

HOUSE BILL 768

Introduced by Measure, et al.

2/12	Introduced
2/12	Referred to Judiciary
2/12	First Reading
2/19	Hearing
2/22	Committee Report--Bill Passed as Amended
2/25	2nd Reading Passed
2/26	3rd Reading Failed

1 HOUSE BILL NO. 768
 2 INTRODUCED BY William HARP Whalen Lee
 3 Yellowtail E. B.
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LANDLORD AND TENANT LAWS; PROVIDING CLARIFICATION OF THE
 6 RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS;
 7 PROVIDING FOR LANDLORD ACTION DURING EMERGENCY SITUATIONS;
 8 PROVIDING A REFERENCE DATE FOR SERVICE OF NOTICE BY
 9 CERTIFIED MAIL; ESTABLISHING THAT THE CREATION OF A
 10 LANDLORD-TENANT RELATIONSHIP IS PRESUMED UPON RECEIPT OF
 11 RENT OR A DEPOSIT FROM THE TENANT; PREVENTING TRANSFER OF A
 12 RENTAL UNIT WITHOUT LANDLORD APPROVAL; PREVENTING A TENANT
 13 FROM REMOVING, REPLACING, OR ADDING LOCKS TO A RENTAL UNIT
 14 WITHOUT LANDLORD APPROVAL; PROVIDING FOR A LIMITED
 15 TENANT-OPERATED BUSINESS OR COTTAGE INDUSTRY UPON LANDLORD
 16 CONSENT; PROVIDING FOR TENANT TERMINATION OF THE RENTAL
 17 AGREEMENT UPON A LANDLORD'S FAILURE TO REMEDY AN EMERGENCY
 18 SITUATION; PROVIDING FOR LANDLORD TERMINATION OF THE RENTAL
 19 AGREEMENT UPON JUST CAUSE; AND AMENDING SECTIONS 70-24-103,
 20 70-24-108, 70-24-302, 70-24-312, 70-24-321, 70-24-406,
 21 70-24-422, 70-24-424, AND 70-24-441, MCA."
 22
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 24 **Section 1.** Section 70-24-103, MCA, is amended to read:
 25 "70-24-103. General definitions. Subject to additional

1 definitions contained in subsequent sections and unless the
 2 context otherwise requires, in this chapter the following
 3 definitions apply:
 4 (1) "Action" includes recoupment, counterclaim, setoff
 5 suit in equity, and any other proceeding in which rights are
 6 determined, including an action for possession.
 7 (2) "Court" means the appropriate district court or the
 8 appropriate justice's court.
 9 (3) "Dwelling unit" means a structure or the part of a
 10 structure that is used as a home, residence, or sleeping
 11 place by a person who maintains a household or by two or
 12 more persons who maintain a common household. "Dwelling
 13 unit", in the case of a person who rents space in a mobile
 14 home park but does not rent the mobile home, means the space
 15 rented and not the mobile home itself.
 16 (4) "Emergency situation" means an extraordinary
 17 occurrence beyond the tenant's control requiring immediate
 18 action to protect the premises or the tenant. An emergency
 19 situation may include the interruption of essential
 20 services, including heat, electricity, gas, running water,
 21 hot water, or sewer and septic systems, or life-threatening
 22 events in which the tenant has reasonable apprehension of
 23 immediate danger to himself or others.
 24 (4)(5) "Good faith" means honesty in fact in the
 25 conduct of the transaction concerned.

1 ~~5~~6 "Landlord" means the owner, lessor, or sublessor
2 of the dwelling unit or the building of which it is a part
3 and also means a manager of the premises who fails to
4 disclose his managerial position.

5 ~~6~~7 "Organization" includes a corporation,
6 government, governmental subdivision or agency, business
7 trust, estate, trust, partnership or association, two or
8 more persons having a joint or common interest, and any
9 other legal or commercial entity.

10 ~~7~~8 "Owner" means one or more persons, jointly or
11 severally, in whom is vested all or part of:

- 12 (a) the legal title to property; or
13 (b) the beneficial ownership and a right to present use
14 and enjoyment of the premises, including a mortgagee in
15 possession.

