

1 HOUSE BILL NO. 282
2 INTRODUCED BY S. GALLOWAY, F. ANDERSON, J. SCHILLINGER, S. ESSMANN, S. VINTON, L.
3 REKSTEN, L. SHELDON-GALLOWAY, T. MOORE, L. BREWSTER, B. MERCER, N. NICOL, M. BINKLEY, B.
4 LER, A. REGIER, F. NAVE, R. MARSHALL, E. BUTTREY, D. LOGE, B. KEENAN, C. HINKLE, J. READ, M.
5 HOPKINS, J. GILLETTE, G. OBLANDER, J. BERGSTROM, T. BROCKMAN, M. YAKAWICH, T. MANZELLA,
6 B. USHER, M. NOLAND, C. FRIEDEL, P. GREEN, G. KMETZ, T. FALK, D. ZOLNIKOV, J. ETCHART, W.
7 RUSK, J. TREBAS, B. PHALEN, B. CARTER, L. DEMING, T. SMITH, R. KNUDSEN

8
9 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RENTAL LAWS; REVISING LAW FOR
10 REFUSAL OF ACCESS; REVISING ACTION FOR POSSESSION PROCEDURE; REVISING REMEDIES;
11 PROVIDING A DEFINITION; AMENDING SECTIONS 70-24-103, 70-24-424, 70-24-427, 70-24-429, 70-33-
12 403, 70-33-424, 70-33-427, AND 70-33-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 70-24-103, MCA, is amended to read:

17 ~~"70-24-103. General definitions.~~ Subject to additional definitions contained in subsequent sections
18 and unless the context otherwise requires, in this chapter the following definitions apply:

19 (1) ~~"Abandon" means to give up possession of the premises unless the landlord does not accept~~
20 ~~abandonment or surrender as provided in 70-24-426 or unless the rental agreement has been terminated as~~
21 ~~provided by law.~~

22 (2) ~~"Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in~~
23 ~~which rights are determined, including an action for possession.~~

24 (3) ~~"Actual and reasonable cost" means the actual amount of expenses and labor incurred or~~
25 ~~expended and the reasonable amount of expenses and labor estimated to be incurred or expended.~~

26 (4) ~~"Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring~~
27 ~~immediate action to protect the premises or the tenant. A case of emergency may include the interruption of~~

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1 ~~permission by the landlord to remain on the premises;~~

2 (b) ~~is in violation of 45-6-201;~~

3 (c) ~~is in violation of 45-6-203; or~~

4 (d) ~~is in violation of 70-27-102."~~

5

6 **Section 1.** Section 70-24-424, MCA, is amended to read:

7 **"70-24-424. Refusal of access -- landlord's remedies.** (1) If the tenant refuses to allow lawful
8 access, the landlord may either ~~issue a deficiency notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE
9 injunctive relief to compel access ~~or terminate the rental agreement.~~ In either case, the landlord may recover
10 actual damages. ~~If the landlord issues a deficiency notice and the time expires without access, the rental~~
11 ~~agreement terminates.~~ IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY
12 NOTICE TO TERMINATE THE RENTAL AGREEMENT.

13 (2) If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the
14 premises and fails to provide a key as required by 70-24-312(5), the landlord may either issue a deficiency
15 notice 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE injunctive relief ~~or terminate the rental agreement.~~ If the
16 landlord issues a deficiency notice and the time expires without amelioration, the rental agreement terminates.
17 IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY NOTICE TO TERMINATE THE
18 RENTAL AGREEMENT."

19

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

21 **"70-24-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
22 agreement is terminated, the landlord has a claim for possession ~~and for~~ rent, and ~~a separate claim for actual~~
23 damages for any breach of the rental agreement.

