# **Property Management Pre-Licensing Course**

Bruno Friia, CPM®, MPM®, CDEI™

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## October 15<sup>th</sup> – 18<sup>th</sup> , 2018 Missoula, MT

# Property Management Pre-Licensing Course

#### **Presented by**

Bruno Friia, CPM®, MPM®, CDEI™ Approved by Montana State Department of Labor And Industry Board of Realty Regulation Course #15-01 PMPLC

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# **Getting Started**

## About Bruno Friia

- ✓ Licensed Property Manager
- ✓ Certified Property Manager, CPM
- ✓ Master Property Manager, MPM
- ✓ Certified Distance Education Instructor, CDEI
- ✓ Property Management Consultant
- ✓ Instructor, Property Management
- ✓ Pre-Licensing Course
- ✓ Continuing Education (CE) Instructor
- ✓ Expert Witness



Bruno Friia is Owner/CEO of Lambros Real Estate ERA, the largest full-service real estate company in Montana. A licensed Real Estate Broker and Property Manager, he has over twenty-five years of real estate and real estate management experience.

Bruno's education and experience have earned him the distinguished Certified Property Manager (CPM) and Master Property Manager (MPM) designations. He has served as Chair of the National Association of Realtors Property Management Forum, is a member of the National Association of Residential Property Managers (NARPM), and is a past National Board of Directors member.

Previously, Bruno served as a Commissioner of the Montana Board of Realty Regulation. As a Continuing Education (CE) approved instructor for the state of Montana, he teaches the Property Management Pre-Licensing Course for the state. Bruno is affiliated with ten different real estate industry organizations and has been a regular contributor to various property management publications.

## **Disclaimer**

Our discussion regarding property management law and regulations, Landlord/Tenant Law, and residential property management includes personal views and opinions of the instructor based on experience, research, and conversations with other property managers. We cannot represent specific situations you may encounter, nor make assurances or warrant that what we say will apply to your situation.

When we talk about prices, fees, or commissions, we want to make it clear that we are not suggesting fees or commissions to be set or agreed upon. Any mention of fees or commissions is only to clarify our discussion by giving examples. Fees are determined by competition and the marketplace. Each market is different, and therefore, fees differ from company to company.

Information used in the case studies of problems and solutions is fictional. Any similarity to actual events or people is coincidental.

This course does not purport to provide an exhaustive discussion of any area of the law and should not be used as a substitute for legal counsel. Legal issues discussed are solely for illustrative purposes. Forms, contracts and agreements, as well as all other printed materials are provided as examples for guidance only and are not to be used without specific approval by your legal counsel. Since laws change periodically and vary from area to area, the instructor assumes no responsibility for the content of any printed material. Consult your legal advisor before implementing any policies or procedures or using any printed materials.

Lastly, please note that this workbook has been prepared by Friia & Company Inc., who retains all rights to its content. This workbook may not be reproduced, distributed, and/or used in presentations or offering/fund raising prospectus/memorandums, and/or used in communications, speeches and/or presentations in its entirety or in parts without the prior written consent of Friia & Company, Inc. Opinions and forecasts contained in this, prior, and future versions may change without notice. The author encourages readers to offer comments, feedback, and recommendations for further enhancement to bruno@montana.com.

# **Course Outline**

#### DAY ONE

#### Introduction

What to Expect Course Objectives Test Information Ground Rules Property Management & You

#### License Law – Chapter 37

Renewal, Lapse, Expiration Conduct Sanctions Exemptions

#### **Rules & Regulations – Chapter 24**

Definitions Fee Schedule Trust Account Requirements Property Management Licensure Status Conduct Continuing Education

#### DAY TWO

## Landlord/Tenant Law – Chapter 70

Definitions General Provisions Rental Agreements Rights & Duties Remedies Mobile Home Parks Schedule of Notices

### **Contract, Leasing, & Agency Principles**

Lease/Rental Application Lease/Rental Agreement Resident Addition/Release Form Management Agreement Roommate Agreement Pet Lease Agreement

## DAY THREE

## **Trust Accounting**

Definition Purpose Responsibilities Computer programs Walkthrough of in-class examples

#### Montana Fair Housing – Guest Speaker Pam Bean

Definition History Housing Discrimination Fair Housing Protections Impact of Recent Changes Role of Agencies Case Studies Americans with Disabilities Act

## DAY FOUR

### **Property Management Practices**

PM Math & Finance Management Plan Components of a Management Plan Management Office & Maintenance Stigmatized Properties

### **Class Review**

## **Before We Begin**

- Be sure you have the class materials in front of you.
- Read the "Disclaimer Statement"
- Complete the "Student Profile"
- Sign In AM & PM
- Phones/Pagers put on silent mode, (at Missoula office, <u>please take calls in back</u> <u>stairwell exit or downstairs</u>)
- Conversations be mindful of your neighbors, (at Missoula office, <u>do not linger</u> <u>outside of conference room, it is disruptive to nearby offices</u>)
- Restrooms
- Smoking
- Breaks Time Keeper???
- Lunch
- Schedule: Monday Tuesday Wednesday Thursday
- When this class is over, you will receive a course completion certificate. HOLD ONTO THIS CERTIFICATE as it is required to apply for your license. There will be a \$25.00 fee for replacement certificates.
- Specialized Core Curriculum
- There are no dumb questions!
- If you have a question, raise your hand.
- If you are going to make mistakes, make them in this class.
- "Investment Opportunities"
- Property Management is a business of war story after war story!!!

