

HOUSE BILL NO. 149

INTRODUCED BY J. O'HARA

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A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING AND ESTABLISHING GUIDELINES RELATING TO A REAL PARTY IN INTEREST WITH RESPECT TO RESIDENTIAL LANDLORD-TENANT AGREEMENTS; AND AMENDING SECTIONS 70-24-103 AND 70-24-301, MCA."

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

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

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

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

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

(3) "Court" means the appropriate district court, justice's court, or city court.

(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile home, means the mobile home itself.

(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(6) "Landlord" means:

- (a) the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part; or
- (b) a manager of the premises who fails to disclose the managerial position.

(7) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any

1 other legal or commercial entity.

2 (8) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

3 (a) the legal title to property; or

4 (b) the beneficial ownership and a right to present use and enjoyment of the premises, including a
5 mortgagee in possession.

6 (9) "Person" includes an individual or organization.

7 (10) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and
8 appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally
9 or promised for the use of a tenant.

10 (11) "Real party in interest" means a person whose name and signature or an entity whose name appears
11 on a rental agreement and who is authorized to sue or be sued in a landlord-tenant action.

12 ~~(11)~~(12) "Rent" means all payments to be made to the landlord under the rental agreement.

13 ~~(12)~~(13) "Rental agreement" means all agreements, written or oral, and valid rules adopted under
14 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and
15 premises.

16 ~~(13)~~(14) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or
17 a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of
18 which are used in common by occupants in the structure.

19 ~~(14)~~(15) "Single-family residence" means a structure maintained and used as a single dwelling unit. A
20 dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct
21 access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other
22 essential facility or service with another dwelling unit.

23 ~~(15)~~(16) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the
24 exclusion of others."

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26 **Section 2.** Section 70-24-301, MCA, is amended to read:

27 **"70-24-301. Duty to disclose name of person responsible -- real parties in interest.** (1) A landlord
28 or a person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in
29 writing at or before the commencement of the tenancy the name and address of:

30 (a) the person authorized to manage the premises; and

1 (b) the owner of the premises or a person authorized to act for the owner for the purpose of service of
2 process and receiving notices and demands.

3 (2) The information required to be furnished by this section must be kept current and in writing, and this
4 section extends to and is enforceable against any successor landlord, owner, or manager.

5 (3) A person who fails to comply with subsection (1) becomes an agent of each person who is a landlord
6 for the purpose of:

7 (a) service of process and receiving notices and demands; and

8 (b) performing the obligations of the landlord under this chapter and under the rental agreement and
9 expending or making available for that purpose all rent collected from the premises.

10 (4) When a written rental agreement exists, the real parties in interest must be considered parties to the
11 rental agreement. Real parties in interest may sue and be sued in their name. When there is a property manager
12 or a property management firm as a party to a rental agreement, the owner of the property may not be considered
13 a real party in interest unless the owner's name and signature appear on the rental agreement if the owner is an
14 individual or the name of the owner appears on the rental agreement if the owner is an entity."

15 - END -