

HOUSE BILL NO. 245

INTRODUCED BY KADAS, WELDON, TUSS,
STANFORD, BRANDEWIE, DOWELL, PETERSON

IN THE HOUSE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 20, 1993	ON MOTION, REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
FEBRUARY 16, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1993	PRINTING REPORT.
FEBRUARY 18, 1993	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 19, 1993	ENGROSSING REPORT.
FEBRUARY 20, 1993	THIRD READING, PASSED. AYES, 78; NOES, 20.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 23, 1993	ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 31, 1993	THIRD READING, CONCURRED IN. AYES, 39; NOES, 10.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 2, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 5, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 245
2 INTRODUCED BY Radar Jawaldon
3 Stanford B. Lewis David D. Peterson
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FIVE
5 EXCLUSIVE GROUNDS FOR LANDLORDS' TERMINATION OF RENTAL
6 AGREEMENTS WITH TENANTS WHO OWN MOBILE HOMES OR RENT SPACE
7 IN MOBILE HOME PARKS; AND AMENDING SECTION 70-24-103, MCA."

8
9 WHEREAS, Montana residents currently face a housing
10 crisis that includes a lack of affordable housing and a lack
11 of available mobile home park spaces; and

12 WHEREAS, mobile homes are not "mobile" without
13 substantial moving costs and substantial damage to the
14 mobile homes; and

15 WHEREAS, under 70-24-441 landlords of mobile home parks
16 may evict tenants who rent space in mobile home parks for
17 any reason; and

18 WHEREAS, mobile home owners who rent in mobile home
19 parks often have little or no equity in their mobile homes;
20 and

21 WHEREAS, upon failure to pay rent, mobile home owners
22 who rent space in mobile home parks may be forced to sell
23 their mobile homes at a fraction of their costs and within
24 an unreasonable amount of time (30 days pursuant to
25 70-24-441) in order to make rental payments.

1 THEREFORE, the Legislature of the State of Montana finds
2 it necessary to define justifiable and reasonable grounds on
3 which landlords may evict mobile home owners who rent space
4 in mobile home parks.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 **Section 1.** Section 70-24-103, MCA, is amended to read:

8 "70-24-103. General definitions. Subject to additional
9 definitions contained in subsequent sections and unless the
10 context otherwise requires, in this chapter the following
11 definitions apply:

12 (1) "Action" includes recoupment, counterclaim, setoff
13 suit in equity, and any other proceeding in which rights are
14 determined, including an action for possession.

15 (2) "Court" means the appropriate district court or the
16 appropriate justice's court.

17 (3) "Dwelling unit" means a structure or the part of a
18 structure that is used as a home, residence, or sleeping
19 place by a person who maintains a household or by two or
20 more persons who maintain a common household. "Dwelling
21 unit", in the case of a person who rents space in a mobile
22 home park but does not rent the mobile home, means the space
23 rented and not the mobile home itself.

24 (4) "Good faith" means honesty in fact in the conduct
25 of the transaction concerned.

1 (5) "Landlord" means the owner, lessor, or sublessor
2 of:

3 (a) the dwelling unit or the building of which it is a
4 part and ;

5 (b) a mobile home park; or

6 (c) ~~and-also-means~~ a manager of the premises who fails
7 to disclose his the managerial position.

8 (6) "Mobile home owner" means the owner of a
9 manufactured mobile home dwelling unit entitled under a
10 rental agreement to occupy a mobile home park space in a
11 mobile home park.

12 (7) "Mobile home park" means a trailer court as defined
13 in 50-52-101.

14 (6)(8) "Organization" includes a corporation,
15 government, governmental subdivision or agency, business
16 trust, estate, trust, partnership or association, two or
17 more persons having a joint or common interest, and any
18 other legal or commercial entity.

19 (7)(9) "Owner" means one or more persons, jointly or
20 severally, in whom is vested all or part of:

21 (a) the legal title to property; or

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

25 (8)(10) "Person" includes an individual or organization.

1 (9)(11) "Premises" means a dwelling unit and the
2 structure of which it is a part, the facilities and
3 appurtenances therein in the structure, and the grounds,
4 areas, and facilities held out for the use of tenants
5 generally or promised for the use of a tenant.

6 (10)(12) "Rent" means all payments to be made to the
7 landlord under the rental agreement.

8 (11)(13) "Rental agreement" means all agreements,
9 written or oral, and valid rules adopted under 70-24-311
10 embodying the terms and conditions concerning the use and
11 occupancy of a dwelling unit and premises.

12 (12)(14) "Roomer" means a person occupying a dwelling
13 unit that does not include a toilet, a bathtub or a shower,
14 a refrigerator, a stove, or a kitchen sink, all of which are
15 provided by the landlord and one or more of these facilities
16 are used in common by occupants in the structure.

17 (13)(15) "Single family residence" means a structure
18 maintained and used as a single dwelling unit.
19 Notwithstanding that a dwelling unit shares one or more
20 walls with another dwelling unit, it is a single family
21 residence if it has direct access to a street or
22 thoroughfare and shares neither heating facilities, hot
23 water equipment, nor any other essential facility or service
24 with another dwelling unit.

25 (14)(16) "Tenant" means a person entitled under a rental

1 agreement to occupy a dwelling unit to the exclusion of
2 others."

3 NEW SECTION. Section 2. Mobile home parks -- grounds
4 for termination of rental agreement. (1) A landlord of a
5 mobile home park may terminate a rental agreement only by
6 following the procedure set forth in 70-24-422 and only for
7 one or more of the following reasons:

8 (a) nonpayment of rent, as provided in subsection (2);

9 (b) violation of a mobile home park rule as provided in
10 subsection (3);

11 (c) disorderly conduct that results in disruption of
12 the rights of others to the peaceful enjoyment and use of
13 the premises, endangers other residents or mobile home park
14 personnel, or causes substantial damage to the mobile home
15 park premises;

16 (d) conviction of the mobile home owner or a tenant of
17 the mobile home owner of a violation of a federal or state
18 law or local ordinance or the landlord's documentation by a
19 preponderance of the evidence of a violation when the
20 violation is detrimental to the health, safety, or welfare
21 of other residents or the landlord of the mobile home park;
22 or

23 (e) changes in the use of the land if the requirements
24 of subsection (4) are met.

25 (2) (a) A landlord of a mobile home park may terminate

1 the rental agreement of a tenant who has received more than
2 three written notices of late rent payments within a
3 12-month period. The notices are subject to the following
4 conditions:

5 (i) only one late notice per month may be included when
6 calculating the total of late notices within a 12-month
7 period;

8 (ii) late payment or nonpayment of fees or late charges
9 may not be considered a late rent payment; and

10 (iii) a payment must be attributed first to delinquent
11 rent payments, then to current rent payments, and finally to
12 fees, charges, or late fees.

