

SENATE BILL NO. 226
INTRODUCED BY B. DEPRATU

A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING LANDLORDS AND TENANTS FROM DRUG AND GANG-RELATED ACTIVITY BY PROVIDING RULES FOR TERMINATION OF A RENTAL AGREEMENT AND REPOSSESSION OF THE PREMISES FOR VIOLATION OF LAWS RELATING TO DRUGS AND GANGS; AND AMENDING SECTIONS 70-24-422 AND 70-24-427, MCA."

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

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

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

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

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

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

(iv) If the noncompliance involves a violation of Title 45, chapter 8, part 4, or Title 45, chapter 9, the notice period is 3 days, except as provided in subsection (1)(b).

~~(d)~~(v) If the noncompliance is not listed in ~~subsection (1)(b) or (1)(c)~~ subsections (1)(a)(i) through (1)(a)(iv), the notice period is 14 days.

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

(b) If illegal drugs are seized from the premises by a peace officer, the landlord shall terminate the rental agreement. The landlord shall deliver a written notice to the tenant pursuant to 70-24-108 stating that because of the seizure, the rental agreement will terminate 3 days after receipt of the notice.

~~(f)~~(c) This subsection (1) does not apply to a rental agreement involving a tenant who rents space for a mobile home but does not rent the mobile home.

(2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement. This subsection does not apply to a rental agreement involving a tenant who rents space for a mobile home but does not rent the mobile home.

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

(4) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (5), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

(5) Treble damages may not be recovered for the tenant's early termination of the tenancy.

(6) Subsections (3) through (5) apply to all rental agreements, including those involving a tenant who rents space for a mobile home but does not rent the mobile home.

(7) The landlord is not bound by this section in the event that:

(a) the rental agreement does not involve a tenant who rents space for a mobile home but does not rent the mobile home; and

(b) the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."

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

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

(2) An action filed pursuant to subsection (1) in a court must be heard within 20 days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of a violation of Title 45, chapter 8, part 4, or Title 45, chapter 9, the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons. If the action is appealed to the district

court, the hearing must be held within 20 days after the case is transmitted to the district court, except that if the rental agreement is terminated because of a violation of Title 45, chapter 8, part 4, or Title 45, chapter 9, the hearing must be held within 5 business days after the case is transmitted to the district court.

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

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 days after the hearing."

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