

1 HOUSE BILL NO. 541

2 INTRODUCED BY S. GALLOWAY, K. WHITMAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LANDLORD-TENANT LAWS;
 5 PROVIDING FOR REMOVAL OF UNAUTHORIZED PERSONS OR TRESPASSERS FROM A PREMISES;
 6 PROVIDING FOR MONETARY DAMAGES IN THE EVENT OF UNAUTHORIZED TERMINATION; REVISING
 7 LANDLORD DUTIES; REVISING NOTICE PROVISIONS; ALLOWING CHARGE FOR LABOR AS
 8 PECUNIARY DAMAGES; REVISING PROVISIONS REGARDING TENANT NONCOMPLIANCE WITH A
 9 RENTAL AGREEMENT; REVISING PROVISIONS REGARDING DISPOSAL OF PROPERTY; REVISING
 10 DEFINITIONS; ~~AND~~ AMENDING SECTIONS 70-24-103, 70-24-201, 70-24-303, 70-24-312, 70-24-401, 70-24-
 11 422, 70-24-430, 70-25-201, 70-33-103, 70-33-201, 70-33-303, 70-33-312, 70-33-321, 70-33-401, ~~70-33-422,~~
 12 70-33-430, AND 70-33-433, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13

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

15

16 **NEW SECTION. Section 1. Removal of unauthorized person OR TRESPASSER.** (1) An unauthorized
 17 person OR TRESPASSER has no legal right to occupy, enter, or trespass on a premises. A person who cannot
 18 produce authorization allowing the person to occupy a premises is an unauthorized person OR TRESPASSER for
 19 the purpose of this section and may be removed from the premises immediately by law enforcement.

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

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

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

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

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

26

27 **Section 2.** Section 70-24-103, MCA, is amended to read:

28 **"70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections

1 and unless the context otherwise requires, in this chapter the following definitions apply:

2 (1) "Abandon" means to give up possession of the premises UNLESS THE LANDLORD DOES NOT ACCEPT
 3 ABANDONMENT OR SURRENDER as provided in 70-24-426 OR UNLESS THE RENTAL AGREEMENT HAS BEEN
 4 TERMINATED AS PROVIDED BY LAW.

5 ~~(4)~~ (2) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in
 6 which rights are determined, including an action for possession.

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

9 ~~(2)~~ (4) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring
 10 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
 11 essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system
 12 service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate
 13 danger to the tenant or others.

14 ~~(3)~~ (5) "Court" means the appropriate district court, small claims court, justice's court, or city court.

15 ~~(4)~~ (6) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence,
 16 or sleeping place by a person who maintains a household or by two or more persons who maintain a common
 17 household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile
 18 home, means the mobile home itself.

19 ~~(5)~~ (7) "Good faith" means honesty in fact in the conduct of the transaction concerned.

20 ~~(6)~~ (8) "Guest" means a person staying with a tenant for a temporary period of time as defined in the
 21 rental agreement or, if not defined in the rental agreement, for a period of time no more than 7 days unless the
 22 tenant has received the landlord's written consent to a longer period of time.

23 ~~(7)~~ (9) "Landlord" means:

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

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

27 ~~(b) (c) a manager of the premises who fails to disclose the managerial position~~ a person who has
 28 written authorization from the owner to act as a manager of the premises for the purposes of the tenancy or the

1 rental agreement; or

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

3 ~~(8) (10)~~ "Organization" includes a corporation, government, governmental subdivision or agency,
4 business trust, estate, trust, or partnership or association, two or more persons having a joint or common
5 interest, and any other legal or commercial entity.

6 ~~(9) (11)~~ "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

7 (a) the legal title to property; or

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

10 ~~(40) (12)~~ "Person" includes an individual or organization.

11 ~~(41) (13)~~ "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
12 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally
13 or promised for the use of a tenant.

14 ~~(42) (14)~~ "Rent" means all payments to be made to the landlord under the rental agreement, including
15 rent, late fees, or other charges as agreed on in the rental agreement, except money paid as a security deposit.