13 (b) On the date a tenant receives a third late rent
14 payment notice within a 12-month period, the tenant is
15 placed on probation for 6 months. If the tenant pays rent
16 late at any time during the probationary period, the
17 landlord may terminate the rental agreement.

18 (3) (a) A landlord of a mobile home park may terminate
19 the rental agreement of a tenant who has violated a mobile
20 home park rule only if:

21 (i) the rule is not unfair, unreasonable, or
22 unconscionable;

23 (ii) the rule was adopted in accordance with 70-24-311;

24 (iii) the tenant had at least 60 days' notice of the
25 rule before the alleged violation took place; and

(iv) the rule violation is likely to continue or recur and the continuing violation or recurrence would have a significant adverse impact on the mobile home park or its residents.

(b) The landlord shall give the mobile home owner and a tenant of the mobile home owner written notice of the alleged rule violation and allow the mobile home owner or the tenant of the mobile home owner 15 days to comply with the rule. After 15 days, if the owner or tenant has not complied with the rule, the landlord may terminate the rental agreement pursuant to 70-24-422.

(c) If a mobile home owner or a tenant of the mobile home owner has been given a written notice of an alleged violation of the same rule on three or more occasions within a 12-month period, written notice is not required for a subsequent violation of the same rule and termination of the rental agreement may proceed under the guidelines of 70-24-422. Only one notice per month may be given.

(4) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of

local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (4)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(5) A tenant may challenge by court action the termination of a rental agreement under this section. The court shall determine if the landlord has established any ground for termination of a rental agreement under this section. Termination may not be ordered if the court determines that the landlord's conduct is in retaliation for the tenant's conduct within the meaning of 70-24-431.

NEW SECTION. Section 3. Tenant's right to sell mobile

1 home upon termination of tenancy. (1) When a rental
2 agreement is terminated pursuant to [section 2] for any
3 reason other than nonpayment of rent, a mobile home owner
4 may leave the mobile home in the park for up to 120 days for
5 the purpose of selling the mobile home. No one may reside in
6 the mobile home during the 120-day period. The mobile home
7 owner is responsible for the payment of rent during the
8 120-day period and shall maintain the mobile home space. The
9 landlord has a lien on the mobile home to the extent rental
10 payments are not made or maintenance is not performed.

11 (2) At the end of the 120-day period, the landlord may
12 remove the mobile home from the lot after giving 5 days'
13 written notice of intent to move the mobile home and may
14 charge the mobile home owner with the costs associated with
15 the move.

16 NEW SECTION. **Section 4.** Codification instruction.
17 [Sections 2 and 3] are intended to be codified as an
18 integral part of Title 70, chapter 24, and the provisions of
19 Title 70, chapter 24, apply to [sections 2 and 3].

20 NEW SECTION. **Section 5.** Coordination Instruction. If
21 ____ Bill No. ____ [LC 872] is passed and approved, the
22 reference in [section 2(3)] to 70-24-311 must be changed to
23 the corresponding section in ____ Bill No. ____ [LC 872].

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 245

INTRODUCED BY KADAS, WELDON, TUSS,
STANFORD, BRANDEWIE, DOWELL, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FIVE
EXCLUSIVE GROUNDS FOR LANDLORDS' TERMINATION OF RENTAL
AGREEMENTS WITH TENANTS WHO OWN MOBILE HOMES OR RENT SPACE
IN MOBILE HOME PARKS; AND AMENDING SECTION 70-24-103, MCA."

WHEREAS, Montana residents currently face a housing
crisis that includes a lack of affordable housing and a lack
of available mobile home park spaces; and

WHEREAS, mobile homes are not "mobile" without
substantial moving costs and THE POTENTIAL FOR substantial
damage to the mobile homes; and

WHEREAS, under 70-24-441 landlords of mobile home parks
may, WITHOUT SUPPLYING A REASON, evict tenants who rent
space in mobile home parks ~~for any reason~~; and

~~WHEREAS, mobile home owners who rent in mobile home
parks often have little or no equity in their mobile homes;~~
and

WHEREAS, ~~upon failure to pay rent~~ IF EVICTED UNFAIRLY,
mobile home owners who rent space in mobile home parks may
be forced to sell their mobile homes at a fraction of their
costs and within an unreasonable amount of time (30 days

pursuant to 70-24-441) in order to ~~make rental payments~~
COMPLY WITH THE EVICTION.

THEREFORE, the Legislature of the State of Montana finds
it necessary to define justifiable and reasonable grounds on
which landlords may evict mobile home owners who rent space
in mobile home parks.

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

Section 1. Section 70-24-103, MCA, is amended to read:

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definitions contained in subsequent sections and unless the
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definitions apply:

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

(2) "Court" means the appropriate district court or the
appropriate justice's court.

(3) "Dwelling unit" means a structure or the part of a
structure that is used as a home, residence, or sleeping
place by a person who maintains a household or by two or
more persons who maintain a common household. "Dwelling
unit", in the case of a person who rents space in a mobile
home park but does not rent the mobile home, means the space
rented and not the mobile home itself.

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

(5) "Landlord" means the owner, lessor, or sublessor of:

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

(b) a mobile home park; or

(c) and--also--means a manager of the premises who fails to disclose his the managerial position.

(6) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(7) "Mobile home park" means a trailer court as defined in 50-52-101.

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

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

(a) the legal title to property; or

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

possession.

(10) "Person" includes an individual or organization.

(11) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(12) "Rent" means all payments to be made to the landlord under the rental agreement.

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

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

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

1 with another dwelling unit.

2 ~~{14}~~(16) "Tenant" means a person entitled under a rental
3 agreement to occupy a dwelling unit to the exclusion of
4 others."

5 NEW SECTION. Section 2. Mobile home parks -- grounds
6 for termination of rental agreement. (1) A landlord of a
7 mobile home park may terminate a rental agreement only by
8 following the procedure set forth in 70-24-422 and only for
9 one or more of the following reasons:

10 (a) nonpayment of rent OR LATE CHARGES, as provided in
11 subsection (2);

12 (b) violation of a mobile home park rule as provided in
13 subsection (3);

14 (c) disorderly conduct ON THE MOBILE HOME PARK PREMISES
15 that results in disruption of the rights of others to the
16 peaceful enjoyment and use of the premises, endangers other
17 residents or mobile home park personnel, or causes
18 substantial damage to the mobile home park premises;

19 (d) conviction of the mobile home owner or a tenant of
20 the mobile home owner of a violation ON THE MOBILE HOME PARK
21 PREMISES of a federal or state law or local ordinance, WHEN
22 THE VIOLATION IS DETRIMENTAL TO THE HEALTH, SAFETY, OR
23 WELFARE OF OTHER RESIDENTS OR THE LANDLORD OF THE MOBILE
24 HOME PARK, or the landlord's documentation by a
25 preponderance of the evidence of a violation when-the

1 ~~violation-is-detrimental-to-the-health,-safety,-or-welfare~~
2 ~~of--other--residents-or-the-landlord-of-the-mobile-home-park~~
3 OF THE PROVISIONS OF TITLE 45, CHAPTER 9; or

4 (e) changes in the use of the land if the requirements
5 of subsection (4) are met.

