

HOUSE BILL NO. 422

INTRODUCED BY LARSON, REAM, WANZENRIED, HARRINGTON,
KADAS, MENAHAN, DOWELL, MCCULLOCH, SQUIRES,
TOOLE, RANEY, HARPER

IN THE HOUSE

FEBRUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT. SECOND READING, DO PASS.
FEBRUARY 22, 1993	ENGROSSING REPORT.
FEBRUARY 23, 1993	THIRD READING, PASSED. AYES, 91; NOES, 9.
FEBRUARY 24, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. FIRST READING.
MARCH 29, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN AS AMENDED.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 40; NOES, 8. RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 6, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
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APRIL 12, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 422INTRODUCED BY LarsonReam Wanzelried Harmon Kados Menclian DawdA BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS;AUTHORIZING ARBITRATION OF DISPUTES CONCERNING RULE
ADOPTION; PROVIDING FOR ATTORNEY GENERAL REVIEW OF MOBILE
HOME PARK RULES IN CERTAIN CIRCUMSTANCES; AUTHORIZING THE
CREATION OF MOBILE HOME PARK RESIDENT ASSOCIATIONS; SETTING
FORTH THE MAINTENANCE RESPONSIBILITIES OF MOBILE HOME PARK
OPERATORS; AND AMENDING SECTION 70-24-103, MCA."

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

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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
the dwelling unit or the building of which it is a part or
of a mobile home park and also means includes a manager of
the premises who fails to disclose his the managerial
position and the operator of a mobile home park.(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 50-52-102.(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:

1 (a) the legal title to property; or
 2 (b) the beneficial ownership and a right to present use
 3 and enjoyment of the premises, including a mortgagee in
 4 possession.

5 {10}(10) "Person" includes an individual or organization.
 6 {9}(11) "Premises" means a dwelling unit and the
 7 structure of which it is a part, the facilities and
 8 appurtenances therein, and the grounds, areas, and
 9 facilities held out for the use of tenants generally or
 10 promised for the use of a tenant.

11 {10}(12) "Rent" means all payments to be made to the
 12 landlord under the rental agreement.

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

17 {12}(14) "Roomer" means a person occupying a dwelling
 18 unit that does not include a toilet, a bathtub or a shower,
 19 a refrigerator, a stove, or a kitchen sink, all of which are
 20 provided by the landlord and one or more of these facilities
 21 are used in common by occupants in the structure.

22 {13}(15) "Single family residence" means a structure
 23 maintained and used as a single dwelling unit.
 24 Notwithstanding that a dwelling unit shares one or more
 25 walls with another dwelling unit, it is a single family

1 residence if it has direct access to a street or
 2 thoroughfare and shares neither heating facilities, hot
 3 water equipment, nor any other essential facility or service
 4 with another dwelling unit.

5 {14}(16) "Tenant" means a person entitled under a rental
 6 agreement to occupy a dwelling unit to the exclusion of
 7 others."

8 NEW SECTION. **Section 2. Mobile home parks -- park**
 9 **rules -- arbitration.** (1) A mobile home park operator may
 10 adopt a rule concerning the rental occupancy of a mobile
 11 home space and the use of common areas and facilities in
 12 accordance with 70-24-311 and the following:

13 (a) a rule may not be unreasonable, ~~unfair~~, or
 14 ~~unconscionable~~;

15 (b) a rule that does not apply uniformly to all mobile
 16 home residents of a similar class creates a rebuttable
 17 presumption, as defined in 70-24-431, that the rule is
 18 unfair;

19 (c) the rule has been approved as provided in
 20 subsection (2) or (3);

21 (d) except in a bona fide emergency, a change in a rule
 22 is not effective until at least 60 days after the residents
 23 receive notice of the change; and

24 (e) a resident against whom a rule is enforced may seek
 25 judicial review of the rule for compliance with this

1 section.

2 (2) (a) If a resident association exists for a mobile
3 home park, then a change in a rule may not be implemented
4 without the approval of the association. If approval is
5 withheld, the mobile home park operator may initiate an
6 arbitration procedure with the resident association pursuant
7 to this subsection (2). If the arbitrator finds that the
8 rule change is unreasonable, unfair, or unconscionable, it
9 may not be implemented. If a resident or resident
10 association and the mobile home park operator cannot agree
11 on the selection of an arbitrator, the district court, upon
12 application of a party, shall appoint an arbitrator. The
13 decision of the arbitrator must be a signed written
14 document, with copies provided to each party. The decision
15 must apportion expenses and other fees incurred between the
16 parties as equitable, except that the fees for the
17 arbitrator must be divided equally between the parties. Each
18 party has the right in the arbitration proceeding to be
19 represented by an attorney or, in the case of a resident, by
20 the resident association. Upon application of a party, a
21 court may vacate, modify, or correct a decision if:

- 22 (i) the decision was procured by undue means;
- 23 (ii) there was evident partiality of an arbitrator or
- 24 misconduct prejudicial to the rights of a party;
- 25 (iii) the arbitrator exceeded the arbitrator's powers;

1 or

2 (iv) the decision was demonstrably irrational.