16 ~~(43) (15)~~ "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-
17 24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
18 premises.

19 ~~(44) (16)~~ "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub
20 or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more
21 of which are used in common by occupants in the structure.

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

26 (17) "SINGLE-FAMILY RESIDENCE" MEANS A STRUCTURE MAINTAINED AND USED AS A SINGLE DWELLING UNIT.
27 A DWELLING UNIT THAT SHARES ONE OR MORE WALLS WITH ANOTHER DWELLING UNIT IS A SINGLE-FAMILY RESIDENCE IF
28 IT HAS DIRECT ACCESS TO A STREET OR THOROUGHFARE AND DOES NOT SHARE HEATING FACILITIES, HOT WATER

1 EQUIPMENT, OR ANY OTHER ESSENTIAL FACILITY OR SERVICE WITH ANOTHER DWELLING UNIT.

2 ~~(16)~~ ~~(17)~~ (18) "Tenant" means:

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

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

6 ~~(17)~~ ~~(18)~~ (19) "Unauthorized person OR TRESPASSER" means a person who:

7 (a) enters or remains for more than 24 hours after being asked to leave by the landlord and does not
8 receive written permission by the landlord to remain on the premises;

9 (b) is in violation of 45-6-201;

10 (c) is in violation of 45-6-203; or

11 (d) is in violation of 70-27-102, other than a tenant or a guest, who is trespassing in violation of 45-6-
12 203."

13

14 **Section 3.** Section 70-24-201, MCA, is amended to read:

15 **"70-24-201. Rental agreement -- terms and conditions.** (1) A landlord and a tenant may include in
16 a rental agreement terms and conditions not prohibited by this chapter or other rule or law, including rent, term
17 of the agreement, and other provisions governing the rights and obligations of the parties.

18 (2) Unless the rental agreement provides otherwise:

19 (a) the tenant shall pay as rent the rental value for the use and occupancy of the dwelling unit as
20 determined by the landlord;

21 (b) rent is payable at the landlord's address or using electronic funds transfer to an account
22 designated for the payment of rent by the landlord;

23 (c) periodic rent is payable at the beginning of a term of a month or less and otherwise in equal
24 monthly installments at the beginning of each month;

25 (d) rent is uniformly apportionable from day to day; ~~and~~

26 (e) the tenancy is week to week in the case of a roomer who pays weekly rent and in all other cases
27 month to ~~month.~~ month; and

28 (f) if either party terminates the rental agreement without cause prior to the expiration date of the

1 lease term, the aggrieved party is entitled to monetary damages up to 1 month's rent or an amount that is
 2 agreed on in the rental agreement, which may not exceed 1 month's rent. Landlords shall follow 70-24-426(3)
 3 and are entitled to rent from defaulting tenants up to the date a new tenancy starts or the date the rental
 4 agreement term expires.

5 (3) Rent is payable without demand or notice at the time and place agreed upon by the parties or
 6 provided for by subsection (2)."

7

8 **Section 4.** Section 70-24-303, MCA, is amended to read:

9 **"70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation**
 10 **of landlord's liability for failure of smoke detector or carbon monoxide detector.** (1) A landlord:

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

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

17 ~~(c) (b)~~ shall make repairs and do whatever is necessary to put and keep the premises in a fit and
 18 habitable condition, except when it is the tenant's responsibility to maintain the dwelling unit pursuant to 70-24-
 19 321;

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

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

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

27 ~~(g) (f)~~ shall supply running water and reasonable amounts of hot water at all times and reasonable
 28 heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law

1 to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an
 2 installation within the exclusive control of the tenant; and

3 ~~(h)~~ (g) shall install in each dwelling unit under the landlord's control an approved carbon monoxide
 4 detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke
 5 detector, in accordance with rules adopted by the department of justice. Upon commencement of a rental
 6 agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling
 7 unit are in good working order. The tenant shall maintain the carbon monoxide detector and the smoke detector
 8 in good working order during the tenant's rental period. For the purposes of this subsection (1)(G), an approved
 9 carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113,
 10 bear a label or other identification issued by an approved testing agency having a service for inspection of
 11 materials and workmanship at the factory during fabrication and assembly.

