

HOUSE BILL 611

Introduced by Wiseman

2/13	Introduced
2/13	Referred to Business & Economic Development
2/13	First Reading
2/17	Hearing
2/17	Tabled in Committee

1 House BILL NO. 611
 2 INTRODUCED BY Usher
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 5 RESIDENTIAL LANDLORD AND TENANT LAWS; PROVIDING THAT A
 6 CERTIFICATE OF MAILING IS ADEQUATE EVIDENCE THAT NOTICE WAS
 7 GIVEN BY MAIL; REQUIRING THE OWNER OF A MOBILE HOME WHO
 8 RENTS SPACE FOR THE HOME TO OBTAIN ADVANCE PERMISSION FROM
 9 THE OWNER OF THE PROPERTY ON WHICH THE MOBILE HOME IS
 10 LOCATED TO RENT THE MOBILE HOME TO SOMEONE ELSE; PROVIDING
 11 THAT WHEN THE OWNER OF A MOBILE HOME TRANSFERS OWNERSHIP OR
 12 TENANCY IN THE MOBILE HOME TO ANOTHER, THE NEW TENANT MAY
 13 NOT INHABIT THE MOBILE HOME UNTIL A NEW RENTAL AGREEMENT IS
 14 MADE WITH THE PERSON WHO OWNS THE LAND ON WHICH THE MOBILE
 15 HOME IS LOCATED; ALLOWING A LANDLORD, IN AN EMERGENCY, TO
 16 ENTER A MOBILE HOME OWNED BY A PERSON RENTING SPACE FROM THE
 17 LANDLORD; ALLOWING A TENANT, WHEN THE LANDLORD HAS FAILED TO
 18 MAINTAIN THE PREMISES, TO CAUSE THE REPAIRS TO BE MADE BY A
 19 QUALIFIED PROFESSIONAL, RATHER THAN THE TENANT PERFORMING
 20 THE REPAIRS; REQUIRING A MOBILE HOME OWNER TO CONTINUE TO
 21 PAY RENT FOR A SPACE, IN THE EVENT OF FIRE OR CASUALTY
 22 DAMAGE, UNTIL THE MOBILE HOME IS REMOVED AND THE SPACE
 23 CLEARED; REDUCING THE AMOUNT OF ADVANCE NOTICE THAT MUST BE
 24 GIVEN TO A TENANT WHEN A LANDLORD TERMINATES A RENTAL
 25 AGREEMENT BECAUSE OF THE TENANT'S FAILURE TO COMPLY WITH THE

1 AGREEMENT; AND AMENDING SECTIONS 70-24-108, 70-24-201,
 2 70-24-322, 70-24-406, 70-24-409, AND 70-24-422, MCA."

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

5 **Section 1.** Section 70-24-108, MCA, is amended to read:

6 "70-24-108. What constitutes notice. (1) A person has
 7 notice of a fact if:

8 (a) he the person has actual knowledge of it;
 9 (b) in the case of a landlord, it is delivered at the
 10 place of business of the landlord through which the rental
 11 agreement was made; or
 12 (c) in the case of a landlord or tenant, it is
 13 delivered in hand to the landlord or tenant or mailed by
 14 registered-or-certified-mail with a certificate of mailing
 15 documented by the United States post office to him the
 16 landlord or tenant at the place held out by him the landlord
 17 or tenant as the place for receipt of the communication or,
 18 in the absence of such a designation, to his the landlord's
 19 or tenant's last-known last-known address. The notice by
 20 certificate of mailing is considered served within 3
 21 business days after mailing, excluding the day of mailing.

22 (2) Notice received by an organization is effective for
 23 a particular transaction from the time it is brought to the
 24 attention of the individual conducting that transaction and,
 25 in any event, from the time it would have been brought to

his the individual's attention if the organization had exercised reasonable diligence."

Section 2. Section 70-24-201, MCA, is amended to read:

"70-24-201. Rental agreement -- terms and conditions.

(1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule or law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(2) Unless the rental agreement provides otherwise:

(a) the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit as determined by the landlord;

(b) rent is payable at the landlord's address;

(c) periodic rent is payable at the beginning of a term of a month or less and otherwise in equal monthly installments at the beginning of each month;

(d) rent is uniformly apportionable from day to day; and

(e) the tenancy is week to week in the case of a roomer who pays weekly rent and in all other cases month to month.

(3) Rent is payable without demand or notice at the time and place agreed upon by the parties or provided for by subsection (2) of this section.

(4) (a) The owner of a mobile home under a rental

agreement with the owner of a mobile home lot or other real property may not rent or sublease the property or assign the rental agreement without the written consent of the owner of the mobile home lot or other real property.

(b) If the mobile home owner transfers ownership of the mobile home, enters into a rental agreement with a tenant, or assigns the lease or rental agreement, the purchaser, tenant of the mobile home owner, or the assignee may not occupy the mobile home until a new rental agreement is entered into with the owner of the mobile home lot or other real property.

(c) If the mobile home owner transfers ownership of the mobile home, enters into a rental agreement with a tenant, or assigns the lease or rental agreement without the consent of the owner of the mobile home lot or other real property, the original mobile home owner and original tenant under the original rental agreement are liable for rent, expenses, or damages while the mobile home remains on the real property."

Section 3. Section 70-24-322, MCA, is amended to read:

"70-24-322. Tenant to occupy as dwelling unit only -- extended absence. (1) Unless otherwise agreed, a tenant shall occupy his a dwelling unit only as a dwelling unit.

