

1 HOUSE BILL NO. 776

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6

7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RESIDENTIAL LANDLORD AND
8 TENANT LAWS; PROVIDING DEFINITIONS; REQUIRING 90 DAYS' NOTICE FOR A CHANGE TO OR
9 TERMINATION OF A RENTAL AGREEMENT THAT WAS ENTERED INTO AFTER 1 YEAR OF TENANCY
10 WITH A PROPERTY MANAGEMENT COMPANY; AND AMENDING SECTIONS 70-24-103, 70-24-205, 70-24-
11 311, 70-24-422, 70-24-441, 70-25-201, AND 70-26-109, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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15 **Section 1.** Section 70-24-103, MCA, is amended to read:

16 **"70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections
17 and unless the context otherwise requires, in this chapter the following definitions apply:

18 (1) "Abandon" means to give up possession of the premises unless the landlord does not accept
19 abandonment or surrender as provided in 70-24-426 or unless the rental agreement has been terminated as
20 provided by law.

21 (2) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in
22 which rights are determined, including an action for possession.

23 (3) "Actual and reasonable cost" means the actual amount of expenses and labor incurred or
24 expended and the reasonable amount of expenses and labor estimated to be incurred or expended.

25 (4) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring
26 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
27 essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system
28 service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate

1 danger to the tenant or others.

2 (5) "Court" means the appropriate district court, small claims court, justice's court, or city court.

3 (6) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence,
4 or sleeping place by a person who maintains a household or by two or more persons who maintain a common
5 household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile
6 home, means the mobile home itself.

7 (7) "Good faith" means honesty in fact in the conduct of the transaction concerned.

8 (8) "Guest" means a person staying with a tenant for a temporary period of time as defined in the
9 rental agreement or, if not defined in the rental agreement, for a period of time no more than 7 days unless the
10 tenant has received the landlord's written consent to a longer period of time.

11 (9) "Landlord" means:

12 (a) the owner of the dwelling unit or the building of which it is a part;

13 (b) a person who has written authorization from the owner to act as the owner's agent or assignee
14 for purposes related to the premises or the rental agreement;

15 (c) a person who has written authorization from the owner to act as a manager of the premises for
16 the purposes of the tenancy or the rental agreement; or

17 (d) a lessor who has written authorization from the owner of the premises to sublease the
18 premises.

19 (10) "Organization" includes a corporation, government, governmental subdivision or agency,
20 business trust, estate, trust, or partnership or association, two or more persons having a joint or common
21 interest, and any other legal or commercial entity.

22 (11) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

23 (a) the legal title to property; or

24 (b) the beneficial ownership and a right to present use and enjoyment of the premises, including a
25 mortgagee in possession.

26 (12) "Person" includes an individual or organization.

27 (13) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
28 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally

1 or promised for the use of a tenant.

2 (14) "Property management company" means a person who engages in the business of leasing,
3 renting, subleasing, or other transfer of possession of real estate located in this state without transfer of the title
4 to the property. The term includes but is not limited to a person who:

5 (a) engages in negotiations for the lease or sublease of any real estate or of the improvements on
6 any real estate;

7 (b) promotes the lease, rental, exchange, or other disposition of real estate;

8 (c) assists in creating or completing real estate lease contracts;

9 (d) procures tenants;

10 (e) aids or offers to aid, for a fee, any person in locating or obtaining any real estate for lease;

11 (f) makes the advertising of real property for lease available by public display to potential tenants;

12 (g) shows rental or lease properties to potential tenants;

13 (h) acts as a liaison between the owners of real estate and a tenant or potential tenant;

14 (i) generally oversees the inspection, maintenance, and upkeep of leased real estate;

15 (j) collects rents or attempts to collect rents;

16 (k) pays or receives a fee, commission, or other compensation for referral of the name of a
17 prospective lessor or lessee; or

18 (l) advertises or represents to the public that the person is engaged in any of the activities referred
19 to in this subsection (14).