16 ~~8~~9 "Person" includes an individual or organization.

17 ~~9~~10 "Premises" means a dwelling unit and the
18 structure of which it is a part, the facilities and
19 appurtenances therein, and the grounds, areas, and
20 facilities held out for the use of tenants generally or
21 promised for the use of a tenant.

22 ~~10~~11 "Rent" means all payments to be made to the
23 landlord under the rental agreement.

24 ~~11~~12 "Rental agreement" means all agreements,
25 written or oral, and valid rules adopted under 70-24-311

1 embodying the terms and conditions concerning the use and
2 occupancy of a dwelling unit and premises.

3 ~~12~~13 "Roomer" means a person occupying a dwelling
4 unit that does not include a toilet, a bathtub or a shower,
5 a refrigerator, a stove, or a kitchen sink, all of which are
6 provided by the landlord and one or more of these facilities
7 are used in common by occupants in the structure.

8 ~~13~~14 "Single family residence" means a structure
9 maintained and used as a single dwelling unit.
10 Notwithstanding that a dwelling unit shares one or more
11 walls with another dwelling unit, it is a single family
12 residence if it has direct access to a street or
13 thoroughfare and shares neither heating facilities, hot
14 water equipment, nor any other essential facility or service
15 with another dwelling unit.

16 ~~14~~15 "Tenant" means a person entitled under a rental
17 agreement to occupy a dwelling unit to the exclusion of
18 others."

19 **Section 2.** Section 70-24-108, MCA, is amended to read:

20 "70-24-108. What constitutes notice. (1) A person has
21 notice of a fact if:

- 22 (a) he has actual knowledge of it;
23 (b) in the case of a landlord, it is delivered at the
24 place of business of the landlord through which the rental
25 agreement was made; or

1 (c) in the case of a landlord or tenant, it is
 2 delivered in hand to the landlord or tenant or mailed by
 3 ~~registered-or~~ certified mail to him at the place held out by
 4 him as the place for receipt of the communication or, in the
 5 absence of such designation, to his ~~last--known~~ last-known
 6 address. If notice is mailed by certified mail, service of
 7 the notice is considered to have been made 3 days after the
 8 date of the mailing.

9 (2) Notice received by an organization is effective for
 10 a particular transaction from the time it is brought to the
 11 attention of the individual conducting that transaction and,
 12 in any event, from the time it would have been brought to
 13 his attention if the organization had exercised reasonable
 14 diligence."

15 **Section 3.** Section 70-24-302, MCA, is amended to read:

16 "70-24-302. Landlord to deliver possession of dwelling
 17 unit. (1) At the commencement of the term, a landlord shall
 18 deliver possession of the premises to the tenant in
 19 compliance with the rental agreement and 70-24-303. A
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 21 wrongfully in possession.

22 (2) If a landlord accepts rent, a deposit, or both from
 23 a person occupying the premises, he is presumed to have:

24 (a) given his consent for the person to take possession
 25 of the property; and

1 (b) created a landlord-tenant relationship."

2 **NEW SECTION. Section 4.** Transfer of premises by

3 tenant. (1) A tenant who vacates a dwelling unit during the
 4 term of his tenancy may not allow the possession of the
 5 property to be transferred to a third party or sublet the
 6 property unless the landlord or his agent has consented in
 7 writing.

8 (2) The sale or rental of a mobile home located on a
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 10 retain rental of the lot unless the purchaser or renter
 11 enters into a rental agreement with the owner of the lot.

12 **Section 5.** Section 70-24-312, MCA, is amended to read:

13 "70-24-312. Access to premises by landlord. (1) A
 14 tenant may not unreasonably withhold consent to the landlord
 15 or his agent to enter into the dwelling unit in order to
 16 inspect the premises, make necessary or agreed repairs,
 17 decorations, alterations, or improvements, supply necessary
 18 or agreed services, or exhibit the dwelling unit to
 19 prospective or actual purchasers, mortgagees, tenants,
 20 workmen, or contractors.

