

HOUSE BILL NO. 282

INTRODUCED BY S. GALLOWAY, F. ANDERSON, J. SCHILLINGER, S. ESSMANN, S. VINTON, L. REKSTEN, L. SHELDON-GALLOWAY, T. MOORE, L. BREWSTER, B. MERCER, N. NICOL, M. BINKLEY, B. LER, A. REGIER, F. NAVE, R. MARSHALL, E. BUTTREY, D. LOGE, B. KEENAN, C. HINKLE, J. READ, M. HOPKINS, J. GILLETTE, G. OBLANDER, J. BERGSTROM, T. BROCKMAN, M. YAKAWICH, T. MANZELLA, B. USHER, M. NOLAND, C. FRIEDEL, P. GREEN, G. KMETZ, T. FALK, D. ZOLNIKOV, J. ETCHART, W. RUSK, J. TREBAS, B. PHALEN, B. CARTER, L. DEMING, T. SMITH, R. KNUDSEN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RENTAL LAWS; REVISING LAW FOR REFUSAL OF ACCESS; REVISING ACTION FOR POSSESSION PROCEDURE; REVISING REMEDIES; PROVIDING A DEFINITION; AMENDING SECTIONS 70-24-103, 70-24-424, 70-24-427, 70-24-429, 70-33-403, 70-33-424, 70-33-427, AND 70-33-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

~~(1) "Abandon" means to give up possession of the premises unless the landlord does not accept abandonment or surrender as provided in 70-24-426 or unless the rental agreement has been terminated as provided by law.~~

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

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

~~(4) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system~~

1 service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate
2 danger to the tenant or others.

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

4 (6) ~~—~~ "Deficiency notice" means a notice posted on the tenant's front door and communicated to the
5 tenant by phone or e-mail that details a tenant's violation of the rental agreement and provides at least 24 hours
6 to correct the violation, after which time the landlord may terminate the rental agreement.

7 (6)(7) ~~—~~ "Dwelling unit" means a structure or the part of a structure that is used as a home, residence,
8 or sleeping place by a person who maintains a household or by two or more persons who maintain a common
9 household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile
10 home, means the mobile home itself.

11 (7)(8) ~~—~~ "Good faith" means honesty in fact in the conduct of the transaction concerned.

12 (8)(9) ~~—~~ "Guest" means a person staying with a tenant for a temporary period of time as defined in the
13 rental agreement or, if not defined in the rental agreement, for a period of time no more than 7 days unless the
14 tenant has received the landlord's written consent to a longer period of time.

15 (9)(10) ~~—~~ "Landlord" means:

16 (a) ~~—~~ the owner of the dwelling unit or the building of which it is a part;

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

19 (c) ~~—~~ a person who has written authorization from the owner to act as a manager of the premises for
20 the purposes of the tenancy or the rental agreement; or

21 (d) ~~—~~ a lessor who has written authorization from the owner of the premises to sublease the
22 premises.

23 (10)(11) ~~—~~ "Organization" includes a corporation, government, governmental subdivision or agency,
24 business trust, estate, trust, or partnership or association, two or more persons having a joint or common
25 interest, and any other legal or commercial entity.

26 (11)(12) ~~—~~ "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

27 (a) ~~—~~ the legal title to property; or

28 (b) ~~—~~ the beneficial ownership and a right to present use and enjoyment of the premises, including a

1 mortgagee in possession.

2 ~~(12)(13)~~ "Person" includes an individual or organization.

3 ~~(13)(14)~~ "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
4 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally
5 or promised for the use of a tenant.

6 ~~(14)(15)~~ "Rent" means all payments to be made to the landlord, including rent, late fees, or other
7 charges as agreed on in the rental agreement, except money paid as a security deposit.

8 ~~(15)(16)~~ "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-
9 24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
10 premises.

11 ~~(16)(17)~~ "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub
12 or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more
13 of which are used in common by occupants in the structure.

14 ~~(17)(18)~~ "Single-family residence" means a structure maintained and used as a single dwelling unit. A
15 dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct
16 access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other
17 essential facility or service with another dwelling unit.

18 ~~(18)(19)~~ "Tenant" means:

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

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

24 ~~(19)(20)~~ "Unauthorized person or trespasser" means a person who:

25 (a) — enters or remains after being asked to leave by the landlord and does not receive written
26 permission by the landlord to remain on the premises;

27 (b) — is in violation of 45-6-201;

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

1 (d) ~~_____~~ is in violation of 70-27-102."

2

3 **Section 1.** Section 70-24-424, MCA, is amended to read:

4 **"70-24-424. Refusal of access -- landlord's remedies.** (1) If the tenant refuses to allow lawful
5 access, the landlord may ~~either issue a deficiency notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE
6 injunctive relief to compel access ~~or terminate the rental agreement~~. In either case, the landlord may recover
7 actual damages. ~~If the landlord issues a deficiency notice and the time expires without access, the rental~~
8 ~~agreement terminates.~~ IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY
9 NOTICE TO TERMINATE THE RENTAL AGREEMENT.

