

HOUSE BILL NO. 440
INTRODUCED BY T. FACEY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING RESIDENTIAL LANDLORDS TO PAY SIMPLE INTEREST ON TENANT SECURITY DEPOSITS THAT ARE IN AN AMOUNT OF \$500 OR MORE WHEN THE TERM OF THE LEASE IS FOR 6 MONTHS OR LONGER; PROVIDING FOR THE RETURN OR WITHHOLDING OF INTEREST-BEARING SECURITY DEPOSITS; PROVIDING FOR A TENANT ACTION AGAINST A LANDLORD FOR THE WRONGFUL WITHHOLDING OF AN INTEREST-BEARING SECURITY DEPOSIT; AND PROVIDING THAT A TENANT WHO WRONGFULLY TERMINATES A LEASE PRIOR TO THE EXPIRATION OF THE TERM OF THE LEASE IS NOT ENTITLED TO RECEIVE THE ACCRUED INTEREST ON THE TENANT'S SECURITY DEPOSIT; AND AMENDING SECTION 70-25-204, MCA."

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

NEW SECTION. Section 1. Security deposits. (1)(a) A landlord shall pay interest on security deposits:

- (i) that are in an amount of \$500 or more; and
- (ii) when a lease or rental term is for a period of 6 months or more.

(b) The rate of interest paid on a security deposit may not be less than 1 1/5% a year. Interest must accrue at 6-month intervals from January 1 through June 30 and from July 1 through December 31. The interest paid on the security deposit must be paid as simple interest and not as compounded interest.

(c) A landlord is not obligated to pay interest on a security deposit for a period of time that is only a portion of a 6-month interval as described in subsection (1)(b). A landlord is only obligated to pay interest on a security deposit when the tenant rents or leases the premises for a full 6-month period running from January 1 through June 30 or from July 1 through December 31.

(2) Security deposits must be deposited by the landlord within 30 days of receipt in a federally insured financial institution doing business in this state in an account that bears interest.

(3) In the event of the sale or transfer of the landlord's interest in the rented or leased premises, the landlord remains liable to the tenant and to the transferee of the landlord's interest in the rented or leased premises for any portion of the security deposit not paid to the transferee.

(4) Within 30 days of the end of the tenancy, the landlord shall return to the tenant the security deposit as provided for in 70-25-202, minus any amount withheld pursuant to 70-25-201, together with the accrued simple

interest.

(5) If the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, the tenant may bring an action as provided in 70-25-204.

(6) A tenant who wrongfully terminates a lease or rental agreement prior to the expiration of the term of the lease or rental agreement, is not entitled to receive the interest that accrued on the tenant's security deposit.

Section 2. Section 70-25-204, MCA, is amended to read:

"70-25-204. Wrongful withholding of security deposit -- action. (1) A person who wrongfully withholds a residential property security deposit or any portion of the deposit and any accrued interest, if applicable, is liable in damages to the tenant in a civil action for an amount equal to the sum determined to have been wrongfully withheld or deducted. ~~The attorney~~ Attorney fees may be awarded the prevailing party at the discretion of the court. The burden of proof of damages caused by the tenant to the leasehold premises is on the landlord.

(2) An action may not be maintained by a tenant for any amount wrongfully withheld or deducted prior to:

(a) the tenant's receipt from the landlord or the landlord's agent of a written denial of the sum alleged to be wrongfully detained;

(b) the expiration of a 30-day period after the termination of a tenancy;

(c) the expiration of a 30-day period after surrender and acceptance of the leasehold premises; or

(d) the expiration of a 10-day period after the landlord has indicated there were ~~no~~ not any damages to the premises, ~~no~~ cleaning was not required, ~~no~~ rent was not unpaid, and ~~no~~ utilities were not unpaid by the tenant."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 70, chapter 25, part 2, and the provisions of Title 70, chapter 25, part 2, apply to [section 1].

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