3 (b) If the court vacates an arbitrator's decision, it
4 shall appoint a new arbitrator.

5 (3) If a resident association does not exist, a rule
6 change must be submitted to the attorney general for
7 approval. The attorney general shall review the rule for
8 reasonableness, fairness, and conscionability and to ensure
9 that the rule conforms to applicable state and local law. A
10 party may appeal the attorney general's decision to approve
11 or disapprove a rule to the district court.

12 (4) Each common area facility must be open or available
13 to residents at all reasonable hours, and the hours of a
14 common recreational facility must be posted at the facility.

15 NEW SECTION. Section 3. Resident associations --
16 harassment prohibited -- meetings. (1) The membership of a
17 resident association may elect officers of the association
18 at a meeting at which a majority of the members are present.
19 Except in emergency situations, 7 days' notice of an
20 association meeting must be given to all residents. All
21 residents may attend meetings, but the mobile home park
22 operator and the operator's employees may not be members and
23 may not attend meetings unless specifically invited to a
24 particular part of a meeting. An officer or member of a
25 resident association is not personally financially

1 responsible for the acts or omissions of the association or
2 other officers or members of the association.

3 (2) It is unlawful for a mobile home park operator to
4 increase a resident's rent or decrease services, change park
5 rules, terminate or threaten to terminate a rental
6 agreement, file a civil action, or take any other action in
7 retaliation after:

8 (a) the resident has filed or expressed an intention to
9 file a lawsuit or administrative action against the mobile
10 home park operator; or

11 (b) the resident has performed or expressed an intent
12 to perform any other act for the purpose of asserting,
13 protecting, or invoking the protection of any right secured
14 to residents under federal, state, or local law.

15 (3) A mobile home park operator may not harass or
16 threaten any resident association or engage in unfair or
17 deceptive conduct to inhibit or interfere with the creation
18 or operation of an association.

19 (4) (a) The mobile home park operator shall permit
20 meetings by a resident association or residents relating to
21 mobile home living or social or educational purposes,
22 including forums for or speeches by public officials or
23 candidates for public office.

24 (b) The mobile home park operator shall meet and
25 consult with residents upon written request, within 30 days

1 of the request, either individually or collectively, or with
2 representatives of a group of residents who have signed a
3 request to be represented on the following matters:

4 (i) amendments to park rules and regulations;

5 (ii) standards for maintenance of physical improvements
6 in the park; or

7 (iii) the addition, alteration, or deletion of services,
8 equipment, or physical improvements.

9 NEW SECTION. Section 4. Warranty of habitability --

10 mobile home park operator's maintenance obligations --
11 resident self-help. (1) In a rental agreement the mobile
12 home park operator is considered to covenant and warrant
13 that the space and its associated facilities are fit for
14 human habitation.

15 (2) In addition to the obligations imposed by
16 70-24-303, the mobile home park operator shall:

17 (a) maintain roads within the mobile home park in a
18 safe condition including arranging for snow removal and
19 adequate drainage. The mobile home park operator is
20 responsible for damage to any vehicle that is the direct
21 result of any unrepaired or poorly maintained access road
22 within the park.

23 (b) maintain the premises and regrade them when
24 necessary to prevent the accumulation of stagnant water and
25 the detrimental effects of moving water;

1 (c) keep the common areas of the mobile home park free
2 from any species of weed or plant growth that is noxious or
3 detrimental to the health of the residents; and

4 (d) maintain and protect all utilities provided to the
5 mobile home and keep water and sewer lines in good working
6 condition. Maintenance responsibility extends to that point
7 where the normal mobile home utility hookups connect to
8 those provided by the mobile home park operator or utility
9 company.

10 (3) The mobile home park operator shall authorize a
11 manager, assistant manager, or other employee to make
12 repairs that are the responsibility of the mobile home park
13 operator or enter into a contract with a third party to
14 provide emergency repairs that are the responsibility of the
15 mobile home park operator on occasions when the manager,
16 assistant manager, or other designated employee is not
17 physically present in the park. The mobile home park
18 operator shall notify each resident of the telephone number
19 where the third party may be reached.

20 (4) If a mobile home park operator fails to comply with
21 this section, the resident may recover damages for the
22 breach pursuant to 70-24-406 or make the repairs pursuant to
23 70-24-406.

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 422

INTRODUCED BY LARSON, REAM, WANZENRIED, HARRINGTON

KADAS, MENAHAN, DOWELL, MCCULLOCH, SQUIRES,

TOOLE, RANEY, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS;
~~AUTHORIZING--ARBITRATION---OF---DISPUTES---CONCERNING---RULE~~
~~ADOPTION;--PROVIDING--FOR--ATTORNEY-GENERAL-REVIEW-OF-MOBILE~~
~~HOME-PARK-RULES-IN-CERTAIN--CIRCUMSTANCES; AUTHORIZING THE~~
CREATION OF MOBILE HOME PARK RESIDENT ASSOCIATIONS; ~~SETTING~~
~~FORTH-THE-MAINTENANCE-RESPONSIBILITIES-OF-MOBILE--HOME--PARK~~
OPERATORS; AND AMENDING SECTION SECTIONS 70-24-103,
70-24-311, AND 70-24-431, MCA."