6 (2) (a) A MOBILE HOME OWNER OR A TENANT OF A MOBILE
7 HOME OWNER WHO FAILS TO PAY THE OVERDUE RENT AND LATE
8 CHARGES WITHIN 15 DAYS OF RECEIVING NOTICE OF NONPAYMENT OF
9 RENT, AS PROVIDED IN 70-24-422, IS SUBJECT TO TERMINATION
10 PROCEDURES AS PROVIDED IN 70-24-422.

11 (B) A landlord of a mobile home park may terminate the
12 rental agreement of a tenant who has received more than
13 three TWO written notices of late rent payments within a
14 12-month period. The notices are subject to the following
15 conditions:

16 (i) only one late RENT notice per month may be included
17 when calculating the total of late notices within a 12-month
18 period;

19 (ii) ~~late--payment-or-nonpayment-of-fees-or-late-charges~~
20 ~~may-not-be-considered-a-late-rent-payment~~ ADDITIONAL CHARGES
21 FOR LATE RENT PAYMENT MUST BE REASONABLE AND MUST BE PAID AS
22 PROVIDED IN SUBSECTION (2)(A) UNLESS THE LANDLORD AND TENANT
23 AGREE OTHERWISE; and

24 (iii) a payment must be attributed first to delinquent
25 rent payments, then to current rent payments, and finally to

fees, charges, or late fees.

~~(b)(C)~~ On the date a tenant receives a third SECOND late rent payment notice within a 12-month period, the tenant is placed on probation for 6 months. If the tenant pays rent late at any time during the probationary period, the landlord may terminate the rental agreement AND THE PROVISIONS OF SUBSECTION (3)(C) REQUIRING A COMPLIANCE PERIOD DO NOT APPLY.

(3) (a) A landlord of a mobile home park may terminate the rental agreement of a tenant who has violated a mobile home park rule only if:

(i) the rule is not ~~unfair~~ unreasonable---or unconscionable; AND

(ii) the rule was adopted in accordance with 70-24-311.

~~(iii)-the-tenant-had-at-least-60-days-notice-of-the rule-before-the-alleged-violation-took-place,-and~~

~~(iv)-the-rule-violation-is-likely-to-continue-or-recur and-the-continuing-violation-or-recurrence-would-have-a significant-adverse-impact-on-the-mobile-home-park-or-its residents.~~

(B) ALL RULES MUST BE WRITTEN AND MUST BE GIVEN TO ALL MOBILE HOME PARK RESIDENTS WHO RESIDE IN THE MOBILE HOME PARK AND TO ALL NEW RESIDENTS UPON ARRIVAL.

~~(b)(C) The-landlord-shall-give-the-mobile-home-owner and-a-tenant-of-the-mobile-home-owner-written-notice-of-the~~

~~alleged-rule-violation-and-allow-the-mobile-home-owner-or the-tenant-of-the-mobile-home-owner-15-days-to-comply-with the-rule.-After-15-days,-if-the-owner-or-tenant-has-not complied-with-the-rule,-the-landlord-may-terminate-the rental-agreement-pursuant-to NOTICE OF AND COMPLIANCE WITH NOTICE OF RULES VIOLATIONS MUST CONFORM WITH THE PROVISIONS OF 70-24-422.~~

~~(c)(D)~~ If a mobile home owner or a tenant of the mobile home owner WHO HAS COMPLIED WITH THE RULE WITHIN 14 DAYS AFTER RECEIPT OF A NOTICE AS PROVIDED IN SUBSECTION (3)(B) has been given a written notice of an alleged violation of the same rule on three TWO or more occasions within a 12-month period AND IT IS SHOWN THAT THE MOBILE HOME OWNER OR TENANT OF THE MOBILE HOME OWNER HAS VIOLATED THAT RULE, written notice is not required FOR THE NEXT 6 MONTHS for a subsequent violation of the same rule and termination of the rental agreement may proceed under the guidelines of 70-24-422 WITHOUT PROVIDING A 14-DAY COMPLIANCE PERIOD. Only one notice per month may be given.

(E) IF A MOBILE HOME OWNER OR TENANT OF THE MOBILE HOME OWNER HAS BEEN GIVEN TWO OR MORE WRITTEN NOTICES OF AN ALLEGED VIOLATION OF A RULE THAT WOULD HAVE A SIGNIFICANT ADVERSE IMPACT ON THE MOBILE HOME PARK OR ITS RESIDENTS WITHIN A 12-MONTH PERIOD AND IT IS SHOWN THAT THE MOBILE HOME OWNER OR TENANT OF THE MOBILE HOME OWNER HAS VIOLATED

THE RULE, A WRITTEN NOTICE IS NOT REQUIRED FOR THE NEXT 6 MONTHS FOR A SUBSEQUENT VIOLATION OF ANY RULE THAT WOULD HAVE A SIGNIFICANT ADVERSE IMPACT ON THE MOBILE HOME PARK OR ITS RESIDENTS AND THE RENTAL AGREEMENT MAY BE TERMINATED AS PROVIDED IN 70-24-422 WITHOUT PROVIDING A 14-DAY COMPLIANCE PERIOD. ONLY ONE NOTICE A MONTH MAY BE GIVEN.

(4) If a landlord plans to change the use of all or part of the land composing the mobile home park from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of local government to request permits for a change of use of the mobile home park.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the

6-month notice period referred to in subsection (4)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

~~{5}--A--tenant--may--challenge--by--court--action--the termination--of--a--rental--agreement--under--this--section--The court--shall--determine--if--the--landlord--has--established--any ground--for--termination--of--a--rental--agreement--under--this section--Termination--may--not--be--ordered--if--the--court determines--that--the--landlord's--conduct--is--in--retaliation--for the--tenant's--conduct--within--the--meaning--of--70-24-431.~~

NEW SECTION--Section 3--Tenant's right to sell mobile home--upon--termination--of--tenancy--{1}--When--a--rental agreement--is--terminated--pursuant--to--{section--2}--for--any reason--other--than--nonpayment--of--rent,--a--mobile--home--owner may--leave--the--mobile--home--in--the--park--for--up--to--120--days--for the--purpose--of--selling--the--mobile--home--No--one--may--reside--in the--mobile--home--during--the--120--day--period--The--mobile--home owner--is--responsible--for--the--payment--of--rent--during--the 120--day--period--and--shall--maintain--the--mobile--home--space--The landlord--has--a--lien--on--the--mobile--home--to--the--extent--rental payments--are--not--made--or--maintenance--is--not--performed.

