

SENATE BILL NO. 176

INTRODUCED BY R. WEBB

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS FOR LANDLORDS TO MAINTAIN PREMISES; REVISING LANDLORDS' ACCESS TO PREMISES; AMENDING SECTIONS 70-24-303, 70-24-312, 70-24-424, 70-24-426, 70-33-303, 70-33-312, 70-33-424, AND 70-33-426, MCA; AND REPEALING SECTIONS 70-24-322 AND 70-33-322, MCA."

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

Section 1. Section 70-24-303, MCA, is amended to read:

"70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector or carbon monoxide detector. (1) A landlord:

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

~~(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured;~~

~~(c)(b)~~ shall make repairs and ~~do whatever is necessary to put and~~ keep the premises in a fit and habitable condition except when it is the tenant's responsibility to maintain the dwelling unit pursuant to 70-24-321;

~~(d)(c)~~ shall keep all common areas of the premises in a clean and safe condition;

~~(e)(d)~~ shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

~~(f)(e)~~ shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

~~(g)(f)~~ shall supply running water and reasonable amounts of hot water at all times and reasonable heat

1 between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be
 2 equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an
 3 installation within the exclusive control of the tenant; and

4 ~~(h)~~(g) shall install in each dwelling unit under the landlord's control an approved carbon monoxide
 5 detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke
 6 detector, in accordance with rules adopted by the department of justice. Upon commencement of a rental
 7 agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling
 8 unit are in good working order. The tenant shall maintain the carbon monoxide detector and the smoke detector
 9 in good working order during the tenant's rental period. For the purposes of this subsection, an approved carbon
 10 monoxide detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113, bear a
 11 label or other identification issued by an approved testing agency having a service for inspection of materials and
 12 workmanship at the factory during fabrication and assembly.

13 (2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through
 14 ~~(1)(h)~~ (1)(g), a landlord's duty must be determined by reference to subsection (1)(a).

15 (3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant
 16 perform the landlord's duties specified in subsections (1)(e) and (1)(f) and ~~(1)(g)~~ and specified repairs,
 17 maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for
 18 the purpose of evading the obligations of the landlord.

19 (4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to
 20 perform specified repairs, maintenance tasks, alterations, or remodeling only if:

21 (a) the agreement of the parties is entered into in good faith and not for the purpose of evading the
 22 obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate
 23 consideration;

24 (b) the work is not necessary to cure noncompliance with subsection (1)(a); and

25 (c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

26 (5) The landlord is not liable for damages caused as a result of the failure of the carbon monoxide
 27 detector or the smoke detector required under subsection ~~(1)(h)~~ (1)(g)."

28

29 **Section 2.** Section 70-24-312, MCA, is amended to read:

30 **"70-24-312. Access to premises by landlord.** (1) A tenant may not unreasonably withhold consent to

1 the landlord or the landlord's agent to enter into the dwelling unit in order to inspect the premises, make
 2 necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services,
 3 or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

4 (2) (a) A landlord may immediately enter the dwelling unit without consent of the tenant in the case of
 5 an emergency.

6 (b) If there is not an emergency, the landlord shall give the tenant 24 hours' notice of the intent to enter
 7 the premises at reasonable times.

8 (3) A landlord may not abuse the right of access or use it to harass the tenant. ~~Except in the case of an~~
 9 ~~emergency or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours' notice of the~~
 10 ~~intent to enter and may enter only at reasonable times.~~

11 (4) A landlord has no other right of access except:

12 (a) pursuant to court order;

13 (b) as permitted by 70-24-425 and 70-24-426(2); or

14 (c) when the tenant has abandoned or surrendered the premises.

15 (5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises
 16 ~~without the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied~~
 17 ~~by the landlord to the premises, the tenant shall provide the landlord with a key to ensure that the landlord will~~
 18 ~~have the right of access as provided by this chapter."~~

19

20 **Section 3.** Section 70-24-424, MCA, is amended to read:

21 **"70-24-424. Refusal of access -- landlord's remedies.** (4) If the a tenant refuses to allow lawful
 22 access, the landlord may either obtain injunctive relief to compel access or terminate the rental agreement. In
 23 either case the landlord may recover actual damages.

24 (2) ~~If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the premises and~~
 25 ~~fails to provide a key as required by 70-24-312(5), the landlord may either obtain injunctive relief or terminate the~~
 26 ~~rental agreement."~~

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28 **Section 4.** Section 70-24-426, MCA, is amended to read:

29 **"70-24-426. Remedies for absence or abandonment.** (1) If the rental agreement requires the tenant
 30 to give notice to the landlord of an anticipated extended absence in excess of 7 days, ~~as provided for in~~

1 ~~70-24-322~~; and the tenant fails to do so, the landlord may recover actual damages from the tenant.

2 (2) During an absence of the tenant in excess of 7 days, the landlord may enter the dwelling unit at times
3 reasonably necessary.

