

HOUSE BILL NO. 731

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE RESIDENTIAL LANDLORD AND TENANT ACT; REMOVING THE EXCLUSION FOR OCCUPANCY CONDITIONAL ON EMPLOYMENT ON THE PREMISES; REMOVING PROVISIONS REGARDING THE SALE OF ABANDONED PERSONAL PROPERTY; AMENDING SECTIONS 70-24-104 AND 70-24-430, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 70-24-104, MCA, is amended to read:

"70-24-104. Exclusions from application of chapter. Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

- (1) residence at a public or private institution if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service, including all housing provided by the Montana university system and other postsecondary institutions;
- (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the occupant is the purchaser or a person who succeeds to the purchaser's interest;
- (3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
- (4) transient occupancy in a hotel or motel;
- (5) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;
- (6) occupancy under a rental agreement covering premises used by the occupant primarily for commercial or agricultural purposes;

1 (7) occupancy by an employee of a landlord whose right to occupancy is conditional ~~upon~~ on
2 employment ~~in and about the premises~~; and

3 (8) occupancy outside a municipality under a rental agreement that includes hunting, fishing, or
4 agricultural privileges, along with the use of the dwelling unit."
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6 **Section 2.** Section 70-24-430, MCA, is amended to read:

7 **"70-24-430. Disposition of personal property abandoned by tenant after termination.** (1) (a) If a
8 tenancy terminates by court order, the personal property is considered abandoned and the landlord may
9 immediately dispose of the personal property as allowed by law.

10 (b) If a tenancy terminates in any manner other than by court order and the landlord has clear and
11 convincing evidence that the tenant has abandoned all personal property that the tenant has left on the
12 premises and a period of time of at least 48 hours has elapsed since the landlord obtained that evidence, the
13 landlord may immediately remove the abandoned property from the premises and immediately dispose of any
14 trash or personal property that is hazardous, perishable, or valueless.

15 (c) An item that is clearly labeled "rent to own" or "leased" or likewise identified may be discarded
16 only with confirmation from the lessor that the item does not have a lien, provided that the lessor can be easily
17 identified from the label and the landlord makes a reasonable effort to contact the lessor.

18 (d) For the purposes of this subsection (1), the following definitions apply:

19 (i) "Hazardous" means an item that is potentially or actually flammable or a biohazard or an item
20 otherwise capable of inflicting personal harm or injury.

21 (ii) "Perishable" means any item requiring refrigeration or any food item with a marked expiration
22 date.

23 (iii) "Valueless" means any item that has an insubstantial resale value but does not include
24 personal photos, jewelry, or other small items that are irreplaceable.

25 (2) The landlord shall inventory and store all abandoned personal property of the tenant that the
26 landlord reasonably believes is valuable in a place of safekeeping and shall exercise reasonable care for the
27 property. The landlord may charge a reasonable storage and labor charge if the property is stored by the
28 landlord, plus the cost of removal of the property to the place of storage. The landlord may store the property in

1 a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost
2 of removal of the property to the place of storage.

3 (3) After complying with subsection (2), the landlord shall make a reasonable attempt to notify the
4 tenant in writing that the property must be removed from the place of safekeeping by sending a notice with a
5 certificate of mailing or by certified mail to the last-known address of the tenant, stating that at a specified time,
6 not less than 10 days after mailing the notice, the property will be disposed of if not removed.

7 (4) The landlord may dispose of the property after complying with subsection (3) by:

8 (a) selling all or part of the property at a public or private sale; or

9 (b) destroying or otherwise disposing of all or part of the property if the landlord reasonably
10 believes that the value of the property is so low that the cost of storage or sale exceeds the reasonable value of
11 the property.

12 (5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the
13 landlord on or before the day specified in the notice that the tenant intends to remove the property and does not
14 do so within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is
15 conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage
16 costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the
17 place of storage. Reasonable storage costs are allowed a landlord who stores the property, and actual storage
18 costs are allowed a landlord who stores the property in a commercial storage company. A landlord is entitled to
19 payment of the storage costs allowed under this subsection before the tenant may remove the property.

20 (6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss
21 is caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is
22 liable for actual damages.

23 ~~(7) A public or private sale authorized by this section must be conducted under the provisions of 30-~~
24 ~~9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.~~

25 ~~(8)~~(7) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage,
26 labor, and sale and any delinquent rent or damages owing on the premises and shall remit to the tenant the
27 remaining proceeds, if any, together with an itemized accounting. ~~If the tenant cannot after due diligence be~~
28 ~~found, the remaining proceeds must be deposited with the county treasurer of the county in which the sale~~

1 ~~occurred and, if not claimed within 3 years, must revert to the general fund of the county available for general~~
2 ~~purposes.~~

3 ~~(9)(8)~~ The landlord shall ensure that the terms of this section are included in plain and
4 understandable language as a notification upon termination of the lease or rental agreement."

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6 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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