housing authorities throughout Colorado use money from the U.S. Department of Housing and Urban Development (HUD) to buy or build apartment buildings and houses. Low-income tenants live in these public housing units and pay reduced rents.

To be eligible for public housing, family income must be less than 80 percent of the median in the applicant's geographical area. For example, in 2003, a family of one that lived in Denver and whose annual gross income was below \$39,150 was eligible for public housing; the maximum for a family of two was \$44,750.

Tenants in public housing pay rent based on family income. A family pays 10 percent of its gross income for rent, or 30 percent of its "adjusted income," whichever is more. Adjusted income means annual gross family income minus allowable deductions and allowances. An elderly family may automatically deduct \$400 from its annual income, and an additional \$480 for each dependent under 18. Other allowable deductions include medical costs that are more than 3 percent of family income, and childcare costs for children under 13 if the parent is working or in school. Although rent is calculated on an annual basis, the annual rent is divided into 12 monthly installments.

There are public housing projects especially for seniors as well as housing projects especially for seniors and people with disabilities. To be eligible for one of these buildings, the individual or family must be considered an "elderly family." That means that at least one member of the family must be over 62.

In public housing, tenants enter into a lease with the housing authority for an indefinite term. The housing authority can only terminate the lease for good cause, which means that the tenant can remain in his or her apartment for as long as the tenant wishes, provided that the tenant does not materially violate the lease. The tenant may terminate the lease at any time by giving proper notice.

Apply for public housing at your local housing authority. You may have to wait between three months and two years for a public housing apartment to become available.

##### Subsidized Housing

HUD also subsidizes housing in individual buildings owned by private or nonprofit landlords, such as the many senior and handicapped buildings located throughout the state. At these buildings, tenants rent directly from the private or nonprofit landlord, and HUD pays a subsidy to the landlord on behalf of the tenant. The landlord agrees to rent all or some of the units in the building to families or individuals with low incomes.

The waiting periods for housing in these buildings currently range from six months to two years, depending on the building.

Prospective tenants must apply at each individual building or project at which they would like to live; each project

keeps its own waiting list.

To be eligible for subsidized housing, a family's income must be less than 80 percent of the median in the applicant's geographical area. As in public housing, a family's rent is based upon the family's income.

Also, as in public housing, a tenant rents a subsidized unit for an indefinite term, and the landlord only may terminate the lease if the tenant materially violates the lease. Some of the owners of these subsidized buildings are electing not to renew their contracts with HUD. When this happens, the building becomes private market-rate housing, and the existing tenants are given Section 8 vouchers, a form of Tenant-Based Assistance. The existing tenants may use these vouchers either to remain at the property under a subsidized rent or they may take their voucher to locate a rental apartment or house that meets program requirements. The landlord also must be willing to participate in the Section 8 Voucher Program.

## **Tenant-Based Assistance**

Tenant-based assisted housing means that the state or federal government helps the individual recipient pay part of the rent charged by private landlords. Although there are several different subsidy programs, the biggest and most well-known is the Section 8 Voucher Program.

Eligibility for the Section 8 Program is based on income. "Very low-income" families are eligible. Very low-income families have income that is less than 50 percent of the median income in the area. For example, in Denver in 2003, a family of one with annual income of less than \$24,450 was considered to be very low-income, as was a family of two with an annual income of less than \$27,950. In addition, certain "low-income" families — whose income is between 50 and 80 percent of area median income — are eligible. Low-income families are only eligible if they have previously received some type of rental assistance, are being displaced by certain government housing projects or meet eligibility criteria specified by the local housing authority.

Under the Section 8 Voucher Program, HUD or a state agency provides a voucher to the tenant. The tenant can then take that voucher to any participating landlord to rent the house or apartment of their choice.

A landlord who chooses to participate in this program agrees to accept the Section 8 tenant. To qualify for Section 8, a house or apartment must meet certain livability standards.

The family makes an agreement with the landlord to rent the house or apartment. Typically, the landlord and tenant sign a one-year lease. After the initial year is up, the landlord and tenant may continue the lease on a month-to-month basis, or may enter a new lease for a definite term. During the lease term, the landlord can only terminate the lease for good cause. However, the landlord can terminate the lease for no reason at the end of a set lease term.