(2) The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of 7 days no later than the first day

1 of the extended absence.

2 (3) During an absence of the owner of a mobile home who
 3 is a tenant who rents space in a mobile home park or on
 4 other real property, in an emergency situation when the
 5 tenant's absence severely jeopardizes the landlord's
 6 property or surrounding structures, the landlord may enter
 7 the mobile home, under the supervision of law enforcement
 8 authorities, to determine the location of the tenant."

9 **Section 4.** Section 70-24-406, MCA, is amended to read:

10 **"70-24-406.** Failure of landlord to maintain premises --
 11 **tenant's remedies.** (1) Except as provided in this chapter,
 12 if there is a noncompliance with 70-24-303 affecting the
 13 health and safety, the tenant may:

14 (a) deliver a written notice to the landlord specifying
 15 the acts and omissions constituting the breach and that the
 16 rental agreement will terminate upon a date not less than 30
 17 days after receipt of the notice if the breach is not
 18 remedied in 14 days or, in the case of an emergency
 19 situation, 3 business days. The rental agreement terminates
 20 as provided in the notice, subject to the following
 21 exceptions:

22 (i) if the breach is remediable by repairs, the payment
 23 of damages, or otherwise and the landlord adequately
 24 remedies the breach before the date specified in the notice,
 25 the rental agreement does not terminate by reason of the

1 breach;

2 (ii) if substantially the same act or omission which
 3 constituted a prior noncompliance of which notice was given
 4 recurs within 6 months, the tenant may terminate the rental
 5 agreement upon at least 14 days' written notice specifying
 6 the breach and the date of termination of the rental
 7 agreement;

8 (iii) the tenant may not terminate for a condition
 9 caused by himself the tenant, a member of his the tenant's
 10 family, or other persons on the premises with his the
 11 tenant's consent and is responsible to the landlord for the
 12 cost of repairs or may arrange for a qualified professional
 13 to make the repairs at the tenant's expense;

14 (b) make--repairs--himself cause the repairs to be made
 15 by a qualified professional that do not cost more than 1
 16 month's rent and deduct the cost from the rent if he the
 17 tenant has given the landlord notice and he the landlord has
 18 not made the repairs within a reasonable time.

19 (2) Except as provided in this chapter, the tenant may
 20 recover actual damages and obtain injunctive relief for any
 21 noncompliance by the landlord with the rental agreement or
 22 70-24-303.

23 (3) The remedy provided in subsection (2) ~~of this~~
 24 ~~section~~ is in addition to a right of the tenant arising
 25 under subsection (1).

(4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant pursuant to chapter 25 of this title.

(5) For the purposes of this section "emergency situation" means a situation that causes an imminent threat to life, safety, or health or a situation that makes the rental unit uninhabitable."

Section 5. Section 70-24-409, MCA, is amended to read:

"70-24-409. Fire or casualty damage -- rights of tenant. (1) If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

(a) immediately vacate the premises and notify the landlord in writing within 14 days thereafter after vacating of his the tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(b) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(2) This section does not apply when the fire and casualty damage was caused by the purposeful or negligent act of the tenant, the tenant's family, or guests.

(3) If the rental agreement is terminated, the landlord shall return all security recoverable pursuant to chapter 25 of this title and all prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.

(4) For a rental agreement involving a tenant who rents space from a mobile home park owner or other real property owner but who does not rent the mobile home, the rent continues to accrue according to the agreement until the mobile home is removed and the rental space cleaned, repaired, and returned to a condition that allows it to be occupied by a mobile home."

Section 6. Section 70-24-422, MCA, is amended to read:

"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction.

(1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321 affecting health and safety, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 5 days after receipt of the notice. If the breach is not remedied within that time, the rental agreement terminates as provided in the notice subject to the following exceptions:

1 (a) If the breach is remediable by repairs, the payment
2 of damages, or otherwise and the tenant adequately remedies
3 the breach before the date specified in the notice, the
4 rental agreement does not terminate.

5 (b) If substantially the same act or omission which
6 constituted a prior noncompliance of which notice was given
7 recurs within 6 months, the landlord may terminate the
8 rental agreement upon at least 5 3 days' written notice
9 specifying the breach and the date of the termination of the
10 rental agreement.

11 (2) (a) Except as provided in subsection (2)(b), if
12 rent is unpaid when due and the tenant fails to pay rent
13 within 3 days after written notice by the landlord of
14 nonpayment and his the landlord's intention to terminate the
15 rental agreement if the rent is not paid within that period,
16 the landlord may terminate the rental agreement.

17 (b) For a rental agreement involving a tenant who rents
18 space to park a mobile home but who does not rent the mobile
19 home, the notice period referred to in subsection (2)(a) is
20 15 days.

21 (3) If the tenant destroys, defaces, damages, impairs,
22 or removes any part of the premises in violation of
23 70-24-321(2), the landlord may terminate the rental
24 agreement upon giving 3 days' written notice specifying the
25 breach under the provisions of 70-24-321(2).

1 (4) Except as provided in this chapter, the landlord
2 may recover actual damages and obtain injunctive relief for
3 any noncompliance by the tenant with the rental agreement or
4 70-24-321. Except as provided in subsection (5), if the
5 tenant's noncompliance is purposeful, the landlord may
6 recover treble damages.

7 (5) Treble damages may not be recovered for the
8 tenant's early termination of the tenancy."

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