24 (2) (a) ~~An~~ Except as provided in subsection (2)(b), an action filed pursuant to subsection (1) in a
25 court must be heard within ~~14~~ 5-10 business days after the tenant's appearance or the answer date stated in
26 the summons, ~~except that if the rental agreement is terminated because of noncompliance under 70-24-321(3),~~
27 ~~the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the~~

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1 summons. If the action is appealed to the district court, the hearing must be held within 14 5-10 business days
2 after the case is transmitted to the district court, ~~except that if the rental agreement is terminated because of~~
3 ~~noncompliance under 70-24-321(3), the hearing must be held within 5 business days after the case is~~
4 ~~transmitted to the district court.~~

5 (b) A hearing for damages for any breach of the rental agreement must be held within 45 days
6 after the claim of possession and rent has been adjudicated.

7 (3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in
8 subsection (2) without the necessity of an undertaking.

9 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the
10 action ~~within 5 days after~~ at within 5 days after the hearing. If a landlord's claim for possession is granted, the
11 court shall issue a writ of possession and a writ of assistance immediately. The writ of assistance must be
12 executed by the sheriff:

13 (a) within 5 business days of the sheriff receiving the writ of assistance, excluding of the date of
14 receipt by the sheriff; or

15 (b) at a time no more than 5 business days after the sheriff receives the writ of assistance or as
16 otherwise agreed to by the landlord and the sheriff."

17

18 **Section 3.** Section 70-24-429, MCA, is amended to read:

19 **"70-24-429. Holdover remedies -- consent to continued occupancy -- tenant's response to**
20 **service in action for possession.** (1) If the tenant remains in possession without the landlord's consent after
21 expiration of the term of the rental agreement or its termination, the landlord may bring an action for
22 possession.

23 (2) If the term is longer than month-to-month and the landlord terminates the rental agreement
24 with cause and the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount
25 not more than 3 months' periodic rent or treble damages, whichever is greater.

26 (3) If the term of the rental is month-to-month and the landlord terminates the rental agreement
27 without cause and issues a lawful 30-day notice and the tenant remains in the rental unit after the termination

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1 date, then the holdover is purposeful and the landlord ~~shall may~~ recover an amount not more than ~~3 months' 1~~
2 ~~month's periodic rent or treble damages, whichever is greater for each holdover month.~~

3 (2)(4) In an action for possession or unlawful holdover, the provisions of the Montana Justice and City
4 Court Rules of Civil Procedure, Title 25, chapter 23, apply, except that the time for filing an answer under Rule
5 4C(2)(b) is ~~40-5~~ business days after service of summons and complaint, exclusive of the date of service.

6 (3)(5) If the landlord consents to the tenant's continued occupancy, 70-24-201(2)(e) applies."
7

8 **Section 5.** Section 70-33-103, MCA, is amended to read:

9 **"70-33-103. Definitions.** Unless the context clearly requires otherwise, in this chapter, the following
10 definitions apply:

11 (1) ~~"Abandon" means to give up possession of the premises unless the landlord does not accept~~
12 ~~abandonment or surrender as provided in 70-33-426 or unless the rental agreement has been terminated as~~
13 ~~provided by law.~~

14 (2) ~~"Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in~~
15 ~~which rights are determined, including an action for possession.~~

16 (3) ~~"Actual and reasonable cost" means the actual amount of expenses and labor incurred or~~
17 ~~expended and the reasonable amount of expenses and labor estimated to be incurred or expended.~~

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

23 (5) ~~"Court" means the appropriate district court, small claims court, justice's court, or city court.~~

24 (6) ~~"Deficiency notice" means a notice posted on the tenant's front door and communicated to the~~
25 ~~tenant by phone or e-mail that details a tenant's violation of the rental agreement and provides at least 24 hours~~
26 ~~to correct the violation, after which time the landlord may terminate the rental agreement.~~

27 (6)(7) ~~"Good faith" means honesty in fact in the conduct of the transaction concerned.~~

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1 ~~(b) — a person who, with the written approval of the landlord and pursuant to the rental agreement,~~
2 ~~has a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental~~
3 ~~agreement.~~

4 ~~(18)(19) "Unauthorized person or trespasser" means a person who:~~

5 ~~(a) — enters or remains after being asked to leave by the landlord and does not receive written~~
6 ~~permission by the landlord to remain on the premises;~~

