

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY**

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 14, 2001 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 337 - 3-09-01**
SB 342 - 3-09-01

Executive Action: **SB 282 - BCIAA**

HEARING ON SB 337

Sponsor: Senator Dale Berry, SD 30, Hamilton said this Bill would allow a landlord to bring action into small claims court as opposed to justice court. These are landlord-tenant issues such as some overdue rent or someone not paying rent to vacate a property.

Proponents: Zane Sullivan, Montana Association of Realtors, Missoula said SB 337 is designed to create an additional forum for addressing the most common landlord and tenant situations. At the present time, small claims court has a monetary jurisdiction limit of \$3000. That is not the issue, the issue is that many landlord/tenant situations involve an action to regain possession of the property from the tenant who is in default or whatever the circumstance may be that causes the problems to arise. This proposal would place the landlord and the tenant on the same footing. Either side would appear before the small claims court with counsel. The judge could address the issue and deal with it quickly and efficiently.

Bruno Frea, President, Lambros Real Estate, Missoula

Ronny Roach, Landlord, Great Falls

Arnold Schlagel, Income Property Management, Great Falls

Roger Halver, Montana Association of Realtors, Helena

{Tape : 1; Side : A; Approx. Time Counter : 0 - 16.2}

Opponents: Robert Throssell, Montana Magistrates' Association mentioned two concerns: one is that it would "clog" the small claims court, and the other concern is that it is getting away from the concept of the interested party.

{Tape : 1; Side : A; Approx. Time Counter : 16.2 - 17.8}

Questions from Committee Members and Responses: Reps. Clancy, Peterson, Noennig to Senator Berry and Mr. Sullivan for clarification.

{Tape : 1; Side : A; Approx. Time Counter : 17.8 - 27.7}

Closing by Sponsor: Senator Berry closed the Hearing on SB 337 by saying tenants flout the protection they have of going to court. The process in itself promotes the idea of riding out a landlord and then not appear. The small claims court would make this a quicker process.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 21.3}

HEARING ON SB 342

Sponsor: Senator Dale Berry, SD 30, Hamilton said this Bill allows a property management landlord to file and maintain a change. This Bill basically coattails on the other one. This clarifies that the property manager can act on behalf of the landlord.

Proponents: Zane Sullivan, Montana Association of Realtors, Missoula said this Bill could have been combined with the earlier Bill but for some reason it didn't happen that way. It is designed to clarify the introduction to the Montana Residential Landlord and Tenant Act which addresses that the landlord may maintain the actions provided for in the Act. Some of the Justices of the Peace have raised an issue in some jurisdictions whether or not the property manager is the landlord.

Ronny Roach, Landlord, Great Falls

Arnold Schlagel, Income Property Manager, Great Falls

Roger Halver, Montana Association of Realtors, Helana.

Opponents: Robert Throssell, Montana Magistrates' Association

{Tape : 1; Side : B; Approx. Time Counter : 21.3 - 29.9}

Questions from Committee Members and Responses: Reps. Noennig, Mangan, Clark to Mr. Sullivan and Mr. Roach to understand the intent of the Bill.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 13.7}

Closing by Sponsor: Senator Berry closed the Hearing on SB 342 by emphasizing two things. The landlord and property manager enter into a contractual agreement under the Landlord/Tenant Law. That contract can be as extensive as it wants to be. The landlord can state whatever power or authority he wishes.

Senator Berry emphasized he "may" act on his behalf. It is a significant problem if there are any transient owners who live out of state or another city.

{Tape : 2; Side : A; Approx. Time Counter : 13 - 15.5}

EXECUTIVE ACTION ON SB 282

Motion: REP. LASZLOFFY moved that SB 282 BE CONCURRED IN. #1

Discussion: Reps. Harris, Peterson, Curtiss, Noennig.

Motion: REP. NOENNIG moved that SB 282 BE AMENDED. #2

Discussion: Mr. MacMaster explained the amendment. Reps. Peterson, Hurdle, Noennig.

Vote: The Noennig amendment (#2) passed unanimously 19-0.

Motion: REP. LASZLOFFY moved that SB 282 BE CONCURRED IN AS AMENDED. #3 Motion carried unanimously 19-0.

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Mr. MacMaster announced that yesterday the Committee heard SB 489 on the 4th DUI offense and the person would be referred to in-house residential treatment. Senator Christiaens conferred with Mr. MacMaster and Susan Fox to take his Bill, SB 483 and SB 489, and make them into one Bill and one set of amendments to satisfy all the various groups as much as possible, especially Senators Christiaens and Grosfield.

Discussion: Reps. Hurdle, Holden to Mr. MacMaster who said both Bills provide that this mandated in-house residential treatment is just for 4th offenders. Under the current law a second or subsequent offender is mandated to take treatment - the judge has no discretion. The new process under the merged bill will go into place for the 4th and subsequent offenders.

{Tape : 2; Side : A; Approx. Time Counter : 15.5 - 29.7}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 4.1}

ADJOURNMENT

Adjournment: 10:50 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh58aad)