

HOUSE BILL NO. 404

INTRODUCED BY L. SHELDON-GALLOWAY

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RENTAL LAWS; REVISING TENANT AND
5 LANDLORD LAW CONCERNING RENTAL AGREEMENTS AND MOBILE HOME LOT LEASES; PROVIDING
6 FOR REMOVAL OF UNAUTHORIZED PERSONS; REVISING METHODS OF NOTICE, RENTAL AGREEMENT
7 TERMINATION PROVISIONS, COSTS INCURRED BY LANDLORDS AND TENANTS, AND DEFINITIONS;
8 AMENDING SECTIONS 70-24-103, 70-24-108, 70-24-312, 70-24-406, 70-24-407, 70-24-422, 70-24-430,
9 70-33-103, 70-33-106, 70-33-312, 70-33-405, 70-33-422, 70-33-430, 70-33-432, AND 70-33-433, MCA; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

11

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

13

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

15 **"70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections and
16 unless the context otherwise requires, in this chapter the following definitions apply:

17 (1) "Abandon" means:18 (a) with respect to personal property, to give up the property with the intent to never reclaim it; and19 (b) with respect to the premises, to give up POSSESSION OF the premises with the intent to never reenter.

20 ~~(1)~~(2) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in
21 which rights are determined, including an action for possession.

22 (3) "Actual and reasonable cost" means the actual amount of expenses and labor incurred or expended
23 and the reasonable amount of expenses and labor estimated to be incurred or expended.

24 ~~(2)~~(4) "Case of emergency" means an extraordinary occurrence ~~beyond the tenant's control~~ requiring
25 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
26 essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service,
27 or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to
28 the tenant or others.

29 ~~(3)~~(5) "Court" means the appropriate district court, small claims court, justice's court, or city court.30 ~~(4)~~(6) "Dwelling unit" means a structure or the part of a structure that is designated by the landlord to

1 be used as a home, residence, or sleeping place by a person who maintains a household or by two or more
 2 persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile
 3 home park and rents the mobile home, means the mobile home itself.

4 ~~(5)~~(7) "Good faith" means honesty in fact in the conduct of the transaction concerned.

5 ~~(6)~~(8) "Guest" means a person staying with a tenant for a temporary period of time as ~~defined~~ allowed
 6 in the rental agreement or, if not ~~defined~~ specified in the rental agreement, for a period of time no more than 7
 7 3 days unless the tenant has received the landlord's written consent to a longer period of time.

8 ~~(7)~~(9) "Landlord" means:

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

10 (b) a person who has written authorization from the owner to act as the owner's agent or assignee for
 11 purposes related to the premises or the rental agreement;

12 ~~(b)(c) a manager of the premises who fails to disclose the managerial position~~ person who has written
 13 authorization from the owner to act as a manager of the premises for the purposes of the rental agreement; or

14 (d) a lessor who has written authorization from the owner of the premises to sublease the premises.

15 ~~(8)~~(10) "Organization" includes a corporation, government, governmental subdivision or agency, business
 16 trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any
 17 other legal or commercial entity.

18 ~~(9)~~(11) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

19 (a) the legal title to property; or

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

22 ~~(10)~~(12) "Person" includes an individual or organization.

23 ~~(11)~~(13) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
 24 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally
 25 or promised for the use of a tenant.

26 ~~(12)~~(14) "Rent" means all payments to be made to the landlord under the rental agreement.

27 ~~(13)~~(15) "Rental agreement" means all agreements, written or oral, and valid rules adopted under
 28 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
 29 premises.

30 ~~(14)~~(16) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or

1 a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of
 2 which are used in common by occupants in the structure.

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

7 ~~(16)~~(17) "Tenant" means:

8 (a) a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others; or

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

11 ~~(17)~~(18) "Unauthorized person" means a person, other than a tenant or a guest, who enters or remains
 12 unlawfully in violation of 45-6-201 or who is trespassing in violation of 45-6-203.

13
 14 **NEW SECTION. Section 2. Removal of unauthorized person.** (1) An unauthorized person has no
 15 legal right to occupy the premises. A person who cannot produce authorization allowing the person to occupy the
 16 premises is considered to be an unauthorized person for the purpose of this section and may be removed from
 17 the premises immediately by law enforcement.

