

HOUSE BILL NO. 221

1/17 Introduced
1/17 Referred to Business & Labor
1/24 Hearing
1/31 Committee Report-Bill Pass As Amended
2/02 2nd Reading Pass
2/04 3rd Reading Pass

Transmitted to Senate

2/07 Referred to Business & Industry
3/06 Hearing
3/06 Adverse Committee Report
3/06 Bill Killed

1 HOUSE BILL NO. 221
2 INTRODUCED BY Lucia Ramirez J. Hammond

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE THE LAW ON
5 RESIDENTIAL TENANTS' SECURITY DEPOSITS APPLICABLE TO
6 COMMERCIAL TENANTS; TO PROVIDE FOR INTEREST ON SECURITY
7 DEPOSITS; AMENDING SECTIONS 70-25-101, 70-25-102, 70-25-204,
8 AND 70-25-206, MCA."
9

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

11 Section 1. Section 70-25-101, MCA, is amended to read:

12 "70-25-101. Definitions. As used in this chapter, the
13 following definitions apply:

14 (1) "Cleaning expenses" means the actual and necessary
15 cost of cleaning done by an owner or his selected
16 representative for cleaning needs not attributable to normal
17 wear brought about by the tenant's failure to bring the
18 premises to the condition it was at the time of renting.

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

1 leasehold.

2 (3) "Leasehold premises" means the premises occupied
3 by the tenant together with all common areas, recreational
4 facilities, parking areas, and storage facilities to which
5 the tenant has access, as well as all personal property
6 owned or controlled by the landlord the use of which is
7 permitted to the tenant.

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

17 Section 2. Section 70-25-102, MCA, is amended to read:

18 "70-25-102. Application of chapter. This chapter
19 applies to all rentals of commercial properties and
20 dwellings, including mobile homes but excluding property of
21 public housing authorities."

22 Section 3. Section 70-25-204, MCA, is amended to read:

23 "70-25-204. Wrongful withholding of security deposit
24 -- action. (1) Any person who wrongfully withholds a
25 residential-property security deposit or any portion thereof



1 shall be liable in damages to the tenant in a civil action
 2 for an amount equal to double the sum determined to have
 3 been wrongfully withheld or deducted. The attorney's fees
 4 may be awarded the prevailing party at the discretion of the
 5 court. The burden of proof of damages caused by the tenant
 6 to the leasehold premises shall be on the landlord.

7 (2) No action may be maintained by a tenant for any
 8 amount wrongfully withheld or deducted prior to:

9 (a) the tenant's receipt from the landlord or his
 10 agent of a written denial of the sum alleged to be
 11 wrongfully detained;

12 (b) the expiration of a 30-day period after the
 13 termination of a tenancy; or

14 (c) the expiration of a 30-day period after surrender
 15 and acceptance of the leasehold premises, whichever occurs
 16 first."

17 Section 4. Section 70-25-206, MCA, is amended to read:

18 "70-25-206. Landlord to furnish statement of condition
 19 of premises at beginning of lease. (1) Any person engaged in
 20 the rental of property ~~for-residential-purposes~~ who requires
 21 a security deposit shall furnish to each prospective tenant,
 22 prior to execution of a lease or creation of a tenancy, a
 23 separate written statement as to the present condition of
 24 the premises intended to be let, as well as a copy of the
 25 written list of damage and cleaning charges, if any,

1 provided to the tenant of the immediately preceding
 2 leasehold agreement for the premises in question.

3 (2) Each written statement of the present condition of
 4 a premises intended to be let shall contain at least the
 5 following:

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

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

11 (c) if any damage to the leasehold premises resulting
 12 from the immediately preceding leasehold agreement has not
 13 been restored, a statement indicating such fact and setting
 14 forth such unrestored damage; and

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

16 (3) Any person engaged in the rental of property ~~for~~
 17 ~~residential--purposes~~ who fails to furnish a prospective
 18 tenant, prior to the execution of the lease or creation of
 19 the tenancy, with a separate written statement of the
 20 present condition of the premises intended to be let and, if
 21 any, a written list of damage and cleaning charges provided
 22 to the tenant of the immediately preceding leasehold
 23 agreement shall be barred from recovering any sum for damage
 24 to or cleaning of the leasehold premises unless he can
 25 establish by clear and convincing evidence that the damage

1 occurred during the tenancy in question and was caused by
2 the tenant occupying the leasehold premises or the tenant's
3 family, licensees, or invitees."

4 NEW SECTION. Section 5. Interest on security deposit.
5 Any security deposit required under this chapter accrues
6 interest at 5% a year for any tenancy that continues for a
7 period of 6 months or longer.