21 (2) A landlord may enter the dwelling unit without
 22 consent of the tenant in case of emergency.

23 (3) A landlord may not abuse the right of access or use
 24 it to harass the tenant. Except in case of emergency or
 25 unless it is impracticable to do so, the landlord shall give

1 the tenant at least 24 hours' notice of his intent to enter
2 and may enter only at reasonable times.

3 (4) A landlord has no other right of access except:

4 (a) pursuant to court order;

5 (b) as permitted by 70-24-425 and 70-24-426(2); or

6 (c) when the tenant has abandoned or surrendered the
7 premises.

8 (5) A tenant may not remove or replace a lock from or
9 add a lock to the premises unless the landlord provides the
10 new or replacement lock or gives his written permission. If
11 a tenant installs a new or replacement lock not supplied by
12 the landlord, the tenant shall provide the landlord with a
13 key to ensure the landlord's right of access as provided by
14 this chapter."

15 **Section 6.** Section 70-24-321, MCA, is amended to read:

16 "70-24-321. Tenant to maintain dwelling unit. (1) A
17 tenant shall:

18 (a) comply with all obligations primarily imposed upon
19 tenants by applicable provisions of building and housing
20 codes materially affecting health and safety;

21 (b) keep that part of the premises that he occupies and
22 uses as reasonably clean and safe as the condition of the
23 premises permits;

24 (c) dispose from his dwelling unit all ashes, garbage,
25 rubbish, and other waste in a clean and safe manner;

1 (d) keep all plumbing fixtures in the dwelling unit or
2 used by the tenant as clean as their condition permits;

3 (e) use in a reasonable manner all electrical,
4 plumbing, sanitary, heating, ventilating, air-conditioning,
5 and other facilities and appliances, including elevators, in
6 the premises;

7 (f) conduct himself and require other persons on the
8 premises with his consent to conduct themselves in a manner
9 that will not disturb his neighbors' peaceful enjoyment of
10 the premises; and

11 (g) use the parts of the premises including the living
12 room, bedroom, kitchen, bathroom, and dining room in a
13 reasonable manner considering the purposes for which they
14 were designed and intended.

15 (2) A tenant may not destroy, deface, damage, impair,
16 or remove any part of the premises or permit any person to
17 do so.

18 (3) This section does not preclude the right of the
19 tenant to operate a limited business or cottage industry on
20 the premises, subject to state and local laws or
21 regulations, if the landlord has consented in writing."

22 **Section 7.** Section 70-24-406, MCA, is amended to read:

23 "70-24-406. Failure of landlord to maintain premises --
24 tenant's remedies. (1) Except as provided in this chapter,
25 if there is a noncompliance with 70-24-303 affecting health

1 and safety, the tenant may:

2 (a) deliver a written notice to the landlord specifying
3 the acts and omissions constituting the breach and that the
4 rental agreement will terminate upon a date not less than 30
5 days after receipt of the notice if the breach is not
6 remedied in 14 days. If the noncompliance results in an
7 emergency situation and the landlord fails to remedy the
8 situation within 3 working days after notice by the tenant
9 of the situation and of the tenant's intention to terminate
10 the rental agreement if the situation is not remedied within
11 3 working days, the tenant may terminate the rental
12 agreement. The rental agreement terminates as provided in
13 the notice subject to the following exceptions:

14 (i) if the breach is remediable by repairs, the payment
15 of damages, or otherwise and the landlord adequately
16 remedies the breach before the date specified in the notice,
17 the rental agreement does not terminate by reason of the
18 breach;

19 (ii) if substantially the same act or omission which
20 constituted a prior noncompliance of which notice was given
21 recurs within 6 months, the tenant may terminate the rental
22 agreement upon at least 14 days' written notice specifying
23 the breach and the date of termination of the rental
24 agreement; or

25 (iii) the tenant may not terminate for a condition

1 caused by himself, a member of his family, or other persons
2 on the premises with his consent; ;

3 (b) make repairs himself that do not cost more than 1
4 month's rent and deduct the cost from the rent if he has
5 given the landlord notice and he the landlord has not made
6 the repairs within a reasonable time. If the repair is for
7 an emergency situation and the landlord has not made the
8 repairs, the tenant may have repairs made only by a licensed
9 person qualified to make the repairs.

