

SENATE BILL NO. 184

INTRODUCED BY R. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO TENANT DEBT; ALLOWING A
5 LANDLORD TO ASSIGN CERTAIN DAMAGES FOR A RESIDENTIAL TENANT, COMMERCIAL TENANT, OR
6 MOBILE HOME LOT TENANT TO A THIRD PARTY UNDER CERTAIN CIRCUMSTANCES; ~~MODIFYING THE~~
7 ~~NUMBER OF DAYS BEFORE CERTAIN ACTIONS CONCERNING TENANT DEBT MUST BE HEARD BY A~~
8 ~~COURT~~; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 70-24-103, 70-24-427, 70-33-103, AND
9 70-33-427, MCA."

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

12
13 **Section 1.** Section 70-24-103, MCA, is amended to read:

14 **"70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections and
15 unless the context otherwise requires, in this chapter the following definitions apply:

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

18 (2) "Actual damages" owed to a landlord under this chapter include unpaid rent, cleaning expenses as
19 defined in 70-25-101 including a reasonable charge for the landlord's labor, damage as defined in 70-25-101,
20 and, if allowed under the terms of the rental agreement, late charges, utilities, other money owing to the landlord,
21 and, except as provided in 70-24-202, penalties due under the lease provisions. Utilities include unpaid utilities
22 due directly from the tenant to the landlord under the lease agreement or, in cases where the tenant is
23 responsible for utility payments to a third party under the lease agreement, any utility payments reassigned by
24 the third party to the landlord as a result of the tenant's nonpayment.

25 (2)(3) "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 heat, electricity, gas, running water, hot water, and sewer and septic system service,
28 or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to
29 the tenant or others.

30 (3)(4) "Court" means the appropriate district court, small claims court, justice's court, or city court.

1 ~~(4)~~(5) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or
 2 sleeping place by a person who maintains a household or by two or more persons who maintain a common
 3 household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile
 4 home, means the mobile home itself.

5 ~~(5)~~(6) "Good faith" means honesty in fact in the conduct of the transaction concerned.

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

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

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

11 (b) a manager of the premises who fails to disclose the managerial position.

12 ~~(8)~~(9) "Organization" includes a corporation, government, governmental subdivision or agency, business
 13 trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any
 14 other legal or commercial entity.

15 ~~(9)~~(10) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

16 (a) the legal title to property; or

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

19 ~~(10)~~(11) "Person" includes an individual or organization.

20 ~~(11)~~(12) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
 21 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally
 22 or promised for the use of a tenant.

23 ~~(12)~~(13) "Rent" means all payments to be made to the landlord under the rental agreement.

24 ~~(13)~~(14) "Rental agreement" means all agreements, written or oral, and valid rules adopted under
 25 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
 26 premises.

27 ~~(14)~~(15) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or
 28 a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of
 29 which are used in common by occupants in the structure.

30 ~~(15)~~(16) "Single-family residence" means a structure maintained and used as a single dwelling unit. A

1 dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct
 2 access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other
 3 essential facility or service with another dwelling unit.

4 ~~(16)~~(17) "Tenant" means:

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

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

8 ~~(17)~~(18) "Unauthorized person" means a person, other than a tenant or a guest, who is trespassing in
 9 violation of 45-6-203."

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

12 **"70-24-427. Landlord's remedies after termination ~~--action for possession.~~** (1) (a) If the rental
 13 agreement is terminated and the tenant has not surrendered the premises, the landlord has a claim for
 14 possession ~~and for rent~~ and a separate claim for actual damages for any breach of the rental agreement.

15 ~~(2)~~(b) An action filed pursuant to subsection (1)(a) in a court must be heard within ~~44~~ 11 14 days after
 16 the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is
 17 terminated because of noncompliance under 70-24-321(3), the action must be heard within 5 business days after
 18 the tenant's appearance or the answer date stated in the summons. If the action is appealed to the district court,
 19 the hearing must be held within ~~44~~ 11 14 days after the case is transmitted to the district court, except that if the
 20 rental agreement is terminated because of noncompliance under 70-24-321(3), the hearing must be held within
 21 5 business days after the case is transmitted to the district court.

22 ~~(3)~~(c) The landlord and the tenant may stipulate to a continuance of the hearing beyond the time limit
 23 in subsection ~~(2)~~ (1)(b) without the necessity of an undertaking.

24 ~~(4)~~(d) In a landlord's action for possession filed pursuant to subsection (1)(a), the court shall rule on the
 25 action within 5 days after the hearing. If a landlord's claim for possession is granted, the court shall issue a writ
 26 of possession.