~~{2}--At--the--end--of--the--120--day--period,--the--landlord--may remove--the--mobile--home--from--the--lot--after--giving--5--days~~

1 ~~written--notice--of--intent--to-move-the-mobile-home-and-may~~
2 ~~charge-the-mobile-home-owner-with-the-costs-associated--with~~
3 ~~the-move.~~

4 NEW SECTION. **Section 3.** Codification instruction.
5 [Sections SECTION 2 and-3] are IS intended to be codified as
6 an integral part of Title 70, chapter 24, and the provisions
7 of Title 70, chapter 24, apply to [sections SECTION 2 and
8 3].

9 NEW SECTION. **Section 4.** Coordination instruction. If
10 House Bill No. 422 is passed and approved, the reference in
11 [section 2(3)] to 70-24-311 must be changed to the
12 corresponding section in House Bill No. 422.

-End-

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2 INTRODUCED BY KADAS, WELDON, TUSS,
3 STANFORD, BRANDEWIE, DOWELL, PETERSON
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24 home park but does not rent the mobile home, means the space
25 rented and not the mobile home itself.

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

(5) "Landlord" means the owner, lessor, or sublessor of:

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

(b) a mobile home park; or

(c) and--also--means a manager of the premises who fails to disclose his the managerial position.

(6) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(7) "Mobile home park" means a trailer court as defined in 50-52-101.

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

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

(a) the legal title to property; or

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

possession.

(8)(10) "Person" includes an individual or organization.

(9)(11) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(10)(12) "Rent" means all payments to be made to the landlord under the rental agreement.

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

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

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

with another dwelling unit.

(16) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

NEW SECTION. Section 2. Mobile home parks -- grounds for termination of rental agreement. (1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422 and only for one or more of the following reasons:

(a) nonpayment of rent OR LATE CHARGES, as provided in subsection (2);

(b) violation of a mobile home park rule as provided in subsection (3);

(c) disorderly conduct ON-THE-MOBILE-HOME-PARK-PREMISES that results in disruption of the rights of others to the peaceful enjoyment and use of the premises, endangers other residents or mobile home park personnel, or causes substantial damage to the mobile home park premises;

(d) conviction of the mobile home owner or a tenant of the mobile home owner of a violation ON-THE-MOBILE-HOME-PARK PREMISES of a federal or state law or local ordinance, WHEN THE VIOLATION IS DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF OTHER RESIDENTS OR THE LANDLORD OF THE MOBILE HOME PARK, or the landlord's documentation by---a preponderance--of--the--evidence of a violation when the

~~violation is detrimental to the health, safety, or welfare of other residents or the landlord of the mobile home park~~
OF THE PROVISIONS OF TITLE 45, CHAPTER 9; or

(e) changes in the use of the land if the requirements of subsection (4) are met.

(2) (a) A MOBILE HOME OWNER OR A TENANT OF A MOBILE HOME OWNER WHO FAILS TO PAY THE OVERDUE RENT AND LATE CHARGES WITHIN 15 DAYS OF RECEIVING NOTICE OF NONPAYMENT OF RENT, AS PROVIDED IN 70-24-422, IS SUBJECT TO TERMINATION PROCEDURES AS PROVIDED IN 70-24-422.

(B) A landlord of a mobile home park may terminate the rental agreement of a tenant who has received more than three TWO written notices of late rent payments within a 12-month period. The notices are subject to the following conditions:

(i) only one late RENT notice per month may be included when calculating the total of late notices within a 12-month period;

(ii) ~~late payment or nonpayment of fees or late charges may not be considered a late rent payment~~ ADDITIONAL CHARGES FOR LATE RENT PAYMENT MUST BE REASONABLE AND MUST BE PAID AS PROVIDED IN SUBSECTION (2)(A) UNLESS THE LANDLORD AND TENANT AGREE OTHERWISE; and

(iii) a payment must be attributed first to delinquent rent payments, then to current rent payments, and finally to

fees, charges, or late fees.

~~(b)(C)~~ On the date a tenant receives a third SECOND late rent payment notice within a 12-month period, the tenant is placed on probation for 6 months. If the tenant pays rent late at any time during the probationary period, the landlord may terminate the rental agreement AND THE PROVISIONS OF SUBSECTION (3)(C) REQUIRING A COMPLIANCE PERIOD DO NOT APPLY.

(3) (a) A landlord of a mobile home park may terminate the rental agreement of a tenant who has violated a mobile home park rule only if:

(i) the rule is not unfair, unreasonable, or unconscionable; AND

(ii) the rule was adopted in accordance with 70-24-311.

~~(iii) the tenant had at least 60 days' notice of the rule before the alleged violation took place; and~~

~~(iv) the rule violation is likely to continue or recur and the continuing violation or recurrence would have a significant adverse impact on the mobile home park or its residents;~~

(B) ALL RULES MUST BE WRITTEN AND MUST BE GIVEN TO ALL MOBILE HOME PARK RESIDENTS WHO RESIDE IN THE MOBILE HOME PARK AND TO ALL NEW RESIDENTS UPON ARRIVAL.

~~(b)(C) The landlord shall give the mobile home owner and a tenant of the mobile home owner written notice of the~~

~~alleged rule violation and allow the mobile home owner or the tenant of the mobile home owner 15 days to comply with the rule. After 15 days, if the owner or tenant has not complied with the rule, the landlord may terminate the rental agreement pursuant to NOTICE OF AND COMPLIANCE WITH NOTICE OF RULES VIOLATIONS MUST CONFORM WITH THE PROVISIONS OF 70-24-422.~~

~~(c)(D) If a mobile home owner or a tenant of the mobile home owner WHO HAS COMPLIED WITH THE RULE WITHIN 14 DAYS AFTER RECEIPT OF A NOTICE AS PROVIDED IN SUBSECTION (3)(B) has been given a written notice of an alleged violation of the same rule:~~

(I) on three TWO or more occasions within a 12-month period AND IT IS SHOWN THAT THE MOBILE HOME OWNER OR TENANT OF THE MOBILE HOME OWNER HAS VIOLATED THAT RULE, written notice is not required FOR THE NEXT 6 MONTHS for a subsequent violation of the same rule and termination of the rental agreement may proceed under the guidelines of 70-24-422 WITHOUT PROVIDING A 14-DAY COMPLIANCE PERIOD. Only one notice per month may be given.