Once the local Public Housing Authority (PHA) has inspected the unit and approved the rental amount requested by the landlord, the PHA and the landlord sign a contract with the local Public Housing Authority (PHA), called a Housing Assistance Payment contract. Under this agreement, the PHA agrees to pay the part of the rent that the tenant cannot pay. Like public and subsidized housing, the tenant's rent contribution is initially based on income: 10 percent of gross monthly income, or 30 percent of adjusted income. After the first year, the landlord may raise the rent.

With a Section 8 voucher, a tenant may rent a unit of any size or cost, as long as the tenant's rent contribution does not increase more than 40 percent of adjusted income to cover the difference of the rent and the PHA contribution. The family can use the voucher any place in the United States where there is a housing authority to administer the assistance. However, the family may be required to remain in the locality of the housing authority that originally found the family eligible for the voucher for the first 12 months. This would take place if the applicant head of household or spouse did not live in the jurisdiction of that housing authority at the time they initially applied for a voucher.

To apply for the Section 8 Voucher Program, contact your local public housing authority. There is often a long wait for a Section 8 voucher to become available.

## Low-Cost Private Housing

Developers may borrow money guaranteed by the federal government or use federal tax credits to build or renovate housing projects. As a condition of these loans or credits, the developer must agree to rent some of the units to low-and moderate-income tenants for a certain period, and they must accept tenants with Section 8 vouchers. For more information about these projects, contact HUD or the Colorado Housing Finance Authority (CHFA). Some private organizations also provide low-cost housing to seniors. In these instances, it is necessary to contact the organization or project directly.

## Tenant Selection

Public housing authorities are required, and federally-subsidized projects are encouraged, to have written tenant selection policies that are available to the public. For the Section 8 Voucher Program, public housing authorities determine eligibility in accordance with federal regulations and the housing authority's own written policies, and private landlords individually determine whether to accept a particular tenant.

When an application for public housing, federally-subsidized housing, or the Section 8 Voucher Program is denied, the applicant is entitled to written notice stating the reason for the denial and an informal hearing or meeting to challenge the denial. The written notice usually states the review rights available under the particular program.

Public Housing Authorities, federally-subsidized projects and some private landlords cannot deny a tenant's application for housing for a discriminatory reason (i.e. on the basis of race, color, religion, sex, familial status, national origin, disability or age). If a tenant believes that he/she has been denied housing for a discriminatory reason, the tenant can challenge the denial through the application review process described above. The tenant also may file a complaint with the Colorado Civil Rights Division at (303) 894-2997 or the U.S. Department of HUD, Fair Housing Division at (303) 672-5437. For assistance in filing the fair housing complaints, contact Housing For All or the Legal Center Serving Persons with Disabilities at (303) 722-0376. The tenant should also contact the local Colorado Legal Services office ([see Chapter 1 Resource List](#)).

## Eviction

Tenants in public and subsidized housing have more rights and protections than tenants in private housing. A public or subsidized landlord cannot evict a tenant without good cause, and a landlord renting to tenants with tenant-based assistance may not evict without good cause during the lease term. Good cause can include:

- Failure to pay rent: The tenant can contest this if he or she believes that the rent was calculated wrong, or if the tenant was without fault for failure to pay (if, for example, a government benefit check did not arrive on time)
- Fraud or failure to report income or changes in family composition
- Criminal activity: Must be drug-related, or threaten the health, safety, or right to peaceful enjoyment of other tenants
- Violating the lease: For this to be grounds for eviction, it must be serious or repeated, and must:
  - disrupt the livability of the project
  - interfere with health or safety
  - interfere with another tenant's right to quiet enjoyment of their unit
  - interfere with the management of the project
  - negatively affect the financial condition of the project

Public Housing Authorities, federally-subsidized projects, and some private landlords cannot evict a tenant for a discriminatory reason. Likewise, if the alleged lease violation or good cause is caused by the tenant's disability, the landlord may be required, in most cases, to make reasonable efforts to accommodate the tenant's disability

so it does not result in the loss of housing. If the tenant believes that the basis of the eviction is discriminatory and/or directly related to the tenant's disability, the tenant should contest the eviction on these grounds. The tenant also has the option of filing a fair housing complaint with the Colorado Civil Rights Division or the U.S. Department of HUD.

