

## HOUSE BILL NO. 589

INTRODUCED BY M. CUFFE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RESIDENTIAL LANDLORD AND TENANT LAWS TO ADDRESS RETALIATORY ACTIONS; AND AMENDING SECTIONS 70-24-411 AND 70-24-431, MCA."

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

**Section 1.** Section 70-24-411, MCA, is amended to read:

**"70-24-411. Unlawful ouster, exclusion, or diminution of service -- tenant's remedies.** (1) Subject to the provisions in subsection (2), if a landlord unlawfully removes or excludes the tenant from the premises or purposefully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electricity, gas, or other essential services, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than 3 months' periodic rent or treble damages, whichever is greater. If the rental agreement is terminated, the landlord shall return all security recoverable pursuant to chapter 25 of this title and all prepaid rent.

(2) If a tenant, a member of the tenant's family, or another person on the premises with the tenant's permission purposely causes damage to the rental property or other property belonging to the landlord and that damage is greater than the security obtained under 70-25-201, the provisions of subsection (1) of this section regarding recovery of rent, treble damages, or the security do not apply and the tenant may be charged with violating 70-24-321(2) or 70-33-321(3), as applicable, and 45-6-106."

**Section 2.** Section 70-24-431, MCA, is amended to read:

**"70-24-431. Retaliatory conduct by landlord or tenant prohibited.** (1) Except as provided in this section, a landlord may not retaliate by ~~increasing~~ initiating a discriminatory increase in rent, by 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~~ notified the landlord in writing of a violation under 70-24-303; or
- (c) has organized or become a member of a tenant's union or similar organization.

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

3 (3) ~~In an~~ If a landlord takes action by or against the tenant for a complaint filed under subsection (1),  
4 ~~evidence of a complaint within 6 months before the~~ tenant may assert the alleged act of retaliation creates a  
5 rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant  
6 made the complaint after notice of a proposed rent increase, corrective action taken to correct a violation of the  
7 rental agreement, or diminution of services. For purposes of this section, "rebuttable presumption" means that  
8 the trier of fact is required to find the existence of the fact presumed unless and until evidence is introduced that  
9 would support a finding of its nonexistence.

10 (4) A tenant may not take retaliatory action against a landlord by filing false complaints.

11 (5) If a tenant files a claim of discrimination against the landlord under 49-2-305, neither party to the  
12 dispute may take a separate action under this section or 70-24-411 while the claim is pending. If a claim under  
13 Title 49 is dismissed, the landlord may immediately take action against a tenant for possession as provided in  
14 subsection (6)(a) or (6)(b). Any findings or records on which a decision is based under 49-2-505 may be used  
15 by either party for a claim of retaliation under this section.

16 ~~(4)(6)~~ Subsections (1), (2), and (3) do not prevent a landlord from bringing an action for possession if:  
17 (a) the violation of the applicable building or housing code was caused primarily by lack of reasonable  
18 care by the tenant, a member of the tenant's family, or any other persons on the premises with the tenant's  
19 consent;

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

21 (c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition  
22 that would effectively deprive the tenant of use of the dwelling unit; or

23 (d) the tenant has abused the use of electrical, plumbing, sanitary, heating, ventilating, air conditioning,  
24 or other facilities or appliances, including elevators and utility services provided by the landlord to the premises.

25 ~~(5)(7)~~ The maintenance of an action by a landlord under subsection ~~(4)~~ (6) of this section does not  
26 release the landlord from liability under 70-24-405(2)."

27 - END -