18 (2) For the purposes of this section, authorization includes:

19 (a) a written rental agreement entitling the person to occupy the premises;

20 (b) written or verbal authorization from the landlord; or

21 (c) written or verbal authorization from a tenant if the person is a guest of the tenant.

22 (3) For the purposes of this section, verbal authorization is valid only if it is verified by the individual or
 23 entity entitled to give it under subsection (2)(b) or (2)(c).

24
 25 **Section 3.** Section 70-24-108, MCA, is amended to read:

26 **"70-24-108. What constitutes notice.** (1) A person has notice of a fact if:

27 (a) the person has actual knowledge of it;

28 (b) in the case of a landlord, it is delivered at the place of business of the landlord through which the
 29 rental agreement was made; or

30 (c) in the case of a landlord or tenant, it is delivered in hand to the landlord or tenant or mailed with a

1 certificate of mailing or by certified mail to the person at the place ~~held out~~ designated by the person as the place
 2 for receipt of the communication or, in the absence of a designation, to the person's last-known address. If notice
 3 is made with a certificate of mailing or by certified mail, service of the notice is considered to have been made
 4 upon the date 3 days after the date of mailing; or

5 (d) in the case of a landlord or tenant, it is sent by electronic communication, and in the rental agreement
 6 each party has agreed to the use of written electronic communications for the purposes of notification, has agreed
 7 to the specific form of the electronic communication, including but not limited to e-mail or text message, and has
 8 provided the other party with the relevant electronic communication address. However, electronic communications
 9 may only be sent in a format capable of requesting receipt of delivery, and any notification under this subsection
 10 (1)(d) must be sent requesting receipt of delivery.

11 (2) Notice received by an organization is effective for a particular transaction from the time it is brought
 12 to the attention of the individual conducting that transaction and, in any event, from the time it would have been
 13 brought to the individual's attention if the organization had exercised reasonable diligence."
 14

15 **Section 4.** Section 70-24-312, MCA, is amended to read:

16 **"70-24-312. Access to premises by landlord.** (1) A tenant may not unreasonably withhold consent to
 17 the landlord or the landlord's agent to enter into the dwelling unit in order to inspect the premises, make
 18 necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services,
 19 or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

20 (2) A landlord may enter the dwelling unit without consent of the tenant in the case of an emergency.

21 (3) (a) A landlord may not abuse the right of access or use it to harass the tenant. Except in the case
 22 of an emergency or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours' notice
 23 of the intent to enter and may enter only at reasonable times.

24 (b) For the purposes of this subsection (3), in addition to the provisions of 70-24-108, a tenant has notice
 25 of the intent to enter if the landlord conspicuously posts the landlord's intent to enter on the main entry door of
 26 the dwelling unit.

27 (4) A landlord has no other right of access except:

28 (a) pursuant to court order;

29 (b) as permitted by 70-24-425 and 70-24-426(2); or

30 (c) when the tenant has abandoned or surrendered the premises.

1 (5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises
2 without the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied
3 by the landlord to the premises, the tenant shall provide the landlord with a key to ensure that the landlord will
4 have the right of access as provided by this chapter."
5

6 **Section 5.** Section 70-24-406, MCA, is amended to read:

7 **"70-24-406. Failure of landlord to maintain premises -- tenant's remedies.** (1) Except as provided
8 in this chapter, if there is a noncompliance with 70-24-303 affecting health and safety, the tenant may:

9 (a) deliver a written notice to the landlord specifying the acts and omissions constituting the breach and
10 that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach
11 is not remedied in 14 days. If the noncompliance results in a case of emergency and the landlord fails to remedy
12 the situation within 3 working days after written notice by the tenant of the situation and the tenant's intention to
13 terminate the rental agreement, the tenant may terminate the rental agreement. The rental agreement terminates
14 as provided in the notice subject to the following exceptions:

15 (i) if the breach is remediable by repairs, the payment of damages, or otherwise and the landlord
16 adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate
17 by reason of the breach;

18 (ii) if substantially the same act or omission which constituted a prior noncompliance of which notice was
19 given recurs within 6 months, the tenant may terminate the rental agreement upon at least 14 days' written notice
20 specifying the breach and the date of termination of the rental agreement;

21 (iii) the tenant may not terminate for a condition caused by the tenant, a member of the tenant's family,
22 or other persons on the premises with the tenant's consent.

