

HOUSE BILL NO. 559

INTRODUCED BY M. NOENNIG, BITNEY, CHRISTIAENS, R. HOLDEN, LAIBLE, K. MILLER, WHITAKER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE NOTICE PERIODS FOR LANDLORDS NOTIFYING TENANTS OF INTENDED TERMINATION OF THE RENTAL AGREEMENT FOR NONCOMPLIANCE OR VIOLATION OF THE RENTAL AGREEMENT OR OTHER PROVISIONS OF THE MONTANA RESIDENTIAL LANDLORD AND TENANT ACT OF 1977; AMENDING SECTIONS 70-24-422, 70-24-436, AND 70-24-441, MCA; AND PROVIDING AN APPLICABILITY PROVISION."

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

Section 1. Section 70-24-422, MCA, is amended to read:

"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction -- MOBILE HOME SPACE RENTALS EXEMPTED. (1) Except as provided in this chapter 70-24-436, FOR A RENTAL AGREEMENT INVOLVING A TENANT WHO RENTS SPACE FOR A MOBILE HOME BUT DOES NOT RENT THE MOBILE HOME 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 noncompliance and that the rental agreement will terminate upon a date specified in the notice not less than 14 the minimum number of days after receipt of the notice provided for in this section. If the breach is not remedied within that time, the The rental agreement terminates as provided in the notice, subject to the following exceptions:

(a) If the breach noncompliance is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the breach noncompliance before the date specified in the notice WITHIN THE NOTICE PERIOD BEFORE THE DATE SPECIFIED IN THE NOTICE, the rental agreement does not terminate.

(b) If the breach noncompliance involves an unauthorized pet, the notice period is landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date not less than 3 days after receipt of the notice if the breach is not remedied within that time. This subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home but who does not rent the mobile home.



1 (c) If the ~~breach~~ noncompliance involves unauthorized persons residing in the rental unit, ~~the~~
 2 landlord may deliver a written notice to the tenant that the rental agreement will terminate upon a date
 3 not less than 3 days after receipt of the notice if the breach is not remedied within that time. This
 4 subsection does not apply to a rental agreement involving a tenant who rents space to park a mobile home
 5 but who does not rent the mobile home the notice period is 3 days.

6 ~~———— (D) IF THE NONCOMPLIANCE IS FAILURE TO PAY RENT WHEN DUE, THE NOTICE PERIOD IS 3 DAYS.~~

7 ~~(d)(e)(D)~~ If the noncompliance is not listed in subsection (1)(b), ~~or OR (1)(c), OR (1)(D)~~, the notice
 8 period is 14 days.

9 ~~(d)(e)(f)(E)~~ If substantially the same act or omission that constituted a prior noncompliance of
 10 which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at
 11 least 5 days' written notice specifying the ~~breach~~ noncompliance and the date of the termination of the
 12 rental agreement.

13 ~~———— (f) This subsection (1) does not apply to a rental agreement involving a tenant who rents space~~
 14 ~~for a mobile home but does not rent the mobile home.~~

15 (F) THIS SUBSECTION (1) DOES NOT APPLY TO A RENTAL AGREEMENT INVOLVING A TENANT WHO RENTS SPACE
 16 FOR A MOBILE HOME BUT DOES NOT RENT THE MOBILE HOME.

17 (2) ~~(a) Except as provided in subsection (2)(b), if if rent is unpaid when due and the tenant fails~~
 18 ~~to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention~~
 19 ~~to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the~~
 20 ~~rental agreement. This subsection does not apply to a rental agreement involving a tenant who rents~~
 21 ~~space for a mobile home but does not rent the mobile home. THIS SUBSECTION DOES NOT APPLY TO A RENTAL~~
 22 ~~AGREEMENT INVOLVING A TENANT WHO RENTS SPACE FOR A MOBILE HOME BUT DOES NOT RENT THE MOBILE HOME.~~

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

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

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

1 damages.

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

3 ~~———— (6) Subsections (3) through (5) apply to all rental agreements, including those involving a tenant~~
4 ~~who rents space for a mobile home but does not rent the mobile home.~~

5 (6) SUBSECTIONS (3) THROUGH (5) APPLY TO ALL RENTAL AGREEMENTS, INCLUDING THOSE INVOLVING A TENANT
6 WHO RENTS SPACE FOR A MOBILE HOME BUT DOES NOT RENT THE MOBILE HOME.