In all evictions, the landlord must give the tenant a notice of the threatened eviction. In public housing and federally-subsidized housing, tenants also must be given the chance to contest the violation. If you receive such a notice, you can call your local Colorado Legal Services office. ([See Chapter 1 Resource List](#) for a listing of Colorado Legal Services offices.)

## Rent Charges

In federal low-income housing programs, the landlord only can charge a certain amount of rent. The amount of rent depends on the tenant's income, and is set at 30 percent of the tenant's gross income. (The exception is some buildings where the rent is subsidized to a single low-flat rate.)

Each year, public housing authorities and landlords in HUD projects review the amount of rent each family pays. About 75 days before recertification, the landlord notifies the tenant. The tenant prepares the needed information and gives it to the landlord, who checks the information. Based on this information, the landlord calculates the rent and notifies the tenant. If the tenant disagrees with the rental amount, he or she may request an explanation, and also may request a hearing to contest the amount set.

Whenever a tenant's income changes, he or she must notify the landlord (or public housing authority if the tenant has a Section 8 voucher) immediately, preferably in writing, keeping a copy for his or her records. The landlord or the public housing authority has a duty to adjust the rent promptly.

## Children

An elderly family caring for a child, including a grandchild or even an unrelated child, is still considered "elderly." While seniors with a child in their family are eligible for senior housing, they would find it difficult to find a senior building where they could live with their child. However, unless the senior housing development specifically has been exempted as housing for older persons under the federal and state fair housing laws, households who otherwise qualify for senior or disabled housing cannot be refused simply because of the presence of children.

## Pets

Tenants of public and federally-subsidized rental housing, which is designated for the elderly or persons with disabilities, must be allowed to keep pets. Managers may make reasonable rules about pets, and would be able to keep out a pet that is dangerous. Management also may require a reasonable refundable deposit for pet owners, in addition to the security deposit, and for damages caused by pets.

It is important to note that "pets" are not the same as "animals that are used to assist persons with disabilities," as defined under state and federal fair housing laws. Animals that facilitate an individual's ability to function, commonly referred to as service animals, are not considered pets, and thus many of the same restrictions do not apply. In all types of public and federally-subsidized housing and some private housing, tenants must be allowed to have an animal that provides a service to the tenant's disability. This service animal is not considered a pet and management may not require payment of any type of fees (other than damages caused by these animals) or deposits in conjunction with these animals. Management may, however, require documentation and/or verification that the tenant is disabled and that the animal does assist the tenant with the disability.

If you or a household member is disabled and your manager does not allow you to have an animal that assists your disability, or if your manager is attempting to charge a deposit for your service animal, you have the option of filing a fair housing complaint with the Colorado Civil Rights Division, the U.S. Department of HUD, and/or you can contact your local Colorado Legal Services office.

## Information About Housing

For information and help in finding housing, seniors may contact the Elderly Housing Hotline at (303) 831-4046. The hotline provides complete information about housing options, both low-income and otherwise.

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## Landlord-Tenant Rights, and Obligations of Tenants

### Tenants usually have questions around four basic areas:

1. What housing rights do I have based on the fact that I am disabled?
2. What is my landlord's obligation to maintain my house or apartment?
3. How can I protect myself from an unfair eviction?
4. What do I need to do to get back my security deposit?

Advice on other issues is available from housing counselors, attorneys or advocacy groups.

The relationship between a tenant and a landlord is defined in the lease, which is a legally binding agreement. It is very important, therefore, that a tenant read a proposed written lease very carefully, and that the tenant fully understands what is contained in the lease. If there is a later dispute about what is meant in the lease, a tenant will not have much luck relying on the defense that he or she did not understand or read the lease.