23 (b) make repairs that do not cost more than 1 month's rent and deduct the actual and reasonable cost
24 from the rent if the tenant has given the landlord notice and the landlord has not made the repairs within a
25 reasonable time. If the repair is required in a case of emergency, the tenant has notified the landlord, and the
26 landlord has not made the repairs, the tenant may have repairs made only by a person qualified to make the
27 repairs.

28 (2) Except as provided in this chapter, the tenant may recover actual damages and obtain injunctive relief
29 for any noncompliance by the landlord with the rental agreement or 70-24-303.

30 (3) The remedy provided in subsection (2) of this section is in addition to a right of the tenant arising

1 under subsection (1).

2 (4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant
3 pursuant to chapter 25 of this title."

4

5 **Section 6.** Section 70-24-407, MCA, is amended to read:

6 **"70-24-407. Damages for minor violations by landlord.** If the landlord fails to comply with the rental
7 agreement or 70-24-303 and the actual and reasonable cost of compliance is less than the 1 month's rent, the
8 tenant may recover damages for the breach under 70-24-406(2)."

9

10 **Section 7.** Section 70-24-422, MCA, is amended to read:

11 **"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**
12 **injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental
13 agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant
14 to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement
15 will terminate upon a date specified in the notice not less than the minimum number of days after receipt of the
16 notice provided for in this section. The rental agreement terminates as provided in the notice, subject to the
17 following:

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

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

22 (c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is
23 3 days.

24 (d) If the noncompliance involves a guest who is not in compliance with the requirements of
25 70-24-321(1)(f), (2), or (3), the notice period is 24 hours.

26 ~~(d)~~(e) If the noncompliance is not listed in subsection (1)(b) ~~or (1)(c)~~ through subsection (1)(d), the notice
27 period is 14 days.

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

1 (2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the
2 landlord of nonpayment and the landlord's intention to terminate the rental agreement if ~~the~~ any rent due under
3 the rental agreement is not paid within that period, the landlord may terminate the rental agreement. If a tenant
4 makes a partial payment but does not pay the entire amount of rent due under the rental agreement, the landlord
5 may terminate the rental agreement.

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

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

13 (5) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive
14 relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in
15 subsection (6), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

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

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

19

20 **Section 8.** Section 70-24-430, MCA, is amended to read:

21 **"70-24-430. Disposition of personal property abandoned by tenant after termination.** (1) (a) If a
22 tenancy terminates in any manner except by court order and the landlord has clear and convincing evidence that
23 the tenant has abandoned all personal property that the tenant has left on the premises and a period of time of
24 at least 48 hours has elapsed since the landlord obtained that evidence, the landlord may immediately remove
25 the abandoned property from the premises and immediately dispose of any trash or personal property that is
26 hazardous, perishable, or valueless.

27 (b) An item that is clearly labeled "rent to own" or "leased" or likewise identified may be discarded only
28 with confirmation from the lessor that the item does not have a lien, provided that the lessor can be easily
29 identified from the label and the landlord makes a reasonable effort to contact the lessor.

30 (c) For the purposes of this subsection (1), the following definitions apply:

1 (i) "Hazardous" means an item that is potentially or actually flammable or a biohazard or an item
2 otherwise capable of inflicting personal harm or injury.

3 (ii) "Perishable" means any item requiring refrigeration or any food item with a marked expiration date.

4 (iii) "Valueless" means any item that has an insubstantial resale value but does not include personal
5 photos, jewelry, or other small items that are irreplaceable.

6 (2) The landlord shall inventory and store all abandoned personal property of the tenant that the landlord
7 reasonably believes is valuable in a place of safekeeping and shall exercise reasonable care for the property.
8 The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the
9 actual and reasonable cost of removal of the property to the place of storage. The landlord may store the property
10 in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost
11 of removal of the property to the place of storage.