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

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

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

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

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

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

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

27

28 **Section 5.** Section 70-24-312, MCA, is amended to read:

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

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

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

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

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

13 (a) pursuant to court order;

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

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

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

20

21 **Section 6.** Section 70-24-401, MCA, is amended to read:

22 **"70-24-401. Administration of remedies -- enforcement.** (1) The remedies provided by this chapter
 23 must be administered so that an aggrieved party may recover appropriate damages. The aggrieved party has a
 24 duty to mitigate damages. The aggrieved party may include a reasonable charge for the party's labor.

25 (2) A right or obligation declared by this chapter is enforceable by action unless the provision
 26 declaring it specifies a different and limited effect. Nothing in this chapter prohibits the assignment of a right or
 27 the claim of a right by either landlord or tenant. The landlord's or tenant's defenses and obligations may not be
 28 affected by an assignment.

1 (3) Rules and regulations that are not a part of this chapter and that affect the relationship between
2 the landlord and tenant must be uniformly and fairly applied and enforced."

3

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

5 **"70-24-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --**
6 **injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental
7 agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant
8 to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement
9 will terminate upon a date specified in the notice not less than the minimum number of days after receipt of the
10 notice provided for in this section. The rental agreement terminates as provided in the notice, subject to the
11 following:

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

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

16 (c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is
17 3 days.

18 ~~(d) If the noncompliance involves a guest who is not in compliance with the requirements of 70-24-~~
19 ~~321(1)(f), 70-24-321(2), or 70-24-321(3), the notice period is 24 hours.~~

20 ~~(d) (e) (D)~~ If the noncompliance is not listed in subsection (1)(b), ~~or (1)(c), OR (1)(F)~~, the notice period
21 is 14 days.

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

25 ~~(F) If the noncompliance is from verbal abuse of the landlord by a tenant or guest, the landlord may~~
26 ~~terminate the rental agreement on giving 3 days' written notice. If the tenant adequately remedies the~~
27 ~~noncompliance, the rental agreement does not terminate.~~

28 ~~(h) If the noncompliance is from a threat of violence against the landlord by a tenant or guest, the~~

1 ~~landlord may terminate the rental agreement on giving 24 hours' written notice specifying the violation.~~

2 (2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the
3 landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid
4 within that period, the landlord may terminate the rental agreement.

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

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

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

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

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

18

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

20 **"70-24-430. Disposition of personal property abandoned by tenant after termination.** (1) (a) If a
21 tenancy terminates by court order, the personal property is considered abandoned and the landlord may
22 immediately dispose of the personal property as allowed by law.

23 ~~(a)~~ (b) If a tenancy terminates in any manner ~~except by other than~~ court order and the landlord has
24 clear and convincing evidence that the tenant has abandoned all personal property that the tenant has left on
25 the premises and a period of time of at least 48 hours has elapsed since the landlord obtained that evidence,
26 the landlord may immediately remove the abandoned property from the premises and immediately dispose of
27 any trash or personal property that is hazardous, perishable, or valueless.

28 ~~(b)~~ (c) An item that is clearly labeled "rent to own" or "leased" or likewise identified may be discarded

1 only with confirmation from the lessor that the item does not have a lien, provided that the lessor can be easily
2 identified from the label and the landlord makes a reasonable effort to contact the lessor.

3 ~~(e)~~ (d) For the purposes of this subsection (1), the following definitions apply:

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

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

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

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

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

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

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

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

24 (5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the
25 landlord on or before the day specified in the notice that the tenant intends to remove the property and does not
26 do so within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is
27 conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage
28 costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the

1 place of storage. Reasonable storage costs are allowed a landlord who stores the property, and actual storage
 2 costs are allowed a landlord who stores the property in a commercial storage company. A landlord is entitled to
 3 payment of the storage costs allowed under this subsection before the tenant may remove the property.