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
the dwelling unit or the building of which it is a part or
of a mobile home park and also means includes a manager of
the premises who fails to disclose his the managerial
position and the operator of a mobile home park.

(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 50-52-102.

~~(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

1 other legal or commercial entity.

2 ~~(7)~~(9) "Owner" means one or more persons, jointly or
3 severally, in whom is vested all or part of:

4 (a) the legal title to property; or

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

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

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

14 ~~(10)~~(12) "Rent" means all payments to be made to the
15 landlord under the rental agreement.

16 ~~(11)~~(13) "Rental agreement" means all agreements,
17 written or oral, and valid rules adopted under 70-24-311
18 embodying the terms and conditions concerning the use and
19 occupancy of a dwelling unit and premises.

20 ~~(12)~~(14) "Roomer" means a person occupying a dwelling
21 unit that does not include a toilet, a bathtub or a shower,
22 a refrigerator, a stove, or a kitchen sink, all of which are
23 provided by the landlord and one or more of these facilities
24 are used in common by occupants in the structure.

25 ~~(13)~~(15) "Single family residence" means a structure

1 maintained and used as a single dwelling unit.
2 Notwithstanding that a dwelling unit shares one or more
3 walls with another dwelling unit, it is a single family
4 residence if it has direct access to a street or
5 thoroughfare and shares neither heating facilities, hot
6 water equipment, nor any other essential facility or service
7 with another dwelling unit.

8 ~~(14)~~(16) "Tenant" means a person entitled under a rental
9 agreement to occupy a dwelling unit to the exclusion of
10 others."

11 NEW SECTION. Section 2. Mobile home parks -- park
12 rules -- arbitration. (1) A mobile home park operator may
13 adopt a rule concerning the rental occupancy of a mobile
14 home space and the use of common areas and facilities in
15 accordance with 70-24-311 and the following:

16 ~~(a) -- a rule -- may -- not -- be -- unreasonable, -- unfair, -- or~~
17 ~~unconscionable;~~

18 ~~(b)(A) a A rule that does not apply uniformly to all~~
19 ~~mobile home residents of a similar class creates a~~
20 ~~rebuttable presumption, as defined in 70-24-431, that the~~
21 ~~rule is unfair;~~

22 ~~(c) -- the -- rule -- has -- been -- approved -- as -- provided -- in~~
23 ~~subsection (2) or (3);~~

24 ~~(d) -- except in a bona fide emergency, a change in a rule~~
25 ~~is not effective until at least 60 days after the residents~~

1 receive notice of the change; and

2 (e) a resident against whom a rule is enforced may seek
3 judicial review of the rule for compliance with this
4 section;

5 (2) (a) If a resident association exists for a mobile
6 home park, then a change in a rule may not be implemented
7 without the approval of the association; if approval is
8 withheld, the mobile home park operator may initiate an
9 arbitration procedure with the resident association pursuant
10 to this subsection (2); if the arbitrator finds that the
11 rule change is unreasonable, unfair, or unconscionable, it
12 may not be implemented; if a resident or resident
13 association and the mobile home park operator cannot agree
14 on the selection of an arbitrator, the district court, upon
15 application of a party, shall appoint an arbitrator; the
16 decision of the arbitrator must be a signed written
17 document, with copies provided to each party; the decision
18 must apportion expenses and other fees incurred between the
19 parties as equitable, except that the fees for the
20 arbitrator must be divided equally between the parties; each
21 party has the right in the arbitration proceeding to be
22 represented by an attorney or, in the case of a resident, by
23 the resident association; upon application of a party, a
24 court may vacate, modify, or correct a decision if:

25 (i) the decision was procured by undue means;

1 (ii) there was evident partiality of an arbitrator or
2 misconduct prejudicial to the rights of a party;

3 (iii) the arbitrator exceeded the arbitrator's powers;
4 or

5 (iv) the decision was demonstrably irrational;

6 (b) If the court vacates an arbitrator's decision, it
7 shall appoint a new arbitrator.

8 (3) If a resident association does not exist, a rule
9 change must be submitted to the attorney general for
10 approval. The attorney general shall review the rule for
11 reasonableness, fairness, and conscionability and to ensure
12 that the rule conforms to applicable state and local law. A
13 party may appeal the attorney general's decision to approve
14 or disapprove a rule to the district court.

15 (B) ALL RULES MUST BE WRITTEN AND MUST BE GIVEN TO EACH
16 MOBILE HOME PARK RESIDENT WHO RESIDES IN A MOBILE HOME PARK
17 AND TO ALL NEW RESIDENTS OF A MOBILE HOME PARK UPON ARRIVAL.

18 (4) (2) Each common area facility must be open or
19 available to residents at all reasonable hours, and the
20 hours of a common recreational facility must be posted at
21 the facility.

22 NEW SECTION. Section 3. Resident associations --
23 harassment prohibited -- meetings. (i) The membership of a
24 resident association may elect officers of the association
25 at a meeting at which a majority of the members are present.

