

House BILL NO. 419

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING LANDLORD AND TENANT RELATIONS; CLARIFYING THE REQUIREMENT OF SUPPLYING ESSENTIAL SERVICES; REVISING CONDITIONS FOR THE SALE OF A MOBILE HOME IN A MOBILE HOME PARK; REVISING MOBILE HOME PARK RULES; CLARIFYING THAT A MOBILE HOME PARK LANDLORD MAY NOT CHARGE AN ADDITIONAL ROAD MAINTENANCE FEE; REVISING THE DAMAGES RECOVERABLE IN CERTAIN LANDLORD-TENANT ACTIONS; REVISING ACTIONS INVOLVED IN RECOVERY OF POSSESSION; CLARIFYING THE PRESUMPTION OF RETALIATORY CONDUCT; REVISING THE GROUNDS FOR TERMINATION OF A MOBILE HOME PARK RENTAL AGREEMENT; CLARIFYING THAT A MOBILE HOME PARK LANDLORD MAY OBTAIN INJUNCTIVE RELIEF AND RECEIVE RENT DURING A TERMINATION PROCEEDING; CLARIFYING CONDITIONS FOR IMPOSITION OF A SECURITY DEPOSIT; ALLOWING RECOVERY OF UNPAID UTILITIES FROM A SECURITY DEPOSIT; CLARIFYING ALLOWABLE CLEANING CHARGES; LIMITING A LANDLORD'S RIGHT TO BRING CERTAIN ACTIONS; AND AMENDING SECTIONS 70-24-103, 70-24-203, 70-24-305, 70-24-311, 70-24-313, 70-24-315, 70-24-404, 70-24-410, 70-24-422, 70-24-423, 70-24-428, 70-24-431, 70-24-436, 70-25-101, 70-25-201, 70-25-203, AND 70-25-206, 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) "Case of emergency" ~~is~~ means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant has reasonable apprehension of immediate danger to the tenant or others.

- 1           (3) "Court" means the appropriate district court, justice's court, or city court.
- 2           (4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence,  
3 or sleeping place by a person who maintains a household or by two or more persons who maintain a  
4 common household. ~~"Dwelling unit"~~ Dwelling unit, in the case of a person who rents space in a mobile  
5 home park but does not rent the mobile home, means the space rented and not the mobile home itself.
- 6           (5) "Good faith" means honesty in fact in the conduct of the transaction concerned.
- 7           (6) "Landlord" means:
- 8           (a) the owner, lessor, or sublessor of:
- 9           ~~(a)~~(i) the dwelling unit or the building of which it is a part; or
- 10           ~~(b)~~(ii) a mobile home park; or
- 11           ~~(e)~~(b) a manager of the premises who fails to disclose the managerial position.
- 12           (7) "Mobile home" means any manufactured dwelling unit used primarily as a residence for the  
13 occupant.
- 14           ~~(7)~~(8) "Mobile home owner" means the owner of a manufactured mobile home dwelling unit  
15 entitled under a rental agreement to occupy a mobile home park space in a mobile home park.
- 16           ~~(8)~~(9) "Mobile home park" means a trailer court as defined in ~~50-52-102~~ 50-52-101.
- 17           ~~(9)~~(10) "Organization" includes a corporation, government, governmental subdivision or agency,  
18 business trust, estate, trust, partnership or association, two or more persons having a joint or common  
19 interest, and any other legal or commercial entity.
- 20           ~~(10)~~(11) "Owner" means one or more persons, jointly or 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 and enjoyment of the premises, including  
23 a mortgagee in possession.
- 24           ~~(11)~~(12) "Person" includes an individual or organization.
- 25           ~~(12)~~(13) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and  
26 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants  
27 generally or promised for the use of a tenant.
- 28           ~~(13)~~(14) "Rent" means all payments to be made to the landlord under the rental agreement.
- 29           ~~(14)~~(15) "Rental agreement" means all agreements, written or oral, and valid rules adopted under  
30 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and

1 premises.

2 ~~(15)~~(16) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a  
3 bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and  
4 one or more of ~~these facilities~~ which are used in common by occupants in the structure.

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

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

11

12 **Section 2.** Section 70-24-203, MCA, is amended to read:

13 **"70-24-203. Agreement not to permit receipt of rent free of obligation.** A rental agreement or a  
14 document related ~~thereto~~ to the agreement may not permit the receipt of rent free of the obligation to  
15 comply with 70-24-303 or the obligation to supply essential services."

