

1 HB BILL NO. 91
 2 INTRODUCED BY Robbins Kelley O'Connell

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO LANDLORDS
 5 AND TENANTS AND CREATING A LANDLORD'S LIEN."
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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Landlord's lien. A landlord has a lien on
 9 the personal property of a tenant for rent and for damage to
 10 the leasehold premises caused by the tenant or a person on
 11 the leasehold premises with the tenant's permission.

12 Section 2. When landlord's lien attaches. A landlord's
 13 lien attaches upon a tenant's default in rent payments or
 14 upon a landlord's discovery of damage to the leasehold
 15 premises caused by a tenant or a person on the premises with
 16 a tenant's permission.

17 Section 3. Identification of property subject to
 18 landlord's lien. (1) Once a landlord's lien attaches, a
 19 landlord has a right to enter the leasehold premises for the
 20 purpose of identifying a tenant's personal property subject
 21 to the lien.

22 (2) Unless a tenant is in the process of moving out of
 23 the leasehold premises, a landlord shall give notice of his
 24 intent to enter the leasehold premises for the purpose of
 25 identifying property subject to a landlord's lien at least

1 24 hours in advance of entry. A notice posted on the main
 2 entrance to the leasehold premises is sufficient.

3 (3) A landlord may identify and subject to a
 4 landlord's lien only those items of a tenant's personal
 5 property that are reasonably calculated to secure the
 6 tenant's liability for rent payments and damage to the
 7 leasehold premises.

8 Section 4. Entry if tenant resists. (1) In no case may
 9 a landlord breach the peace in gaining entry to the
 10 leasehold premises for the purpose of identifying property
 11 subject to a landlord's lien.

12 (2) If a tenant resists entry, a landlord may apply to
 13 a district judge or justice of the peace for an order
 14 commanding the tenant to provide entry. An order commanding
 15 the tenant to provide entry shall be granted upon a
 16 landlord's affidavit showing that a landlord's lien has
 17 attached and that the tenant has denied entry to the
 18 leasehold for the purpose of identifying property subject to
 19 the lien. Unless the order is not obtained in good faith,
 20 a tenant is liable for reasonable attorney's fees and all
 21 court costs involved in obtaining a court order commanding
 22 him to provide entry. Unless the order is not obtained in
 23 good faith, a tenant who disobeys a court order commanding
 24 him to provide entry is guilty of contempt.

25 Section 5. Perfection of landlord's lien. A landlord's

1 lien is perfected by filing a lien statement in the county
2 where the leasehold premises are located. A lien statement
3 shall state the name and address of the landlord, the name
4 and last known address of the tenant, the address of the
5 leasehold premises, the amount of rent due, the amount of
6 damage to the leasehold premises, and the date of
7 termination of the leasehold. In addition, a lien statement
8 shall identify the property subject to the landlord's lien.
9 In no case may a lien statement be filed more than 90 days
10 after the termination of the leasehold.

11 Section 6. Foreclosure of landlord's lien. A
12 landlord's lien is foreclosed by filing a civil action in
13 the county where the leasehold premises are located. Except
14 as otherwise provided, the provisions of the code of civil
15 procedure are applicable and constitute the rules of
16 practice for the enforcement and foreclosure of a landlord's
17 lien.

18 Section 7. Limitation of action. No action to
19 foreclose a landlord's lien may be commenced more than 6
20 months from the date the lien statement is filed.

21 Section 8. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

1 invalid applications.

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