(II) AND IT IS SHOWN THAT THE MOBILE HOME OWNER OR TENANT HAS VIOLATED THAT RULE ON THREE OCCASIONS IN THE PAST 12 MONTHS, TERMINATION OF THE RENTAL AGREEMENT MAY PROCEED UNDER THE PROVISIONS OF 70-24-422 WITHOUT PROVIDING A 14-DAY COMPLIANCE PERIOD.

1 (E) IF A MOBILE HOME OWNER OR TENANT OF THE MOBILE HOME
 2 OWNER HAS BEEN GIVEN TWO OR MORE WRITTEN NOTICES OF AN
 3 ALLEGED VIOLATION OF A RULE THAT WOULD HAVE A SIGNIFICANT
 4 ADVERSE IMPACT ON THE MOBILE HOME PARK OR ITS RESIDENTS
 5 WITHIN A 12-MONTH PERIOD AND IT IS SHOWN THAT THE MOBILE
 6 HOME OWNER OR TENANT OF THE MOBILE HOME OWNER HAS VIOLATED
 7 THE RULE, A WRITTEN NOTICE IS NOT REQUIRED FOR THE NEXT 6
 8 MONTHS FOR A SUBSEQUENT VIOLATION OF ANY RULE THAT WOULD
 9 HAVE A SIGNIFICANT ADVERSE IMPACT ON THE MOBILE HOME PARK OR
 10 ITS RESIDENTS AND THE RENTAL AGREEMENT MAY BE TERMINATED AS
 11 PROVIDED IN 70-24-422 WITHOUT PROVIDING A 14-DAY COMPLIANCE
 12 PERIOD. ONLY ONE NOTICE A MONTH MAY BE GIVEN.

13 (F) IF A VIOLATION OF A RULE BY A MOBILE HOME OWNER OR
 14 TENANT OF A MOBILE HOME CREATES AN IMMEDIATE THREAT TO THE
 15 HEALTH AND SAFETY OF ANY RESIDENT OF THE MOBILE HOME PARK,
 16 THE RENTAL AGREEMENT WITH THE VIOLATOR MAY BE TERMINATED
 17 UNDER 70-24-422, IF THE VIOLATION HAS NOT BEEN REMEDIED, 24
 18 HOURS AFTER THE VIOLATOR RECEIVES NOTICE OF THE VIOLATION.

19 (4) If a landlord plans to change the use of all or
 20 part of the land composing the mobile home park from mobile
 21 home lot rentals to some other use, each affected mobile
 22 home owner must receive notice from the landlord as follows:

23 (a) The landlord shall give the mobile home owner and a
 24 tenant of the mobile home owner at least 15 days' written
 25 notice that the landlord will be appearing before a unit of

1 local government to request permits for a change of use of
 2 the mobile home park.

3 (b) After all required permits requesting a change of
 4 use have been approved by the unit of local government, the
 5 landlord shall give the mobile home owner and a tenant of
 6 the mobile home owner 6 months' written notice of
 7 termination of tenancy. If the change of use does not
 8 require local government permits, the landlord shall give
 9 the written notice at least 6 months prior to the change of
 10 use. In the notice, the landlord shall disclose and describe
 11 in detail the nature of the change of use.

12 (c) Prior to entering a rental agreement during the
 13 6-month notice period referred to in subsection (4)(b), the
 14 landlord shall give each prospective mobile home owner and
 15 tenant of the mobile home owner written notice that the
 16 landlord is requesting a change in use before a unit of
 17 local government or that a change in use has been approved.

18 ~~{5}--A--tenant--may--challenge--by--court---action---the~~
 19 ~~termination--of--a--rental-agreement-under-this-section--The~~
 20 ~~court--shall--determine--if--the--landlord--has--established--any~~
 21 ~~ground--for--termination--of--a--rental-agreement-under-this~~
 22 ~~section--Termination--may--not--be--ordered--if--the--court~~
 23 ~~determines--that--the--landlord's--conduct--is--in--retaliation--for~~
 24 ~~the--tenant's--conduct--within--the--meaning--of--70-24-431.~~

25 ~~NEW SECTION: Section 3. Tenant's right to sell mobile--~~

home---upon--termination--of--tenancy;--(1)--When--a--rental
 agreement-is-terminated-pursuant--to--(section--2)--for--any
 reason--other--than--nonpayment-of-rent, a-mobile-home-owner
 may-leave-the-mobile-home-in-the-park-for-up-to-120-days-for
 the-purpose-of-selling-the-mobile-home. No-one-may-reside-in
 the-mobile-home-during-the-120-day-period. The--mobile--home
 owner--is--responsible--for--the--payment-of-rent-during-the
 120-day-period-and-shall-maintain-the-mobile-home-space. The
 landlord-has-a-lien-on-the-mobile-home-to-the-extent--rental
 payments-are-not-made-or-maintenance-is-not-performed.

(2)--At--the-end-of-the-120-day-period, the-landlord-may
 remove-the-mobile-home-from-the-lot--after--giving--5--days'
 written--notice--of--intent--to-move-the-mobile-home-and-may
 charge-the-mobile-home-owner-with-the-costs-associated--with
 the-mover

NEW SECTION. Section 3. Codification instruction.

[Sections SECTION 2 and-3] are IS intended to be codified as
 an integral part of Title 70, chapter 24, and the provisions
 of Title 70, chapter 24, apply to [sections SECTION 2 and
 3].

NEW SECTION. Section 4. Coordination instruction. If

House Bill No. 422 is passed and approved, the reference in
 [section 2(3)] to 70-24-311 must be changed to the
 corresponding section in House Bill No. 422.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 27, 1993

Page 2 of 3
March 27, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 245 (third reading copy -- blue), respectfully report that House Bill No. 245 be amended as follows and as so amended be concurred in.

Signed: Wm. Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 5.
Strike: "FIVE"

2. Title, line 8.
Strike: "AND"
Strike: "SECTION"
Insert: "SECTIONS"
Following: "70-24-103"
Insert: "AND 70-24-311"
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 5, lines 10 and 11.
Following: "rent" on line 10
Strike: "OR"
Insert: ","
Following: "CHARGES," on line 10
Strike: remainder of line 10 through "(2)" on line 11
Insert: "or common area maintenance fees as established in the rental agreement"

4. Page 5, line 12.
Following: line 11
Insert: "(b) late payment of rent, late charges, or common area maintenance fees as established in the rental agreement three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by 70-24-422;"
Renumber: subsequent subsections

5. Page 5, lines 12 and 13.
Following: "rule" on line 12
Strike: remainder of line 12 through "(3)" on line 13
Insert: "that creates an immediate threat to the health and safety of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator

is given written notice of the violation;

(d) three or more violations within a 12-month period of any combination of one or more mobile home park rules, the violation of which would have a significant adverse impact on the mobile home park or its residents and which are so designated;

(e) three or more violations within a 12-month period of the same rule;

(f) three or more violations of 70-24-321(1) within a 12-month period or any violation of 70-24-321(2)"
Renumber: subsequent subsections

6. Page 6, line 3.
Strike: "or"

7. Page 6, line 5.
Strike: "(4)"
Insert: "(2)"
Following: "met"
Strike: "."
Insert: "; or"

8. Page 6, line 6.
Following: line 5
Insert: "(j) a legitimate business reason of the landlord if the requirements of subsection (3) are met."