16

17 **Section 3.** Section 70-24-305, MCA, is amended to read:

18 **"70-24-305. Transfer of premises by tenant.** (1) A tenant who vacates a dwelling unit during the  
19 term of a tenancy may not allow the possession of the property to be transferred to a third person or sublet  
20 the property unless the landlord or the landlord's agent has consented in writing.

21 (2) The sale or rental of a mobile home located upon a rental lot does not entitle the purchaser or  
22 renter to retain rental of the lot unless the purchaser or renter enters into a rental agreement with the owner  
23 of the lot. If the potential purchaser has applied for mobile home park residency with the landlord, the  
24 potential purchaser's residency may not be unreasonably denied. If residency is denied, the potential  
25 purchaser must be provided with a written reason for the denial and an opportunity to correct the reason,  
26 if applicable.

27 (3) A mobile home owner who owns the mobile home but rents the lot space has the exclusive  
28 right to sell the mobile home without interference or conditions by the landlord. The new purchaser shall  
29 make suitable arrangements with the landlord in order to become a tenant on the mobile home lot. Any  
30 fees charged or discounts offered by the landlord are invalid as conditions on the sale. The purchase of

1 the mobile home does not automatically entitle the purchaser to rent the mobile home lot.

2 (4) A landlord may not impose any conditions that may unreasonably restrict the sale of a mobile  
 3 home based upon its age or size and may not require the mobile home to be moved from the mobile home  
 4 park if the mobile home is in reasonably good condition."

5  
 6 NEW SECTION. **Section 4. Sale of mobile homes -- restrictions on mobile home park landlords.**

7 A mobile home park landlord may not require a mobile home park tenant to use any specific agency,  
 8 dealership, or service to sell a mobile home owned by the tenant. The mobile home park landlord may not  
 9 offer discounts or charge fees to mobile home park tenants who use or decline to use an agency,  
 10 dealership, or service offered or suggested by the landlord.

11  
 12 **Section 5.** Section 70-24-311, MCA, is amended to read:

13 **"70-24-311. Landlord authorized to adopt rules.** (1) A landlord may adopt a any reasonable rule  
 14 concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only  
 15 if:

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

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

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

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

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

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

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

29 (3) A rule adopted by a landlord of a mobile home park must be in writing and must be given to  
 30 each mobile home owner or tenant of a mobile home owner residing in the mobile home park and to each

1 new resident upon arrival.

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

5 (5) A landlord may not adopt a rule that materially alters the rental agreement of the parties within  
6 the first 6 months of the rental agreement or, in the case of a mobile home park tenant, within the first 12  
7 months."

8

9 **Section 6.** Section 70-24-313, MCA, is amended to read:

10 **"70-24-313. Mobile home parks -- park rules.** (1) A mobile home park landlord may adopt a rule  
11 concerning the rental occupancy of a mobile home space and the use of common areas and facilities in  
12 accordance with 70-24-311. A rule may not be unreasonable, and a rule that does not apply uniformly to  
13 all mobile home residents of a similar class creates a rebuttable presumption, as defined in 70-24-431, that  
14 the rule is unfair.

15 (2) Each common area facility must be open or available to residents at all reasonable hours, and  
16 the hours of a common recreational facility must be posted at the facility.

17 (3) A mobile home park rule that requires specific size or age conditions on mobile homes presently  
18 existing within a mobile home park is invalid as applied to a mobile home if the mobile home is in reasonably  
19 good condition.

20 (4) A mobile home park landlord may not restrict or prohibit residency to a potential tenant on the  
21 basis of the size or age of a mobile home if the mobile home is in reasonably good condition."

22

23 **Section 7.** Section 70-24-315, MCA, is amended to read:

24 **"70-24-315. Mobile home park landlord's road maintenance obligations.** In addition to the  
25 obligations imposed by 70-24-303, the mobile home park landlord shall maintain common roads within the  
26 mobile home park in a safe condition, including arranging for snow plowing as is reasonable to keep the  
27 roads passable. A landlord may not charge an additional fee to perform this required maintenance."