10 (2) If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the
11 premises and fails to provide a key as required by 70-24-312(5), the landlord may ~~either issue a deficiency~~
12 ~~notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE injunctive relief ~~or terminate the rental agreement~~. ~~If the~~
13 ~~landlord issues a deficiency notice and the time expires without amelioration, the rental agreement terminates.~~
14 IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY NOTICE TO TERMINATE THE
15 RENTAL AGREEMENT."

16

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

18 **"70-24-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
19 agreement is terminated, the landlord has a claim for possession ~~and for~~ rent, and a ~~separate claim for~~ actual
20 damages for any breach of the rental agreement.

21 (2) ~~(a) An~~ (a) Except as provided in subsection (2)(b), an action filed pursuant to subsection (1) in a
22 court must be heard within ~~44~~ 5 10 BUSINESS days after the tenant's appearance or the answer date stated in
23 the summons, ~~except that if the rental agreement is terminated because of noncompliance under 70-24-321(3),~~
24 ~~the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the~~
25 ~~summons.~~ If the action is appealed to the district court, the hearing must be held within ~~44~~ 5 10 BUSINESS days
26 after the case is transmitted to the district court, ~~except that if the rental agreement is terminated because of~~
27 ~~noncompliance under 70-24-321(3), the hearing must be held within 5 business days after the case is~~
28 ~~transmitted to the district court.~~

1 **(b)** A hearing for damages for any breach of the rental agreement must be held within 45 days
2 after the claim of possession and rent has been adjudicated.

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

5 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the
6 action ~~within 5 days after~~ at WITHIN 5 DAYS AFTER the hearing. If a landlord's claim for possession is granted, the
7 court shall issue a writ of possession and a writ of assistance immediately. The writ of assistance must be
8 executed by the sheriff:

9 (a) within 5 business days of the sheriff receiving the writ of assistance, excluding of the date of
10 receipt by the sheriff; or

11 (b) at a time no more than 5 business days after the sheriff receives the writ of assistance or as
12 otherwise agreed to by the landlord and the sheriff."
13

14 **Section 3.** Section 70-24-429, MCA, is amended to read:

15 **"70-24-429. Holdover remedies -- consent to continued occupancy -- tenant's response to**
16 **service in action for possession.** (1) If the tenant remains in possession without the landlord's consent after
17 expiration of the term of the rental agreement or its termination, the landlord may bring an action for
18 possession.

19 (2) ~~If~~ If the term is longer than month-to-month and the landlord terminates the rental agreement
20 with cause and the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount
21 not more than 3 months' periodic rent or treble damages, whichever is greater.

22 (3) If the term of the rental is month-to-month and the landlord terminates the rental agreement
23 without cause and issues a lawful 30-day notice and the tenant remains in the rental unit after the termination
24 date, then the holdover is purposeful and the landlord shall MAY recover an amount not more than 3 months' 1
25 MONTH'S periodic rent or treble damages, whichever is greater FOR EACH HOLDOVER MONTH.

26 ~~(2)(4)~~ (4) In an action for possession or unlawful holdover, the provisions of the Montana Justice and City
27 Court Rules of Civil Procedure, Title 25, chapter 23, apply, except that the time for filing an answer under Rule
28 4C(2)(b) is ~~10-5 BUSINESS~~ 5 BUSINESS days after service of summons and complaint, exclusive of the date of service.

1 ~~(3)~~(5) If the landlord consents to the tenant's continued occupancy, 70-24-201(2)(e) applies."

2

3 **Section 5.** Section 70-33-103, MCA, is amended to read:

4 ~~"70-33-103. Definitions.~~ Unless the context clearly requires otherwise, in this chapter, the following
5 definitions apply:

6 ~~(1) "Abandon" means to give up possession of the premises unless the landlord does not accept~~
7 ~~abandonment or surrender as provided in 70-33-426 or unless the rental agreement has been terminated as~~
8 ~~provided by law.~~

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

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

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

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

19 ~~(6) "Deficiency notice" means a notice posted on the tenant's front door and communicated to the~~
20 ~~tenant by phone or e-mail that details a tenant's violation of the rental agreement and provides at least 24 hours~~
21 ~~to correct the violation, after which time the landlord may terminate the rental agreement.~~

22 ~~(6)~~(7) "Good faith" means honesty in fact in the conduct of the transaction concerned.