### Disability-Based Discrimination

Landlords may not discriminate against tenants on the basis of disability. This means that a landlord cannot refuse to rent to a tenant because the tenant uses a wheelchair or has a certain disease, such as Alzheimer's. In addition, landlords must make reasonable accommodation for persons with disabilities. For example, if a tenant uses a wheelchair, it would be a reasonable accommodation to place the tenant in a ground floor apartment, and to let him or her widen doorways to accommodate the wheelchair. New buildings must include wheelchair-accessible units. Landlords may exclude individuals from housing if allowing them would endanger others, but may not base these rules on stereotypes and assumptions. Further, such people may be excluded if no reasonable accommodation will eliminate the risk they pose.

### The Landlord's Obligation to Repair

The terms of the lease determine the landlord's obligation to repair the property. Otherwise, the landlord is obligated to repair the property only when:

- Gas-burning equipment causes a hazard. A tenant is allowed to move out if repairs to defective and hazardous gas equipment are not made within 72 hours after notice to the landlord. (In such a situation, a tenant is entitled to a full refund of the deposit and a rent rebate)
- The landlord has made a binding agreement to repair the premises
- The landlord's failure to repair the premises violates the covenant of quiet enjoyment of the premises (see explanation below)
- The repairs are for the common areas
- The repairs are necessary to correct a dangerous or hidden defect

## **Express Promise**

If the tenant can show an express promise to repair by the landlord and a failure to fulfill that promise, the tenant has some options. In theory, he or she can move out without liability. However, the tenant is encouraged to consult with an attorney before doing so, because the tenant who takes this approach should be prepared to defend his/her actions in a lawsuit commenced by the landlord. If the tenant has given the landlord money for advance rent and a security deposit, he or she is entitled to rescind the agreement and get the return of all the money paid to the landlord.

The tenant may also use the remedy of "repair and deduct," which means that the tenant can pay for the repair and then deduct the cost from the next month's rent. This remedy should be used only in situations where the landlord has clearly promised to make repairs and has failed to do so, after a written demand from the tenants. The tenants should notify the landlord, again in writing, that the cost of the repairs will be withheld from the next payment of rent. The tenant should keep receipts and other necessary records to prove the amount deducted was necessary to perform the repairs.

Tenants who invoke this remedy should be prepared to defend their rent deductions in the event of an eviction based on non-payment of rent. The record of notices to the landlord and receipts or work orders for repairs made is essential to show the court that the repair and deduct remedy has been used correctly.

## **Covenant of Quiet Enjoyment of the Premises**

Colorado landlord-tenant law holds that the landlord promises ("covenants") that the tenant will have the quiet and peaceable possession and use of the premises, a condition called "quiet enjoyment."

Under the doctrine of the covenant of quiet enjoyment of the premises, where serious or long-standing repairs have not been made by the landlord, and the tenant has not expressly agreed to make such repairs, the landlord may be responsible for such repairs.

This is related to the doctrine of "constructive eviction" that has been applied in situations when a residence is not considered habitable. For example, courts have found a constructive eviction took place in situations where a commercial tenant complained of noise from another tenant and the landlord took no action to prevent the noise; where a landlord built an obstruction to a space rented for advertising purposes; where a landlord negligently hired a subcontractor who caused a fire in the tenant's premises; and where a landlord added a second story to a building that interfered with a tenant's use of his part of the building. In all these cases, the tenant moved out without liability for the remainder of the lease.

The tenant also may be entitled to damages in the form of a reduction in rent equal to the decrease in the fair rental value of the premises caused by the landlord's breach. However, tenants who take this approach should be aware that they are risking eviction proceedings, that they may have to go to court to defend their actions, and that the judge may or may not agree that the needed repairs were serious enough to justify reducing or failing to pay rent.

## **Warranty of Habitability**

The warranty of habitability is an implied promise that a rentable property is suitable to live in. Although at least 43 other states have accepted, in various forms, the doctrine of an implied warranty of habitability, the Colorado Supreme Court has not. The state legislature also has refused to enact any such legislation.

