

SENATE BILL NO. 372

INTRODUCED BY M. BLASDEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A FINDING OF UNCONSCIONABILITY BY THE
5 COURT FOR RENTAL AGREEMENTS BASED ON CERTAIN TENANT AND LANDLORD RESPONSIBILITIES;
6 AND AMENDING SECTIONS 70-24-404 AND 70-33-403, MCA."

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

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10 **Section 1.** Section 70-24-404, MCA, is amended to read:

11 **"70-24-404. Unconscionability -- court discretion to refuse enforcement.** (1) If Except as provided
12 in subsection (2), if the court, as a matter of law, finds that:

13 (a) a rental agreement or any provision ~~thereof~~ of the rental agreement is unconscionable, the court may
14 refuse to enforce the agreement or enforce the remainder of the agreement without the unconscionable provision
15 to avoid an unconscionable-result; or

16 (b) a settlement in which a party waives or agrees to forego a claim or right under this chapter or under
17 a rental agreement is unconscionable, the court may refuse to enforce the settlement, enforce the remainder of
18 the settlement without the unconscionable provision, or limit the application of any unconscionable provision to
19 avoid an unconscionable result.

20 (2) A finding in accordance with subsection (1) may not be made based on a responsibility outlined in
21 a rental agreement that a tenant maintain a dwelling unit in accordance with 70-24-321 or a responsibility outlined
22 in a rental agreement that a landlord maintain the premises in accordance with 70-24-303.

23 ~~(2)~~(3) If unconscionability is put into issue by a party or by the court upon its own motion, the parties ~~shall~~
24 must be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental
25 agreement or settlement to aid the court in making the determination."

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27 **Section 2.** Section 70-33-403, MCA, is amended to read:

28 **"70-33-403. Unconscionability -- court discretion.** (1) If Except as provided in subsection (2), if the
29 court, as a matter of law, finds that:

30 (a) a rental agreement or any provision of the rental agreement is unconscionable, the court, in order

1 to avoid an unconscionable result, may refuse to enforce the agreement or may enforce the remainder of the
2 agreement without the unconscionable provision result; or

3 (b) a settlement in which a party waives or agrees to forego a claim or right under this chapter or under
4 a rental agreement is unconscionable, the court, in order to avoid an unconscionable result, may refuse to enforce
5 the settlement, may enforce the remainder of the settlement without the unconscionable provision, or may limit
6 the application of any unconscionable provision.

7 (2) A finding in accordance with subsection (1) may not be made based on a responsibility outlined in
8 a rental agreement that a tenant maintain a lot in accordance with 70-33-321 or a responsibility outlined in a rental
9 agreement that a landlord maintain the premises in accordance with 70-33-303.

10 ~~(2)~~(3) If unconscionability is put into issue by a party or by the court upon its own motion, the parties must
11 be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental
12 agreement or settlement to aid the court in making its determination."

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14 NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured,
15 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

16 - END -