

1 House BILL NO. 685
 2 INTRODUCED BY Felix Ramirez

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND LAWS RELATING
 5 TO TENANTS' SECURITY DEPOSITS TO ALLOW DEDUCTIONS FOR
 6 CLEANING EXPENSES AND TO DELETE REQUIREMENT FOR VERIFICATION
 7 OF THE LIST OF DAMAGES; AMENDING SECTIONS 42-301, 42-303
 8 THROUGH 42-305, AND 42-308, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 42-301, R.C.M. 1947, is amended to
 12 read as follows:

13 "42-301. Definitions. As used in this chapter, the
 14 following definitions apply:

15 (1) "Damage" means any and all tangible loss, injury
 16 or deterioration of a leasehold premises caused by the
 17 willful or accidental acts of the tenant occupying same or
 18 by the tenant's family, licensees or invitees, as well as
 19 any and all tangible loss, injury or deterioration resulting
 20 from the tenant's omissions or failure to perform any duty
 21 imposed upon the tenant by law with respect to the
 22 leasehold.

23 (2) "Leasehold premises" means the premises occupied
 24 by the tenant together with all common areas, recreational
 25 facilities, parking areas and storage facilities to which

1 the tenant has access as well as all personal property owned
 2 or controlled by the landlord the use of which is permitted
 3 to the tenant.

4 (3) "Security deposit" means value given, in money or
 5 its equivalent, to secure the payment of rent by the tenant
 6 under a leasehold agreement, or to secure payment for damage
 7 to and cleaning of the leasehold premises. If a leasehold
 8 agreement or an agreement incident thereto requires the
 9 tenant or prospective tenant to provide or maintain in
 10 effect any deposit to the landlord for part or all of the
 11 term of the leasehold agreement, the deposit shall be
 12 presumed to be a security deposit."

13 Section 2. Section 42-303, R.C.M. 1947, is amended to
 14 read as follows:

15 "42-303. Security deposit — deductions authorized.
 16 Any landlord renting property covered by this section may
 17 deduct from the security deposit a sum equal to the damage
 18 alleged to have been caused by the tenant together with a
 19 sum equal to the unpaid rent owing to the landlord at the
 20 time of such deduction and a sum for ~~administrative and~~
 21 ~~custodial expenses, which expenses shall not exceed one~~
 22 ~~percent (1%) of the security deposit~~ actual cleaning
 23 expenses. No person may deduct or withhold from the
 24 security deposit any amount for purposes other than those
 25 set forth in this subsection."

HB 685

1 Section 3. Section 42-304, R.C.M. 1947, is amended to
2 read as follows:

3 "42-304. List of damages to leased premises. Every
4 landlord, within thirty (30) days subsequent to the
5 termination of a tenancy or within thirty (30) days
6 subsequent to a surrender and acceptance of the leasehold
7 premises, whichever occurs first, shall provide the
8 departing tenant with a ~~verified~~ written list of any damage
9 and cleaning charges to the leasehold premises which the
10 landlord alleges is the responsibility of the tenant.
11 Delivery of such list shall be accompanied by payment of the
12 difference, if any, between the security deposit and the
13 permitted charges set forth in section 3 [42-303]. Delivery
14 shall be accomplished by mailing the list and refund to the
15 tenant's last known address or the new address provided by
16 the tenant."

17 Section 4. Section 42-305, R.C.M. 1947, is amended to
18 read as follows:

19 "42-305. Failure to provide list of damages. Any
20 landlord who fails to provide the departing tenant with a
21 ~~verified~~ written list of damage and cleaning charges as
22 required by section 4 [42-304] shall forfeit all rights to
23 withhold any portion of the security deposit for the damages
24 or cleaning charges."

25 Section 5. Section 42-308, R.C.M. 1947, is amended to

1 read as follows:

2 "42-308. Condition of premises at beginning of lease
3 — ~~verified list~~—failure to furnish list to tenant.
4 (1) Any person engaged in the rental of property for
5 residential purposes who requires a security deposit shall
6 furnish to each prospective tenant, prior to execution of a
7 lease or creation of a tenancy, a separate written statement
8 as to the present condition of the premises intended to be
9 let, as well as a copy of the ~~verified~~ written list of
10 damage and cleaning charges, if any, provided to the tenant
11 of the immediately preceding leasehold agreement for the
12 premises in question.