1 Except--in--emergency--situations,--7--days'--notice--of--an
 2 association-meeting-must-be-given-to--all--residents. All
 3 residents may attend meetings, but AND the mobile home park
 4 operator and the operator's employees may not-be-members-and
 5 may-not attend meetings, unless-specifically--invited--to--a
 6 particular--part--of--a--meeting.--An-officer-or-member-of-a
 7 resident---association---is---not---personally---financially
 8 responsible-for-the-acts-or-omissions-of-the-association--or
 9 other-officers-or-members-of-the-association.

10 (2)--It--is--unlawful-for-a-mobile-home-park-operator-to
 11 increase-a-resident's-rent-or-decrease-services, change-park
 12 rules,--terminate--or--threaten--to---terminate---a---rental
 13 agreement,--file-a-civil-action, or take-any-other-action-in
 14 retaliation-after:

15 (a)--the-resident-has-filed-or-expressed-an-intention-to
 16 file-a-lawsuit-or-administrative-action-against--the--mobile
 17 home-park-operator; or

18 (b)--the--resident--has-performed-or-expressed-an-intent
 19 to-perform-any-other--act--for--the--purpose--of--asserting,
 20 protecting,--or-invoking-the-protection-of-any-right-secured
 21 to-residents-under-federal, state, or-local-law.

22 (3)--A-mobile-home--park--operator--may--not--harass--or
 23 threaten--any--resident--association--or-engage-in-unfair-or
 24 deceptive-conduct-to-inhibit-or-interfere-with-the--creation
 25 or-operation-of-an-association.

1 (4)--(a)--The--mobile--home--park--operator--shall-permit
 2 meetings-by-a-resident-association-or-residents-relating--to
 3 mobile--home--living--or--social--or--educational--purposes,
 4 including--forums--for--or--speeches--by-public-officials-or
 5 candidates-for-public-office.

6 (b)--The--mobile--home--park--operator--shall--meet--and
 7 consult-with-residents-upon-written-request, within-30--days
 8 of-the-request, either-individually-or-collectively, or-with
 9 representatives--of--a--group-of-residents-who-have-signed-a
 10 request-to-be-represented-on-the-following-matters:

11 (i)--amendments-to-park-rules-and-regulations;

12 (ii)--standards-for-maintenance-of-physical--improvements
 13 in-the-park; or

14 (iii)--the-addition, alteration, or-deletion-of-services,
 15 equipment, or-physical-improvements.

16 NEW-SECTION:--Section-4,--Warranty--of--habitability---
 17 mobile--home--park--operator's--maintenance--obligations---
 18 resident--self-help,--(i)--in--a-rental-agreement-the-mobile
 19 home-park-operator-is-considered--to--covenant--and--warrant
 20 that--the--space--and--its-associated-facilities-are-fit-for
 21 human-habitation.

22 (2)--In--addition--to---the---obligations---imposed---by
 23 70-24-303, the-mobile-home-park-operator-shall:

24 (a)--maintain--roads--within--the--mobile-home-park-in-a
 25 safe-condition-including--arranging-for--snow--removal--and

1 adequate---drainage.---The---mobile---home---park---operator---is
2 responsible-for-damage-to-any-vehicle---that---is---the---direct
3 result---of---any---unrepaired-or-poorly-maintained-access-road
4 within-the-park;

5 (b)---maintain---the---premises---and---regrade---them---when
6 necessary---to-prevent-the-accumulation-of-stagnant-water-and
7 the-detrimental-effects-of-moving-water;

8 (c)---keep-the-common-areas-of-the-mobile-home-park---free
9 from---any-species-of-weed-or-plant-growth-that-is-noxious-or
10 detrimental-to-the-health-of-the-residents; and

11 (d)---maintain-and-protect-all-utilities-provided-to---the
12 mobile---home---and-keep-water-and-sewer-lines-in-good-working
13 condition.---Maintenance-responsibility-extends-to-that---point
14 where---the---normal---mobile---home---utility-hookups-connect-to
15 those-provided-by-the-mobile-home-park-operator---or---utility
16 company;

17 (3)---The---mobile---home---park---operator---shall-authorize-a
18 manager,---assistant---manager,---or---other---employee---to---make
19 repairs---that-are-the-responsibility-of-the-mobile-home---park
20 operator---or---enter---into---a---contract-with-a-third-party-to
21 provide-emergency-repairs-that-are-the-responsibility-of-the
22 mobile-home-park-operator-on---occasions---when---the---manager,
23 assistant---manager,---or---other---designated---employee---is-not
24 physically-present---in---the---park.---The---mobile---home---park
25 operator-shall-notify-each-resident-of-the-telephone-number

1 where-the-third-party-may-be-reached;

2 (4)---If-a-mobile-home-park-operator-fails-to-comply-with
3 this---section,---the---resident---may---recover---damages-for-the
4 breach-pursuant-to-70-24-406-or-make-the-repairs-pursuant-to
5 70-24-406;

6 **SECTION 4. SECTION 70-24-311, MCA, IS AMENDED TO READ:**

7 "70-24-311. Landlord authorized to adopt rules. (1) A
8 landlord may adopt a rule concerning the tenant's use and
9 occupancy of the premises. A rule is enforceable against the
10 tenant only if:

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

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

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

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

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

25 (f) the tenant has notice of it at the time he enters

into the rental agreement or when it is adopted.