9. Page 6, line 6 through page 9, line 18.
Strike: subsections (2) and (3) in their entirety
Renumber: subsequent subsection

10. Page 10, line 13.
Strike: "(4)(b)"
Insert: "(2)(b)"

11. Page 10, line 25.
Following: line 24
Insert: "(3)(a) A landlord may terminate the rental agreement of a mobile home owner or a tenant of a mobile home owner if the landlord, by the termination:
(i) does not violate a provision of this section or any other state statute; and
(ii) has a legitimate business reason.
(b) A landlord shall give the mobile home owner or the tenant of a mobile home owner a minimum of 6 months' written notice of termination.
(4) For purposes of calculating the total number of notices given within a 12-month period under subsection

Mr. Amd. Coord.
W Sec. of Senate

Weldon
Senator Carrying Bill

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SENATE
HB 245

(1)(b), only one notice per violation per month may be included in the calculation."

12. Page 11, line 16.

Following: line 15

Insert: "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;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement or when it is adopted.

(2) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his bargain, it is not valid until 7 days after notice to the tenant in the case of a week to week tenancy or 30 days' notice in the case of tenancies from month to month.

(3) A rule adopted by a landlord of a mobile home park must be in writing and must be given to each mobile home owner or tenant of a mobile home owner residing in the mobile home park and to each new resident upon arrival.

Renumber: subsequent sections

13. Page 11, lines 21 through 24.

Strike: section 4 in its entirety

Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective 30 days after passage and approval."

-END-

SENATE COMMITTEE OF THE WHOLE AMENDMENT

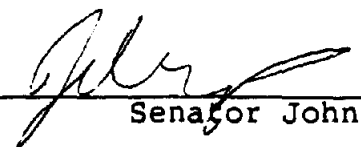
March 30, 1993 1:07 pm

Mr. Chairman: I move to amend House Bill No. 245 (third reading copy -- blue).

ADOPT

REJECT

Signed: _____


Senator John Harp

That such amendments read:

Amend the Senate standing committee report for the committee on Judiciary on House Bill No. 245 dated March 27, 1993, as follows:

Amend amendment No. 5

In first Insert, following "(d)"

Strike: "three"

Insert: "two"

In first Insert, following "(e)"

Strike: "three"

Insert: "two"

In first Insert, following "(f)"

Strike: "three"

Insert: "two"

Amend amendment No. 11

In first Insert, subsection (b), following "minimum of"

Strike: "6 months"

Insert: "90 days"

-END-

HB 245

SENATE

M- Amd. Coord.

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HOUSE BILL NO. 245

INTRODUCED BY KADAS, WELDON, TUSS,
STANFORD, BRANDEWIE, DOWELL, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING FIVE
EXCLUSIVE GROUNDS FOR LANDLORDS' TERMINATION OF RENTAL
AGREEMENTS WITH TENANTS WHO OWN MOBILE HOMES OR RENT SPACE
IN MOBILE HOME PARKS; AND AMENDING ~~SECTION~~ SECTIONS
70-24-103 AND 70-24-311, MCA; AND PROVIDING AN EFFECTIVE
DATE."

WHEREAS, Montana residents currently face a housing
crisis that includes a lack of affordable housing and a lack
of available mobile home park spaces; and

WHEREAS, mobile homes are not "mobile" without
substantial moving costs and THE POTENTIAL FOR substantial
damage to the mobile homes; and

WHEREAS, under 70-24-441 landlords of mobile home parks
may, WITHOUT SUPPLYING A REASON, evict tenants who rent
space in mobile home parks ~~for any reason; and~~

~~WHEREAS, mobile home owners who rent in mobile home
parks often have little or no equity in their mobile homes;~~
and

WHEREAS, ~~upon failure to pay rent~~ IF EVICTED UNFAIRLY,
mobile home owners who rent space in mobile home parks may

be forced to sell their mobile homes at a fraction of their
costs and within an unreasonable amount of time (30 days
pursuant to 70-24-441) in order to ~~make rental payments~~
COMPLY WITH THE EVICTION.

THEREFORE, the Legislature of the State of Montana finds
it necessary to define justifiable and reasonable grounds on
which landlords may evict mobile home owners who rent space
in mobile home parks.

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

Section 1. Section 70-24-103, MCA, is amended to read:

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

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

(2) "Court" means the appropriate district court or the
appropriate justice's court.

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

home park but does not rent the mobile home, means the space rented and not the mobile home itself.

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

(5) "Landlord" means the owner, lessor, or sublessor of:

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

(b) a mobile home park; or

(c) ~~and--also--means~~ a manager of the premises who fails to disclose ~~his~~ the managerial position.

(6) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit entitled under a rental agreement to occupy a mobile home park space in a mobile home park.

(7) "Mobile home park" means a trailer court as defined in 50-52-101.

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

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

(a) the legal title to property; or

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

(10) "Person" includes an individual or organization.

(11) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(12) "Rent" means all payments to be made to the landlord under the rental agreement.

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

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

(15) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or

thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

{14}{16} "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

NEW SECTION. Section 2. Mobile home parks -- grounds for termination of rental agreement. (1) A landlord of a mobile home park may terminate a rental agreement only by following the procedure set forth in 70-24-422 and only for one or more of the following reasons:

(a) nonpayment of rent OR, LATE CHARGES, as-provided-in subsection--{2} OR COMMON AREA MAINTENANCE FEES AS ESTABLISHED IN THE RENTAL AGREEMENT;

(B) LATE PAYMENT OF RENT, LATE CHARGES, OR COMMON AREA MAINTENANCE FEES AS ESTABLISHED IN THE RENTAL AGREEMENT THREE OR MORE TIMES WITHIN A 12-MONTH PERIOD IF WRITTEN NOTICE IS GIVEN BY THE LANDLORD AFTER EACH FAILURE TO PAY, AS REQUIRED BY 70-24-422;

{b}{C} violation of a mobile home park rule as-provided in--subsection--{3} THAT CREATES AN IMMEDIATE THREAT TO THE HEALTH AND SAFETY OF ANY RESIDENT OF THE MOBILE HOME PARK IF THE VIOLATION HAS NOT BEEN REMEDIED 24 HOURS AFTER THE VIOLATOR IS GIVEN WRITTEN NOTICE OF THE VIOLATION;