Therefore, in Colorado, there is no implied promise from a landlord that the apartment or house is in a livable condition. However, as discussed in the previous section, there may be circumstances in which the landlord's failure to maintain the property breaches the covenant of quiet enjoyment if it interferes with the tenant's right to quiet and peaceable possession and use of the premises.

## **Control of Common Areas**

If a landlord retains control of parts of an apartment building for the use and benefit of all tenants, the landlord has a duty to keep those areas safe. For example, courts have required landlords to keep parking lots, sidewalks and stairways in safe condition.

## **Dangerous Conditions and Latent Defects**

In general, if a tenant is injured because of a defect in the property that was visible and obvious to the tenant before the property was rented, the landlord is not at fault, with exceptions discussed above.

But when a defect is not apparent, and the landlord fails to reveal it to the tenant, the landlord may be liable if the tenant is injured, or if the tenant discovers such a hidden major defect and moves out. If the landlord then sues the tenant for the remainder of the rent, the existence of the defect may provide a defense. If the tenant knew about the defect but rented the property anyway, the landlord is not responsible for subsequent injuries unless the landlord agreed to repair the defect.

## **What is an Eviction?**

If a tenant and landlord do not end their relationship by agreement, the landlord may resort to eviction. In an eviction, the landlord obtains a court order to forcibly remove the tenant and the tenant's possessions in order to re-rent the apartment or house to another tenant. Tenants have the right to present a defense to the eviction and, if successful, the court will not issue the requested court order to the landlord. A tenant served with a summons from his or her landlord should obtain legal advice and, if necessary, legal representation.

Colorado permits evictions "for cause" and "without cause." If the lease has not yet expired, the tenant only can be evicted for cause, usually non-payment of rent or violation of a condition of the lease.

A tenancy can be terminated without cause if the lease has expired, provided the landlord serves the tenant with an appropriate notice. There are different notice periods for different lengths of tenancies. For example, a lease of one year or longer requires that the landlord give a "notice to quit" at least three months before the end of the lease.

In the case of a month-to-month tenancy, a notice to quit must be given at least 10 days before the next due date of rent and terminate the tenancy no earlier than the last day of the rental period. This means that if rent is due on the first day of the next month, the notice to quit must be served on the tenant at least 10 days before the last day of the month. However, a notice to quit served in the middle of the month, telling the tenant that he or she has 10 days to move, would terminate the tenancy before the full month is over, and would be insufficient.

A lease with a specific, unconditional termination date ends on that date. A notice to quit is not required. The landlord can bring an action against the tenant if the tenant remains on the premises beyond the termination date. The typical example here is a tenancy governed by a written lease that establishes a specific date for termination without any provision for holding over by the tenant, and the landlord has not accepted rent for an additional rental period or otherwise acknowledged the holding over.

A tenant who wishes to terminate the tenancy is under the same notice requirements as a landlord. Failure to give the proper notice may result in liability for rent for another month.

In order to evict a tenant, the landlord must strictly adhere to the provisions of the eviction statutes. If the landlord fails to follow the procedures and if the tenant is removed from the premises, the landlord may be responsible for damages for a wrongful eviction.

## **Technical Requirements For Notices to Quit or Demands for Possession**

The initial eviction notice, a demand for possession, must be in writing, specifying the grounds, describing the property, stating the time when the property must be delivered to the landlord, and be signed by the landlord or the landlord's agent.

A demand made because of non-payment of rent must tell the tenant that he or she has three days to pay the rent or surrender possession of the premises. Lease provisions that waive a tenant's right to the three-day notice are invalid.

An eviction notice based on an alleged violation of the lease must give the tenant the alternative of moving or complying with the lease within three days. The notice does not have to give the tenant this alternative if the tenant is accused of committing a "substantial violation" that endangers life or involves property, or violent or drug-related felonies. There is a second situation when the notice does not have to give the tenant the alternative of moving or complying with the lease. If the tenant previously had been given a three-day notice to move or comply and the tenant, after such compliance and expiration of the first notice, commits the same breach of the lease, then no second notice to move or comply is required. The tenant must still be given a three-day notice to move.