7 ~~(6)(7)(6)(7)~~ The landlord is not bound by this section in the event that:

8 ~~(A) THE RENTAL AGREEMENT DOES NOT INVOLVE A TENANT WHO RENTS SPACE FOR A MOBILE HOME BUT DOES~~
9 ~~NOT RENT THE MOBILE HOME; AND~~

10 (A) THE RENTAL AGREEMENT DOES NOT INVOLVE A TENANT WHO RENTS SPACE FOR A MOBILE HOME BUT DOES
11 NOT RENT THE MOBILE HOME; AND

12 ~~(B)~~ the landlord elects to use the 30-day notice for termination of tenancy as provided in
13 70-24-441.

14 ~~———— (7) THIS SECTION DOES NOT APPLY TO A RENTAL AGREEMENT INVOLVING A TENANT WHO RENTS SPACE FOR A~~
15 ~~MOBILE HOME BUT DOES NOT RENT THE MOBILE HOME."~~

16

17 **Section 2.** Section 70-24-436, MCA, is amended to read:

18 **"70-24-436. Mobile home parks -- grounds for termination of rental agreement.** (1) ~~A landlord of~~
19 ~~a mobile home park may terminate a rental agreement only by following the procedure set forth in~~
20 ~~70-24-422, except as specifically provided in this section, and only for one or more of the following~~
21 ~~reasons~~ With respect to a tenant who rents space in a mobile home park but does not rent the mobile
22 home, if there is a noncompliance by the tenant with the rental agreement or with a provision of
23 70-24-321, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the
24 acts or omissions constituting the noncompliance and stating that the rental agreement will terminate upon
25 a date specified in the notice that may not be less than the minimum number of days after receipt of the
26 notice provided for in this section. The rental agreement terminates as provided in the notice for one or
27 more of the following reasons and subject to the following conditions:

28 (a) nonpayment of rent, late charges, or common area maintenance fees as established in the
29 rental agreement, for which the notice period is 3-15 7 CALENDAR days;

30 (b) ~~late payment of rent, late charges, or common area maintenance fees as established in the~~

1 ~~rental agreement three or more times within a 12-month period if written notice is given by the landlord~~
 2 ~~after each failure to pay, as required by 70-24-422. For this subsection (1)(b), the notice period referred~~
 3 ~~to in 70-24-422(1) is 30 days. a violation of a mobile home park rule other than provided for in subsection~~
 4 ~~(1)(a) that does not create an immediate threat to the HEALTH and safety of any resident of the mobile~~
 5 ~~home park OR ITS MANAGER OR OWNER, for which the notice period is 14 days;~~

6 (c) ~~a violation of a mobile home park rule that creates an immediate threat to the health and safety~~
 7 ~~of any resident of the mobile home park, ITS MANAGER, OR ITS OWNER, THE NOTICE PERIOD IS 24 HOURS; its~~
 8 ~~manager, or owner, if the violation has not been remedied 24 hours after the violator is given written~~
 9 ~~notice of the violation; the notice period is 24 hours. IF THE VIOLATION HAS NOT BEEN REMEDIED 24 HOURS AFTER~~
 10 ~~THE VIOLATOR IS GIVEN WRITTEN NOTICE OF THE VIOLATION, FOR WHICH THE NOTICE PERIOD IS 14 DAYS;~~

11 (d) ~~subject to the right to terminate in subsections (1)(e) through (1)(l), if the noncompliance~~
 12 ~~described in subsections (1)(a) through (1)(c) is remediable by repairs, the payment of damages, or~~
 13 ~~otherwise, and the tenant adequately remedies the noncompliance before the date specified in the notice,~~
 14 ~~the rental agreement does not terminate as a result of that noncompliance. In addition, if the termination~~
 15 ~~was for a violation of subsection (1)(a), the tenant has the right to reinstate the tenancy, after termination,~~
 16 ~~upon payment any time prior to judgment of all delinquent rent, together with costs and reasonable~~
 17 ~~attorney fees incurred by the landlord in the enforcement of subsection (1)(a).~~

18 (e) ~~late payment of rent, late charges, or common area maintenance fees as established in the~~
 19 ~~rental agreement three or more times within a 12-month period if written notice is given by the landlord~~
 20 ~~after each failure to pay, as required by subsection (1)(a), for which the notice period for termination for~~
 21 ~~the final late payment is 30 days;~~

22 (f) ~~a violation of a mobile home park rule that creates an immediate threat to the health and safety~~
 23 ~~of any resident of the mobile home park, its manager, or owner, whether or not notice was given pursuant~~
 24 ~~to subsection (1)(c) and the violation was remedied as provided in subsection (1)(d), for which the notice~~
 25 ~~period for termination is 14 days;~~

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 that are so designated;~~

29 (e)(g) ~~two or more violations within a 12-month period of the same rule. For this subsection (1)(e),~~
 30 ~~the for which notice has been given for each prior violation as provided in subsection (1)(a), (1)(b), or~~