27 (e) A landlord who obtains a judgment against a tenant pursuant to this subsection (1) may assign the
 28 sum contained in the judgment to a third party.

29 (2) If the rental agreement is terminated and the tenant has surrendered the premises to the landlord,
 30 a landlord may assign actual damages owed to the landlord by the tenant to a third party."

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2 **NEW SECTION. Section 3. Assignment of amounts owed.** If a rental agreement has terminated and
3 the tenant has surrendered the premises to the landlord, the landlord may assign collection of unpaid amounts
4 owed by the tenant to the landlord to a third party. Unpaid amounts may include unpaid rent, cleaning expenses
5 as defined in 70-25-101 including a reasonable charge for the landlord's labor, damage as defined in 70-25-101,
6 and, if allowed under the terms of the rental agreement, late charges, utilities, other money owing to the landlord,
7 and penalties due under the lease provisions.

8
9 **Section 4.** Section 70-33-103, MCA, is amended to read:

10 **"70-33-103. Definitions.** Unless the context clearly requires otherwise, in this chapter; the following
11 definitions apply:

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

14 (2) "Actual damages" owed to a landlord under this chapter include unpaid rent, cleaning expenses as
15 defined in 70-25-101 including a reasonable charge for the landlord's labor, damage as defined in 70-25-101,
16 and, if allowed under the terms of the rental agreement, late charges, utilities, other money owing to the landlord,
17 and, except as provided in 70-33-202, penalties due under the lease provisions. Utilities include unpaid utilities
18 due directly from the tenant to the landlord under the lease agreement or, in cases where the tenant is
19 responsible for utility payments to a third party under the lease agreement, any utility payments reassigned by
20 the third party to the landlord as a result of the tenant's nonpayment.

21 (2)(3) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring
22 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
23 essential services, including electricity, gas, running water, and sewer and septic system service, or
24 life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the
25 tenant or others.

26 (3)(4) "Court" means the appropriate district court, small claims court, justice's court, or city court.

27 (4)(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

28 (5)(6) "Landlord" means:

29 (a) the owner, lessor, or sublessor of:

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

1 (ii) a mobile home park; or

2 (b) a manager of the premises who fails to disclose the managerial position.

3 ~~(6)~~(7) "Lot" means the space or land rented and not a mobile home itself.

4 ~~(7)~~(8) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured homes
5 as defined in 15-1-101.

6 ~~(8)~~(9) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to
7 occupy a lot.

8 ~~(9)~~(10) "Mobile home park" means a trailer court as defined in 50-52-101.

9 ~~(10)~~(11) "Organization" includes a corporation, government, governmental subdivision or agency,
10 business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and
11 any other legal or commercial entity.

12 ~~(11)~~(12) "Person" includes an individual or organization.

13 ~~(12)~~(13) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants
14 generally or promised for the use of a tenant.

15 ~~(13)~~(14) "Rent" means all payments to be made to a landlord under a rental agreement.

16 ~~(14)~~(15) "Rental agreement" means all agreements, written or oral, and valid rules adopted under
17 70-33-311 embodying the terms and conditions concerning the use and occupancy of the premises.

18 ~~(15)~~(16) "Tenant" means:

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

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

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

24 **"70-33-427. Landlord's remedies after termination -- ~~action for possession.~~** (1) (a) If the rental
25 agreement is terminated and the tenant has not surrendered the premises, the landlord has a claim for
26 possession ~~and for rent~~ and a separate claim for actual damages for any breach of the rental agreement.

27 ~~(2)~~ ~~(a)~~(b) An action filed pursuant to subsection (1)(a) in a court must be heard within 20 days after the
28 tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated
29 because of noncompliance under 70-33-321(4), the action must be heard within 5 business days after the tenant's
30 appearance or the answer date stated in the summons.

1 (b)(c) If the action is appealed to the district court, the hearing must be held within 20 days after the case
2 is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance
3 under 70-33-321(4), the hearing must be held within 5 business days after the case is transmitted to the district
4 court.

5 (3)(d) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in
6 ~~subsection (2)~~ subsections (1)(b) and (1)(c) without the necessity of an undertaking.

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

10 (f) A landlord who obtains a judgment against a tenant pursuant to this subsection (1) may assign the
11 sum contained in the judgment to a third party.

12 (2) If the rental agreement is terminated and the tenant has surrendered the premises to the landlord,
13 a landlord may assign actual damages owed to the landlord by the tenant to a third party."

14
15 **NEW SECTION. Section 6. Codification instruction.** [Section 3] is intended to be codified as an
16 integral part of Title 70, chapter 26, part 1, and the provisions of Title 70, chapter 26, part 1, apply to [section 3].

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