The three-day notice may be served personally on the tenant or a member of the tenant's family over 15 years of age. Service may be done by posting in a conspicuous place such as the front door on the premises if no one is home when service is attempted.

In Colorado, an eviction case moves quickly through the court system. A tenant who does not respond can be evicted in a matter of days. The tenant must be aware of the right to a trial to defend against the accusations of landlords and to ensure that the landlords have followed the requirements of the law. However, this right easily can be lost.

## **Summons and Complaint**

The court proceeding in an eviction case is started with a summons and complaint. The summons must include these words: "If you fail to file with the court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the plaintiff is entitled."

The summons commands the defendant to appear in court at the time and date set in the summons by the landlord's attorney. Typically, tenants have only a few days to respond to the summons after it has been served.

The complaint must contain certain information by law. It must describe the property with reasonable certainty, the grounds for the recovery of the property, the name of the person occupying the property, and a request for recovery of the property. It may contain the amount of rent due, the rate at which it is accruing, the amount of damages due, and the rate at which they are accruing, with an appropriate request for relief.

## **Service of the Summons and Complaint**

The summons and complaint must be served on the defendant by a sheriff or other person over 18 who is not a party to the action. The summons can be given to anyone over 18 who lives at the same place.

If service cannot be made in person, the landlord may have the summons and complaint served by "posting." Service by posting can take place only after a diligent effort has been made to first make personal service.

When the summons and complaint are posted, a copy of the summons and complaint must be mailed to the tenant by first-class mail no later than the day after the day that the complaint is filed with the court.

Posting allows the court to order eviction, but a judgment for rent, damages, attorney fees and costs is possible only after personal service has been made on the tenant, or the tenant has otherwise submitted to the personal jurisdiction of the court. If a tenant files an answer, he or she has submitted to the personal jurisdiction of the court, even if service was by posting. However, merely appearing in court on the specified date, in response to the summons, is not a submission to personal jurisdiction.

The court can enter a default judgment against non-appearing defendants, or defendants who choose not to file an answer. Default judgments entered against defendants who are not personally served can order only that possession of the premises be restored to the landlord. These "judgments for possession only" cannot include money damages for items such as unpaid rent.

## **Answer**

The tenant may file an answer on or before the return date. The answer must admit or deny the allegations of the complaint and present all the tenant's defenses. The defendant also is required to assert any counterclaim, that is, any claim the tenant may have against the landlord at this time or risk losing the right to counterclaim. If the court accepts the tenant's answer, it will set a trial date.

## **Trial Setting**

The trial date is usually within five business days. The court has discretion to require a bond if a party requests a delay in the trial of more than five days. Obviously, the purpose of this bond is to prevent tenants from unduly delaying eviction trials. County courts traditionally have treated this statute as mandatory and, often, tenants are advised by judges or court clerks that the trial must take place within five days. Some courts require a written waiver from the landlord if the trial is to be set past five days. However, the setting of trials within five days is discretionary with the court and the bond should be required only if good cause has been shown by the landlord for the imposition of such a bond.

## **The Trial**

An eviction trial is governed by the Colorado Rules of Civil Procedure, the Colorado Rules of Evidence and the eviction statutes.

Both the landlord and tenant in an eviction trial are expected to make opening statements, present witnesses and other arguments. If a jury trial is requested, an additional jury fee must be paid, jury instructions must be prepared and both parties must be prepared to pick a jury. Failure to file the jury fee by the party requesting the jury or prepare jury instructions on time can result in the loss of the right to a jury trial.

## **Writ of Restitution**

If the landlord wins the trial, he/she obtains a default judgment or enters into a settlement with the tenant. The judgment is enforced with a Writ of Restitution, which can be issued 48 hours after judgment is rendered. Execution of the Writ means the sheriff comes to the property and removes the tenant's belongings.

The sheriff must execute the Writ between sunrise and sunset.

Sheriffs traditionally do not evict tenants during the weekend or Christmas week. The sheriff is required only to remove the tenant's goods without damaging them more than is necessary to execute the Writ. The sheriff has no duty to safeguard the possessions after they are removed.

