

HOUSE BILL NO. 368

INTRODUCED BY CLARK, COFFIN, CUFFE, GURSKY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS PERTAINING TO THE DISPOSITION OF PERSONAL PROPERTY ABANDONED BY A TENANT AFTER TERMINATION OF A RENTAL AGREEMENT; CLARIFYING THE RESPONSIBILITIES OF A LANDLORD WITH RESPECT TO A TENANT'S ABANDONED PROPERTY; AND AMENDING SECTION 70-24-430, MCA."

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

Section 1. Section 70-24-430, MCA, is amended to read:

"70-24-430. Disposition of personal property abandoned by tenant after termination. (1) (A) If a tenancy terminates in any manner except by court order and the landlord reasonably believes HAS CLEAR AND CONVINCING EVIDENCE that the tenant has abandoned all personal property that the tenant has left on the premises and a period of time of at least 5 days 24 48 hours has elapsed since the occurrence of events upon which the landlord formed that belief OBTAINED THAT EVIDENCE, the landlord may remove the property from the premises IMMEDIATELY REMOVE THE ABANDONED PROPERTY FROM THE PREMISES AND immediately dispose of any trash or personal property the landlord reasonably believes THAT is hazardous, perishable, or valueless and abandoned. Any personal property remaining on the premises after termination of the rental agreement may be presumed to be valueless and abandoned.

(B) AN ITEM THAT IS CLEARLY LABELED "RENT TO OWN" OR "LEASED" OR LIKEWISE IDENTIFIED MAY BE DISCARDED ONLY WITH CONFIRMATION FROM THE LESSOR THAT THE ITEM DOES NOT HAVE A LIEN, PROVIDED THAT THE LESSOR CAN BE EASILY IDENTIFIED FROM THE LABEL AND THE LANDLORD MAKES A REASONABLE EFFORT TO CONTACT THE LESSOR.

(C) FOR THE PURPOSES OF THIS SUBSECTION (1), THE FOLLOWING DEFINITIONS APPLY:

(i) "HAZARDOUS" MEANS ANY ITEM THAT IS POTENTIALLY OR ACTUALLY FLAMMABLE, A BIOHAZARD, OR AN ITEM OTHERWISE CAPABLE OF INFLECTING PERSONAL HARM OR INJURY.

(ii) "PERISHABLE" MEANS ANY ITEM REQUIRING REFRIGERATION OR ANY FOOD ITEM WITH A MARKED EXPIRATION DATE.

(iii) "VALUELESS" MEANS ANY ITEM THAT HAS AN INSUBSTANTIAL RESALE VALUE BUT DOES NOT INCLUDE PERSONAL PHOTOS, JEWELRY, OR OTHER SMALL ITEMS THAT ARE IRREPLACEABLE.



1 (2) The landlord shall inventory and store all ~~goods, chattels, and~~ abandoned personal property of the
 2 tenant that the landlord reasonably believes is valuable in a place of safekeeping and shall exercise reasonable
 3 care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored
 4 by the landlord, plus the cost of removal of the property to the place of storage. The landlord may store the
 5 property in a commercial storage company, in which case the storage cost includes the actual storage charge
 6 plus the cost of removal of the property to the place of storage.

7 (3) After complying with ~~subsections (1) and~~ subsection (2), the landlord shall:

8 ~~(a) make a reasonable attempt to notify the tenant in writing that the property must be removed from the~~
 9 ~~place of safekeeping;~~

10 ~~(b) notify the local law enforcement office of the property held by the landlord;~~

11 ~~(c) make a reasonable effort to determine if the property is secured or otherwise encumbered; and~~

12 ~~(d) send by sending~~ a notice with a certificate of mailing or by certified mail to the last-known address
 13 of the tenant, stating that at a specified time, not less than ~~45~~ 7 10 days after mailing the notice, the property will
 14 be disposed of if not removed.

15 (4) The landlord may dispose of the property after complying with subsection (3) by:

16 (a) selling all or part of the property at a public or private sale; or

17 (b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes that
 18 the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the property.

19 (5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord
 20 on or before the day specified in the notice that the tenant intends to remove the property and does not do so
 21 within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is conclusively
 22 presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the
 23 period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage.
 24 Reasonable storage costs are allowed a landlord who stores the property, and actual storage costs are allowed
 25 a landlord who stores the property in a commercial storage company. A landlord is entitled to payment of the
 26 storage costs allowed under this subsection before the tenant may remove the property.

27 (6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is
 28 caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is liable
 29 for actual damages.

30 (7) A public or private sale authorized by this section must be conducted under the provisions of

1 30-9A-601 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

2 (8) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor,
3 and sale and any delinquent rent or damages owing on the premises and shall remit to the tenant the remaining
4 proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be found, the
5 remaining proceeds must be deposited with the county treasurer of the county in which the sale occurred and,
6 if not claimed within 3 years, must revert to the general fund of the county available for general purposes.

7 (9) THE LANDLORD SHALL ENSURE THAT THE TERMS OF THIS SECTION ARE INCLUDED IN PLAIN AND
8 UNDERSTANDABLE LANGUAGE AS A NOTIFICATION IN ANY LEASE OR RENTAL AGREEMENT AT THE TIME OF THE AGREEMENT
9 OR WHEN THE TENANT OCCUPIES THE PROPERTY. THE LANDLORD SHALL PROVIDE THE SAME NOTIFICATION UPON
10 TERMINATION OF THE LEASE OR RENTAL AGREEMENT."

11 - END -