(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park shall adopt written rules concerning the tenant's use and occupancy of the premises.

~~(2)~~(3) 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."

SECTION 5. SECTION 70-24-431, MCA, IS AMENDED TO READ:

***70-24-431. Retaliatory conduct by landlord prohibited.**

(1) Except as provided in this section, a landlord may not retaliate by increasing rent, decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union, mobile home park residents association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of his family, or other persons on the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling

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1 unit.
2 (5) The maintenance of an action under subsection (4)
3 of this section does not release the landlord from liability
4 under 70-24-405(2)."

-End-

1 HOUSE BILL NO. 422

2 INTRODUCED BY LARSON, REAM, WANZENRIED, HARRINGTON

3 KADAS, MENAHAN, DOWELL, MCCULLOCH, SQUIRES,

4 TOOLE, RANEY, HARPER

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
7 FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS;
8 ~~AUTHORIZING--ARBITRATION---OF---DISPUTES---CONCERNING---RULE~~
9 ~~ADOPTION;--PROVIDING--FOR--ATTORNEY-GENERAL-REVIEW-OF-MOBILE~~
10 ~~HOME-PARK-RULES-IN-CERTAIN-CIRCUMSTANCES;~~ AUTHORIZING THE
11 CREATION OF MOBILE HOME PARK RESIDENT ASSOCIATIONS; ~~SETTIN~~
12 ~~ORTH-THE-MAINTENANCE-RESPONSIBILITIES-OF-MOBILE--HOME--PARK~~
13 ~~OPERATORS;~~ AND AMENDING ~~SECTION~~ SECTIONS 70-24-103,
14 70-24-311, AND 70-24-431, MCA."
15

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

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

18 "70-24-103. General definitions. Subject to additional
19 definitions contained in subsequent sections and unless the
20 context otherwise requires, in this chapter the following
21 definitions apply:

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

25 (2) "Court" means the appropriate district court or the

1 appropriate justice's court.

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

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

11 (5) "Landlord" means the owner, lessor, or sublessor of
12 the dwelling unit or the building of which it is a part or
13 of a mobile home park and also means includes a manager of
14 the premises who fails to disclose his the managerial
15 position and the operator of a mobile home park.

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

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

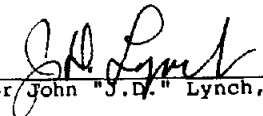
SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 26, 1993

Page 2 of 2
March 26, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 422 (third reading copy -- blue), respectfully report that House Bill No. 422 be amended as follows and as so amended be concurred in.

Signed: 
Senator John "S.D." Lynch, Chair

That such amendments read:

1. Title, line 11.
Strike: "RESIDENT"
Insert: "TENANT"

2. Page 4, line 12.
Strike: "-- arbitration"
Strike: "operator"
Insert: "landlord"

3. Page 4, line 15.
Strike: "and the following:"
Insert: "."

4. Page 4, line 18.
Strike: "(A)"
Following: "rule"
Insert: "may not be unreasonable, and a rule"

5. Page 4, line 21.
Following: "7"
Insert: "."

6. Page 6, line 14.
Strike: "."

7. Page 6, lines 15 through 17.
Strike: subsection (b) in its entirety

8. Page 6, line 23.
Following: "(1)"
Insert: "(1)"

9. Page 7, line 3.
Strike: "AND"
Insert: "but"

10. Page 7, line 4.
Strike: "operator"
Insert: "landlord"
Strike: "operator's"
Insert: "landlord's"

11. Page 7, line 5.
Following: "not"
Insert: "not be members and may not"
Following: "meetings"
Insert: "unless specifically invited by the tenant association."
(2) The mobile home park landlord may not prohibit meetings by a tenant association or tenants relating to mobile home living"

12. Page 10, following line 5.
Insert: "NEW SECTION. Section 4. Mobile home park landlord's road maintenance obligations. In addition to the obligations imposed by 70-24-303, the mobile home park landlord shall maintain roads within the mobile home park in a safe condition, including arranging for snow removal."
Renumber: subsequent sections

13. Page 11, line 4.
Strike: "shall"
Insert: "may"

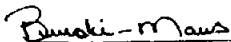
14. Page 11, following line 5.
Insert: "(3) All rules must be written and must be given to each mobile home park tenant who resides in a mobile home park and to all new tenants of a mobile home park."
Renumber: subsequent subsection

15. Page 11, line 24.
Strike: "residents"
Insert: "tenant"

16. Page 13, line 5.
Following: line 4
Insert: "NEW SECTION. Section 7. Codification instruction. [Sections 2 through 4] are intended to be codified as an integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [sections 2 through 4]."

-END-

AM- Amd. Coord.
AM- Sec. of Senate


Senator Carryng Bill

681906SC.Sma

SENATE

HB 422
681906SC.Sma

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 31, 1993 10:33 am

Mr. Chairman: I move to amend House Bill No. 422 (third reading copy -- blue).