10 (2) Except as provided in this chapter, the tenant may
11 recover actual damages and obtain injunctive relief for any
12 noncompliance by the landlord with the rental agreement or
13 70-24-303.

14 (3) The remedy provided in subsection (2) of this
15 section is in addition to a right of the tenant arising
16 under subsection (1).

17 (4) If the rental agreement is terminated, the landlord
18 shall return all security recoverable by the tenant pursuant
19 to chapter 25 of this title."

20 **Section 8.** Section 70-24-422, MCA, is amended to read:
21 **"70-24-422. Noncompliance of tenant generally --**
22 **landlord's right of termination -- damages -- injunction.**
23 (1) Except as provided in this chapter, if there is a
24 noncompliance by the tenant with the rental agreement or a
25 noncompliance with 70-24-321 affecting health and safety,

1 the landlord may deliver a written notice to the tenant
 2 pursuant to 70-24-108 specifying the acts and omissions
 3 constituting the breach and that the rental agreement will
 4 terminate upon a date not less than 14 days after receipt of
 5 the notice. If the breach is not remedied within that time,
 6 the rental agreement terminates as provided in the notice
 7 subject to the following exceptions:

8 (a) If the breach is remediable by repairs, the payment
 9 of damages, or otherwise and the tenant adequately remedies
 10 the breach before the date specified in the notice, the
 11 rental agreement does not terminate.

12 (b) If substantially the same act or omission which
 13 constituted a prior noncompliance of which notice was given
 14 recurs within 6 months, the landlord may terminate the
 15 rental agreement upon at least 5 days' written notice
 16 specifying the breach and the date of the termination of the
 17 rental agreement.

18 (2) (a) Except as provided in subsection (2)(b), if
 19 rent is unpaid when due and the tenant fails to pay rent
 20 within 3 days after written notice by the landlord of
 21 nonpayment and his the landlord's intention to terminate the
 22 rental agreement if the rent is not paid within that period,
 23 the landlord may terminate the rental agreement.

24 (b) For a rental agreement involving a tenant who rents
 25 space to park a mobile home but who does not rent the mobile

1 home, the notice period referred to in subsection (2)(a) is
 2 15 days.

3 (3) If the tenant destroys, defaces, damages, impairs,
 4 or removes any part of the premises in violation of
 5 70-24-321(2), the landlord may terminate the rental
 6 agreement upon giving 3 days' written notice specifying the
 7 breach under the provisions of 70-24-321(2).

8 (4) Except as provided in this chapter, the landlord
 9 may recover actual damages and obtain injunctive relief for
 10 any noncompliance by the tenant with the rental agreement or
 11 70-24-321. Except as provided in subsection (5), if the
 12 tenant's noncompliance is purposeful, the landlord may
 13 recover treble damages.

14 (5) Treble damages may not be recovered for the
 15 tenant's early termination of the tenancy.

16 (6) The landlord is not bound by this section if the
 17 landlord elects to use the 30-day notice for termination of
 18 tenancy provided for in 70-24-441."

19 **Section 9.** Section 70-24-424, MCA, is amended to read:

20 **"70-24-424. Refusal of access -- landlord's remedies.**

21 (1) If the tenant refuses to allow lawful access, the
 22 landlord may either obtain injunctive relief to compel
 23 access or terminate the rental agreement. In either case the
 24 landlord may recover actual damages.

25 (2) If a tenant replaces or adds locks not supplied by

1 the landlord and fails to provide a key as required by
 2 70-24-312, the landlord may either obtain injunctive relief
 3 or terminate the lease or rental agreement."

4 **Section 10.** Section 70-24-441, MCA, is amended to read:

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

9 (2) The landlord or the tenant may terminate a
 10 month-to-month tenancy by giving to the other at any time
 11 during the tenancy at least 30 days' notice in writing prior
 12 to the date designated in the notice for the termination of
 13 the tenancy.