1 (1)(c), for which the notice period referred to in 70-24-422(1) is for termination FOR THE FINAL VIOLATION IS
 2 30 days-;

3 ~~(f)(h)~~ two or more violations of 70-24-321(1) within a 12-month period ~~or~~, for which the notice
 4 period for termination for the final violation is 14 days;

5 (i) any violation of 70-24-321(2), for which the notice period is as provided in 70-24-422(3);

6 ~~(g)(j)~~ disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment
 7 and use of the premises. ~~For this subsection (1)(g),~~ for which the notice period referred to in 70-24-422(1)
 8 is 30 days-;

9 ~~(h)(k)~~ any other noncompliance or violation not covered by subsection (1)(a) through (1)(i) (1)(j)
 10 that endangers other residents or mobile home park personnel or causes substantial damage to the mobile
 11 home park premises, for which the notice period is 14 days;

12 ~~(i)(l)~~ conviction of the mobile home owner or a tenant of the mobile home owner of a violation of
 13 a federal or state law or local ordinance, when the violation is detrimental to the health, safety, or welfare
 14 of other residents or the landlord of the mobile home park, or the landlord's documentation of a violation
 15 of the provisions of Title 45, chapter 9, for which the notice period is 14 days;

16 ~~(j)(m)~~ changes in the use of the land if the requirements of subsection (2) are met. ~~For this~~
 17 ~~subsection (1)(j),~~ for which the notice period referred to in 70-24-422(1) is 180 days-;

18 ~~(k)(n)~~ a any legitimate business reason not covered elsewhere in subsection (1), provided that the
 19 landlord meets the following requirements:

20 (i) the termination does not violate a provision of this section or any other state statute; and
 21 (ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum
 22 of 90 days' written notice of the termination.

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

26 (a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least
 27 15 days' written notice that the landlord will be appearing before a unit of local government to request
 28 permits for a change of use of the mobile home park.

29 (b) After all required permits requesting a change of use have been approved by the unit of local
 30 government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6

1 months' written notice of termination of tenancy. If the change of use does not require local government
 2 permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the
 3 notice, the landlord shall disclose and describe in detail the nature of the change of use.

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

8 (3) For purposes of calculating the total number of notices given within a 12-month period under
 9 subsection (1)(b)(e), only one notice for each violation per month may be included in the calculation.

10 ~~———— (4) IF THE TENANT DESTROYS, DEFACTS, DAMAGES, IMPAIRS, OR REMOVES ANY PART OF THE PREMISES IN
 11 VIOLATION OF 70-24-321(2), THE LANDLORD MAY TERMINATE THE RENTAL AGREEMENT UPON GIVING 3 DAYS' WRITTEN
 12 NOTICE SPECIFYING THE BREACH UNDER THE PROVISIONS OF 70-24-321(2).~~

13 ~~———— (5) EXCEPT AS PROVIDED IN THIS CHAPTER, THE LANDLORD MAY RECOVER ACTUAL DAMAGES AND OBTAIN
 14 INJUNCTIVE RELIEF FOR ANY NONCOMPLIANCE BY THE TENANT WITH THE RENTAL AGREEMENT OR 70-24-321. EXCEPT
 15 AS PROVIDED IN SUBSECTION (6), IF THE TENANT'S NONCOMPLIANCE IS PURPOSEFUL, THE LANDLORD MAY RECOVER TREBLE
 16 DAMAGES.~~

17 ~~———— (6) TREBLE DAMAGES MAY NOT BE RECOVERED FOR THE TENANT'S EARLY TERMINATION OF THE TENANCY."~~

18

19 **Section 3.** Section 70-24-441, MCA, is amended to read:

20 **"70-24-441. Termination by landlord or tenant -- applicability.** (1) The landlord or the tenant may
 21 terminate a week-to-week tenancy by a written notice given to the other at least 7 days before the
 22 termination date specified in the notice.

23 (2) The landlord or the tenant may terminate a month-to-month tenancy by giving to the other at
 24 any time during the tenancy at least 30 days' notice in writing prior to the date designated in the notice
 25 for the termination of the tenancy.

26 (3) The tenancy terminates on the date designated and without regard to the expiration of the
 27 period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is
 28 uniformly apportionable from day to day.

29 (4) The provisions of this section do not apply to a tenant who rents space for a mobile home in
 30 a mobile home park but does not rent the mobile home."

1

2 NEW SECTION. **Section 4. Applicability.** The notice provisions of 70-24-422 and 70-24-436 apply
3 to existing rental agreements to the extent that an existing rental agreement does not contain specific
4 notice provisions.

5

- END -