ADOPT

REJECT

Signed: B. F. Christiaens
Senator B. F. "Chris" Christiaens

That such amendments read:

Amendments to House Bill No. 422
Senate Committee on Business and Industry amendment dated March 26, 1993

Amendment No. 1
In Insert No. 12, following "maintain"
Insert: "common"
Strike: "removal"
Insert: "plowing as is reasonable to keep the roads passable"

-END-

M- Amd. Coord.

r721032CW.Sma

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 31, 1993 6:13 pm

Mr. Chairman: I move to amend House Bill No. 422 (third reading copy -- blue).

ADOPT

REJECT

Signed: Judy Jacobson
Senator Judy Jacobson

That such amendments read:

1. Page 10, line 22.
Following: "inform"
Strike: "him"
Insert: "the tenant"
Following: "what"
Strike: "he"
Insert: "the tenant"
2. Page 10, line 25.
Following: "time"
Strike: "he"
Insert: "the tenant"
3. Page 11, line 8.
Strike: "his"
Insert: "the tenant's"
4. Page 12, line 20.
Following: "of"
Strike: "his"
Insert: "the tenant's"

-END-

___ Amd. Coord.

SENATE

HB422

r721813CW.Sma

1 HOUSE BILL NO. 422

2 INTRODUCED BY LARSON, REAM, WANZENRIED, HARRINGTON,

3 KADAS, MENAHAN, DOWELL, MCCULLOCH, SQUIRES,

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5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS
7 FOR ADOPTION OF RULES GOVERNING MOBILE HOME PARKS;
8 ~~AUTHORIZING--ARBITRATION--OF--DISPUTES--CONCERNING--RULE~~
9 ~~ADOPTION;--PROVIDING--FOR--ATTORNEY-GENERAL-REVIEW-OF-MOBILE~~
10 ~~HOME-PARK-RULES-IN-CERTAIN--CIRCUMSTANCES; AUTHORIZING THE~~
11 ~~CREATION OF MOBILE HOME PARK RESIDENT TENANT ASSOCIATIONS;~~
12 ~~SETTING-FORTH-THE--MAINTENANCE--RESPONSIBILITIES--OF--MOBILE~~
13 ~~HOME---PARK---OPERATORS; AND AMENDING SECTION SECTIONS~~
14 ~~70-24-103, 70-24-311, AND 70-24-431, MCA."~~

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:17 **Section 1.** Section 70-24-103, MCA, is amended to read:

18 "70-24-103. General definitions. Subject to additional
19 definitions contained in subsequent sections and unless the
20 context otherwise requires, in this chapter the following
21 definitions apply:

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

25 (2) "Court" means the appropriate district court or the

1 appropriate justice's court.

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

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

11 (5) "Landlord" means the owner, lessor, or sublessor of
12 the dwelling unit or the building of which it is a part or
13 of a mobile home park and also means includes a manager of
14 the premises who fails to disclose his the managerial
15 position and the operator of a mobile home park.

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

20 (7) "Mobile home park" means a trailer court as defined
21 in 50-52-102.

22 ~~(6)~~ (8) "Organization" includes a corporation,
23 government, governmental subdivision or agency, business
24 trust, estate, trust, partnership or association, two or
25 more persons having a joint or common interest, and any

1 other legal or commercial entity.

2 ~~{7}~~(9) "Owner" means one or more persons, jointly or
3 severally, in whom is vested all or part of:

4 (a) the legal title to property; or

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

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

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

14 ~~{10}~~(12) "Rent" means all payments to be made to the
15 landlord under the rental agreement.

16 ~~{11}~~(13) "Rental agreement" means all agreements,
17 written or oral, and valid rules adopted under 70-24-311
18 embodying the terms and conditions concerning the use and
19 occupancy of a dwelling unit and premises.

20 ~~{12}~~(14) "Roomer" means a person occupying a dwelling
21 unit that does not include a toilet, a bathtub or a shower,
22 a refrigerator, a stove, or a kitchen sink, all of which are
23 provided by the landlord and one or more of these facilities
24 are used in common by occupants in the structure.

25 ~~{13}~~(15) "Single family residence" means a structure

1 maintained and used as a single dwelling unit.
2 Notwithstanding that a dwelling unit shares one or more
3 walls with another dwelling unit, it is a single family
4 residence if it has direct access to a street or
5 thoroughfare and shares neither heating facilities, hot
6 water equipment, nor any other essential facility or service
7 with another dwelling unit.

8 ~~{14}~~(16) "Tenant" means a person entitled under a rental
9 agreement to occupy a dwelling unit to the exclusion of
10 others."

11 NEW SECTION. Section 2. Mobile home parks -- park
12 rules ---arbitration. (1) A mobile home park operator
13 LANDLORD may adopt a rule concerning the rental occupancy of
14 a mobile home space and the use of common areas and
15 facilities in accordance with 70-24-311 and-the-following:

16 ~~{a}--a--rule--may--not--be--unreasonable;--unfair;--or~~
17 ~~unconscionable;~~

18 ~~{b}{A}~~ a A rule MAY NOT BE UNREASONABLE, AND A RULE
19 that does not apply uniformly to all mobile home residents
20 of a similar class creates a rebuttable presumption, as
21 defined in 70-24-431, that the rule is unfair;.