7 ~~(b) — is in violation of 45-6-201;~~

8 ~~(c) — is in violation of 45-6-203; or~~

9 ~~(d) — is in violation of 70-27-102."~~

10

11 **Section 4.** Section 70-33-424, MCA, is amended to read:

12 **"70-33-424. Refusal of access -- landlord's remedies.** (1) If the tenant refuses to allow lawful
13 access, the landlord may either ~~issue a deficiency notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE
14 injunctive relief to compel access or ~~terminate the rental agreement~~. In either case, the landlord may recover
15 actual damages. ~~If the landlord issues a deficiency notice and the time expires without access, the rental~~
16 ~~agreement terminates. IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY~~
17 NOTICE TO TERMINATE THE RENTAL AGREEMENT.

18 (2) If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the
19 premises and fails to provide a key as required by 70-33-312(5), the landlord may either ~~issue a deficiency~~
20 ~~notice~~ 24-HOUR NOTICE TO CORRECT or obtain IMMEDIATE injunctive relief or ~~terminate the rental agreement~~. ~~If the~~
21 ~~landlord issues a deficiency notice and the time expires without amelioration, the rental agreement terminates.~~
22 IF THE 24-HOUR NOTICE TO CORRECT IS NOT REMEDIED, THE LANDLORD MAY ISSUE A 3-DAY NOTICE TO TERMINATE THE
23 RENTAL AGREEMENT."

24

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

26 **"70-33-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
27 agreement is terminated, the landlord has a claim for possession and for₁ rent₁ and a separate claim for actual

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1 damages for any breach of the rental agreement.

2 (2) (a) ~~An~~ Except as provided in subsection (2)(c), an action filed pursuant to subsection (1) in a
3 court must be heard within ~~20~~ 5-10 business days after the tenant's appearance or the answer date stated in
4 the summons, ~~except that if the rental agreement is terminated because of noncompliance under 70-33-321(4),~~
5 ~~the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the~~
6 ~~summons.~~

7 (b) If the action is appealed to the district court, the hearing must be held within ~~20~~ 5-10 business
8 days after the case is transmitted to the district court, ~~except that if the rental agreement is terminated because~~
9 ~~of noncompliance under 70-33-321(4), the hearing must be held within 5 business days after the case is~~
10 ~~transmitted to the district court.~~

11 (c) A hearing for damages for any breach of the rental agreement must be held within 45 days
12 after the claim of possessions and rent has been adjudicated.

13 (3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in
14 subsection (2) without the necessity of an undertaking.

15 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the
16 action ~~within 5 days after~~ at within 5 days after the hearing. If a landlord's claim for possession is granted, the
17 court shall issue a writ of possession immediately."

18
19 **Section 6.** Section 70-33-429, MCA, is amended to read:

20 **"70-33-429. Holdover remedies -- consent to continued occupancy.** (1) If the tenant remains in
21 possession without the landlord's consent after expiration of the term of the rental agreement or other
22 termination of the rental agreement, the landlord may bring an action for possession.

23 (2) If the term is longer than month-to-month and the landlord terminates the agreement with
24 cause and the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount of not
25 more than 3 months' rent or treble damages, whichever is greater.

26 (3) If the term of the rental is month-to-month and the landlord terminates the rental agreement
27 without cause and issues a lawful 30-day notice and the tenant remains in the rental unit after the termination

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1 date, then the holdover is purposeful and the landlord ~~shall may~~ recover an amount not more than ~~3 months' 1~~
2 ~~month's periodic rent or treble damages, whichever is greater for each holdover month.~~

3 (2)(3) In an action for possession or unlawful holdover, the provisions of the Montana Justice and City
4 Court Rules of Civil Procedure, Title 25, chapter 23, apply, except that the time for filing an answer under Rule
5 4C(2)(b) is ~~40~~5 business days after service of summons and complaint, exclusive of the date of service.

6 (3)(4) If the landlord consents to the tenant's continued occupancy, 70-33-201(2)(e) applies."
7

8 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.
9

- END -