The landlord is not responsible for how the sheriff executes the Writ. The landlord has no duty to safeguard or store the property. However, if the landlord takes control of the possessions afterward, the landlord may charge the tenant reasonable storage costs.

In some counties, a 24-hour advance notice of the eviction is left with the tenant by the sheriff, while in others there is no notice or warning to the tenant. A tenant may be able to learn from the sheriff's office the date and time of the scheduled eviction. However, the eviction appointment can be moved ahead so a tenant has to be ready to move as soon as possible after a judgment for possession has been entered.

## **Attorney Fees and Costs**

The winner in an eviction case is entitled to recover damages, reasonable attorney fees and court costs.

## Appeals

A person who is ordered evicted may appeal a county court's decision to the district court. These appeals are complicated and will probably require the help of an attorney.

## Security Deposits

The Colorado Security Deposit Act governs security deposits. From a deposit, landlords are entitled to deduct amounts owed by the tenant for rent, utility charges, repairs, cleaning contracted for by the tenant, and damages caused by abandonment, but not for normal wear and tear.

If a landlord decides to keep any of the deposit, he or she must provide the tenant a written statement listing the exact reasons and charges. This statement must be delivered to the tenant, at the tenant's last known address, within one month after the tenant leaves the premises. A lease may expand this time period to 60 days. If the written statement is not provided, the landlord forfeits all rights to withhold any portion of the security deposit.

A tenant who disputes the landlord's written statement should respond in writing. This response should notify the landlord that legal action will be filed in a minimum of seven days. This notice is a precondition for the tenant to sue the landlord for the deposit and the penalty of triple the amount of the deposit, plus attorney fees and costs. An action for the return of a deposit is often filed in small claims court by the tenant. The landlord is liable for the penalty if the deposit has been retained in "willful" (deliberate) violation of the Act.

The Act says that any provision in a rental agreement, written or oral, that waives any section of the Act enacted for the benefit of the tenant, is "deemed to be against public policy and shall be void."

The "treble damages" section of the Act has a one-year statute of limitations. An action for simple recovery of the security deposit and attorney fees is limited by a six-year statute of limitations.

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## Glossary

### Abatement

Reduction or decrease.

### Answer

The first pleading by a defendant in a lawsuit. Responds to the charges made in the complaint.

### Bond

A sum of money posted to guarantee an individual's actions.

### Complaint

The first document filed in a civil lawsuit. Contains a statement by the person filing the suit, alleges the wrong or harm the defendant has done, and requests help from the court.

### Constructive Eviction

A situation that is recognized by law as being equivalent to, or "just as if," eviction had taken place because the property is not usable and available to the tenant.

### Default Judgment

A decision in a lawsuit made against a party because he/she failed to appear to take required steps.

## **Eviction**

A landlord removing a tenant from property. Under Colorado law, it requires going to court.

## **Express Promise**

A direct statement that binds the person who makes it to do something.

## **Habitable**

Livable.

## **Judgment**

The final decision of a court in a lawsuit. Especially, an order for payment of money as a result of the decision.

## **Jurisdiction**

A court's power to make decisions about specific individuals, a specific geographical area or a specific subject.

## **Latent**

Hidden, not apparent.

## **Lease**

A written contract for the use of land or buildings, but not for transfer or ownership.

## **Liability**

Legal obligation or responsibility.

## **Notice to Quit**

Written notice from a landlord to a tenant that the tenant will have to move.

## **Premises**

The building, house or apartment that is rented or leased.

## **Rescind**

To take back or cancel a contract or agreement.

## **Security Deposit**

Money held by a landlord until the end of a tenancy for the purpose of paying for repairs on damages caused by the tenant.

## **Statute of Limitations**

A law that sets a maximum time after an event for it to be taken to court.

## **Summons**

A specific type of notice that tells an individual that a lawsuit has been filed against him/her.

## **Tenant**

A person who rents or leases a building or land.

## **Treble**

Three times.