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

7 (7) A public or private sale authorized by this section must be conducted under the provisions of 30-
 8 9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

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

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

19

20 **Section 9.** Section 70-25-201, MCA, is amended to read:

21 **"70-25-201. Security deposit -- deductions authorized therefrom.** (1) A landlord renting property
 22 covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been
 23 caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties due under
 24 lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-
 25 24-441(3), and a sum for actual cleaning expenses, including a reasonable charge for the landlord's labor.

26 (2) At the request of either party, the premises may be inspected within 1 week prior to termination of
 27 the tenancy.

28 (3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis by

1 the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is forced
 2 to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not be
 3 deducted until written notice has been given to the tenant. The notice must include the cleaning not
 4 accomplished by the tenant and the additional and type or types of cleaning that need to be done by the tenant
 5 to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant
 6 has 24 hours to complete the required cleaning. If notice is mailed by certified mail, service of the notice is
 7 considered to have been made 3 days after the date of the mailing. A tenant who fails to notify the landlord of
 8 the intent to vacate or who vacates the premises without notice relieves the landlord of the requirement of
 9 giving notice and allows the landlord to deduct the cleaning charges from the deposit, or the landlord may leave
 10 a copy of the notice in a conspicuous location in the rental unit and notify the tenant by email, phone, or text,
 11 and notice is considered delivered.

12 (4) A person may not deduct or withhold from the security deposit any amount for purposes other than
 13 those set forth in this section."
 14

15 **Section 10.** Section 70-33-103, MCA, is amended to read:

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

18 (1) "Abandon" means to give up possession of the premises UNLESS THE LANDLORD DOES NOT ACCEPT
 19 ABANDONMENT OR SURRENDER as provided in 70-33-426 OR UNLESS THE RENTAL AGREEMENT HAS BEEN
 20 TERMINATED AS PROVIDED BY LAW.

21 (4) (2) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in
 22 which rights are determined, including an action for possession.

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

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

1 tenant or others.

2 ~~(3)~~ (5) "Court" means the appropriate district court, small claims court, justice's court, or city court.

3 ~~(4)~~ (6) "Good faith" means honesty in fact in the conduct of the transaction concerned.

4 ~~(5)~~ (7) "Landlord" means:

5 (a) the owner, ~~lessor, or sublessor~~ of:

6 (i) space or land, including a lot, that is rented to a tenant for a mobile home; or

7 (ii) a mobile home park; ~~or~~

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

10 ~~(b)~~ (c) a manager of the premises who fails to disclose the managerial position; or

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

12 ~~(6)~~ (8) "Lot" means the space or land rented and not a mobile home itself.

13 ~~(7)~~ (9) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured
14 homes as defined in 15-1-101.

15 ~~(8)~~ (10) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to
16 occupy a lot.

17 ~~(9)~~ (11) "Mobile home park" means a trailer court as defined in 50-52-101.

18 ~~(10)~~ (12) "Organization" includes a corporation, government, governmental subdivision or agency,
19 business trust, estate, trust, partnership, association, two or more persons having a joint or common interest,
20 and any other legal or commercial entity.

21 ~~(11)~~ (13) "Person" includes an individual or organization.

22 ~~(12)~~ (14) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants
23 generally or promised for the use of a tenant.

24 ~~(13)~~ (15) "Rent" means all payments to be made to a landlord ~~under a rental agreement, including rent,~~
25 late fees, or other charges as agreed on in the rental agreement, except money paid as a security deposit.

26 ~~(14)~~ (16) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-
27 33-311 embodying the terms and conditions concerning the use and occupancy of the premises.

28 ~~(15)~~ (17) "Tenant" means:

- 1 (a) a person entitled under a rental agreement to occupy a lot to the exclusion of others; or
 2 (b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has
 3 a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement.

4 (18) "Unauthorized person OR TRESPASSER" means a person who:

5 (a) enters or remains for more than 24 hours after being asked to leave by the landlord and does not
 6 receive written permission by the landlord to remain on the premises;

7 (b) is in violation of 45-6-201;

8 (c) is in violation of 45-6-203; or

9 (d) is in violation of 70-27-102."