20 ~~(14)~~(15) "Rent" means all payments to be made to the landlord, including rent, late fees, or other
21 charges as agreed on in the rental agreement, except money paid as a security deposit.

22 ~~(15)~~(16) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-
23 24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
24 premises.

25 ~~(16)~~(17) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or
26 a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of
27 which are used in common by occupants in the structure.

28 ~~(17)~~(18) "Single-family residence" means a structure maintained and used as a single dwelling unit. A

dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or service with another dwelling unit.

~~(18)~~(19)"Tenant" means:

(a) a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;
or

(b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement.

~~(19)~~(20)"Unauthorized person or trespasser" means a person who:

(a) enters or remains after being asked to leave by the landlord and does not receive written permission by the landlord to remain on the premises;

(b) is in violation of 45-6-201;

(c) is in violation of 45-6-203; or

(d) is in violation of 70-27-102."

Section 2. Section 70-24-205, MCA, is amended to read:

"70-24-205. Extension of written rental agreements. If the landlord and tenant fail to establish a default extension period for the lease in the rental agreement and neither party gives a ~~30-day~~ the appropriate written notice to the other to terminate the tenancy before the rental agreement's original termination date pursuant to 70-24-441, the tenancy continues on a month-to-month basis."

Section 3. Section 70-24-311, MCA, is amended to read:

"70-24-311. Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

- 1 (b) it is reasonably related to the purpose for which it is adopted;
- 2 (c) it applies to all occupants in the premises in a fair manner;
- 3 (d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly
- 4 inform the tenant of what the tenant must or must not do to comply;
- 5 (e) it is not for the purpose of evading the obligations of the landlord; and
- 6 (f) the tenant has notice of it at the time that the tenant enters into the rental agreement or when it
- 7 is adopted.

8 (2) A rule adopted by a landlord must be in writing and must be given to each tenant residing on

9 the premises and to each new tenant upon arrival.

10 (3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial

11 modification of the tenant's bargain, it is not valid until 7 days after written notice to the tenant in the case of a

12 ~~week to week week-to-week~~ tenancy or, 30 days' written notice in the case of tenancies from month to month,

13 and 90 days' written notice in the case of tenancies from month to month that have been entered into after the

14 expiration of an original lease agreement of 1 year or longer with a property management company."

15

16 **Section 4.** Section 70-24-422, MCA, is amended to read:

17 **"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**

18 **injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental

19 agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant

20 to 70-24-108 specifying the acts and omissions constituting the noncompliance, that the rental agreement will

21 terminate, and that the tenant shall vacate the premises on a date specified in the notice not less than the

22 minimum number of days after receipt of the notice provided for in this section. The rental agreement

23 terminates and the tenant shall vacate the premises as provided in the notice, subject to the following:

24 (a) If the noncompliance is remediable by repairs, the payment of damages, or written approval of

25 the landlord and the tenant remedies the noncompliance before the date specified in the notice, the rental

26 agreement does not terminate.

27 (b) If the noncompliance involves an unauthorized pet, the notice period is 3 days.

28 (c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period

1 is 3 days.

2 (d) If the noncompliance is not listed in subsection (1)(b), (1)(c), or (1)(f), the notice period is 14
3 days.

4 (e) If substantially the same act or omission that constituted a prior noncompliance of which notice
5 was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written
6 notice specifying the noncompliance and the date of the termination of the rental agreement.

7 (f) If the noncompliance is from verbal abuse of the landlord by a tenant, the landlord may
8 terminate the rental agreement on giving 3 days' written notice. If the tenant adequately remedies the
9 noncompliance, the rental agreement does not terminate.

10 (2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by
11 the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid
12 within that period, the landlord may terminate the rental agreement, and the tenant shall vacate the premises if
13 the landlord terminates the rental agreement.

14 (3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in
15 violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice
16 specifying the noncompliance under the provisions of 70-24-321(2), and the tenant shall vacate the premises if
17 the landlord terminates the rental agreement.

