

1 _____ BILL NO. _____
2 INTRODUCED BY _____
3 BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE REFUND OF FEES FOR UNPERFORMED
6 RENTAL APPLICATION SERVICES; AND AMENDING SECTION 37-56-109, MCA."
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9

10 **Section 1.** Section 37-56-109, MCA, is amended to read:

11 **"37-56-109. Application fees -- refund -- deduction of costs.** (1) A property manager of four or
12 more dwelling units that requires an application fee prior to the rental of a dwelling unit shall:

13 (a) refund the costs of any application fees pertaining to services that were not performed if an
14 applicant becomes a party to a signed rental agreement for the dwelling unit; and

15 (b) refund the application fee within a reasonable period of time if the applicant does not become a
16 party to a signed rental agreement for the dwelling unit or if the applicant does not become a party to a rental
17 agreement that has the same effect as if it had been signed pursuant to 70-24-204. However, the property
18 manager may deduct costs from the refund as provided in subsection (2).

19 (2) If the application fee includes costs pertaining to specific services, the applicant must be given
20 written notice of the portions of the total application fee allocated to each cost at the time the application fee is
21 collected. If the applicant does not become a party to a rental agreement as provided in subsection (1), the
22 property manager may retain only the costs specified in the written notice for services actually performed and
23 shall refund the balance as provided in subsection (1). The property manager may not retain the cost of a
24 service that was not performed, even if the cost was specified in the written notice that was provided to the
25 applicant.

26 (3) A person who wrongfully withholds an application fee or any portion of an application fee is
27 liable in damages to the applicant in a civil action for an amount equal to the sum determined to have been
28 wrongfully withheld or deducted. Attorney fees may be awarded to the prevailing party at the discretion of the

1 court. The burden of proof of services rendered by the property manager pertaining to the application is on the
2 property manager.

3 (4) For the purposes of this section, the following definitions apply:

4 (a) "Application fee" means the total amount an applicant shall pay to be considered for renting a
5 dwelling unit.

6 (b) "Cost" means the out-of-pocket expense to a property manager for a specific service in relation
7 to the application performed prior to approval or disapproval of a tenant, including but not limited to a credit
8 check. The term does not include a fee for the property manager's time or effort for arranging or performing the
9 service."

10 - END -