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

19 (4) If a landlord terminates a tenancy pursuant to this
 20 section and the reason for termination is not specified or
 21 is not just cause, the tenant may, within 30 days after
 22 notice of the termination, bring an action to determine just
 23 cause for the termination. If the court finds that just
 24 cause does not exist, the court may order injunctive relief,
 25 award damages in the amount of three times the monthly rent,

1 and award attorney fees.

2 (5) The court shall determine just cause based upon
 3 circumstances. Just cause for eviction includes:

4 (a) failure to pay rent due;

5 (b) disorderly conduct by the tenant destroying the
 6 peace of the other tenants or the neighborhood;

7 (c) damage to the premises resulting from the tenant's
 8 willful misconduct or gross negligence;

9 (d) substantial violation of any of the reasonable
 10 covenants or agreements in the rental agreement;

11 (e) substantial violation of reasonable written rules
 12 and regulations;

13 (f) a plan by the owner, in good faith, to board-up or
 14 demolish the premises due to substantial code violations
 15 where it is not economically feasible for the owner to
 16 eliminate the violations;

17 (g) a plan by the owner to remove the rental property
 18 from the rental market;

19 (h) refusal by the tenant to accept, at the termination
 20 of the lease or rental agreement, reasonable changes in the
 21 lease or rental agreement terms;

22 (i) habitual failure by the tenant to pay the rent in a
 23 timely manner;

24 (j) refusal by the tenant to allow the landlord
 25 reasonable access to the premises for the purpose of repairs

1 or to show the premises to a prospective purchaser;
 2 (k) a decision by the landlord, with good faith
 3 intentions, to occupy the premises himself or to provide the
 4 premises to close relatives, such as children, parents, or
 5 siblings;
 6 (l) participation by the tenant in unlawful activity;
 7 (m) rendering of the premises as uninhabitable by an
 8 extraordinary occurrence or calamitous event outside the
 9 landlord's control if the landlord is unable to repair the
 10 premises to a habitable condition within a reasonable time;
 11 (n) the necessity of substantial remodeling of the
 12 premises, during which the premises would be rendered
 13 uninhabitable;
 14 (o) any other cause for termination as provided by this
 15 chapter; or
 16 (p) determination by a court that unreasonable action
 17 by a tenant constitutes just cause.
 18 (6) Except as otherwise provided in this chapter and
 19 chapter 25 of this title:
 20 (a) if the landlord terminates the tenancy and the
 21 tenant vacates the premises prior to the required notice,
 22 the tenant is entitled to the return of a prorated amount of
 23 rent for the days remaining upon surrender of the property
 24 to the landlord; or
 25 (b) if the tenant terminates the rental agreement and

1 vacates the premises without giving proper notice as
 2 provided in this chapter, the landlord is entitled to
 3 prorated rent until the premises are rented or until 30 days
 4 have expired, whichever occurs first."

5 NEW SECTION. Section 11. Codification instruction.
 6 [Section 4] is intended to be codified as an integral part
 7 of Title 70, chapter 24, part 3, and the provisions of Title
 8 70, chapter 24, part 3, apply to [section 4].

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LANDLORD AND TENANT LAWS; PROVIDING CLARIFICATION OF THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS; PROVIDING FOR LANDLORD ACTION DURING EMERGENCY SITUATIONS; PROVIDING A REFERENCE DATE FOR SERVICE OF NOTICE BY CERTIFIED MAIL; ESTABLISHING THAT THE CREATION OF A LANDLORD-TENANT RELATIONSHIP IS PRESUMED UPON RECEIPT OF RENT OR A DEPOSIT FROM THE TENANT; PREVENTING TRANSFER OF A RENTAL UNIT WITHOUT LANDLORD APPROVAL; PREVENTING A TENANT FROM REMOVING, REPLACING, OR ADDING LOCKS TO A RENTAL UNIT WITHOUT LANDLORD APPROVAL; PROVIDING FOR A LIMITED TENANT-OPERATED BUSINESS OR COTTAGE INDUSTRY UPON LANDLORD CONSENT; PROVIDING FOR TENANT TERMINATION OF THE RENTAL AGREEMENT UPON A LANDLORD'S FAILURE TO REMEDY AN EMERGENCY SITUATION; PROVIDING FOR LANDLORD TERMINATION OF THE RENTAL AGREEMENT UPON JUST CAUSE; AND AMENDING SECTIONS 70-24-103, 70-24-108, 70-24-302, 70-24-312, 70-24-321, 70-24-406, 70-24-422, 70-24-424, AND 70-24-441, MCA."