10

11 **Section 11.** Section 70-33-201, MCA, is amended to read:

12 **"70-33-201. Rental agreements.** (1) A landlord and a tenant may include in a rental agreement terms
 13 and conditions not prohibited by this chapter or other rule or law.

14 (2) Unless the rental agreement provides otherwise:

15 (a) the tenant shall pay as rent the rental value for the use and occupancy of the lot as determined by
 16 the landlord;

17 (b) rent is payable at the landlord's address or using electronic funds transfer to an account
 18 designated for the payment of rent by the landlord;

19 (c) periodic rent is payable at the beginning of a term that is a month or less and otherwise in equal
 20 monthly installments at the beginning of each month;

21 (d) rent is uniformly apportionable from day to day; ~~and~~

22 (e) the tenancy is from month to month; and

23 (f) if either party terminates the rental agreement without cause prior to the expiration date of the
 24 lease term, the aggrieved party is entitled to monetary damages up to 1 month's rent or an amount that is
 25 agreed on in the rental agreement, which may not exceed 1 month's rent. Landlords shall follow 70-33-426(2)
 26 and are entitled to rent from defaulting tenants up to the date a new tenancy starts or the date the rental
 27 agreement term expires.

28 (3) Rent is payable without demand or notice at the time and place agreed upon by the parties or as

1 provided by subsection (2)."

2

3 **Section 12.** Section 70-33-303, MCA, is amended to read:

4 **"70-33-303. Landlord to maintain premises -- agreement that tenant perform duties.** (1) A

5 landlord shall:

6 (a) comply with the requirements of applicable building, ~~and housing,~~ AND HEALTH DEPARTMENT codes
7 materially affecting health and safety AT THE TIME OF ORIGINAL CONSTRUCTION;

8 (b) make repairs and do whatever is necessary to put and keep the premises in a fit and habitable
9 condition except when it is the tenant's responsibility to maintain the dwelling unit pursuant to 70-33-321;

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

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

14 (e) unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles
15 and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of
16 the lot and arrange for their removal; and

17 (f) supply running water at all times unless the lot is not required by law to be equipped for that
18 purpose or the running water is generated by an installation within the exclusive control of the tenant.

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

21 (3) A landlord and tenant may agree in writing that the tenant is to perform the landlord's duties
22 specified in subsections (1)(e) and (1)(f) but only if the agreement is entered into in good faith and not for the
23 purpose of evading the obligations of the landlord.

24 (4) A landlord and tenant may agree that the tenant is to perform specified repairs, maintenance
25 tasks, alterations, or remodeling only if:

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

- 1 (b) the work is not necessary to cure noncompliance with subsection (1)(a); and
2 (c) the agreement does not diminish the obligation of the landlord to other tenants."

3

4 **Section 13.** 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
6 to the landlord or the landlord's agent to enter the lot in order to inspect the premises, make necessary or
7 agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the lot to
8 prospective or 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
12 the 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
14 notice of the intent to enter if the landlord conspicuously posts the landlord's intent to enter on the main entry
15 door of the dwelling unit.

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

- 17 (a) pursuant to a court order;
18 (b) as permitted by 70-33-425 and 70-33-426(1)(b); or
19 (c) when the tenant has abandoned or surrendered the premises.

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

24

25 **Section 14.** Section 70-33-321, MCA, is amended to read:

26 **"70-33-321. Tenant to maintain lot.** (1) A tenant shall:

- 27 (a) comply with all obligations primarily imposed upon tenants by applicable provisions of building and
28 housing codes materially affecting health and safety;

1 (b) keep that part of the premises that the tenant occupies and uses as reasonably clean and safe as
2 the condition of the premises permits;

3 (c) dispose of all ashes, garbage, rubbish, and other waste from the lot in a clean and safe manner;

4 (d) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning,
5 and other facilities and appliances, including elevators, in the premises;

6 (e) conduct oneself and require other persons on the premises with the tenant's consent to conduct
7 themselves in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the premises; and

8 (f) use the parts of the premises in a reasonable manner considering the purposes for which they
9 were designed and intended.

