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First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

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DRAFT

LLS NO. 21-0076.01 Richard Sweetman x4333

SENATE BILL

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

(None),

**BILL TOPIC: "Damage Insurance In Lieu Of Security Deposit"**

**A BILL FOR AN ACT**

101 CONCERNING SECURITY DEPOSITS IMPOSED PURSUANT TO THE LEASING  
102 OF RESIDENTIAL PREMISES, AND, IN CONNECTION THEREWITH,  
103 ESTABLISHING A MAXIMUM AMOUNT FOR SUCH SECURITY  
104 DEPOSITS AND REQUIRING A LANDLORD TO ACCEPT DAMAGE  
105 INSURANCE IN LIEU OF A TRADITIONAL SECURITY DEPOSIT.

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill prohibits a landlord from requiring a tenant to pay a security deposit in an amount that exceeds the amount of one monthly

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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rent payment.

The bill states that a landlord may require a tenant of a residential premises to submit a traditional security deposit only if the landlord has offered in writing to accept damage insurance in lieu of a traditional security deposit and the tenant has nonetheless indicated a preference to submit a traditional security deposit\_\_\_\_\_, a tenant may provide damage insurance coverage that satisfies certain criteria.\_\_\_\_\_

\_\_\_\_\_A landlord shall not require a tenant who elects to acquire damage insurance in lieu of providing a required security deposit to provide additional security or insurance coverage.

Until July 1, 2024, the bill does not apply to a landlord that owns or controls less than 5 dwelling units.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 38-12-105 as  
3 follows:

4 **38-12-105. Security deposits - maximum amount - option to**  
5 **provide damage insurance in lieu of security deposit - notice -**  
6 **exemptions - repeal.** (1) ON AND AFTER THE EFFECTIVE DATE OF THIS  
7 SECTION, A LANDLORD SHALL NOT REQUIRE A TENANT OF A RESIDENTIAL  
8 PREMISES TO SUBMIT A SECURITY DEPOSIT IN AN AMOUNT THAT EXCEEDS  
9 THE AMOUNT OF ONE MONTHLY RENT PAYMENT UNDER THE RENTAL  
10 AGREEMENT.

11 (2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A  
12 LANDLORD MAY REQUIRE A TENANT OF A RESIDENTIAL PREMISES TO  
13 SUBMIT A SECURITY DEPOSIT ONLY IF THE LANDLORD HAS OFFERED IN  
14 WRITING TO ACCEPT DAMAGE INSURANCE IN LIEU OF A SECURITY DEPOSIT,  
15 AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, AND THE TENANT HAS  
16 NONETHELESS INDICATES A PREFERENCE TO SUBMIT A SECURITY DEPOSIT  
17 OR DOES NOT RESPONDED TO THE OFFER\_\_\_\_\_.

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1           (3) \_\_\_\_\_ IN LIEU OF PROVIDING A SECURITY DEPOSIT TO A  
2 LANDLORD PURSUANT TO THE EXECUTION OF A RENTAL AGREEMENT, A  
3 TENANT PROVIDE DAMAGE INSURANCE THAT:

4           (a) IS ISSUED BY AN INSURANCE COMPANY THAT IS AUTHORIZED TO  
5 ISSUE THE INSURANCE IN THIS STATE BY THE COMMISSIONER OF  
6 INSURANCE PURSUANT TO ARTICLE 3 OF TITLE 10;

7           (b) IS EFFECTIVE UPON THE PAYMENT OF THE FIRST PREMIUM AND  
8 REMAINS EFFECTIVE FOR THE ENTIRE LEASE TERM DESCRIBED IN THE  
9 RENTAL AGREEMENT; AND

10          (c) PROVIDES COVERAGE PER CLAIM IN AN AMOUNT THAT IS NO  
11 LESS THAN ONE MONTH'S RENT UNDER THE RENTAL AGREEMENT;

12          \_\_\_\_\_  
13          (4) A LANDLORD SHALL NOT REQUIRE A TENANT WHO ELECTS TO  
14 ACQUIRE DAMAGE INSURANCE IN LIEU OF PROVIDING A SECURITY DEPOSIT  
15 AS DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION TO PROVIDE  
16 ADDITIONAL SECURITY OR INSURANCE COVERAGE.

17          (5) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO  
18 THE CONTRARY, THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A  
19 LANDLORD THAT OWNS OR CONTROLS LESS THAN FIVE DWELLING UNITS.

20          (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2024.