8 NEW SECTION. Section 6. Codification instruction.
9 Section 5 is intended to be codified as an integral part of
10 Title 70, chapter 25, part 1, and the provisions of Title
11 70, chapter 25, apply to section 5.

-End-

APPROVED BY COMM. ON BUSINESS AND LABOR

HOUSE BILL NO. 221

INTRODUCED BY GARCIA, RAMIREZ, J. HAMMOND

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE--THE--LAW--ON RESIDENTIAL---TENANTS'---SECURITY---DEPOSITS--APPLICABLE--TO COMMERCIAL-TENANTS;--TO--PROVIDE--FOR REQUIRE INTEREST ON RESIDENTIAL TENANTS' SECURITY DEPOSITS; AMENDING SECTIONS SECTION 70-25-101,--70-25-102,--70-25-204,--AND--70-25-206, MCA."

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

Section 1. Section 70-25-101, MCA, is amended to read:

"70-25-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Cleaning expenses" means the actual and necessary cost of cleaning done by an owner or his selected representative for cleaning needs not attributable to normal wear brought about by the tenant's failure to bring the premises to the condition it was at the time of renting.

(2) "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.

(3) "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.

(4) "Security deposit" means value given, in money or its equivalent, and accrued interest 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 70-25-102, MCA, is amended to read:

"70-25-102. Application of chapter. This chapter applies to all rentals of commercial properties and dwellings, including mobile homes but excluding property of public housing authorities."

Section 3. Section 70-25-204, MCA, is amended to read:

"70-25-204. Wrongful withholding of security deposit action. (1) Any person who wrongfully withholds a



1 residential property security deposit or any portion thereof
 2 shall be liable in damages to the tenant in a civil action
 3 for an amount equal to double the sum determined to have
 4 been wrongfully withheld or deducted. The attorney's fees
 5 may be awarded the prevailing party at the discretion of the
 6 court. The burden of proof of damages caused by the tenant
 7 to the leasehold premises shall be on the landlord.

8 (2) No action may be maintained by a tenant for any
 9 amount wrongfully withheld or deducted prior to:

10 (a) the tenant's receipt from the landlord or his
 11 agent of a written denial of the sum alleged to be
 12 wrongfully detained;

13 (b) the expiration of a 30-day period after the
 14 termination of a tenancy; or

15 (c) the expiration of a 30-day period after surrender
 16 and acceptance of the leasehold premises, whichever occurs
 17 first."

18 Section 47 Section 70-25-206, MCA, is amended to read:

19 "70-25-206. Landlord to furnish statement of condition
 20 of premises at beginning of lease. (1) Any person engaged
 21 in the rental of property for residential purposes who
 22 requires a security deposit shall furnish to each
 23 prospective tenant, prior to execution of a lease or
 24 creation of a tenancy, a separate written statement as to
 25 the present condition of the premises intended to be let, as

1 well as a copy of the written list of damage and cleaning
 2 charges, if any, provided to the tenant of the immediately
 3 preceding leasehold agreement for the premises in question:

4 (2) Each written statement of the present condition of
 5 a premises intended to be let shall contain at least the
 6 following:

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

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

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

16 (d) the signature of the landlord or his agent;

17 (3) Any person engaged in the rental of property for
 18 residential purposes who fails to furnish a prospective
 19 tenant, prior to the execution of the lease or creation of
 20 the tenancy, with a separate written statement of the
 21 present condition of the premises intended to be let and, if
 22 any, a written list of damage and cleaning charges provided
 23 to the tenant of the immediately preceding leasehold
 24 agreement shall be barred from recovering any sum for damage
 25 to or cleaning of the leasehold premises unless he can

1 ~~establish-by-clear-and-convincing-evidence-that--the--damage~~
2 ~~occurred--during--the--tenancy-in-question-and-was-caused-by~~
3 ~~the-tenant-occupying-the-leasehold-premises-or-the--tenant's~~
4 ~~family,-licensees,-or-invitees-"~~

5 NEW SECTION. Section 2. Interest on security deposit.
6 Any security deposit required under this chapter accrues
7 interest at 5% a year for any tenancy that continues for a
8 period of 6 12 months or longer.

9 NEW SECTION. Section 3. Codification instruction.
10 Section 5 2 is intended to be codified as an integral part
11 of Title 70, chapter 25, part 1, and the provisions of Title
12 70, chapter 25, apply to section 5 2.

-End-

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any duty imposed upon the tenant by law with respect to the leasehold.

(3) "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.

(4) "Security deposit" means value given, in money or its equivalent, and accrued interest 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."

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25 the present condition of the premises intended to be let, as

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2 charges, if any, provided to the tenant of the immediately
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5 a premises intended to be let shall contain at least the
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13 from the immediately preceding leasehold agreement has not
14 been restored, a statement indicating such fact and setting
15 forth such unrestored damage; and

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

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