22 ~~{c}--the--rule--has--been--approved---as---provided---in~~
23 ~~subsection-(2)-or-(3);~~

24 ~~{d}--except-in-a-bona-fide-emergency,-a-change-in-a-rule~~
25 ~~is--not-effective-until-at-least-60-days-after-the-residents~~

1 receive notice of the change; and

2 (e) a resident against whom a rule is enforced may seek

3 judicial review of the rule for compliance with this

4 section;

5 (2) (a) If a resident association exists for a mobile

6 home park, then a change in a rule may not be implemented

7 without the approval of the association. If approval is

8 withheld, the mobile home park operator may initiate an

9 arbitration procedure with the resident association pursuant

10 to this subsection (2). If the arbitrator finds that the

11 rule change is unreasonable, unfair, or unconscionable, it

12 may not be implemented. If a resident or resident

13 association and the mobile home park operator cannot agree

14 on the selection of an arbitrator, the district court, upon

15 application of a party, shall appoint an arbitrator. The

16 decision of the arbitrator must be a signed written

17 document, with copies provided to each party. The decision

18 must apportion expenses and other fees incurred between the

19 parties as equitable, except that the fees for the

20 arbitrator must be divided equally between the parties. Each

21 party has the right in the arbitration proceeding to be

22 represented by an attorney or, in the case of a resident, by

23 the resident association. Upon application of a party, a

24 court may vacate, modify, or correct a decision if:

25 (i) the decision was procured by undue means;

1 (ii) there was evident partiality of an arbitrator or

2 misconduct prejudicial to the rights of a party;

3 (iii) the arbitrator exceeded the arbitrator's powers;

4 or

5 (iv) the decision was demonstrably irrational;

6 (b) If the court vacates an arbitrator's decision, it

7 shall appoint a new arbitrator.

8 (3) If a resident association does not exist, a rule

9 change must be submitted to the attorney general for

10 approval. The attorney general shall review the rule for

11 reasonableness, fairness, and conscionability and to ensure

12 that the rule conforms to applicable state and local law. A

13 party may appeal the attorney general's decision to approve

14 or disapprove a rule to the district court.

15 (B) ALL RULES MUST BE WRITTEN AND MUST BE GIVEN TO EACH

16 MOBILE HOME PARK RESIDENT WHO RESIDES IN A MOBILE HOME PARK

17 AND TO ALL NEW RESIDENTS OF A MOBILE HOME PARK UPON ARRIVAL;

18 (4)(2) Each common area facility must be open or

19 available to residents at all reasonable hours, and the

20 hours of a common recreational facility must be posted at

21 the facility.

22 NEW SECTION. Section 3. Resident associations --

23 harassment--prohibited -- meetings. (1) The membership of

24 a resident association may elect officers of the association

25 at a meeting at which a majority of the members are present.

Except--in--emergency--situations,--7--days--notice--of--an
association--meeting--must--be--given--to--all--residents. All
residents may attend meetings, but AND BUT the mobile home
park operator LANDLORD and the operator's LANDLORD'S
employees may not be members and may not NOT BE MEMBERS AND
MAY NOT attend meetings UNLESS SPECIFICALLY INVITED BY THE
TENANT ASSOCIATION.

(2) THE MOBILE HOME PARK LANDLORD MAY NOT PROHIBIT
MEETINGS BY A TENANT ASSOCIATION OR TENANTS RELATING TO
MOBILE HOME LIVING. unless--specifically--invited--to--a
particular--part--of--a--meeting. An officer or member of a
resident--association--is--not--personally--financially
responsible for the acts or omissions of the association or
other officers or members of the association.

(2)--It--is--unlawful for a mobile home park operator to
increase a resident's rent or decrease services, change park
rules,--terminate--or--threaten--to--terminate--a--rental
agreement,--file a civil action, or take any other action in
retaliation after:

(a)--the resident has filed or expressed an intention to
file a lawsuit or administrative action against the mobile
home park operator, or

(b)--the resident has performed or expressed an intent
to perform any other act for the purpose of asserting,
protecting, or invoking the protection of any right secured

to residents under federal, state, or local law.

(3)--A mobile home park operator may not harass or
threaten any resident association or engage in unfair or
deceptive conduct to inhibit or interfere with the creation
or operation of an association.

(4)--(a) The mobile home park operator shall permit
meetings by a resident association or residents relating to
mobile home living or social or educational purposes,
including forums for or speeches by public officials or
candidates for public office.

(b) The mobile home park operator shall meet and
consult with residents upon written request, within 30 days
of the request, either individually or collectively, or with
representatives of a group of residents who have signed a
request to be represented on the following matters:

(i) amendments to park rules and regulations;

(ii) standards for maintenance of physical improvements
in the park; or

(iii) the addition, alteration, or deletion of services,
equipment, or physical improvements.