## **Unlawful Detainer**

Holding on to land or buildings beyond the time you have a right to them, or a legal action that states that an individual is doing so.

## **Warranty**

Promise, especially a promise that was relied on as part of a transaction.

## **Writ of Restitution**

A judge's order that permits a landlord, with the assistance of the sheriff, to take possession of premises.

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## **Resources**

### ***Housing Authority Agencies:***

#### ***Adams County Housing Authority***

7190 Colorado Blvd., Sixth Floor  
Commerce City, CO 80022-1889  
(303) 227-2075

#### ***Alamosa Housing Authority***

213 Murphy Dr.  
Alamosa, CO 81101  
(719) 589-6694

#### ***Arvada Housing Authority***

8001 Ralston Rd.  
Arvada, CO 80002  
(303) 431-3015

#### ***Aurora Housing Authority***

10745 E. Kentucky Ave.  
Aurora, CO 80012  
(303) 340-1900

#### ***Boulder County Housing Authority***

3482 N . Broadway  
Boulder, CO 80304  
(303) 441-3929

#### ***Brighton Housing Authority***

22 S. Fourth Ave.  
Brighton, CO 80601  
(303) 655-2161

#### ***Commerce City Housing Authority***

5291 E. 60th Ave.  
Commerce City, CO 80022  
(303) 289-3698

#### ***Denver Housing Authority***

777 Grant St.  
Denver, CO 80203  
(720) 932-3000

#### ***Englewood Housing Authority***

3460 S. Sherman St. Ste. #101  
Englewood, CO 80110  
(303) 761-6200

#### ***Fort Collins Housing Authority***

1715 W. Mountain Ave.  
Fort Collins, CO 80521  
(970) 416-2910

#### ***Grand Junction Housing Authority***

1011 N. 10th St.  
Grand Junction CO 81501-3572  
(970) 245-0388

#### ***Greeley Housing Authority***

315 N. 11th Ave., Building B  
Greeley, CO 80631  
(970) 352-1551 ext. 6541

#### ***Jefferson Housing Authority***

6025 W. 38th Ave.  
Wheat Ridge, CO 80215  
(303) 422-8600

#### ***Lakewood Housing Authority***

480 S. Allison Pkwy.  
Lakewood, CO 80226  
(303) 987-7580

#### ***Littleton Housing Authority***

5844 S. Datura St.  
Littleton, CO 80210  
(303) 794-9608

#### ***Longmont Housing Authority***

900 Coffman St., Suite C  
Longmont, CO 80501  
(303) 6 51-8581

#### ***Loveland Housing Authority***

375 W. 37th St. Suite 200  
Loveland, CO 80538  
(970) 6 67-3232

**Housing Information:****Elderly Housing Hotline**

(303) 831-4046

**Senior Housing Options**

(303) 595-4464

**Senior Support Services**

(303) 832-1622

(Elderly, Homeless, Emergency Shelter)

**Brothers Redevelopment**

(303) 202-6340

**Colorado Housing Finance Authority (CHFA)**

(303) 297-2432

**U.S. Department of Housing and Urban  
Development (HUD)**

(303) 672-5258

**Appendix 1: Typical Eviction Timetable (County Court) Nonpayment of Rent**

<b>DAY</b>	<b>EVENT</b>
1	Tenant served with three days demand to pay rent or move.
4	Tenant must pay the delinquent rent or move out.
5	If tenant does not pay or move, landlord may file in court and serve on the tenant a Summons and a Complaint.
10-15	The tenant may file an Answer. Tenant has at least five days but no more than 10 days to file Answer to Complaint. The Answer must be filed on or before the "return date" specified in the Summons. Trial date set by court. OR  Tenant does not file an Answer. Default judgment entered against tenant.
12-17	If default judgment entered, landlord can have sheriff execute writ of restitution 48 hours after judgment.
10-20	If tenant filed Answer, trial may be scheduled within five business days of return date, or less. If judgment entered against tenant after trial, writ of restitution may be issued.
12-22	Sheriff can execute writ of restitution 48 hours after entry of judgment by default or at trial. Actual date depends on appointment made between sheriff and landlord.