12 (3) After complying with subsection (2), the landlord shall make a reasonable attempt to notify the tenant
13 in writing that the property must be removed from the place of safekeeping by sending a notice with a certificate
14 of mailing or by certified mail to the last-known address of the tenant, stating that at a specified time, not less than
15 10 days after mailing the notice, the property will be disposed of if not removed.

16 (4) The landlord may dispose of the property after complying with subsection (3) by:

17 (a) selling all or part of the property at a public or private sale; or

18 (b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes that
19 the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the property.

20 (5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord
21 on or before the day specified in the notice that the tenant intends to remove the property and does not do so
22 within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is conclusively
23 presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the
24 period that the property remains in safekeeping, plus the actual and reasonable cost of removal of the property
25 to the place of storage. Reasonable storage costs are allowed a landlord who stores the property, and actual
26 storage costs are allowed a landlord who stores the property in a commercial storage company. A landlord is
27 entitled to payment of the storage costs allowed under this subsection before the tenant may remove the property.

28 (6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is
29 caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is liable
30 for actual damages.

1 (7) A public or private sale authorized by this section must be conducted under the provisions of
2 30-9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

3 (8) The landlord may deduct from the proceeds of the sale the actual and reasonable costs of notice,
4 storage, labor, and sale and any delinquent rent or damages owing on the premises and shall remit to the tenant
5 the remaining proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be
6 found, the remaining proceeds must be deposited with the county treasurer of the county in which the sale
7 occurred and, if not claimed within 3 years, must revert to the general fund of the county available for general
8 purposes.

9 (9) The landlord shall ensure that the terms of this section are included in plain and understandable
10 language as a notification in any lease or rental agreement at the time of the agreement or when the tenant
11 occupies the property. The landlord shall provide the same notification upon termination of the lease or rental
12 agreement."
13

14 **Section 9.** Section 70-33-103, MCA, is amended to read:

15 **"70-33-103. Definitions.** Unless the context clearly requires otherwise, in this chapter, the following
16 definitions apply:

17 (1) "Abandon" means:

18 (a) with respect to personal property, to give up the property with the intent to never reclaim it; and

19 (b) with respect to the premises, to give up POSSESSION OF the premises with the intent to never reenter.

20 (1)(2) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in
21 which rights are determined, including an action for possession.

22 (3) "Actual and reasonable cost" means the actual amount of expenses and labor incurred or expended
23 and the reasonable amount of expenses and labor estimated to be incurred or expended.

24 (2)(4) "Case of emergency" means an extraordinary occurrence ~~beyond the tenant's control~~ requiring
25 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
26 essential services, including electricity, gas, running water, and sewer and septic system service, or
27 life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the
28 tenant or others.

29 (3)(5) "Court" means the appropriate district court, small claims court, justice's court, or city court.

30 (4)(6) "Good faith" means honesty in fact in the conduct of the transaction concerned.

- 1 ~~(5)~~(7) "Landlord" means:
- 2 (a) the owner, ~~lessor, or sublessor~~ of:
- 3 (i) space or land, including a lot, that is rented to a tenant for a mobile home; or
- 4 (ii) a mobile home park; ~~or~~
- 5 **(b) a person who has written authorization from the owner to act as the owner's agent or assignee for**
- 6 **purposes related to the premises or the rental agreement;**
- 7 ~~(b)~~(c) **a person who has written authorization from the owner to act as a manager of the premises who**
- 8 **fails to disclose the managerial position; or**
- 9 **(d) a lessor who has written authorization from the owner of the premises to sublease the premises or**
- 10 **a portion of the premises.**
- 11 ~~(6)~~(8) "Lot" means the space or land rented and not a mobile home itself.
- 12 ~~(7)~~(9) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured homes
- 13 as defined in 15-1-101.
- 14 ~~(8)~~(10) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to
- 15 occupy a lot.
- 16 ~~(9)~~(11) "Mobile home park" means a trailer court as defined in 50-52-101.
- 17 ~~(10)~~(12) "Organization" includes a corporation, government, governmental subdivision or agency,
- 18 business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and
- 19 any other legal or commercial entity.
- 20 ~~(11)~~(13) "Person" includes an individual or organization.
- 21 ~~(12)~~(14) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants
- 22 generally or promised for the use of a tenant.
- 23 ~~(13)~~(15) "Rent" means all payments to be made to a landlord under a rental agreement.
- 24 ~~(14)~~(16) "Rental agreement" means all agreements, written or oral, and valid rules adopted under
- 25 70-33-311 embodying the terms and conditions concerning the use and occupancy of the premises.
- 26 ~~(15)~~(17) "Tenant" means:
- 27 (a) a person entitled under a rental agreement to occupy a lot to the exclusion of others; or
- 28 (b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has a
- 29 sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement.
- 30 **(18) "Unauthorized person" means a person, other than a tenant, who enters or remains unlawfully in**