23 ~~(7)~~(8) "Landlord" means:

24 ~~(a)~~ the owner of:

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

26 ~~(ii)~~ a mobile home park;

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

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

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

4 ~~(8)(9) "Lot" means the space or land rented and not a mobile home itself.~~

5 ~~(9)(10) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured~~
6 ~~homes as defined in 15-1-101.~~

7 ~~(10)(11) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to~~
8 ~~occupy a lot.~~

9 ~~(11)(12) "Mobile home park" means a trailer court as defined in 50-52-101.~~

10 ~~(12)(13) "Organization" includes a corporation, government, governmental subdivision or agency,~~
11 ~~business trust, estate, trust, partnership, association, two or more persons having a joint or common interest,~~
12 ~~and any other legal or commercial entity.~~

13 ~~(13)(14) "Person" includes an individual or organization.~~

14 ~~(14)(15) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants~~
15 ~~generally or promised for the use of a tenant.~~

16 ~~(15)(16) "Rent" means all payments to be made to a landlord, including rent, late fees, or other~~
17 ~~charges as agreed on in the rental agreement, except money paid as a security deposit.~~

18 ~~(16)(17) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-~~
19 ~~33-311 embodying the terms and conditions concerning the use and occupancy of the premises.~~

20 ~~(17)(18) "Tenant" means:~~

21 (a) ~~_____ a person entitled under a rental agreement to occupy a lot to the exclusion of others; or~~

22 (b) ~~_____ a person who, with the written approval of the landlord and pursuant to the rental agreement,~~
23 ~~has a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental~~
24 ~~agreement.~~

25 ~~(18)(19) "Unauthorized person or trespasser" means a person who:~~

26 (a) ~~_____ enters or remains after being asked to leave by the landlord and does not receive written~~
27 ~~permission by the landlord to remain on the premises;~~

28 (b) ~~_____ is in violation of 45-6-201;~~

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

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

3

4 **Section 4.** Section 70-33-424, MCA, is amended to read:

5 **"70-33-424. Refusal of access -- landlord's remedies.** (1) If the tenant refuses to allow lawful
6 access, the landlord may ~~either issue a deficiency notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE
7 injunctive relief to compel access ~~or terminate the rental agreement~~. In either case, the landlord may recover
8 actual damages. ~~If the landlord issues a deficiency notice and the time expires without access, the rental~~
9 ~~agreement terminates.~~ IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY
10 NOTICE TO TERMINATE THE RENTAL AGREEMENT.

11 (2) If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the
12 premises and fails to provide a key as required by 70-33-312(5), the landlord may ~~either issue a deficiency~~
13 ~~notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE injunctive relief ~~or terminate the rental agreement~~. ~~If the~~
14 ~~landlord issues a deficiency notice and the time expires without amelioration, the rental agreement terminates.~~
15 IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY NOTICE TO TERMINATE THE
16 RENTAL AGREEMENT."

17

18 **Section 5.** Section 70-33-427, MCA, is amended to read:

19 **"70-33-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
20 agreement is terminated, the landlord has a claim for possession ~~and for, rent, and a separate claim for actual~~
21 damages for any breach of the rental agreement.

22 (2) (a) ~~An~~ Except as provided in subsection (2)(c), an action filed pursuant to subsection (1) in a
23 court must be heard within ~~20-5~~ 10 BUSINESS days after the tenant's appearance or the answer date stated in
24 the summons, ~~except that if the rental agreement is terminated because of noncompliance under 70-33-321(4),~~
25 ~~the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the~~
26 ~~summons.~~

27 (b) If the action is appealed to the district court, the hearing must be held within ~~20-5~~ 10 BUSINESS
28 days after the case is transmitted to the district court, ~~except that if the rental agreement is terminated because~~

1 of noncompliance under 70-33-321(4), the hearing must be held within 5 business days after the case is
2 transmitted to the district court.

3 (c) A hearing for damages for any breach of the rental agreement must be held within 45 days
4 after the claim of possessions and rent has been adjudicated.

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

7 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the
8 action ~~within 5 days after~~ at WITHIN 5 DAYS AFTER the hearing. If a landlord's claim for possession is granted, the
9 court shall issue a writ of possession immediately."

10

11 **Section 6.** Section 70-33-429, MCA, is amended to read:

12 **"70-33-429. Holdover remedies -- consent to continued occupancy.** (1) If the tenant remains in
13 possession without the landlord's consent after expiration of the term of the rental agreement or other
14 termination of the rental agreement, the landlord may bring an action for possession.

15 (2) If the term is longer than month-to-month and the landlord terminates the agreement with
16 cause and the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount of not
17 more than 3 months' rent or treble damages, whichever is greater.

18 (3) If the term of the rental is month-to-month and the landlord terminates the rental agreement
19 without cause and issues a lawful 30-day notice and the tenant remains in the rental unit after the termination
20 date, then the holdover is purposeful and the landlord shall MAY recover an amount not more than 3 months' 1
21 MONTH'S periodic rent or treble damages, whichever is greater FOR EACH HOLDOVER MONTH.

22 ~~(2)~~(3) In an action for possession or unlawful holdover, the provisions of the Montana Justice and City
23 Court Rules of Civil Procedure, Title 25, chapter 23, apply, except that the time for filing an answer under Rule
24 4C(2)(b) is ~~40-5~~ 5 BUSINESS days after service of summons and complaint, exclusive of the date of service.

25 ~~(3)~~(4) If the landlord consents to the tenant's continued occupancy, 70-33-201(2)(e) applies."
26

27

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

28

- END -