NEW SECTION: Section 4. Warranty of habitability--
mobile home park operator's maintenance obligations--
resident self-help--(1) In a rental agreement the mobile
home park operator is considered to covenant and warrant
that the space and its associated facilities are fit for

human-habitation:

{2}--In--addition--to--the--obligations--imposed--by
70-24-303, the mobile-home-park-operator shall:

{a}--maintain--roads--within--the--mobile-home-park--in--a
safe-condition-including--arranging--for--snow--removal--and
adequate--drainage;--The--mobile--home--park--operator--is
responsible-for-damage-to-any-vehicle--that--is--the--direct
result--of--any--unrepaired-or-poorly-maintained-access-road
within-the-park;

{b}--maintain--the--premises--and--regrade--them--when
necessary--to-prevent-the-accumulation-of-stagnant-water-and
the-detrimental-effects-of-moving-water;

{c}--keep-the-common-areas-of-the-mobile-home-park--free
from--any-species-of-weed-or-plant-growth-that-is-noxious-or
detrimental-to-the-health-of-the-residents;--and

{d}--maintain-and-protect-all-utilities-provided-to--the
mobile--home--and-keep-water-and-sewer-lines-in-good-working
condition;--Maintenance-responsibility-extends-to-that-point
where--the--normal--mobile--home--utility-hookups-connect-to
those-provided-by-the-mobile-home-park-operator--or--utility
company;

{3}--The--mobile--home--park--operator--shall--authorize--a
manager,--assistant--manager,--or--other--employee--to--make
repairs--that--are--the--responsibility--of--the--mobile--home--park
operator--or--enter--into--a--contract--with--a--third-party--to

provide-emergency-repairs--that--are--the--responsibility--of--the
mobile-home-park-operator--on--occasions--when--the--manager,
assistant--manager,--or--other--designated--employee--is--not
physically--present--in--the--park;--The--mobile--home--park
operator--shall--notify--each--resident--of--the--telephone--number
where-the-third-party-may-be-reached;

{4}--If-a-mobile-home-park-operator-fails-to-comply-with
this--section,--the--resident--may--recover--damages-for-the
breach-pursuant-to-70-24-406-or-make-the-repairs-pursuant-to
70-24-406;

NEW SECTION. SECTION 4. MOBILE HOME PARK LANDLORD'S
ROAD MAINTENANCE OBLIGATIONS. IN ADDITION TO THE OBLIGATIONS
IMPOSED BY 70-24-303, THE MOBILE HOME PARK LANDLORD SHALL
MAINTAIN COMMON ROADS WITHIN THE MOBILE HOME PARK IN A SAFE
CONDITION, INCLUDING ARRANGING FOR SNOW REMOVAL PLOWING AS
IS REASONABLE TO KEEP THE ROADS PASSABLE.

SECTION 5. 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 THE TENANT of what he THE TENANT 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 THE TENANT enters into the rental agreement or when it is adopted.

(2) As provided in subsection (1) and in conformance with the provisions of this chapter, the landlord of a mobile home park shall MAY adopt written rules concerning the tenant's use and occupancy of the premises.

(3) ALL RULES MUST BE WRITTEN AND MUST BE GIVEN TO EACH MOBILE HOME PARK TENANT WHO RESIDES IN A MOBILE HOME PARK AND TO ALL NEW TENANTS OF A MOBILE HOME PARK.

~~(2)(3)(4)~~ If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of his THE TENANT'S 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."

SECTION 6. SECTION 70-24-431, MCA, IS AMENDED TO READ:

"70-24-431. Retaliatory conduct by landlord prohibited.

(1) Except as provided in this section, a landlord may not retaliate by increasing rent, decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-24-303; or

(c) has organized or become a member of a tenant's union, mobile home park residents TENANT association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against him for possession.

(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does

1 not arise if the tenant made the complaint after notice of a
2 proposed rent increase or diminution of services. For
3 purposes of this section, "rebuttable presumption" means
4 that the trier of fact must find the existence of the fact
5 presumed unless and until evidence is introduced which would
6 support a finding of its nonexistence.

7 (4) Notwithstanding subsections (1), (2), and (3) of
8 this section, a landlord may bring an action for possession
9 if:

10 (a) the violation of the applicable building or housing
11 code was caused primarily by lack of reasonable care by the
12 tenant, a member of his THE TENANT'S family, or other
13 persons on the premises with his consent;

14 (b) the tenant is in default in rent; or

15 (c) compliance with the applicable building or housing
16 code requires alteration, remodeling, or demolition which
17 would effectively deprive the tenant of use of the dwelling
18 unit.

19 (5) The maintenance of an action under subsection (4)
20 of this section does not release the landlord from liability
21 under 70-24-405(2)."

22 NEW SECTION. SECTION 7. CODIFICATION INSTRUCTION.
23 [SECTIONS 2 THROUGH 4] ARE INTENDED TO BE CODIFIED AS AN
24 INTEGRAL PART OF TITLE 70, CHAPTER 24, AND THE PROVISIONS OF
25 TITLE 70, CHAPTER 24, APPLY TO [SECTIONS 2 THROUGH 4].

-End-

-13-

HB 422