

HOUSE BILL NO. 311

INTRODUCED BY K. KORTUM, M. NIKOLAKAKOS, S. GIST, W. MCKAMEY, D. FERN, R. MINER, L. BREWSTER, N. DURAM, J. FITZPATRICK, S. HOWELL, J. KARLEN, G. NIKOLAKAKOS, K. SULLIVAN, K. BOGNER, S. ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE REFUND OF RESIDENTIAL RENTAL APPLICATION FEES; ALLOWING CERTAIN COSTS TO BE DEDUCTED; PROVIDING FOR A CIVIL ACTION IF AN APPLICATION FEE IS WRONGFULLY WITHHELD; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Application fees -- refund -- deduction of costs.** (1) A landlord or a

manager of a premises that requires an application fee prior to the rental of the premises shall 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 premises 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 landlord or 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 landlord or 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 landlord or 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 landlord or manager pertaining to the application is on

1 the landlord or manager.

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

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

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

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10 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 70, chapter 24, part 1, and the provisions of Title 70, chapter 24, part 1, apply to [section 1].

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13 NEW SECTION. Section 3. Applicability. [This act] applies to an application fee collected by a
14 landlord or manager from an applicant on or after [the effective date of this act].

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