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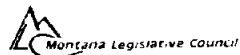
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1 (d) keep all plumbing fixtures in the dwelling unit or
2 used by the tenant as clean as their condition permits;

3 (e) use in a reasonable manner all electrical,
4 plumbing, sanitary, heating, ventilating, air-conditioning,
5 and other facilities and appliances, including elevators, in
6 the premises;

7 (f) conduct himself and require other persons on the
8 premises with his consent to conduct themselves in a manner
9 that will not disturb his neighbors' peaceful enjoyment of
10 the premises; and

11 (g) use the parts of the premises including the living
12 room, bedroom, kitchen, bathroom, and dining room in a
13 reasonable manner considering the purposes for which they
14 were designed and intended.

15 (2) A tenant may not destroy, deface, damage, impair,
16 or remove any part of the premises or permit any person to
17 do so.

18 (3) This section does not preclude the right of the
19 tenant to operate a limited business or cottage industry on
20 the premises, subject to state and local laws or
21 regulations, if the landlord has consented in writing."

22 **Section 7.** Section 70-24-406, MCA, is amended to read:

23 "70-24-406. Failure of landlord to maintain premises --
24 tenant's remedies. (1) Except as provided in this chapter,
25 if there is a noncompliance with 70-24-303 affecting health

1 and safety, the tenant may:

2 (a) deliver a written notice to the landlord specifying
3 the acts and omissions constituting the breach and that the
4 rental agreement will terminate upon a date not less than 30
5 days after receipt of the notice if the breach is not
6 remedied in 14 days. If the noncompliance results in an
7 emergency situation and the landlord fails to remedy the
8 situation within 3 working days after notice by the tenant
9 of the situation and of the tenant's intention to terminate
10 the rental agreement if the situation is not remedied within
11 3 working days, the tenant may terminate the rental
12 agreement. The rental agreement terminates as provided in
13 the notice subject to the following exceptions:

14 (i) if the breach is remediable by repairs, the payment
15 of damages, or otherwise and the landlord adequately
16 remedies the breach before the date specified in the notice,
17 the rental agreement does not terminate by reason of the
18 breach;

19 (ii) if substantially the same act or omission which
20 constituted a prior noncompliance of which notice was given
21 recurs within 6 months, the tenant may terminate the rental
22 agreement upon at least 14 days' written notice specifying
23 the breach and the date of termination of the rental
24 agreement; or

25 (iii) the tenant may not terminate for a condition

1 caused by himself, a member of his family, or other persons
2 on the premises with his consent.

3 (b) make repairs himself that do not cost more than 1
4 month's rent and deduct the cost from the rent if he has
5 given the landlord notice and he the landlord has not made
6 the repairs within a reasonable time. If the repair is for
7 an emergency situation and the landlord has not made the
8 repairs, the tenant may have repairs made only by a licensed
9 person qualified to make the repairs.

10 (2) Except as provided in this chapter, the tenant may
11 recover actual damages and obtain injunctive relief for any
12 noncompliance by the landlord with the rental agreement or
13 70-24-303.

14 (3) The remedy provided in subsection (2) of this
15 section is in addition to a right of the tenant arising
16 under subsection (1).

17 (4) If the rental agreement is terminated, the landlord
18 shall return all security recoverable by the tenant pursuant
19 to chapter 25 of this title."

