

1 HOUSE BILL NO. 233

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10 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE REFUND OF RESIDENTIAL RENTAL

11 APPLICATION FEES; PROVIDING AN EXCEPTION: ALLOWING CERTAIN COSTS TO BE DEDUCTED;

12 PROVIDING FOR A CIVIL ACTION IF AN APPLICATION FEE IS ~~WRONGFULLY~~ WITHHELD; AND

13 PROVIDING AN APPLICABILITY DATE."

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

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

18 manager of a premises that requires an application fee prior to the rental of the premises shall refund the

19 application fee within a reasonable period of time if the applicant does not become a party to a signed rental

20 agreement for the premises or if the applicant does not become a party to a rental agreement that has the

21 same effect as if it had been signed pursuant to 70-24-204. However, the landlord or manager may deduct

22 costs from the refund as provided in subsection (2).

23 (2) (a) If the application fee includes costs pertaining to specific services, the applicant must be

24 given written notice of the portions of the total application fee allocated to each cost at the time the application

25 fee is collected. If Except as provided in subsection (2)(b), if the applicant does not become a party to a rental

26 agreement as provided in subsection (1), the landlord or manager may retain only the costs specified in the

27 written notice for services actually performed and shall refund the balance as provided in subsection (1). The

28 landlord or manager may not retain the cost of a service that was not performed, even if the cost was specified

1 in the written notice that was provided to the applicant.

2 (b) If an applicant is selected to rent the premises but declines to become a party to the rental
3 agreement, the applicant is not entitled to a refund of any portion of the application fee.

4 (3) A person who **wrongfully** withholds an application fee as described in subsection (2) or any
5 portion of an application fee is liable in damages to the applicant in a civil action for an amount equal to the sum
6 determined to have been wrongfully withheld or deducted. Attorney fees may be awarded to the prevailing party
7 at the discretion of the court. The burden of proof of services rendered by the landlord or manager pertaining to
8 the application is on the landlord or manager.

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

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

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

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17 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
18 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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20 NEW SECTION. Section 3. Applicability. [This act] applies to an application fee collected by a
21 landlord or manager from an applicant on or after [the effective date of this act].

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