

SENATE BILL NO. 359

INTRODUCED BY B. BENNETT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS FOR PROVISION OF WATER IN RESIDENTIAL LEASES; REQUIRING SUPPLY OF REASONABLE AMOUNTS OF WATER MEETING QUALITY STANDARDS FOR A PUBLIC WATER SUPPLY SYSTEM; PROHIBITING LANDLORDS AND TENANTS FROM MODIFYING SUPPLY REQUIREMENT; PROVIDING REMEDIES; AND AMENDING SECTIONS 70-24-303 AND 70-24-408, MCA."

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

Section 1. Section 70-24-303, MCA, is amended to read:

"70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector or carbon monoxide detector. (1) A landlord:

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured;

(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(d) shall keep all common areas of the premises in a clean and safe condition;

(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

(f) shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(g) shall supply running water, reasonable amounts of water that meets the water quality standards for

1 a public water supply adopted by rule by the board of environmental review regardless of the type of water supply
2 servicing the dwelling, and reasonable amounts of hot water at all times and reasonable heat between October
3 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that
4 purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the
5 exclusive control of the tenant; and

6 (h) shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector,
7 in accordance with rules adopted by the department of labor and industry, and an approved smoke detector, in
8 accordance with rules adopted by the department of justice. Upon commencement of a rental agreement, the
9 landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling unit are in good
10 working order. The tenant shall maintain the carbon monoxide detector and the smoke detector in good working
11 order during the tenant's rental period. For the purposes of this subsection, an approved carbon monoxide
12 detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113, bear a label or
13 other identification issued by an approved testing agency having a service for inspection of materials and
14 workmanship at the factory during fabrication and assembly.

15 (2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through
16 (1)(h), a landlord's duty must be determined by reference to subsection (1)(a).

17 (3) ~~A~~ (a) Except as provided in subsection (b), a landlord and tenant of a one-, two-, or three-family
18 residence may agree in writing that the tenant perform the landlord's duties specified in subsections (1)(f) and
19 (1)(g) and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered
20 into in good faith and not for the purpose of evading the obligations of the landlord.

21 (b) A landlord and tenant may not modify the landlord's obligation to supply water.

22 (4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to
23 perform specified repairs, maintenance tasks, alterations, or remodeling only if:

24 (a) the agreement of the parties is entered into in good faith and not for the purpose of evading the
25 obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate
26 consideration;

27 (b) the work is not necessary to cure noncompliance with subsection (1)(a); and

28 (c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

29 (5) The landlord is not liable for damages caused as a result of the failure of the carbon monoxide
30 detector or the smoke detector required under subsection (1)(h).

1 (6) The landlord is not liable for a temporary interruption or contamination in a water supply system
2 attributable to a third party."

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4 **Section 2.** Section 70-24-408, MCA, is amended to read:

5 **"70-24-408. Purposeful or negligent failure to provide essential services -- tenant's remedies. (1)**

6 If contrary to the rental agreement or 70-24-303 the landlord purposefully or negligently fails to supply heat,
7 running water, ~~water meeting the water quality standards required by 70-24-303,~~ hot water, electric, gas, or other
8 essential services, the tenant may give written notice to the landlord specifying the breach and may:

9 (a) procure reasonable amounts of heat, reasonable amounts of water meeting the water quality
10 standards required by 70-24-303, hot water, running water, electricity, gas, and other essential services during
11 the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

12 (b) recover damages based upon the diminution in the fair rental value of the dwelling unit; ~~or~~

13 (c) procure reasonable substitute housing during the period of the landlord's noncompliance, in which
14 case the tenant is excused from paying rent for the period of the landlord's noncompliance; or

15 (d) in cases for failure to provide water meeting the water quality standards required by 70-24-303, seek
16 punitive damages not to exceed \$20, half of which must be credited to the general fund.

17 (2) If the tenant proceeds under this section, the tenant may not proceed under 70-24-406 or 70-24-407
18 as to that breach.

19 (3) Rights of the tenant under this section do not arise until the tenant has given notice to the landlord
20 and the landlord has had a reasonable opportunity to correct the conditions or if the conditions were caused by
21 the act or omission of the tenant, a member of the tenant's family, or any other person on the premises with the
22 tenant's consent."

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