21          **SECTION 2.** In Colorado Revised Statutes, **amend** 38-12-101 as  
22 follows:

23          **38-12-101. Legislative declaration.** ~~The provisions of This part~~  
24 1 shall be liberally construed to implement the intent of the general  
25 assembly to ~~insure~~ ENSURE the proper administration of TRADITIONAL  
26 security deposits AND ALTERNATIVES TO TRADITIONAL SECURITY DEPOSITS  
27 and TO protect the interests of tenants and landlords.

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1           **SECTION 3.** In Colorado Revised Statutes, **amend** 38-12-102 as  
2 follows:

3           **38-12-102. Definitions.** As used in this part 1, unless the context  
4 otherwise requires:

5           (1) ~~"Normal wear and tear" means that deterioration which occurs,~~  
6 ~~based upon the use for which the rental unit is intended, without~~  
7 ~~negligence, carelessness, accident, or abuse of the premises or equipment~~  
8 ~~or chattels by the tenant or members of his household, or their invitees or~~  
9 ~~guests~~ "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A  
10 STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE BY  
11 A TENANT. "DWELLING UNIT" INCLUDES A MOBILE HOME, AS DEFINED IN  
12 SECTION 38-12-201.5 (5).

13           (2) ~~"Security deposit" means any advance or deposit of money,~~  
14 ~~regardless of its denomination, the primary function of which is to secure~~  
15 ~~the performance of a rental agreement for residential premises or any part~~  
16 ~~thereof~~ "NORMAL WEAR AND TEAR" MEANS DETERIORATION THAT  
17 OCCURS, BASED UPON THE USE FOR WHICH A DWELLING UNIT IS INTENDED,  
18 WITHOUT NEGLIGENCE, CARELESSNESS, ACCIDENT, OR ABUSE OF THE  
19 RESIDENTIAL PREMISES OR EQUIPMENT OR CHATTELS BY THE TENANT OR  
20 MEMBERS OF THE TENANT'S HOUSEHOLD OR BY INVITEES OR GUESTS OF  
21 THE TENANT OR MEMBERS OF THE TENANT'S HOUSEHOLD.

22           (3) "RESIDENTIAL PREMISES" MEANS A STRUCTURE OF WHICH ONE  
23 OR MORE DWELLING UNITS ARE PART, INCLUDING ANY IMMEDIATELY  
24 SURROUNDING PROPERTY THAT IS OWNED BY OR SUBJECT TO THE  
25 EXCLUSIVE CONTROL OF A PERSON WHO CONTROLS SUCH A DWELLING  
26 UNIT.

27           (4) (a) "SECURITY DEPOSIT" MEANS ANY ADVANCE OR DEPOSIT OF

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1 MONEY, REGARDLESS OF ITS DENOMINATION, THE PRIMARY FUNCTION OF  
2 WHICH IS TO SECURE THE PERFORMANCE OF A RENTAL AGREEMENT FOR A  
3 RESIDENTIAL PREMISES OR ANY PART OF THE RESIDENTIAL PREMISES.

4 (b) "SECURITY DEPOSIT" DOES NOT INCLUDE A DEPOSIT PLACED  
5 WITH A LANDLORD TO SECURE THE AVAILABILITY OF A RESIDENTIAL  
6 PREMISES MORE THAN SIXTY DAYS BEFORE THE COMMENCEMENT OF A  
7 LEASE TERM.

8 **SECTION 4.** In Colorado Revised Statutes, 13-54-102, **amend**  
9 (1)(r) as follows:

10 **13-54-102. Property exempt - definitions - repeal.** (1) The  
11 following property is exempt from levy and sale under writ of attachment  
12 or writ of execution:

13 (r) For purposes of garnishment proceedings pursuant to ~~the~~  
14 ~~provisions of~~ article 54.5 of this ~~title~~ TITLE 13, any amount held by a third  
15 party as a security deposit, as defined in ~~section 38-12-102 (2), C.R.S.~~  
16 SECTION 38-12-102 (4), or any amount held by a third party as a utility  
17 deposit to secure payment for utility goods or services used or consumed  
18 by the debtor or ~~his~~ THE DEBTOR'S dependents;

19 **SECTION 5. Act subject to petition - effective date.** This act  
20 takes effect June 1, 2022; except that, if a referendum petition is filed  
21 pursuant to section 1 (3) of article V of the state constitution against this  
22 act or an item, section, or part of this act within such period, then the act,  
23 item, section, or part will not take effect unless approved by the people  
24 at the general election to be held in November 2022 and, in such case,  
25 will take effect on the date of the official declaration of the vote thereon  
26 by the governor.