(D) THREE TWO OR MORE VIOLATIONS WITHIN A 12-MONTH

PERIOD OF ANY COMBINATION OF ONE OR MORE MOBILE HOME PARK RULES, THE VIOLATION OF WHICH WOULD HAVE A SIGNIFICANT ADVERSE IMPACT ON THE MOBILE HOME PARK OR ITS RESIDENTS AND WHICH ARE SO DESIGNATED;

(E) THREE TWO OR MORE VIOLATIONS WITHIN A 12-MONTH PERIOD OF THE SAME RULE;

(F) THREE TWO OR MORE VIOLATIONS OF 70-24-321(1) WITHIN A 12-MONTH PERIOD OR ANY VIOLATION OF 70-24-321(2);

{c}{G} disorderly conduct ON--THE--MOBILE--HOME--PARK PREMISES that results in disruption of the rights of others to the peaceful enjoyment and use of the premises, endangers other residents or mobile home park personnel, or causes substantial damage to the mobile home park premises;

{d}{H} conviction of the mobile home owner or a tenant of the mobile home owner of a violation ON--THE--MOBILE--HOME PARK--PREMISES of a federal or state law or local ordinance, WHEN THE VIOLATION IS DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF OTHER RESIDENTS OR THE LANDLORD OF THE MOBILE HOME PARK, or the landlord's documentation by--a preponderance-of--the--evidence of a violation when--the violation--is--detrimental-to-the-health, safety, or welfare of other residents or the landlord of the mobile--home--park OF THE PROVISIONS OF TITLE 45, CHAPTER 9; or

{e}{I} changes in the use of the land if the requirements of subsection {4} (2) are met; OR

(J) A LEGITIMATE BUSINESS REASON OF THE LANDLORD IF THE REQUIREMENTS OF SUBSECTION (3) ARE MET.

(2)--(a) A MOBILE HOME OWNER OR A TENANT OF A MOBILE HOME OWNER WHO FAILS TO PAY THE OVERDUE RENT AND LATE CHARGES WITHIN 15 DAYS OF RECEIVING NOTICE OF NONPAYMENT OF RENT, AS PROVIDED IN 70-24-422, IS SUBJECT TO TERMINATION PROCEDURES AS PROVIDED IN 70-24-422.

(B) A landlord of a mobile home park may terminate the rental agreement of a tenant who has received more than three TWO written notices of late rent payments within a 12-month period. The notices are subject to the following conditions:

(i) only one late RENT notice per month may be included when calculating the total of late notices within a 12-month period;

(ii) late payment or nonpayment of fees or late charges may not be considered a late rent payment ADDITIONAL CHARGES FOR LATE RENT PAYMENT MUST BE REASONABLE AND MUST BE PAID AS PROVIDED IN SUBSECTION (2)(A) UNLESS THE LANDLORD AND TENANT AGREE OTHERWISE; and

(iii) a payment must be attributed first to delinquent rent payments, then to current rent payments, and finally to fees, charges, or late fees;

(b)(c) On the date a tenant receives a third SECOND late rent payment notice within a 12-month period, the

tenant is placed on probation for 6 months, if the tenant pays rent late at any time during the probationary period, the landlord may terminate the rental agreement AND THE PROVISIONS OF SUBSECTION (3)(c) REQUIRING A COMPLIANCE PERIOD DO NOT APPLY.

(3)--(a) A landlord of a mobile home park may terminate the rental agreement of a tenant who has violated a mobile home park rule only if:

(i) the rule is not unfair, unreasonable, or unconscionable; AND

(ii) the rule was adopted in accordance with 70-24-311;

(iii) the tenant had at least 60 days' notice of the rule before the alleged violation took place; and

(iv) the rule violation is likely to continue or recur and the continuing violation or recurrence would have a significant adverse impact on the mobile home park or its residents.

(B) ALL RULES MUST BE WRITTEN AND MUST BE GIVEN TO ALL MOBILE HOME PARK RESIDENTS WHO RESIDE IN THE MOBILE HOME PARK AND TO ALL NEW RESIDENTS UPON ARRIVAL.

(b)(c) The landlord shall give the mobile home owner and a tenant of the mobile home owner written notice of the alleged rule violation and allow the mobile home owner or the tenant of the mobile home owner 15 days to comply with the rule. After 15 days, if the owner or tenant has not

1 complied--with--the--rule; the--landlord--may--terminate--the
2 rental--agreement--pursuant--to NOTICE--OF--AND--COMPLIANCE--WITH
3 NOTICE--OF--RULES--VIOLATIONS--MUST--CONFORM--WITH--THE--PROVISIONS
4 OF--70-24-422;

5 (c)(B) --if-a-mobile-home-owner-or-a-tenant-of-the-mobile
6 home-owner-who-has-complied-with-the--rule--within--14--days
7 after--receipt--of-a-notice-as-provided-in-subsection-(3)(B)
8 has-been-given-a-written-notice-of-an-alleged--violation--of
9 the-same-rule;

10 (i) --on three TWO or-more-occasions-within-a-12-month
11 period AND-IT-IS-SHOWN-THAT-THE-MOBILE-HOME-OWNER-OR--TENANT
12 OF--THE--MOBILE--HOME--OWNER-HAS-VIOLATED-THAT-RULE; written
13 notice--is--not--required FOR--THE--NEXT--6--MONTHS for--a
14 subsequent-violation-of-the-same-rule-and-termination-of-the
15 rental--agreement--may--proceed--under--the--guidelines--of
16 70-24-422 WITHOUT-PROVIDING-A-14-DAY-COMPLIANCE-PERIOD; Only
17 one-notice-per-month-may-be-given.

