SENATE BILL NO. 8

INTRODUCED BY E. BOLDMAN

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT REQUIRING THE REFUND OF FEES FOR UNPERFORMED RENTAL APPLICATION SERVICES; AND AMENDING SECTION 37-56-109, MCA.”

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

Section 1. Section 37-56-109, MCA, is amended to read:

"**37-56-109. Application fees -- refund -- deduction of costs.** (1) A property manager of four or more dwelling units that requires an application fee prior to the rental of a dwelling unit shall:

(a) refund the costs of any application fees pertaining to services that were not performed if an applicant becomes a party to a signed rental agreement for the dwelling unit; and

(b) refund the application fee within a reasonable period of time if the applicant does not become a party to a signed rental agreement for the dwelling unit or if the applicant does not become a party to a rental agreement that has the same effect as if it had been signed pursuant to 70-24-204. However, the property manager may deduct costs from the refund as provided in subsection (2).

(2) If the application fee includes costs pertaining to specific services, the applicant must be given written notice of the portions of the total application fee allocated to each cost at the time the application fee is collected. If the applicant does not become a party to a rental agreement as provided in subsection (1), the property manager may retain only the costs specified in the written notice for services actually performed and shall refund the balance as provided in subsection (1). The property manager may not retain the cost of a service that was not performed, even if the cost was specified in the written notice that was provided to the applicant.

(3) A person who wrongfully withholds an application fee or any portion of an application fee is liable in damages to the applicant in a civil action for an amount equal to the sum determined to have been wrongfully withheld or deducted. Attorney fees may be awarded to the prevailing party at the discretion of the

court. The burden of proof of services rendered by the property manager pertaining to the application is on the property manager.

(4) For the purposes of this section, the following definitions apply:

(a) "Application fee" means the total amount an applicant shall pay to be considered for renting a dwelling unit.

(b) "Cost" means the out-of-pocket expense to a property manager for a specific service in relation to the application performed prior to approval or disapproval of a tenant, including but not limited to a credit check. The term does not include a fee for the property manager's time or effort for arranging or performing the service."

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