1 violation of 45-6-201 or who is trespassing in violation of 45-6-203."

2

3 **NEW SECTION. Section 10. Removal of unauthorized person.** (1) An unauthorized person has no
4 legal right to occupy the premises. A person who cannot produce authorization allowing the person to occupy the
5 premises is considered to be an unauthorized person for the purpose of this section and may be removed from
6 the premises immediately by law enforcement.

7 (2) For the purposes of this section, authorization includes:

8 (a) a written rental agreement entitling the person to occupy the premises; or

9 (b) written or verbal authorization from the landlord.

10 (3) For the purposes of this section, verbal authorization is valid only if it is verified by the individual or
11 entity entitled to give it under subsection (2)(b).

12

13 **Section 11.** Section 70-33-106, MCA, is amended to read:

14 **"70-33-106. Notice.** (1) A person has notice of a fact if:

15 (a) the person has actual knowledge of the fact;

16 (b) in the case of a landlord, the notice is delivered at the place of business of the landlord through which
17 the rental agreement was made; ~~or~~

18 (c) in the case of a landlord or tenant, the notice is personally delivered to the landlord or tenant or
19 mailed with a certificate of mailing or by certified mail to the place ~~held out~~ designated by the landlord or tenant
20 as the place for receipt of the communication or, in the absence of a designation, to the landlord's or tenant's
21 last-known address. When notice is made by certificate of mailing or certified mail, the service of the notice must
22 be considered to have been made 3 days after the date of mailing; or

23 (d) in the case of a landlord or tenant, it is sent by electronic communication, and in the rental agreement
24 each party has agreed to the use of written electronic communications for the purposes of notification, has agreed
25 to the specific form of the electronic communication, including but not limited to e-mail or text message, and has
26 provided the other party with the relevant electronic communication address. However, electronic communications
27 may only be sent in a format capable of requesting receipt of delivery, and any notification under this subsection
28 (1)(d) must be sent requesting receipt of delivery.

29 (2) Notice received by an organization is effective for a particular transaction from the time it is brought
30 to the attention of the individual conducting that transaction on behalf of the organization and, in any event, from

1 the time the notice would have been brought to the individual's attention if the organization had exercised
2 reasonable diligence."

3

4 **Section 12.** Section 70-33-312, MCA, is amended to read:

5 **"70-33-312. Access to premises by landlord.** (1) A tenant may not unreasonably withhold consent to
6 the landlord or the landlord's agent to enter the lot in order to inspect the premises, make necessary or agreed
7 repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the lot to prospective or
8 actual purchasers, mortgagees, tenants, workers, or contractors.

9 (2) A landlord may enter the lot without consent of the tenant in case of emergency.

10 (3) (a) A landlord may not abuse the right of access or use it to harass the tenant. Except in case of
11 emergency or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours' notice of the
12 intent to enter and may enter only at reasonable times.

13 (b) For the purposes of this subsection (3), in addition to the provisions of 70-33-106, a tenant has notice
14 of the intent to enter if the landlord conspicuously posts the landlord's intent to enter on or near the lot.

15 (4) A landlord has no other right of access except:

16 (a) pursuant to a court order;

17 (b) as permitted by 70-33-425 and 70-33-426(1)(b); or

18 (c) when the tenant has abandoned or surrendered the premises.