13 (2) Each written statement of the present condition of
14 a premises intended to be let shall contain, at least, the
15 following:

16 (a) a clear and concise statement of the present
17 condition of the premises known to the landlord or his agent
18 or which should have been known upon reasonable inspection;

19 (b) if the premises have never previously been let, a
20 statement indicating such fact;

21 (c) if any damage to the leasehold premises resulting
22 from the immediately preceding leasehold agreement has not
23 been restored, a statement indicating such fact and setting
24 forth such unrestored damage; and

25 (d) the signature of the landlord or his agent.

1 (3) Any person engaged in the rental of property for
2 residential purposes who fails to furnish a prospective
3 tenant, prior to the execution of the lease or creation of
4 the tenancy, with a separate written statement of the
5 present condition of the premises intended to be let and, if
6 any, a ~~verified~~ written list of damage and cleaning charges
7 provided to the tenant of the immediately preceding
8 leasehold agreement, shall be barred from recovering any sum
9 for damage to or cleaning of the leasehold premises unless
10 he can establish by clear and convincing evidence that the
11 damage occurred during the tenancy in question and was
12 caused by the tenant occupying the leasehold premises or the
13 tenant's family, licensees or invitees."

-End-

Approved by Committee
on Judiciary

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INTRODUCED BY FAGG, RAMIREZ

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"42-301. Definitions. As used in this chapter, the following definitions apply:

(1) "Damage" means any and all tangible loss, injury or deterioration of a leasehold premises caused by the willful or accidental acts of the tenant occupying same or by the tenant's family, licensees or invitees, as well as any and all tangible loss, injury or deterioration resulting from the tenant's omissions or failure to perform any duty imposed upon the tenant by law with respect to the leasehold.

(2) "Leasehold premises" means the premises occupied by the tenant together with all common areas, recreational facilities, parking areas and storage facilities to which

the tenant has access as well as all personal property owned or controlled by the landlord the use of which is permitted to the tenant.

~~(3) CLEANING EXPENSES MEANS THE ACTUAL COST OF CLEANING DONE BY AN OWNER OR THEIR SELECTED REPRESENTATIVE FOR CLEANING NEEDS NOT ATTRIBUTABLE TO NORMAL WEAR BROUGHT ABOUT BY THE TENANTS' FAILURE TO BRING THE PREMISE TO THE CONDITION IT WAS AT THE TIME OF RENTING.~~

~~(3)(4)~~ "Security deposit" means value given, in money or its equivalent, to secure the payment of rent by the tenant under a leasehold agreement, or to secure payment for damage to and cleaning of the leasehold premises. If a leasehold agreement or an agreement incident thereto requires the tenant or prospective tenant to provide or maintain in effect any deposit to the landlord for part or all of the term of the leasehold agreement, the deposit shall be presumed to be a security deposit."

Section 2. Section 42-303, R.C.M. 1947, is amended to read as follows:

"42-303. Security deposit -- deductions authorized. Any landlord renting property covered by this section may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant together with a sum equal to the unpaid rent owing to the landlord at the time of such deduction and a sum for ~~administrative--and~~

1 ~~custodial expenses, which expenses shall not exceed one~~
 2 ~~percent (1%) of the security deposit~~ actual cleaning
 3 ~~expenses. NO CLEANING CHARGES MAY BE IMPOSED FOR NORMAL~~
 4 ~~MAINTENANCE PERFORMED ON A CYCLICAL BASIS BY THE LANDLORD AS~~
 5 ~~NOTED BY THE LANDLORD AT THE TIME THE TENANT OCCUPIES THE~~
 6 ~~SPACE. UNLESS THE LANDLORD IS FORCED TO PERFORM THIS~~
 7 ~~MAINTENANCE BECAUSE OF NEGLIGENCE OF THE TENANT.~~
 8 ~~ADDITIONALLY, NO CLEANING EXPENSE CAN BE COLLECTED UNTIL~~
 9 ~~NOTICE HAS BEEN GIVEN TO THE TENANT. SAID NOTICE SHALL~~
 10 ~~INCLUDE:~~

11 (I) THE CLEANING NOT ACCOMPLISHED BY THE TENANT;
 12 (II) THE ADDITIONAL AND TYPE OR TYPES OF CLEANING WHICH
 13 NEEDS TO BE DONE BY THE TENANT TO BRING THE PREMISES BACK TO
 14 ITS CONDITION AT THE TIME OF THEIR RENTING. AFTER THE
 15 DELIVERY OF THE NOTICE THE TENANT SHALL HAVE 48 HOURS TO
 16 COMPLETE THE REQUIRED CLEANING. No person may deduct or
 17 withhold from the security deposit any amount for purposes
 18 other than those set forth in this subsection."

