

1 HOUSE BILL NO. 311

2 INTRODUCED BY K. KORTUM, M. NIKOLAKAKOS, S. GIST, W. MCKAMEY, D. FERN, R. MINER, L.
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6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE REFUND OF RESIDENTIAL RENTAL
7 APPLICATION FEES; ALLOWING CERTAIN COSTS TO BE DEDUCTED; PROVIDING FOR A CIVIL ACTION
8 IF AN APPLICATION FEE IS WRONGFULLY WITHHELD; AND PROVIDING AN APPLICABILITY DATE."

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

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12 NEW SECTION. Section 1. Application fees -- refund -- deduction of costs. (1) A landlord or a
13 PROPERTY manager of ~~a premises-FOUR OR MORE DWELLING UNITS~~ that requires an application fee prior to the
14 rental of ~~the premises-A DWELLING UNIT~~ shall refund the application fee within a reasonable period of time if the
15 applicant does not become a party to a signed rental agreement for the ~~premises-DWELLING UNIT~~ or if the
16 applicant does not become a party to a rental agreement that has the same effect as if it had been signed
17 pursuant to 70-24-204. However, the landlord or PROPERTY manager may deduct costs from the refund as
18 provided in subsection (2).

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

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

1 court. The burden of proof of services rendered by the landlord or PROPERTY manager pertaining to the
2 application is on the landlord or PROPERTY manager.

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

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

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

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11 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title ~~70~~ 37, chapter 24 ~~56~~, part 1, and the provisions of Title ~~70~~ 37, chapter 24 ~~56~~, part 1, apply
13 to [section 1].

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

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