4 (3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair
5 rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement,
6 the rental agreement terminates as of the date of the tenancy. If the landlord fails to use reasonable efforts to rent
7 the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement
8 is terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from
9 month to month or week to week, the term of the rental agreement for this purpose is a month or a week, as the
10 case may be."
11

12 **Section 5.** Section 70-33-303, MCA, is amended to read:

13 **"70-33-303. Landlord to maintain premises -- agreement that tenant perform duties.** (1) A landlord
14 shall:

15 (a) comply with the requirements of applicable building and housing codes materially affecting health
16 and safety;

17 (b) make repairs and ~~do whatever is necessary to put and~~ keep the premises in a fit and habitable
18 condition except when it is the tenant's responsibility to maintain the premises pursuant to 70-33-321;

19 (c) keep all common areas of the premises in a clean and safe condition;

20 (d) for the premises, maintain in good and safe working order and condition all electrical, plumbing,
21 sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied
22 or required to be supplied by the landlord;

23 (e) unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and
24 conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the lot
25 and arrange for their removal; and

26 (f) supply running water at all times unless the lot is not required by law to be equipped for that purpose
27 or the running water is generated by an installation within the exclusive control of the tenant.

28 (2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through
29 (1)(f), a landlord's duty must be determined by reference to subsection (1)(a).

30 (3) A landlord and tenant may agree in writing that the tenant is to perform the landlord's duties specified

1 in subsections (1)(e) and (1)(f) but only if the agreement is entered into in good faith and not for the purpose of
 2 evading the obligations of the landlord.

3 (4) A landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks,
 4 alterations, or remodeling only if:

5 (a) the agreement of the parties is entered into in good faith and not for the purpose of evading the
 6 obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate
 7 consideration;

8 (b) the work is not necessary to cure noncompliance with subsection (1)(a); and

9 (c) the agreement does not diminish the obligation of the landlord to other tenants."
 10

11 **Section 6.** Section 70-33-312, MCA, is amended to read:

12 **"70-33-312. Access to premises by landlord.** (1) A tenant may not ~~unreasonably~~ withhold consent to
 13 the landlord or the landlord's agent to enter the lot in order to inspect the premises, make necessary or agreed
 14 repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the lot to prospective or
 15 actual purchasers, mortgagees, tenants, workers, or contractors.

16 (2) (a) A landlord may immediately enter the lot without consent of the tenant in case of emergency.

17 (b) If there is not an emergency, the landlord shall give the tenant 24 hours' notice of the intent to enter
 18 the premises at reasonable times.

19 (3) A landlord may not abuse the right of access or use it to harass the tenant. ~~Except in case of~~
 20 ~~emergency or unless it is impracticable to do so, the landlord shall give the tenant at least 24 hours' notice of the~~
 21 ~~intent to enter and may enter only at reasonable times.~~

22 (4) A landlord has no other right of access except:

23 (a) pursuant to a court order;

24 (b) as permitted by 70-33-425 and 70-33-426(1)(b); or

25 (c) when the tenant has abandoned or surrendered the premises.

26 (5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises
 27 ~~without the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied~~
 28 ~~by the landlord to the premises, the tenant shall provide the landlord with a key to ensure that the landlord will~~
 29 ~~have the right of access as provided by this chapter."~~
 30

1 **Section 7.** Section 70-33-424, MCA, is amended to read:

2 **"70-33-424. Refusal of access -- landlord's remedies.** (†) If ~~the a~~ tenant refuses to allow lawful
3 access, the landlord may either obtain injunctive relief to compel access or terminate the rental agreement. In
4 either case, the landlord may recover actual damages.

5 ~~(2) If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the premises and
6 fails to provide a key as required by 70-33-312(5), the landlord may either obtain injunctive relief or terminate the
7 rental agreement."~~

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9 **Section 8.** Section 70-33-426, MCA, is amended to read:

10 **"70-33-426. Remedies for absence or abandonment.** (1) (a) If the rental agreement requires the
11 tenant to give notice to the landlord of an anticipated extended absence in excess of 7 days, ~~as provided for in
12 70-33-322,~~ and the tenant fails to do so, the landlord may recover actual damages from the tenant.

13 (b) During an absence of the tenant in excess of 7 days, the landlord may enter the lot when reasonably
14 necessary.

15 (2) (a) If the tenant abandons the lot, the landlord shall make reasonable efforts to rent the lot at a fair
16 rental. If the landlord rents the lot for a term beginning before the expiration of the rental agreement, the rental
17 agreement terminates as of the date of the new tenancy.

18 (b) If the landlord fails to use reasonable efforts to rent the lot at a fair rental or if the landlord accepts
19 the abandonment as a surrender, the rental agreement is terminated by the landlord as of the date the landlord
20 has notice of the abandonment.

21 (c) If the tenancy is from month to month or week to week, the term of the rental agreement for the
22 purposes of this subsection (2) is a month or a week, as appropriate."

23

24 **NEW SECTION.** **Section 9. Repealer.** The following sections of the Montana Code Annotated are
25 repealed:

26 70-24-322. Tenant to occupy as dwelling unit only -- extended absence.

27 70-33-322. Notice of extended absence.

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