

SENATE BILL NO. 385

INTRODUCED BY R. WEBB

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO LANDLORDS AND TENANTS; REQUIRING THAT A COURT ISSUE A WRIT OF POSSESSION IF A LANDLORD'S CLAIM FOR POSSESSION IS GRANTED IN CERTAIN ACTIONS; ~~REQUIRING THAT A TENANT CERTIFY THAT THE TENANT IS CURRENT ON RENT PAYMENTS BEFORE FILING CERTAIN ACTIONS IN COURT;~~ PROVIDING DEFINITIONS; AND AMENDING SECTIONS 70-24-103, 70-24-427, 70-33-103, AND 70-33-427, MCA."

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

Section 1. Section 70-24-103, MCA, is amended to read:

"70-24-103. General definitions. Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the tenant or others.

(3) "Court" means the appropriate district court, small claims court, justice's court, or city court.

(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile home, means the mobile home itself.

(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(6) "Guest" means a person staying with a tenant for a temporary period of time as defined in the rental agreement or, if not defined in the rental agreement, for a period of time no more than 7 days unless the tenant has received the landlord's ~~oral~~ or written consent to a longer period of time.

1 ~~(6)~~(7) "Landlord" means:

2 (a) the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part; or

3 (b) a manager of the premises who fails to disclose the managerial position.

4 ~~(7)~~(8) "Organization" includes a corporation, government, governmental subdivision or agency, business
5 trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any
6 other legal or commercial entity.

7 ~~(8)~~(9) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

8 (a) the legal title to property; or

9 (b) the beneficial ownership and a right to present use and enjoyment of the premises, including a
10 mortgagee in possession.

11 ~~(9)~~(10) "Person" includes an individual or organization.

12 ~~(10)~~(11) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
13 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally
14 or promised for the use of a tenant.

15 ~~(11)~~(12) "Rent" means all payments to be made to the landlord under the rental agreement.

16 ~~(12)~~(13) "Rental agreement" means all agreements, written or oral, and valid rules adopted under
17 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
18 premises.

19 ~~(13)~~(14) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or
20 a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of
21 which are used in common by occupants in the structure.

22 ~~(14)~~(15) "Single-family residence" means a structure maintained and used as a single dwelling unit. A
23 dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct
24 access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other
25 essential facility or service with another dwelling unit.

26 ~~(15)~~(16) "Tenant" means:

27 ~~(a)~~ (a) a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;
28 ~~including a person entitled to occupy the unit under the original rental agreement, a person subsequently added~~
29 ~~to the rental agreement as an additional responsible party to the rental agreement, or a person who is under the~~
30 ~~age of 18 who resides at the premises during the term of the rental agreement and who is not emancipated; or~~

1 (b) a person who, with the WRITTEN approval of the landlord and pursuant to the rental agreement, has
2 a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement.

3 (17) "Unauthorized person" means a person, other than a tenant or a guest, who is trespassing in
4 violation of 45-6-203."

5

6 **Section 2.** Section 70-24-427, MCA, is amended to read:

7 **"70-24-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
8 agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual
9 damages for any breach of the rental agreement.

10 (2) An action filed pursuant to subsection (1) in a court must be heard within 14 days after the tenant's
11 appearance or the answer date stated in the summons, except that if the rental agreement is terminated because
12 of noncompliance under 70-24-321(3), the action must be heard within 5 business days after the tenant's
13 appearance or the answer date stated in the summons. If the action is appealed to the district court, the hearing
14 must be held within 14 days after the case is transmitted to the district court, except that if the rental agreement
15 is terminated because of noncompliance under 70-24-321(3), the hearing must be held within 5 business days
16 after the case is transmitted to the district court.

17 (3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in
18 subsection (2) without the necessity of an undertaking.

19 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action
20 within 5 days after the hearing. If a landlord's claim for possession is granted, the court shall issue a writ of
21 possession."

22

23 **Section 3.** Section 70-33-103, MCA, is amended to read:

24 **"70-33-103. Definitions.** Unless the context clearly requires otherwise, in this chapter, the following
25 definitions apply:

26 (1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which
27 rights are determined, including an action for possession.

28 (2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring
29 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
30 essential services, including electricity, gas, running water, and sewer and septic system service, or

1 life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the
2 tenant or others.

3 (3) "Court" means the appropriate district court, small claims court, justice's court, or city court.

4 (4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

5 (5) "Landlord" means:

6 (a) the owner, lessor, or sublessor of:

7 (i) space or land, including a lot, that is rented to a tenant for a mobile home; or

8 (ii) a mobile home park; or

9 (b) a manager of the premises who fails to disclose the managerial position.

10 (6) "Lot" means the space or land rented and not a mobile home itself.

11 (7) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured homes
12 as defined in 15-1-101.

13 (8) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to occupy
14 a lot.

15 (9) "Mobile home park" means a trailer court as defined in 50-52-101.

16 (10) "Organization" includes a corporation, government, governmental subdivision or agency, business
17 trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and any other
18 legal or commercial entity.

19 (11) "Person" includes an individual or organization.

20 (12) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants
21 generally or promised for the use of a tenant.

22 (13) "Rent" means all payments to be made to a landlord under a rental agreement.

23 (14) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-33-311
24 embodying the terms and conditions concerning the use and occupancy of the premises.

25 (15) "Tenant" means:

26 (a) a person entitled under a rental agreement to occupy a lot to the exclusion of others; ~~including a~~
27 ~~person entitled to occupy the unit under the original rental agreement, a person subsequently added to the rental~~
28 ~~agreement as an additional responsible party to the rental agreement, or a person who is under the age of 18~~
29 ~~who resides at the premises during the term of the rental agreement and who is not emancipated; or~~

30 (b) a person who, with the WRITTEN approval of the landlord and pursuant to the rental agreement, has

1 a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement."

2

3 **Section 4.** Section 70-33-427, MCA, is amended to read:

4 **"70-33-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
5 agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual
6 damages for any breach of the rental agreement.

7 (2) (a) An action filed pursuant to subsection (1) in a court must be heard within 20 days after the tenant's
8 appearance or the answer date stated in the summons, except that if the rental agreement is terminated because
9 of noncompliance under 70-33-321(4), the action must be heard within 5 business days after the tenant's
10 appearance or the answer date stated in the summons.

11 (b) If the action is appealed to the district court, the hearing must be held within 20 days after the case
12 is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance
13 under 70-33-321(4), the hearing must be held within 5 business days after the case is transmitted to the district
14 court.

15 (3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in
16 subsection (2) without the necessity of an undertaking.

17 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action
18 within 5 days after the hearing. If a landlord's claim for possession is granted, the court shall issue a writ of
19 possession."

20

21 ~~NEW SECTION. Section 5. Certification for tenant initiated action required. A tenant may not bring~~
22 ~~an action under this chapter unless the tenant certifies to the court that the tenant is current on all rent due under~~
23 ~~the rental agreement at the time the action is filed.~~

24

25 ~~NEW SECTION. Section 6. Codification instruction. (1) [Section 5] is intended to be codified as an~~
26 ~~integral part of Title 70, chapter 24, and the provisions of Title 70, chapter 24, apply to [section 5].~~

27 ~~(2) [Section 5] is intended to be codified as an integral part of Title 70, chapter 33, and the provisions~~
28 ~~of Title 70, chapter 33, apply to [section 5].~~

29

30 NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured,

1 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

2 - END -