

SENATE BILL NO. 371

INTRODUCED BY M. BLASDEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TENANT NONCOMPLIANCE AND TERMINATION LAWS;
5 REVISING NOTICE REQUIREMENTS FOR A LANDLORD TO TERMINATE AN AGREEMENT; DETERMINING
6 WHEN A TENANCY IS A PURPOSEFUL HOLDOVER BASED ON TERMINATION OF AN AGREEMENT;
7 ALLOWING A LANDLORD TO COLLECT CERTAIN PENALTIES AND TREBLE DAMAGES WHEN
8 AGREEMENTS ARE TERMINATED; REVISING HOLDOVER REMEDIES; REDUCING THE TIME FOR FILING
9 AN ANSWER; ALLOWING A LANDLORD DEFAULT JUDGMENT UNDER CERTAIN CIRCUMSTANCES; AND
10 AMENDING SECTIONS 70-24-422, 70-24-429, 70-33-422, 70-33-429, AND 70-33-433, MCA."

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

13
14 **Section 1.** Section 70-24-422, MCA, is amended to read:

15 **"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**
16 **injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental
17 agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant
18 to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement
19 will terminate ~~upon a date specified in the notice~~ not less than the minimum number of days after receipt of the
20 notice provided for in this section. The rental agreement terminates as provided in the notice, subject to the
21 following:

22 (a) If the noncompliance is remediable by repairs, the payment of damages, or otherwise and the tenant
23 adequately remedies the noncompliance before the date specified in the notice, the rental agreement does not
24 terminate.

25 (b) If the noncompliance involves an unauthorized pet, the notice period is 3 days.

26 (c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is
27 3 days.

28 (d) If the noncompliance is not listed in subsection (1)(b) or (1)(c), the notice period is 14 days.

29 (e) If substantially the same act or omission that constituted a prior noncompliance of which notice was
30 given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice

1 specifying the noncompliance and the date of the termination of the rental agreement.

2 (2) If rent is unpaid when due and the tenant fails to pay rent ~~and all contractual fees and charges~~, LATE
 3 FEES, AND UNPAID UTILITY BILLS within 3 days after written notice by the landlord of nonpayment and the landlord's
 4 intention to terminate the rental agreement if the rent is not paid within that period, the ~~landlord may terminate~~
 5 ~~the rental agreement is terminated~~, and the tenant's occupancy is considered a purposeful holdover pursuant to
 6 70-24-429.

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

10 (4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that
 11 neighboring tenants may be injured in violation of 70-24-321(3), the landlord may terminate the rental agreement
 12 upon giving 3 days' written notice specifying the violation and noncompliance under the provisions of
 13 70-24-321(3).

14 (5) (a) Except as provided in this chapter ~~and subsection (5)(b)~~, the landlord may recover:

15 (i) actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental
 16 agreement or 70-24-321. ~~Except as provided in subsection (6);~~

17 (ii) treble damages if the tenant's noncompliance is purposeful, ~~the landlord may recover treble damages;~~

18 (iii) a nonpayment penalty in an amount defined in the rental agreement; and

19 (iv) early termination penalties in an amount defined in the rental agreement.

20 ~~(6)(b)~~ Treble damages may not be recovered for the tenant's early termination of the tenancy or on a
 21 tenant's nonpayment penalty.

22 ~~(7)(6)~~ The landlord is not bound by this section in the event that the landlord elects to use the 30-day
 23 notice for termination of tenancy as provided in 70-24-441."

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25 **SECTION 2. SECTION 70-24-429, MCA, IS AMENDED TO READ:**

26 **"70-24-429. Holdover remedies -- consent to continued occupancy -- tenant's response to service**
 27 **in action for possession.** (1) If the tenant remains in possession without the landlord's consent after expiration
 28 of the term of the rental agreement or its termination, the landlord may bring an action for possession. If the
 29 tenant's holdover is purposeful and not in good faith, the landlord may recover an amount not more than 3
 30 months' periodic rent or treble damages, whichever is greater.

1 (2) In an action for possession or unlawful holdover, the provisions of Title 25, chapter 23, apply, except
 2 that the time for filing an answer under Rule 4C(2)(b) is ~~10~~ 3 days after service of summons and complaint,
 3 exclusive of the date of service.

4 (3) If the tenant fails to respond to the summons and complaint within 3 days pursuant to subsection (2),
 5 the landlord is entitled to default judgment and a writ of assistance for possession.

6 ~~(3)(4)~~ If the landlord consents to the tenant's continued occupancy, 70-24-201(2)(e) applies."
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8 **Section 3.** Section 70-33-422, MCA, is amended to read:

9 **"70-33-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**

10 **injunction.** (1) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation
 11 of 70-33-321(3), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying
 12 the noncompliance under the provisions of 70-33-321(3).

13 (2) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that
 14 neighboring tenants may be injured, as evidenced by the tenant being arrested or charged with an act that
 15 violates the provisions of 70-33-321(4), the landlord may terminate the rental agreement upon giving 3 days'
 16 written notice specifying the violation and noncompliance under the provisions of 70-33-321(4).