19 (5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises
20 without the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied
21 by the landlord to the premises, the tenant shall provide the landlord with a key to ensure that the landlord will
22 have the right of access as provided by this chapter."

23

24 **Section 13.** Section 70-33-405, MCA, is amended to read:

25 **"70-33-405. Landlord's failure to maintain premises -- tenant's remedies.** (1) Unless otherwise
26 provided in this chapter, if there is a noncompliance with 70-33-303 affecting health and safety, the following
27 procedures apply:

28 (a) The tenant may deliver a written notice to the landlord specifying the nature of the breach and that
29 the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is
30 not remedied in 14 days. If the noncompliance results in a case of emergency and the landlord fails to remedy

1 the situation within 3 working days after written notice by the tenant of the situation and the tenant's intention to
 2 terminate the rental agreement, the tenant may terminate the rental agreement. The rental agreement terminates
 3 as provided in the notice subject to the following exceptions:

4 (i) if the breach is remediable by repairs, the payment of damages, or otherwise and the landlord
 5 adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate
 6 by reason of the breach;

7 (ii) if substantially the same act or omission that constituted a prior noncompliance of which notice was
 8 given recurs within 6 months, the tenant may terminate the rental agreement upon at least 14 days' written notice
 9 specifying the breach and the date of termination of the rental agreement;

10 (iii) the tenant may not terminate the rental agreement for a condition caused by the tenant, a member
 11 of the tenant's family, or any other persons on the premises with the tenant's consent.

12 (b) (i) The tenant may make repairs that do not cost more than 1 month's rent and deduct the actual and
 13 reasonable cost from the rent if the tenant has given the landlord notice and the landlord has not made the repairs
 14 within a reasonable time. If the repair is required in a case of emergency, the tenant has notified the landlord, and
 15 the landlord has not made the repairs, the tenant may have repairs made only by a person qualified to make the
 16 repairs.

17 (ii) If the landlord fails to comply with the rental agreement or 70-33-303 and the actual and reasonable
 18 cost of compliance is less than 1 month's rent, the tenant may recover damages for the breach under subsection
 19 (2).

20 (2) Unless otherwise provided in this chapter, the tenant may recover actual damages and obtain
 21 injunctive relief for any noncompliance by the landlord with the rental agreement or 70-33-303.

22 (3) The remedy provided in subsection (2) is in addition to a right of the tenant arising under subsection
 23 (1).

24 (4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant
 25 pursuant to Title 70, chapter 25."

26

27 **Section 14.** Section 70-33-422, MCA, is amended to read:

28 **"70-33-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**
 29 **injunction.** (1) Except as provided by 70-33-433(1)(j), if the tenant destroys, defaces, damages, impairs, or
 30 removes any part of the premises in violation of 70-33-321(3), the landlord may terminate the rental agreement

1 upon giving 3 days' written notice specifying the noncompliance under the provisions of 70-33-321(3).

2 (2) ~~Except as provided by 70-33-433(1)(j),~~ if the tenant creates a reasonable potential that the premises
3 may be damaged or destroyed or that neighboring tenants may be injured, as evidenced by the tenant being
4 arrested or charged with an act that violates the provisions of 70-33-321(4), the landlord may terminate the rental
5 agreement upon giving 3 days' written notice specifying the violation and noncompliance under the provisions
6 of 70-33-321(4).

7 (3) Except as otherwise provided in this chapter, the landlord may recover actual damages and obtain
8 injunctive relief for any noncompliance by the tenant with the rental agreement or 70-33-321. Except as provided
9 in subsection (4) of this section, if the tenant's noncompliance is purposeful, the landlord may recover treble
10 damages.

11 (4) Treble damages may not be recovered for the tenant's early termination of the tenancy."
12

13 **Section 15.** Section 70-33-430, MCA, is amended to read:

14 **"70-33-430. Disposition of abandoned personal property.** (1) If a tenancy terminates in any manner
15 except by court order, if the landlord reasonably believes that the tenant has abandoned all personal property
16 that the tenant has left on the premises, and if at least 5 days have elapsed since the occurrence of the events
17 upon which the landlord has based the belief of abandonment, the landlord may remove the property from the
18 premises.