10 (2) This section does not preclude the right of the tenant to operate a limited business or cottage
11 industry on the premises, subject to state and local laws, if the landlord has consented in writing. The landlord
12 may not unreasonably withhold consent if the limited business or cottage industry is operated within reasonable
13 rules of the landlord.

14 (3) A tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit
15 any person to do so.

16 (4) A tenant may not engage or knowingly allow any person to engage in any activity on the premises
17 that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants
18 may be injured by any of the following:

19 (a) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;

20 (b) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

21 (c) gang-related activities, as prohibited by Title 45, chapter 8, part 4-;

22 (d) unlawful possession of a firearm, explosive, or hazardous or toxic substance; or

23 (e) any activity that is otherwise prohibited by law."

24

25 **Section 15.** Section 70-33-401, MCA, is amended to read:

26 **"70-33-401. Administration of remedies -- enforcement -- agreement.** (1) The remedies provided
27 by this chapter must be administered so that an aggrieved party may recover appropriate damages. The
28 aggrieved party has a duty to mitigate damages. The aggrieved party may include a reasonable charge for the

1 party's labor.

2 (2) A right or obligation declared by this chapter is enforceable by action unless the provision
3 declaring it specifies a different and limited effect. Nothing in this chapter prohibits the assignment of a right or
4 the claim of a right by either landlord or tenant. The landlord's or tenant's defenses and obligations may not be
5 affected by an assignment.

6 (3) Rules and regulations that are not a part of this chapter and that affect the relationship between
7 the landlord and tenant must be uniformly and fairly applied and enforced.

8 (4) A claim or right arising under this chapter or on a rental agreement, if disputed in good faith, may
9 be settled by agreement."

10

11 **Section 16.** Section 70-33-422, MCA, is amended to read:

12 ~~"70-33-422. Noncompliance of tenant generally -- landlord's right of termination -- damages --~~
13 ~~injunction . (1) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in~~
14 ~~violation of 70-33-321(3), the landlord may terminate the rental agreement upon giving 3 days' written notice~~
15 ~~specifying the noncompliance under the provisions of 70-33-321(3).~~

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

20 ~~(3) If the noncompliance involves a guest who is not in compliance with 70-33-321, the notice period~~
21 ~~is 24 hours.~~

22 ~~(4) If the noncompliance is for verbal abuse of the landlord by a tenant or guest, the landlord may~~
23 ~~terminate the rental agreement on giving 3 days' written notice. If the tenant adequately remedies the~~
24 ~~noncompliance, the rental agreement does not terminate.~~

25 ~~(5) If the noncompliance is from a threat of violence against the landlord by a tenant or guest, the~~
26 ~~landlord may terminate the rental agreement on giving 24 hours' written notice specifying the violation.~~

27 ~~(3)(6) Except as otherwise provided in this chapter, the landlord may recover actual damages and~~
28 ~~obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-33-321. Except as~~

1 provided in subsection ~~(4)(7)~~ of this section, if the tenant's noncompliance is purposeful, the landlord may
 2 recover treble damages.

3 ~~(4)(7) Treble damages may not be recovered for the tenant's early termination of the tenancy."~~

4

5 **SECTION 16. SECTION 70-33-430, MCA, IS AMENDED TO READ:**

6 **"70-33-430. Disposition of abandoned personal property.** (1) (a) If a tenancy terminates by court
 7 order, the personal property is considered abandoned and the landlord may immediately dispose of the
 8 personal property as allowed by law.

9 (b) If a tenancy terminates in any manner ~~except by~~ other than by court order, if the landlord
 10 reasonably believes that the tenant has abandoned all personal property that the tenant has left on the
 11 premises, and if at least ~~5 days~~ 48 hours have elapsed since the occurrence of the events upon which the
 12 landlord has based the belief of abandonment, the landlord may remove the property from the premises.