18 (4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or
19 that neighboring tenants may be injured in violation of 70-24-321(3), the landlord may terminate the rental
20 agreement upon giving 3 days' written notice specifying the violation and noncompliance under the provisions
21 of 70-24-321(3), and the tenant shall vacate the premises if the landlord terminates the rental agreement.

22 (5) Except as provided in this chapter, the landlord may recover actual damages and obtain
23 injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as
24 provided in subsection (6), if the tenant's noncompliance is purposeful, the landlord may recover treble
25 damages.

26 (6) Treble damages may not be recovered for the tenant's early termination of the tenancy.

27 (7) The landlord is not bound by this section in the event that the landlord elects to use the 30-day
28 or 90-day notice for termination of tenancy as provided in 70-24-441."

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2 **Section 5.** Section 70-24-441, MCA, is amended to read:

3 **"70-24-441. Termination by landlord or tenant.** (1) The landlord or the tenant may terminate a
4 week-to-week tenancy by a written notice given to the other at least 7 days before the termination date
5 specified in the notice.

6 (2) ~~The Notwithstanding subsection (3)(a), the~~ landlord or the tenant may terminate a month-to-
7 month tenancy by giving to the other at any time during the tenancy at least 30 days' notice in writing prior to
8 the date designated in the notice for the termination of the tenancy.

9 (3) (a) The landlord may terminate a month-to-month tenancy that was entered into after the
10 expiration of an original lease agreement of 1 year or longer with a property management company by a written
11 notice given to the tenant at least 90 days before the termination date specified in the notice.

12 (b) The tenant may terminate a month-to-month tenancy that was entered into after the expiration
13 of an original lease agreement of 1 year or longer with a property management company by a written notice
14 given to the landlord at least 30 days before the termination date specified in the notice.

15 ~~(3)(4)~~ The tenancy terminates on the date designated and without regard to the expiration of the
16 period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly
17 apportionable from day to day."

18

19 **Section 6.** Section 70-25-201, MCA, is amended to read:

20 **"70-25-201. Security deposit -- deductions authorized therefrom.** (1) A landlord renting property
21 covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been
22 caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties due under
23 lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-
24 24-441~~(3)(4)~~, and a sum for actual cleaning expenses, including a reasonable charge for the landlord's labor.

25 (2) At the request of either party, the premises may be inspected within 1 week prior to termination
26 of the tenancy.

27 (3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis
28 by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is

1 forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not
2 be deducted until written notice has been given to the tenant. The notice must include the cleaning not
3 accomplished by the tenant and the additional and type or types of cleaning that need to be done by the tenant
4 to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant
5 has 24 hours to complete the required cleaning, unless the rental agreement is already terminated pursuant to
6 70-24-427 or 70-33-427 and the landlord has a pending claim for actual damages filed in court. If notice is
7 mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the
8 mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises without
9 notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the cleaning
10 charges from the deposit, or the landlord may leave a copy of the notice in a conspicuous location in the rental
11 unit and notify the tenant by e-mail, phone, or text, and notice is considered delivered.

12 (4) A person may not deduct or withhold from the security deposit any amount for purposes other
13 than those set forth in this section."
14

15 **Section 7.** Section 70-26-109, MCA, is amended to read:

16 **"70-26-109. Change of lease terms by notice.** ~~(1) In~~ Notwithstanding subsection (2), in all leases of
17 lands or tenements or of any interest therein from month to month, the landlord may, upon giving notice in
18 writing at least 15 days before the expiration of the month, change the terms of the lease to take effect at the
19 expiration of the month. The notice, when served upon the tenant, shall of itself operate and be effectual to
20 create and establish as a part of the lease the terms, rent, and conditions specified in the notice if the tenant
21 shall continue to hold the premises after the expiration of the month.

22 (2) In a month-to-month tenancy that was entered into after the expiration of an original lease
23 agreement of 1 year or longer with a property management company, the landlord may change the terms of the
24 lease after giving in writing at least 90 days' notice before the date specified in the notice."

25 - END -