20 **Section 8.** Section 70-24-422, MCA, is amended to read:
21 "70-24-422. **Noncompliance of tenant generally --**
22 **landlord's right of termination -- damages -- injunction.**
23 (1) Except as provided in this chapter, if there is a
24 noncompliance by the tenant with the rental agreement or a
25 noncompliance with 70-24-321 affecting health and safety,

1 the landlord may deliver a written notice to the tenant
 2 pursuant to 70-24-108 specifying the acts and omissions
 3 constituting the breach and that the rental agreement will
 4 terminate upon a date not less than 14 days after receipt of
 5 the notice. If the breach is not remedied within that time,
 6 the rental agreement terminates as provided in the notice
 7 subject to the following exceptions:

8 (a) If the breach is remediable by repairs, the payment
 9 of damages, or otherwise and the tenant adequately remedies
 10 the breach before the date specified in the notice, the
 11 rental agreement does not terminate.

12 (b) If substantially the same act or omission which
 13 constituted a prior noncompliance of which notice was given
 14 recurs within 6 months, the landlord may terminate the
 15 rental agreement upon at least 5 days' written notice
 16 specifying the breach and the date of the termination of the
 17 rental agreement.

18 (2) (a) Except as provided in subsection (2)(b), if
 19 rent is unpaid when due and the tenant fails to pay rent
 20 within 3 days after written notice by the landlord of
 21 nonpayment and ~~his~~ the landlord's intention to terminate the
 22 rental agreement if the rent is not paid within that period,
 23 the landlord may terminate the rental agreement.

24 (b) For a rental agreement involving a tenant who rents
 25 space to park a mobile home but who does not rent the mobile

1 home, the notice period referred to in subsection (2)(a) is
 2 15 days.

3 (3) If the tenant destroys, defaces, damages, impairs,
 4 or removes any part of the premises in violation of
 5 70-24-321(2), the landlord may terminate the rental
 6 agreement upon giving 3 days' written notice specifying the
 7 breach under the provisions of 70-24-321(2).

8 (4) Except as provided in this chapter, the landlord
 9 may recover actual damages and obtain injunctive relief for
 10 any noncompliance by the tenant with the rental agreement or
 11 70-24-321. Except as provided in subsection (5), if the
 12 tenant's noncompliance is purposeful, the landlord may
 13 recover treble damages.

14 (5) Treble damages may not be recovered for the
 15 tenant's early termination of the tenancy.

16 (6) The landlord is not bound by this section if the
 17 landlord elects to use the 30-day notice for termination of
 18 tenancy provided for in 70-24-441."

19 **Section 9.** Section 70-24-424, MCA, is amended to read:

20 "70-24-424. Refusal of access -- landlord's remedies.
 21 (1) If the tenant refuses to allow lawful access, the
 22 landlord may either obtain injunctive relief to compel
 23 access or terminate the rental agreement. In either case the
 24 landlord may recover actual damages.

25 (2) If a tenant replaces or adds locks not supplied by

1 the landlord and fails to provide a key as required by
 2 70-24-312, the landlord may either obtain injunctive relief
 3 or terminate the lease or rental agreement."

4 **Section 10.** Section 70-24-441, MCA, is amended to read:

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

9 (2) The landlord or the tenant may terminate a
 10 month-to-month tenancy by giving to the other at any time
 11 during the tenancy at least 30 days' notice in writing prior
 12 to the date designated in the notice for the termination of
 13 the tenancy.

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

19 (4) If a landlord terminates a tenancy pursuant to this
 20 section and the reason for termination is not specified or
 21 is not just cause, the tenant may, within 30 days after
 22 notice of the termination, bring an action to determine just
 23 cause for the termination. If the court finds that just
 24 cause does not exist, the court may order injunctive relief,
 25 award damages in the amount of three times the monthly rent,

1 and award attorney fees.