13 (2) The landlord shall inventory and store all personal property of the tenant in a place of safekeeping
 14 and shall exercise reasonable care for the property. The landlord may charge a reasonable storage and labor
 15 charge if the property is stored by the landlord, plus the cost of removal of the property to the place of storage.
 16 The landlord may store the property in a commercial storage company, in which case the storage cost includes
 17 the actual storage charge plus the cost of removal of the property to the place of storage.

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

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

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

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

23 (d) send a notice by certified mail to the last-known address of the tenant and each known party
 24 having a lien or encumbrance of record, stating that at a specified time, not less than 15 days after mailing the
 25 notice, the property will be disposed of if not removed.

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

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

28 (b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes

1 that the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the
2 property.

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

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

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

14 (7) A PUBLIC OR PRIVATE SALE AUTHORIZED BY THIS SECTION MUST BE CONDUCTED UNDER THE PROVISIONS
15 OF 30-9A-610 OR THE SHERIFF'S SALE PROVISIONS OF TITLE 25, CHAPTER 13, PART 7.

16 ~~(7)~~ ~~(a)~~ ~~(8)~~ The landlord may deduct from the proceeds of the sale the reasonable costs of notice,
17 storage, labor, and sale and, subject to any prior security interest of record, any delinquent rent or damages
18 owing on the premises. The landlord shall remit to the tenant the remaining proceeds, if any, together with an
19 itemized accounting.

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

23 (9) The landlord shall ensure that the terms of this section are included in plain and understandable
24 language as a notification upon termination of the lease or rental agreement."

25

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

27 **"70-33-433. Grounds for termination of rental agreement.** (1) If there is a noncompliance by the
28 tenant with the rental agreement or with a provision of 70-33-321, the landlord may deliver a written notice to

1 the tenant pursuant to 70-33-106 specifying the acts or omissions constituting the noncompliance and stating
2 that the rental agreement will terminate upon the date specified in the notice that may not be less than the
3 minimum number of days after receipt of the notice provided for in this section. The rental agreement
4 terminates as provided in the notice for one or more of the following reasons and subject to the following
5 conditions:

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

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

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

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

17 (e) 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 whether or not notice was given pursuant to subsection (1)(c) and the violation was
19 remedied as provided in subsection (3), for which the notice period is 14 days;

20 (f) two or more violations within a ~~12-month~~6-month period of the same rule for which notice has
21 been given for each prior violation, as provided in subsection (1)(a), (1)(b), or (1)(c), for which the notice period
22 for the final violation is 30 days;

23 (g) two or more violations of 70-33-321(1) within a ~~12-month~~6-month period, for which the notice
24 period for the final violation is 14 days;

25 (h) any violation of 70-33-321(3), for which the notice period is as provided in 70-33-422(1);

26 (i) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and
27 use of the premises, for which the notice period is ~~30~~ 7 days;

28 (j) any other noncompliance or violation not covered by subsections (1)(a) through (1)(i) that

1 endangers other tenants or mobile home park personnel or the landlord or manager or causes substantial
2 damage to the premises, for which the notice period is 14 days;

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

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

9 (m) any legitimate business reason not covered elsewhere in this subsection (1) if the landlord meets
10 the following requirements:

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

12 (ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum of
13 90 days' written notice of the termination.

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

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

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

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

28 (3) Subject to the right to terminate in subsections (1)(d) through (1)(k), if the noncompliance

1 described in subsections (1)(a) through (1)(c) is remediable by repairs, the payment of damages, or otherwise
2 and the tenant adequately remedies the noncompliance before the date specified in the notice, the rental
3 agreement does not terminate as a result of that noncompliance.

4 (4) For purposes of calculating the total number of notices given within a 12-month period under
5 subsection (1)(d), only one notice for each violation per month may be included in the calculation."
6

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

9 (2) [Section 2] is intended to be codified as an integral part of Title 70, chapter 33, and the provisions
10 of Title 70, chapter 33, apply to [section 2].
11

12 **NEW SECTION. SECTION 19. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.**

13 - END -