18 (ii) AND-IT-IS-SHOWN-THAT-THE--MOBILE-HOME-OWNER-OR
19 TENANT-HAS-VIOLATED-THAT-RULE-ON-THREE-OCCASIONS-IN-THE-PAST
20 12-MONTHS; TERMINATION-OF-THE-RENTAL-AGREEMENT-MAY-PROCEED
21 UNDER-THE-PROVISIONS-OF-70-24-422-WITHOUT-PROVIDING-A-14-DAY
22 COMPLIANCE-PERIOD;

23 (B) --IF-A-MOBILE-HOME-OWNER-OR-TENANT-OF-THE-MOBILE-HOME
24 OWNER--HAS--BEEN--GIVEN--TWO--OR--MORE-WRITTEN-NOTICES-OF-AN
25 ALLEGED-VIOLATION-OF-A-RULE-THAT-WOULD--HAVE--A--SIGNIFICANT

1 ADVERSE--IMPACT--ON--THE--MOBILE--HOME-PARK-OR-ITS-RESIDENTS
2 WITHIN-A-12-MONTH-PERIOD-AND-IT-IS--SHOWN--THAT--THE--MOBILE
3 HOME--OWNER--OR-TENANT-OF-THE-MOBILE-HOME-OWNER-HAS-VIOLATED
4 THE-RULE; A-WRITTEN-NOTICE-IS-NOT-REQUIRED-FOR--THE--NEXT--6
5 MONTHS--FOR--A--SUBSEQUENT--VIOLATION-OF-ANY-RULE-THAT-WOULD
6 HAVE-A-SIGNIFICANT-ADVERSE-IMPACT-ON-THE-MOBILE-HOME-PARK-OR
7 ITS-RESIDENTS-AND-THE-RENTAL-AGREEMENT-MAY-BE-TERMINATED--AS
8 PROVIDED--IN-70-24-422-WITHOUT-PROVIDING-A-14-DAY-COMPLIANCE
9 PERIOD; ONLY-ONE-NOTICE-A-MONTH-MAY-BE-GIVEN;

10 (F) --IF-A-VIOLATION-OF-A-RULE-BY-A-MOBILE-HOME-OWNER--OR
11 TENANT--OF--A-MOBILE-HOME-CREATES-AN-IMMEDIATE-THREAT-TO-THE
12 HEALTH-AND-SAFETY-OF-ANY-RESIDENT-OF-THE-MOBILE--HOME--PARK;
13 THE--RENTAL--AGREEMENT--WITH--THE-VIOLATOR-MAY-BE-TERMINATED
14 UNDER-70-24-422, IF-THE-VIOLATION-HAS-NOT-BEEN-REMEDIED; 24
15 HOURS-AFTER-THE-VIOLATOR-RECEIVES-NOTICE-OF-THE-VIOLATION;

16 (4)(2) If a landlord plans to change the use of all or
17 part of the land composing the mobile home park from mobile
18 home lot rentals to some other use, each affected mobile
19 home owner must receive notice from the landlord as follows:

20 (a) The landlord shall give the mobile home owner and a
21 tenant of the mobile home owner at least 15 days' written
22 notice that the landlord will be appearing before a unit of
23 local government to request permits for a change of use of
24 the mobile home park.

25 (b) After all required permits requesting a change of

use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice, the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (4)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(5) A tenant may challenge by court action the termination of a rental agreement under this section. The court shall determine if the landlord has established any ground for termination of a rental agreement under this section. Termination may not be ordered if the court determines that the landlord's conduct is in retaliation for the tenant's conduct within the meaning of 70-24-431.

(3) (A) A LANDLORD MAY TERMINATE THE RENTAL AGREEMENT OF A MOBILE HOME OWNER OR A TENANT OF A MOBILE HOME OWNER IF THE LANDLORD, BY THE TERMINATION:

(I) DOES NOT VIOLATE A PROVISION OF THIS SECTION OR ANY OTHER STATE STATUTE; AND

(II) HAS A LEGITIMATE BUSINESS REASON.

(B) A LANDLORD SHALL GIVE THE MOBILE HOME OWNER OR THE TENANT OF A MOBILE HOME OWNER A MINIMUM OF 6-MONTHS' 90 DAYS' WRITTEN NOTICE OF TERMINATION.

(4) FOR PURPOSES OF CALCULATING THE TOTAL NUMBER OF NOTICES GIVEN WITHIN A 12-MONTH PERIOD UNDER SUBSECTION (1)(B), ONLY ONE NOTICE PER VIOLATION PER MONTH MAY BE INCLUDED IN THE CALCULATION.

~~NEW SECTION--Section 3--Tenant's right to sell mobile--~~
~~home--upon--termination--of--tenancy--(1)--When--a--rental~~
~~agreement--is--terminated--pursuant--to--(section 2)--for--any~~
~~reason--other--than--nonpayment--of--rent--a--mobile--home--owner~~
~~may--leave--the--mobile--home--in--the--park--for--up--to--120--days--for~~
~~the--purpose--of--selling--the--mobile--home--No--one--may--reside--in~~
~~the--mobile--home--during--the--120--day--period--The--mobile--home~~
~~owner--is--responsible--for--the--payment--of--rent--during--the~~
~~120--day--period--and--shall--maintain--the--mobile--home--space--The~~
~~landlord--has--a--lien--on--the--mobile--home--to--the--extent--rental~~
~~payments--are--not--made--or--maintenance--is--not--performed--~~

(2) At the end of the 120-day period, the landlord may remove the mobile home from the lot after giving 5 days' written notice of intent to move the mobile home and may charge the mobile home owner with the costs associated with

1 the-mover

2 **SECTION 3. SECTION 70-24-311, MCA, IS AMENDED TO READ:**

3 "70-24-311. Landlord authorized to adopt rules. (1) A
4 landlord may adopt a rule concerning the tenant's use and
5 occupancy of the premises. A rule is enforceable against the
6 tenant only if:

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

12 (b) it is reasonably related to the purpose for which
13 it is adopted;

14 (c) it applies to all occupants in the premises in a
15 fair manner;

16 (d) it is sufficiently explicit in its prohibition,
17 direction, or limitation of the tenant's conduct to fairly
18 inform him of what he must or must not do to comply;

19 (e) it is not for the purpose of evading the
20 obligations of the landlord; and

21 (f) the tenant has notice of it at the time he enters
22 into the rental agreement or when it is adopted.

23 (2) If a rule is adopted after a tenant enters into a
24 rental agreement that works a substantial modification of
25 his bargain, it is not valid until 7 days after notice to

1 the tenant in the case of a week to week tenancy or 30 days'
2 notice in the case of tenancies from month to month.

3 (3) A rule adopted by a landlord of a mobile home park
4 must be in writing and must be given to each mobile home
5 owner or tenant of a mobile home owner residing in the
6 mobile home park and to each new resident upon arrival."

7 **NEW SECTION. Section 4. Codification instruction.**
8 [Sections SECTION 2 and-3] are IS intended to be codified as
9 an integral part of Title 70, chapter 24, and the provisions
10 of Title 70, chapter 24, apply to [sections SECTION 2 and
11 3].

12 ~~NEW-SECTION--Section-4--Coordination--instruction--if--~~
13 ~~House--Bill-No--422-is-passed-and-approved--the-reference-in~~
14 ~~{section--2(3)}--to--70-24-311--must--be--changed---to---the~~
15 ~~corresponding-section-in-House-Bill-No--422.~~

16 **NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS**
17 **EFFECTIVE 30 DAYS AFTER PASSAGE AND APPROVAL.**

-End-