19 Section 3. Section 42-304, R.C.M. 1947, is amended to
 20 read as follows:

21 "42-304. List of damages to leased premises. Every
 22 landlord, within thirty (30) days subsequent to the
 23 termination of a tenancy or within thirty (30) days
 24 subsequent to a surrender and acceptance of the leasehold
 25 premises, whichever occurs first, shall provide the

1 departing tenant with a ~~verified~~ written list of any damage
 2 ~~and cleaning charges. BROUGHT AFTER THE PROVISIONS OF 42-303~~
 3 ~~HAVE BEEN FOLLOWED,~~ to the leasehold premises which the
 4 landlord alleges is the responsibility of the tenant.
 5 Delivery of such list shall be accompanied by payment of the
 6 difference, if any, between the security deposit and the
 7 permitted charges set forth in section 3 [42-303]. ~~Delivery~~
 8 ~~shall be accomplished by mailing the list and refund to the~~
 9 ~~tenant's last known address or the new address provided by~~
 10 ~~the tenant."~~

11 Section 4. Section 42-305, R.C.M. 1947, is amended to
 12 read as follows:

13 "42-305. Failure to provide list of damages. Any
 14 landlord who fails to provide the departing tenant with a
 15 ~~verified~~ written list of damage ~~and cleaning charges~~ as
 16 required by section 4 [42-304] shall forfeit all rights to
 17 withhold any portion of the security deposit ~~for the damages~~
 18 ~~or cleaning charges."~~

19 Section 5. Section 42-308, R.C.M. 1947, is amended to
 20 read as follows:

21 "42-308. Condition of premises at beginning of lease
 22 ~~-- verified--list--~~ failure to furnish list to tenant.
 23 (1) Any person engaged in the rental of property for
 24 residential purposes who requires a security deposit shall
 25 furnish to each prospective tenant, prior to execution of a

1 lease or creation of a tenancy, a separate written statement
 2 as to the present condition of the premises intended to be
 3 let, as well as a copy of the verified written list of
 4 damage and cleaning charges, if any, provided to the tenant
 5 of the immediately preceding leasehold agreement for the
 6 premises in question.

7 (2) Each written statement of the present condition of
 8 a premises intended to be let shall contain, at least, the
 9 following:

10 (a) a clear and concise statement of the present
 11 condition of the premises known to the landlord or his agent
 12 or which should have been known upon reasonable inspection;

13 (b) if the premises have never previously been let, a
 14 statement indicating such fact;

15 (c) if any damage to the leasehold premises resulting
 16 from the immediately preceding leasehold agreement has not
 17 been restored, a statement indicating such fact and setting
 18 forth such unrestored damage; and

19 (d) the signature of the landlord or his agent.

20 (3) Any person engaged in the rental of property for
 21 residential purposes who fails to furnish a prospective
 22 tenant, prior to the execution of the lease or creation of
 23 the tenancy, with a separate written statement of the
 24 present condition of the premises intended to be let and, if
 25 any, a verified written list of damage and cleaning charges

1 provided to the tenant of the immediately preceding
 2 leasehold agreement, shall be barred from recovering any sum
 3 for damage to or cleaning of the leasehold premises unless
 4 he can establish by clear and convincing evidence that the
 5 damage occurred during the tenancy in question and was
 6 caused by the tenant occupying the leasehold premises or the
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(2) "Leasehold premises" means the premises occupied by the tenant together with all common areas, recreational facilities, parking areas and storage facilities to which

the tenant has access as well as all personal property owned or controlled by the landlord the use of which is permitted to the tenant.

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Section 2. Section 42-303, R.C.M. 1947, is amended to read as follows:

"42-303. Security deposit -- deductions authorized. Any landlord renting property covered by this section may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant together with a sum equal to the unpaid rent owing to the landlord at the time of such deduction and a sum for ~~administrative--and~~

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1 departing tenant with a verified written list of any damage
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 3 HAVE BEEN FOLLOWED, to the leasehold premises which the
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 6 premises in question.

7 (2) Each written statement of the present condition of
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-End-