19 (2) The landlord shall inventory and store all personal property of the tenant in a place of safekeeping
20 and shall exercise reasonable care for the property. The landlord may charge a reasonable storage and labor
21 charge if the property is stored by the landlord, plus the actual and reasonable cost of removal of the property
22 to the place of storage. The landlord may store the property in a commercial storage company, in which case the
23 storage cost includes the actual storage charge plus the actual and reasonable cost of removal of the property
24 to the place of storage.

25 (3) After complying with subsections (1) and (2), the landlord shall:

26 (a) make a reasonable attempt to notify the tenant in writing that the property must be removed from the
27 place of safekeeping;

28 (b) notify the local law enforcement office of the property held by the landlord;

29 (c) make a reasonable effort to determine if the property is secured or otherwise encumbered; and

30 (d) send a notice by certified mail to the last-known address of the tenant and each known party having

1 a lien or encumbrance of record, stating that at a specified time, not less than 15 days after mailing the notice,
2 the property will be disposed of if not removed.

3 (4) The landlord may dispose of the property after complying with subsection (3) by:

4 (a) selling all or part of the property at a public or private sale; or

5 (b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes that
6 the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the property.

7 (5) (a) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the
8 landlord on or before the day specified in the notice that the tenant intends to remove the property and does not
9 do so within 7 days after delivery of the tenant's response, the tenant's property is conclusively presumed to be
10 abandoned.

11 (b) If the tenant removes the property, the landlord is entitled to storage costs for the period that the
12 property remains in safekeeping, plus the actual and reasonable cost of removal of the property to the place of
13 storage. Reasonable storage costs are allowed to a landlord who stores the property, and actual storage costs
14 are allowed to a landlord who stores the property in a commercial storage company. A landlord is entitled to
15 payment of the storage costs allowed under this subsection before the tenant may remove the property.

16 (6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is
17 caused by the landlord's purposeful or negligent act, in which case the landlord is liable for actual damages.

18 (7) (a) The landlord may deduct from the proceeds of the sale the actual and reasonable costs of notice,
19 storage, labor, and sale and, subject to any prior security interest of record, any delinquent rent or damages
20 owing on the premises. The landlord shall remit to the tenant the remaining proceeds, if any, together with an
21 itemized accounting.

22 (b) If the tenant cannot after due diligence be found, the remaining proceeds must be deposited with the
23 county treasurer of the county in which the sale occurred and, if not claimed within 3 years, must revert to the
24 general fund of the county."

25

26 **Section 16.** Section 70-33-432, MCA, is amended to read:

27 **"70-33-432. Disposition of abandoned mobile home.** (1) If a tenancy terminates, if the landlord
28 reasonably believes that the tenant has abandoned a mobile home occupying a mobile home lot, and if at least
29 5 days have elapsed since the occurrence of events upon which the landlord has formed the belief that the mobile
30 home has been abandoned, the landlord may remove the mobile home from the premises or keep the mobile

1 home stored on the premises.

2 (2) If the landlord does not keep the mobile home stored on the premises, the landlord shall store the
3 mobile home in a place of safekeeping and in either case shall exercise reasonable care for the mobile home.
4 The landlord may charge the mobile home owner actual and reasonable costs for removal and storage ~~charges~~
5 of the mobile home.

6 (3) Regardless of where the landlord stores the mobile home, the landlord shall:

7 (a) notify the local law enforcement office of the storage;

8 (b) make a reasonable effort to determine if the mobile home is secured or otherwise encumbered; and

9 (c) send a notice by certified mail to the last-known address of the mobile home owner and to any person
10 or entity the landlord determines has an interest referred to in subsection (3)(b), stating that at a specified time,
11 not less than 15 days after mailing the notice, the mobile home will be disposed of if the mobile home owner does
12 not respond and remove the mobile home.

13 (4) If the mobile home owner, within 15 days after receipt of the notice provided for in subsection (3)(c),
14 responds in writing to the landlord that the owner intends to remove the mobile home from where it is stored and
15 does not do so within 20 days after delivery of the owner's response, the mobile home may be conclusively
16 presumed to be abandoned. A landlord is entitled to payment of the removal and storage costs allowed under
17 subsection (2) before the owner may remove the mobile home.