28

29 **Section 8.** Section 70-24-404, MCA, is amended to read:

30 **"70-24-404. Unconscionability -- court discretion to refuse enforcement.** (1) If the court, as a

1 matter of law, finds that:

2 (a) a rental agreement or any provision ~~thereof~~ of the agreement is unconscionable, the court may  
3 refuse to enforce the agreement or enforce the remainder of the agreement without the unconscionable  
4 provision to avoid an unconscionable result; or

5 (b) a settlement in which a party waives or agrees to forego a claim or right under this chapter or  
6 under a rental agreement is unconscionable, the court may refuse to enforce the settlement, enforce the  
7 remainder of the settlement without the unconscionable provision, or limit the application of any  
8 unconscionable provision to avoid an unconscionable result.

9 (2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties  
10 ~~shall~~ must be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect  
11 of the rental agreement or settlement to aid the court in making the determination. The aggrieved party  
12 may recover an amount that may not exceed 3 months' rent or treble damages, whichever is greater."

13

14 **Section 9.** Section 70-24-410, MCA, is amended to read:

15 **"70-24-410. Unlawful or unreasonable entry by landlord -- tenant's remedies.** If the landlord makes  
16 an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry  
17 otherwise lawful entry ~~but which that~~ have the effect of unreasonably harassing the tenant, the tenant may  
18 either obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement.  
19 In either case, the tenant may recover ~~actual~~ an amount that may not exceed 3 months' rent or treble  
20 damages, whichever is greater."

21

22 **Section 10.** Section 70-24-422, MCA, is amended to read:

23 **"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**  
24 **injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental  
25 agreement or a noncompliance with 70-24-321 affecting health and safety, the landlord may deliver a  
26 written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the  
27 breach and stating that the rental agreement will terminate upon a date not less than 14 days after receipt  
28 of the notice. If the breach is not remedied within that time, the rental agreement terminates as provided  
29 in the notice subject to the following exceptions:

30 (a) If the breach is remediable by repairs, the payment of damages, or otherwise and the tenant

1 adequately remedies the breach before the date specified in the notice, the rental agreement does not  
2 terminate.

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

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

10 (b) For a rental agreement involving a tenant who rents space to park a mobile home but who does  
11 not rent the mobile home, the notice period referred to in subsection (2)(a) is 15 days, subject to the  
12 provisions of 70-24-436.

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

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

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

21 (6) The landlord is not bound by this section in the event the landlord elects to use the 30-day  
22 notice for termination of tenancy as provided in 70-24-441."

23

24 **Section 11.** Section 70-24-423, MCA, is amended to read:

25 **"70-24-423. Waiver of landlord's right to terminate for breach. ~~Acceptance~~ Except in the case of**  
26 **a mobile home park landlord, acceptance** by the landlord of full payment of rent due with knowledge of a  
27 tenant's default or acceptance by the landlord of a tenant's performance that varies from the terms of the  
28 rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that  
29 breach unless otherwise agreed after the breach has occurred. The acceptance of partial payment of rent  
30 due does not constitute a waiver of any right."

1           **Section 12.** Section 70-24-428, MCA, is amended to read:

2           **"70-24-428. Landlord's recovery of possession limited.** Except in the case of abandonment, or  
 3           surrender, or as permitted in this chapter, a landlord may not recover or take possession of the dwelling  
 4           unit by action or otherwise, including purposeful diminution of services to the tenant by interrupting or  
 5           causing the interruption of heat, running water, hot water, electricity, gas, or other essential services. A  
 6           landlord may not threaten to involve law enforcement in a possession dispute unless authorized by a court  
 7           order following court action."

8

9           **Section 13.** Section 70-24-431, MCA, is amended to read:

10           **"70-24-431. Retaliatory conduct by landlord prohibited.** (1) Except as provided in this section, a  
 11           landlord may not retaliate by increasing rent, by decreasing services, by imposing additional rules, or by  
 12           bringing or threatening to bring an action for possession after the tenant:

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

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

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

18           (d) has engaged in any constitutionally protected activity.

19           (2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the  
 20           remedies provided in 70-24-411 and has a defense in any retaliatory action against ~~him~~ the tenant for  
 21           possession. A tenant may obtain injunctive relief to prohibit any retaliatory conduct, regardless of whether  
 22           the conduct is enumerated in subsection (1).