2 (5) The court shall determine just cause based upon
 3 circumstances. Just cause for eviction includes:

4 (a) failure to pay rent due;

5 (b) disorderly conduct by the tenant destroying the
 6 peace of the other tenants or the neighborhood;

7 (c) damage to the premises resulting from the tenant's
 8 willful misconduct or gross negligence;

9 (d) substantial violation of any of the reasonable
 10 covenants or agreements in the rental agreement;

11 (e) substantial violation of reasonable written rules
 12 and regulations;

13 (f) a plan by the owner, in good faith, to board-up or
 14 demolish the premises due to substantial code violations
 15 where it is not economically feasible for the owner to
 16 eliminate the violations;

17 (g) a plan by the owner to remove the rental property
 18 from the rental market;

19 (h) refusal by the tenant to accept, at the termination
 20 of the lease or rental agreement, reasonable changes in the
 21 lease or rental agreement terms;

22 (i) habitual failure by the tenant to pay the rent in a
 23 timely manner;

24 (j) refusal by the tenant to allow the landlord
 25 reasonable access to the premises for the purpose of repairs

1 or to show the premises to a prospective purchaser;
 2 (k) a decision by the landlord, with good faith
 3 intentions, to occupy the premises himself or to provide the
 4 premises to close relatives, such as children, parents, or
 5 siblings;
 6 (l) participation by the tenant in unlawful activity;
 7 (m) rendering of the premises as uninhabitable by an
 8 extraordinary occurrence or calamitous event outside the
 9 landlord's control if the landlord is unable to repair the
 10 premises to a habitable condition within a reasonable time;
 11 (n) ~~the necessity of~~ substantial remodeling of the
 12 premises, during which the premises would be rendered
 13 uninhabitable;
 14 (o) any other cause for termination as provided by this
 15 chapter; or
 16 (p) determination by a court that unreasonable action
 17 by a tenant constitutes just cause.
 18 (6) Except as otherwise provided in this chapter and
 19 chapter 25 of this title:
 20 (a) if the landlord terminates the tenancy and the
 21 tenant vacates the premises prior to the required notice,
 22 the tenant is entitled to the return of a prorated amount of
 23 rent for the days remaining upon surrender of the property
 24 to the landlord; or
 25 (b) if the tenant terminates the rental agreement and

1 vacates the premises without giving proper notice as
 2 provided in this chapter, the landlord is entitled to
 3 prorated rent until the premises are rented or until 30 days
 4 have expired, whichever occurs first."
 5 NEW SECTION. Section 11. Codification instruction.
 6 [Section 4] is intended to be codified as an integral part
 7 of Title 70, chapter 24, part 3, and the provisions of Title
 8 70, chapter 24, part 3, apply to [section 4].

-End-

1 HOUSE BILL NO. 768

2 INTRODUCED BY MEASURE, HARP, WHALEN, LEE, YELLOWTAIL, ECK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LANDLORD AND TENANT LAWS; PROVIDING CLARIFICATION OF THE
6 RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS;
7 PROVIDING FOR LANDLORD ACTION DURING EMERGENCY SITUATIONS;
8 PROVIDING A REFERENCE DATE FOR SERVICE OF NOTICE BY
9 CERTIFIED MAIL; ESTABLISHING THAT THE CREATION OF A
10 LANDLORD-TENANT RELATIONSHIP IS PRESUMED UPON RECEIPT OF
11 RENT OR A DEPOSIT FROM THE TENANT; PREVENTING TRANSFER OF A
12 RENTAL UNIT WITHOUT LANDLORD APPROVAL; PREVENTING A TENANT
13 FROM REMOVING, REPLACING, OR ADDING LOCKS TO A RENTAL UNIT
14 WITHOUT LANDLORD APPROVAL; PROVIDING FOR A LIMITED
15 TENANT-OPERATED BUSINESS OR COTTAGE INDUSTRY UPON LANDLORD
16 CONSENT; PROVIDING FOR TENANT TERMINATION OF THE RENTAL
17 AGREEMENT UPON A LANDLORD'S FAILURE TO REMEDY AN EMERGENCY
18 SITUATION; PROVIDING FOR LANDLORD TERMINATION OF THE RENTAL
19 AGREEMENT UPON JUST CAUSE; AND AMENDING SECTIONS 70-24-103,
20 70-24-108, 70-24-302, 70-24-312, 70-24-321, 70-24-406,
21 70-24-422, 70-24-424, AND 70-24-441, MCA."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:24 **Section 1.** Section 70-24-103, MCA, is amended to read:

25 "70-24-103. General definitions. Subject to additional

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.