

SENATE BILL NO. 126

INTRODUCED BY M. DUNWELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TENANT MOVEOUT LAWS; PROVIDING FOR WHAT CONSTITUTES NORMAL WEAR; PROVIDING THAT THE CHARGE FOR THE LANDLORD'S LABOR MAY NOT EXCEED PREVAILING COSTS FOR A PROFESSIONAL CLEANER; PROVIDING THAT DEDUCTIONS MAY NOT BE IMPOSED FOR CARPETING OR REPAINTING AFTER A TENANCY OF 2 OR MORE YEARS; REQUIRING THAT TENANTS BE PROVIDED A COPY OF A PROFESSIONAL CLEANER'S BILL OR ESTIMATE IF PROFESSIONAL CLEANERS ARE USED; ~~REVISING TIMELINES FOR WRONGFUL WITHHOLDING TO 21 DAYS~~; AND AMENDING SECTIONS 70-25-201, 70-25-202, AND 70-25-204, MCA."

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

NEW SECTION. **Section 1. Normal wear.** Normal wear includes but is not limited to:

- (1) ~~a reasonable number of small nail holes unless there is written authorization for more, no more than two holes per wall from nails that are not larger than 1 inch in walls~~ for hanging picture frames and other objects;
- (2) ~~a reasonable number of no more than two~~ scuffs and chips on painted walls; ~~and~~
- (3) visible wear on carpets and other flooring in high-traffic areas of a residence.

Section 2. Section 70-25-201, MCA, is amended to read:

"70-25-201. Security deposit -- deductions authorized therefrom. (1) A landlord renting property covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties due under lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-24-441(3), and a sum for actual cleaning expenses, including a reasonable charge for the landlord's labor but that may not exceed prevailing costs for a professional cleaner.

- (2) At the request of either party, the premises may be inspected within 1 week prior to termination

1 of the tenancy.

2 (3) (a) Cleaning charges may not be imposed for normal maintenance performed on a cyclical
3 basis by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord
4 is forced to perform this maintenance because of negligence of the tenant.

5 (b) ~~Additionally, cleaning~~ Cleaning charges may not be deducted until written notice has been
6 given to the tenant. The notice must include the cleaning not accomplished by the tenant and the additional
7 level and type or types of cleaning that need to be done by the tenant to bring the premises back to its condition
8 at the time of its renting. After the delivery of the notice, the tenant has 24 hours to complete the required
9 cleaning, unless the rental agreement is has already terminated pursuant to 70-24-427 or 70-33-427 and the
10 landlord has a pending claim for actual damages filed in court. If notice is mailed by certified mail, service of the
11 notice is considered to have been made 3 days after the date of the mailing.

12 (c) A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises
13 without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the
14 cleaning charges from the deposit, or the landlord may leave a copy of the notice in a conspicuous location in
15 the rental unit and notify the tenant by e-mail, phone, or text, and notice is considered delivered.

16 (4) A person may not deduct or withhold from the security deposit any amount for purposes other
17 than those set forth in this section.

18 (5) Deductions are not authorized for painting or recarpeting at the end of a tenancy that has
19 lasted for at least 2 years."

20

21 **Section 3.** Section 70-25-202, MCA, is amended to read:

22 **"70-25-202. List of damages and refund -- delivery to departing tenant.** (1) Except as provided in
23 subsection (2):

24 (a) (i) Each landlord, within 30 21-30 days ~~subsequent to~~ after the termination of a tenancy or
25 within 30 21-30 days ~~subsequent to~~ after a surrender and acceptance of the leasehold premises, whichever
26 occurs first, shall provide the departing tenant with a written list of any rent due and any damage and cleaning
27 charges, brought after the provisions of 70-25-201 have been followed, with regard to the leasehold premises
28 that the landlord alleges are the responsibility of the tenant.

(ii) Delivery of the list must be accompanied by payment of the difference, if any, between the security deposit and the permitted charges set forth in 70-25-201. Delivery must be accomplished by mailing the list and refund to the new address provided by the tenant or, if a new address is not provided, to the tenant's last-known address.

(b) If charges are assessed for cleaning performed by a professional cleaner, delivery of the list must include a professional estimate or a copy of the professional cleaner's bill.

(b)(c) If, after inspection, there are no damages to the premises, no cleaning required, and no rent unpaid and if the tenant can demonstrate that no utilities are unpaid by the tenant, the landlord shall return the security deposit within ~~40~~ 21-10 days by mailing it to the new address provided by the tenant or, if a new address is not provided, to the tenant's last-known address.

(e)(d) It is not a wrongful withholding of security deposit funds if the landlord mails the funds to the last-known address of a tenant who has departed and the tenant does not receive the funds because the tenant has not given the landlord the tenant's new address, but the landlord remains liable to the tenant for the amount due the tenant.

(2) This section does not apply if a rental agreement is terminated pursuant to 70-24-427 or 70-33-427 and the landlord has a pending claim for actual damages filed in court."

Section 4. Section 70-25-204, MCA, is amended to read:

"70-25-204. Wrongful withholding of security deposit -- action. (1) A person who wrongfully withholds a residential property security deposit or any portion of the deposit is liable in damages to the tenant in a civil action for an amount equal to the sum determined to have been wrongfully withheld or deducted. The attorney fees may be awarded to the prevailing party at the discretion of the court. The burden of proof of damages caused by the tenant to the leasehold premises is on the landlord.

(2) An action may not be maintained by a tenant for any amount wrongfully withheld or deducted prior to:

(a) the tenant's receipt from the landlord or the landlord's agent of a written denial of the sum alleged to be wrongfully detained;

(b) the expiration of a ~~30-day~~ 21-day-30-day period after the termination of a tenancy;

Amendment - 1st Reading-white - Requested by: Mary Ann Dunwell - (S) Judiciary

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Drafter: Julianne Burkhardt,

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1 (c) the expiration of a 30-day ~~21-day-30-day~~ period after surrender and acceptance of the
2 leasehold premises; or

3 (d) the expiration of a 40-day ~~21-day-10-day~~ period after the landlord has indicated there were no
4 damages to the premises, no cleaning was required, no rent was unpaid, and no utilities were unpaid by the
5 tenant."
6

7 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
8 integral part of Title 70, chapter 25, part 2, and the provisions of Title 70, chapter 25, part 2, apply to [section 1].

9 - END -