

1 HOUSE BILL NO. 444

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO RESIDENTIAL
6 TENANTS' SECURITY DEPOSITS; PROVIDING LANDLORDS THE ABILITY TO PROVIDE NOTICES BY E-
7 MAIL AND TO RETURN A SECURITY DEPOSIT ELECTRONICALLY; AMENDING SECTIONS 70-25-201, 70-
8 25-202, AND 70-25-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

11
12 **Section 1.** Section 70-25-201, MCA, is amended to read:

13 **"70-25-201. Security deposit -- deductions authorized therefrom.** (1) A landlord renting property
14 covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been
15 caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, penalties due under
16 lease provisions, and other money owing to the landlord at the time of deduction, including rent owed under 70-
17 24-441(3), and a sum for actual cleaning expenses, including a reasonable charge for the landlord's labor.

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

20 (3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis
21 by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is
22 forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not
23 be deducted until written notice has been given to the tenant. The notice must include the cleaning not
24 accomplished by the tenant and the additional and type or types of cleaning that need to be done by the tenant
25 to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant
26 has 24 hours to complete the required cleaning, unless the rental agreement is already terminated pursuant to
27 70-24-427 or 70-33-427 and the landlord has a pending claim for actual damages filed in court. The notice may
28 be transmitted to an electronic mail address provided by the tenant in the rental agreement, delivered in hand to

1 the tenant, or mailed with a certificate of mailing or by certified mail to the tenant at the place indicated by the
2 tenant as the place for receipt of the communication or, in the absence of a designation, to the tenant's last-
3 known address. If notice is transmitted by electronic mail, it is complete on receipt of a read receipt generated
4 by an electronic mail system or an electronic mail reply other than an automatically generated electronic mail
5 reply. If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the
6 date of the mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises
7 without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the
8 cleaning charges from the deposit, or the landlord may leave a copy of the notice in a conspicuous location in
9 the rental unit and notify the tenant by e-mail, phone, or text, and notice is considered delivered.

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

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13 **Section 2.** Section 70-25-202, MCA, is amended to read:

14 **"70-25-202. List of damages and refund -- delivery to departing tenant.** (1) Except as provided in
15 subsection (2):

16 (a) Each landlord, within 30 days subsequent to the termination of a tenancy or within 30 days
17 subsequent to a surrender and acceptance of the leasehold premises, whichever occurs first, shall provide the
18 departing tenant with a written list of any rent due and any damage and cleaning charges, brought after the
19 provisions of 70-25-201 have been followed, with regard to the leasehold premises that the landlord alleges are
20 the responsibility of the tenant. Delivery of the list must be accompanied by payment of the difference, if any,
21 between the security deposit and the permitted charges set forth in 70-25-201. Delivery must be accomplished
22 by transmitting the list to an electronic mail address provided by the tenant in the rental agreement and the
23 refund by electronic fund transfer as set forth in 70-25-205, by delivering the list and refund in hand to the
24 tenant, or by mailing the list and refund to the new address provided by the tenant or, if a new address is not
25 provided, to the tenant's last-known address.

26 (b) If after inspection there are no damages to the premises, no cleaning required, and no rent
27 unpaid and if the tenant can demonstrate that no utilities are unpaid by the tenant, the landlord shall return the
28 security deposit within 10 days by electronic fund transfer as set forth in 70-25-205 or by mailing it to the new

1 address provided by the tenant or, if a new address is not provided, to the tenant's last-known address.

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

6 (2) This section does not apply if a rental agreement is terminated pursuant to 70-24-427 or 70-33-
7 427 and the landlord has a pending claim for actual damages filed in court."

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9 **Section 3.** Section 70-25-205, MCA, is amended to read:

10 **"70-25-205. Failure of departing tenant to furnish new address.** (1) Failure by the departing tenant
11 to provide the landlord with a new address in writing upon termination of the tenancy or upon surrender and
12 acceptance of the leasehold premises, whichever occurs first, does not bar the tenant from recovering the
13 amount owing to the tenant by the landlord.

14 (2) A landlord must be entitled to return a security deposit owing to a tenant by an electronic funds
15 transfer to an account designated by the tenant or on behalf of the tenant for recovering the amount owing to
16 the tenant by the landlord."

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18 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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