23           (3) (a) In an action by or against the tenant, evidence of a complaint within 6 months before the  
 24           alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The  
 25           presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or  
 26           diminution of services. For a rental agreement involving a tenant who rents space for a mobile home but  
 27           who does not rent the mobile home, evidence of a complaint within 12 months before the alleged act of  
 28           retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation.

29           (b) For purposes of this section, "rebuttable presumption" means that the trier of fact ~~must~~ shall  
 30           find the existence of the fact presumed unless and until evidence is introduced ~~which~~ that would support



1 a finding of its nonexistence.

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

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

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

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

10 (5) The maintenance of an action under subsection (4) of this section does not release the landlord  
11 from liability under ~~70-24-405(2)~~ 70-24-406(2)."

12

13 **Section 14.** Section 70-24-436, MCA, is amended to read:

14 **"70-24-436. Mobile home parks -- grounds for termination of rental agreement.** (1) A landlord of  
15 a mobile home park or a landlord who rents space to the owner of a mobile home may terminate a rental  
16 agreement only by following the procedure set forth in 70-24-422 and only for one or more of the following  
17 reasons:

18 (a) nonpayment of rent, reasonable late charges, or reasonable common area maintenance fees as  
19 established in the rental agreement;

20 (b) late payment of rent, reasonable late charges, or reasonable common area maintenance fees  
21 as established in the rental agreement three or more times within a 12-month period if written notice is  
22 given by the landlord after each failure to pay, as required by 70-24-422;

23 (c) violation of a mobile home park rule that creates an immediate threat to the health and safety  
24 of any resident of the mobile home park if the violation has not been remedied 24 hours after the violator  
25 is given written notice of the violation;

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

29 (e) two or more violations within a 12-month period of the same rule, the violation of which would  
30 have a significant adverse impact on the mobile home park or its residents and that is designated as a

1 significant impact rule;

2 (f) two or more violations of 70-24-321(1) within a 12-month period or any violation of  
3 70-24-321(2);

4 (g) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment  
5 and use of the premises, endangers other residents or mobile home park personnel, or causes substantial  
6 damage to the mobile home park premises;

7 (h) conviction of the mobile home owner or a tenant of the mobile home owner of a violation of  
8 a federal or state law or local ordinance, when the violation is detrimental to the health, safety, or welfare  
9 of other residents or the landlord of the mobile home park, or the landlord's documentation of a violation  
10 of the provisions of Title 45, chapter 9;

11 (i) changes in the use of the land if the requirements of subsection (2) are met; or

12 (j) a legitimate business reason of the landlord if the requirements of subsection (3) are met.

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

16 (a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least  
17 15 days' written notice that the landlord will be appearing before a unit of local government to request  
18 permits for a change of use of the mobile home park.

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

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

28 (3) (a) A landlord may terminate the rental agreement of a mobile home owner or a tenant of a  
29 mobile home owner if the landlord, by the termination:

30 (i) does not violate a provision of this section or any other state statute; and

1 (ii) has a legitimate business reason.

2 (b) A landlord shall give the mobile home owner or the tenant of a mobile home owner a minimum  
3 of 90 days' written notice of termination, except for nonpayment of rent, for which 30 days' written notice  
4 of termination is required.

5 (c) A landlord may obtain injunctive relief for the enforcement of any mobile home park rule,  
6 compliance with the rental agreement, or compliance with 70-24-321. Unless specifically authorized,  
7 acceptance of rent during the 90-day termination period does not constitute a waiver of the tenant's  
8 breach, as provided in 70-24-423. A landlord may enforce the right to collect rent in an action on the rental  
9 agreement.

10 (4) For purposes of calculating the total number of notices given within a 12-month period under  
11 subsection (1)(b), only one notice per violation per month may be included in the calculation."  
12

13 **Section 15.** Section 70-25-101, MCA, is amended to read:

14 **"70-25-101. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

26 (4) "Security deposit" means value given, in money or its equivalent, to secure the payment of rent  
27 by the tenant under a leasehold agreement or to secure payment for damage to and cleaning of the  
28 leasehold premises. A security deposit may not be imposed unless a tenant is made aware of the security  
29 deposit at the beginning of the tenancy. If a leasehold agreement or an agreement incident ~~thereto~~ to the  
30 leasehold agreement requires the tenant or prospective tenant to provide or maintain in effect any deposit

1 to the landlord for part or all of the term of the leasehold agreement, the deposit ~~shall be~~ is presumed to  
 2 be a security deposit. A fee or charge for cleaning and damages, no matter how designated, is presumed  
 3 to be a security deposit."