18 (5) The landlord may dispose of the mobile home after complying with subsection (3) by:

19 (a) selling the mobile home at a public or private sale; or

20 (b) destroying or otherwise disposing of the mobile home if the landlord reasonably believes that the
21 value of the mobile home is so low that the cost of a sale would exceed the reasonable value of the mobile home.
22 Disposal may include having the mobile home removed to an appropriate disposal site.

23 (6) A public or private sale authorized by this section must be conducted under the provisions of
24 30-9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

25 (7) The landlord has a lien on the mobile home and the proceeds of a sale conducted pursuant to
26 subsection (6) for the actual and reasonable costs of removal, storage, notice, sale, or delinquent rent or
27 damages owing on the premises. The sale proceeds are subject to any prior security interest of record. A writing
28 or recording is not necessary to create the lien provided for in this section. In the case of a sheriff's sale, the
29 sheriff shall conduct the sale upon receipt of an affidavit from the landlord stating facts sufficient to warrant a sale
30 under this section. After satisfaction of the lien, the landlord shall remit to the mobile home owner the remaining

1 proceeds, if any. If the owner cannot after due diligence be found, the remaining proceeds must be deposited in
2 the general fund of the county in which the sale occurred and, if not claimed within 3 years, are forfeited to the
3 county."

4

5 **Section 17.** Section 70-33-433, MCA, is amended to read:

6 **"70-33-433. Grounds for termination of rental agreement.** (1) If there is a noncompliance by the
7 tenant with the rental agreement or with a provision of 70-33-321, the landlord may deliver a written notice to the
8 tenant pursuant to 70-33-106 specifying the acts or omissions constituting the noncompliance and stating that
9 the rental agreement will terminate upon the date specified in the notice that may not be less than the minimum
10 number of days after receipt of the notice provided for in this section. The rental agreement terminates as
11 provided in the notice for one or more of the following reasons and subject to the following conditions:

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

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

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

19 (d) late payment of rent, late charges, or common area maintenance fees, as established in the rental
20 agreement, three or more times within a 12-month period if written notice is given by the landlord after each failure
21 to pay, as required by subsection (1)(a), for which the notice period for termination for the final late payment is
22 30 days;

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

26 (f) two or more violations within a 12-month period of the same rule for which notice has been given for
27 each prior violation, as provided in subsection (1)(a), (1)(b), or (1)(c), for which the notice period for the final
28 violation is 30 days;

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

1 (h) except as provided in subsection (1)(j) of this section, any violation of 70-33-321(3), for which the
2 notice period is as provided in 70-33-422(1);

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

5 (j) noncompliance concerning another person on the premises who does not act in compliance with the
6 provisions of 70-33-321(1)(e), (3), or (4), for which the notice period is 24 hours.

7 ~~(j)~~(k) any other noncompliance or violation not covered by subsections (1)(a) through ~~(4)~~(i) (1)(j) that
8 endangers other tenants or mobile home park personnel or the landlord or manager or causes substantial
9 damage to the premises, for which the notice period is 14 days;

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

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

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

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

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

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

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

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

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

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

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

12 **NEW SECTION. Section 18. Codification instruction.** (1) [Section 2] is intended to be codified as an
13 integral part of Title 70, chapter 24, part 1, and the provisions of Title 70, chapter 24, part 1, apply to [section 1].

14 (2) [Section 10] is intended to be codified as an integral part of Title 70, chapter 33, part 1, and the
15 provisions of Title 70, chapter 33, part 1, apply to [section 10].
16

17 **COORDINATION SECTION. SECTION 19. COORDINATION INSTRUCTION.** IF SENATE BILL NO. 144 AND [THIS
18 ACT] ARE BOTH PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 70-24-108, THEN THE SECTION
19 IN SENATE BILL NO. 144 THAT AMENDS 70-24-108 IS VOID.
20

21 **NEW SECTION. Section 20. Effective date.** [This act] is effective on passage and approval.
22

23 **NEW SECTION. Section 21. Applicability.** [This act] applies to rental agreements entered into,
24 extended, or renewed on or after [the effective date of this act].
25

- END -