17 (3) (a) Except as otherwise provided in this chapter and subsection (3)(b), the landlord may recover;

18 (i) actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental
 19 agreement or 70-33-321. ~~Except as provided in subsection (4) of this section;~~

20 (ii) treble damages if the tenant's noncompliance is purposeful, ~~the landlord may recover treble damages;~~

21 (iii) a nonpayment penalty in an amount defined in the rental agreement; and

22 (iv) early termination penalties in an amount defined in the rental agreement.

23 ~~(4)(b)~~ Treble damages may not be recovered for the tenant's early termination of the tenancy or on a
 24 tenant's nonpayment penalty."

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26 **SECTION 4.** SECTION 70-33-429, MCA, IS AMENDED TO READ:

27 **"70-33-429. Holdover remedies -- consent to continued occupancy.** (1) If the tenant remains in
 28 possession without the landlord's consent after expiration of the term of the rental agreement or other termination
 29 of the rental agreement, the landlord may bring an action for possession. If the tenant's holdover is purposeful
 30 and not in good faith, the landlord may recover an amount of not more than 3 months' rent or treble damages,

1 whichever is greater.

2 (2) In an action for possession or unlawful holdover, the provisions of Title 25, chapter 23, apply, except
3 that the time for filing an answer under Rule 4C(2)(b) is ~~40~~ 3 days after service of summons and complaint,
4 exclusive of the date of service.

5 (3) If the tenant fails to respond to the summons and complaint within 3 days pursuant to subsection (2),
6 the landlord is entitled to default judgment and a writ of assistance for possession.

7 ~~(3)(4)~~ If the landlord consents to the tenant's continued occupancy, 70-33-201(2)(e) applies."
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9 **Section 5.** Section 70-33-433, MCA, is amended to read:

10 **"70-33-433. Grounds for termination of rental agreement.** (1) If there is a noncompliance by the
11 tenant with the rental agreement or with a provision of 70-33-321, the landlord may deliver a written notice to the
12 tenant pursuant to 70-33-106 specifying the acts or omissions constituting the noncompliance and stating that
13 the rental agreement will terminate ~~upon the date specified in the notice that may not be~~ less than the minimum
14 number of days after receipt of the notice provided for in this section. The rental agreement terminates as
15 provided in the notice for one or more of the following reasons and subject to the following conditions:

16 (a) nonpayment of rent, late charges, or common area maintenance fees as established in the rental
17 agreement, for which the notice period is 7 days;

18 (b) a violation of a rule other than provided for in subsection (1)(a) that does not create an immediate
19 threat to the health and safety of any other tenant or the landlord or manager, for which the notice period is 14
20 days;

21 (c) a violation of a rule that creates an immediate threat to the health and safety of any other tenant or
22 the landlord or manager, for which the notice period is 24 hours;

23 (d) late payment of rent, late charges, or common area maintenance fees, as established in the rental
24 agreement, three or more times within a 12-month period if written notice is given by the landlord after each failure
25 to pay, as required by subsection (1)(a), for which the notice period for termination for the final late payment is
26 30 days;

27 (e) a violation of a rule that creates an immediate threat to the health and safety of any other tenant or
28 the landlord or manager whether or not notice was given pursuant to subsection (1)(c) and the violation was
29 remedied as provided in subsection (3), for which the notice period is 14 days;

30 (f) two or more violations within a 12-month period of the same rule for which notice has been given for

1 each prior violation, as provided in subsection (1)(a), (1)(b), or (1)(c), for which the notice period for the final
2 violation is 30 days;

3 (g) two or more violations of 70-33-321(1) within a 12-month period, for which the notice period for the
4 final violation is 14 days;

5 (h) any violation of 70-33-321(3), for which the notice period is as provided in 70-33-422(1);

6 (i) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use
7 of the premises, for which the notice period is 30 days;

8 (j) any other noncompliance or violation not covered by subsections (1)(a) through (1)(i) that endangers
9 other tenants or mobile home park personnel or the landlord or manager or causes substantial damage to the
10 premises, for which the notice period is 14 days;

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

15 (l) changes in the use of the land if the requirements of subsection (2) are met, for which the notice
16 period is 180 days;

17 (m) any legitimate business reason not covered elsewhere in this subsection (1) if the landlord meets
18 the following requirements:

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

20 (ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum of 90
21 days' written notice of the termination.

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

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

27 (b) After all required permits requesting a change of use have been approved by the unit of local
28 government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months'
29 written notice of termination of tenancy. If the change of use does not require local government permits, the
30 landlord shall give the written notice at least 6 months prior to the change of use. In the notice the landlord shall

1 disclose and describe in detail the nature of the change of use.

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

6 (3) Subject to the right to terminate in subsections (1)(d) through (1)(k), if the noncompliance described
7 in subsections (1)(a) through (1)(c) is remediable by repairs, the payment of damages, or otherwise and the
8 tenant adequately remedies the noncompliance before the date specified in the notice, the rental agreement does
9 not terminate as a result of that noncompliance.

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

12 (b) If rent is unpaid when due and the tenant fails to pay rent and all contractual fees and charges, LATE
13 FEES, AND UNPAID UTILITY BILLS within 3 7 days three or more times within a 12-month period, if written notice is
14 given by the landlord after each failure to pay as required by subsection (1)(a), and if the landlord's intention is
15 to terminate the rental agreement if the rent is not paid within that period, the rental agreement is terminated and
16 the tenant's occupancy is considered a purposeful holdover pursuant to 70-33-429."

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18 NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured,
19 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

20 - END -