4

5 **Section 16.** Section 70-25-201, MCA, is amended to read:

6 **"70-25-201. Security deposit -- deductions authorized ~~therefrom~~.** (1) A landlord renting property  
 7 covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have  
 8 been caused by the tenant, together with a sum equal to the unpaid rent owing to the landlord at the time  
 9 of deduction, including rent owed under 70-24-441(3), and a sum for actual cleaning expenses or unpaid  
 10 utilities, if applicable.

11 (2) At the request of either party, the premises may be inspected within 1 week prior to termination  
 12 of the tenancy.

13 (3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis  
 14 by the landlord as noted by the landlord at the time the tenant occupies the space unless the landlord is  
 15 forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may  
 16 not be deducted until written notice has been given to the tenant. The notice must include the cleaning not  
 17 accomplished by the tenant and the additional ~~and~~ type or types of cleaning ~~which~~ that need to be done  
 18 by the tenant to bring the premises back to its condition at the time of its renting. After the delivery of the  
 19 notice, the tenant has 24 hours to complete the required cleaning. If notice is mailed by certified mail,  
 20 service of the notice is considered to have been made 3 days after the date of the mailing. A tenant who  
 21 fails to notify the landlord of the intent to vacate or who vacates the premises without notice relieves the  
 22 landlord of the requirement of giving notice and allows the landlord to deduct the cleaning charges from  
 23 the deposit. Cleaning charges may not be deducted for a tenant's failure to use a specific cleaning agency,  
 24 service, or method unless the cleaning is necessary to return the premises to the condition at the time of  
 25 renting.

26 (4) A ~~person~~ landlord may not deduct or withhold from the security deposit any amount for  
 27 purposes other than those set forth in this section."

28

29 **Section 17.** Section 70-25-203, MCA, is amended to read:

30 **"70-25-203. Failure to provide list -- forfeiture of deduction rights.** ~~Any~~ A landlord who fails to

1 provide the departing tenant with a written list of damage and cleaning charges as required by 70-25-202  
 2 ~~shall forfeit~~ forfeits all rights to withhold any portion of the security deposit for the damages or cleaning  
 3 charges and forfeits the right to bring an action for damages or cleaning."

4

5 **Section 18.** Section 70-25-206, MCA, is amended to read:

6 **"70-25-206. Landlord to furnish statement of condition of premises at beginning of lease.** (1) ~~Any~~

7 A person engaged in the rental of property for residential purposes who requires a security deposit shall  
 8 furnish to each tenant, in conjunction with execution of a lease or creation of a tenancy, a separate written  
 9 statement as to the present condition of the premises intended to be ~~let~~ leased. At the written request of  
 10 the tenant, a copy of the written list of damage and cleaning charges, if any, provided to the tenant of the  
 11 immediately preceding leasehold agreement for the premises in question must be provided to the tenant.

12 (2) Each written statement of the present condition of a premises intended to be ~~let shall~~ leased  
 13 must contain at least the following:

14 (a) a clear and concise statement of the present condition of the premises known to the landlord  
 15 or the landlord's agent or ~~which that~~ that should have been known upon reasonable inspection;

16 (b) if the premises have never previously been ~~let~~ leased, a statement indicating the fact; and

17 (c) the signature of the landlord or the landlord's agent.

18 (3) A person engaged in the rental of property for residential purposes who fails to furnish a tenant,  
 19 in conjunction with the execution of the lease or creation of the tenancy, with a separate written statement  
 20 of the present condition of the premises intended to be ~~let~~ leased and, upon the written request of the  
 21 tenant, a written list of damage and cleaning charges provided to the tenant of the immediately preceding  
 22 leasehold agreement is barred from recovering any sum for damage to or cleaning of the leasehold premises  
 23 and from bringing an action for damages unless the person can establish by clear and convincing evidence  
 24 that the damage occurred during the tenancy in question and was caused by the tenant occupying the  
 25 leasehold premises or the tenant's family, licensees, or invitees."

26

27 **NEW SECTION. Section 19. Codification instruction.** [Section 4] is intended to be codified as an  
 28 integral part of Title 70, chapter 24, part 3, and the provisions of Title 70, chapter 24, part 3, apply to  
 29 [section 4].

30

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