## **Ground Rules**

- Everyone is responsible for the success of this class
- Everyone participates
- Keep an open mind
- Everyone wants to learn but no one wants to be taught
- Ask yourself: What can I do to get the maximum benefit from this class?

## What to Expect From Your Instructor and This Class

- Instructor Goals:
  - Pass the exam
  - Instruct you on how to practice as a property manager once you get your license
- I am not an attorney.
- We have lots of material to cover in a short period of time.
- This is like no other learning experience exam & practice.
- For the purpose of this class, all assumptions will be black or white when it comes to any interpretation of the law.
- If you are currently in property management, I respectfully ask that you put that knowledge aside. If you don't, you will over analyze the materials and confuse yourself.
- The Process: Classroom participation in reading all theory covered.
- I will thoroughly review all material through the use of power point presentation and daily tests as preparation for the exam.
- Please do not mistake the presentation method as too business-like or curt.
- When possible, real life business examples will be used.
- If a question is asked and the material will be covered later in the class, I will just say "we will cover that topic later." Make a note of your question as a reminder to yourself.
- Please signal me if I'm going too fast!
- I encourage questions that are pertinent to the material being covered.
- If my answer to your question is not clear, it is your responsibility to let me know
   I'm here to help you learn and understand the materials.
- I will make myself available during breaks and after class.
- I will give you my personal opinions on various topics do not misinterpret the opinion for what you should do in your business.
- Bear with me, I will try to make the theory material as interesting as possible.
- Topics covered most completely:
  - Landlord/Tenant Law
  - o Forms
  - Security Deposits

- Licensing Laws & Rules
- Fair Housing Laws & Rules
- Rental Agreements
- Trust Accounts

## **Course Objectives**

- To achieve more than the minimum level of competency required by the Board of Realty Regulation to pass the exam.
- Comprehend the duties of a professional property manager
- Have a working knowledge of the Landlord Tenant Act
- Have an understanding of the rules and regulations governing you as a property manager
- Give you a basic understanding of rental and management agreements and how they interact with you, your business, customers and clients.
- To introduce you to some of the analysis and mathematics that are required as a property manager
- Last but not least, to instill in you a desire to learn more about property management.

## **Speaker Attention Statistics**

- First 15 seconds 100% attention
- Second 15 seconds 75% attention
- After 45 seconds half of you are not there
- After 1 minute only 25% are with me

## **Exam Information**

The exam that is taken after the completion of this course is composed of approximately 70 multiple choice questions. The approximate breakdown of the test is as follows:

ADA	5 questions	7%
Fair housing	7	10%
Landlord Tenant Act	20	28%
License Law (Rules & Regs)	8	11%
Contracts	4	5%
Leasing	5	7%
Business Practices	11	15%
Business Math	8	11%
Trust Account	4	5%
Lead Based Paint	1	1%

- 80% pass rate is considered successful completion of the exam.
- You have 2 hours. You can use a calculator. Math is at a 6th grade level.
- Examination Fee \$99.00 Schedule an appointment by calling 1-800-345-6559 or schedule online at www.goAMP.com
- NOTE: You will receive your "temporary card" upon passing the exam. You will
  only receive your "wall license" after you receive your required 12 hours of
  continuing education.

## **Exam Locations**

Billings Summer McNea & Company 80 25<sup>th</sup> St W. Billings, MT 59102

Missoula H&R Block Tax Office 3205-B N Reserve Grant Creek Town Center Missoula, MT 59808 Great Falls H&R Block Tax Office 300 Smelter Ave. NE Great Falls, MT 59404

## **Test Anxiety**

Test anxiety is learned. The problem is that the test is perceived as a tangible barrier after all the time and preparation. Anxiety is the anticipation of disaster. No one can judge us more severely than ourselves. We are our own worst enemy.

> The components of anxiety are Worry and Emotionality. Emotionality is Headaches, Neck Tension, and/or Sweaty Palms.

Effects of Worrying:

- Impaired short term memory
- Difficulty thinking, focusing
- Negative self image
- Unrealistic concern about the ability to perform

# Burning the midnight oil the night before is asking for increased anxiety.

Keys to Successful Test Taking:

- Reduce tension
- Relaxation exercises
- Study while relaxed
- Visualization of process
- Have confidence in your knowledge

## **Property Management and YOU**

Your responsibilities as a Property Manager:

Fair Housing Compliances Maintenance Emergencies Toxic Mold Vacancies Inspections **Recurring Maintenance Evictions** Security Deposit Disputes Cats Smokers **Pro-Tenant Courts** Information Storage Lawsuits & Liabilities **Property Showings Tenant Screening** Meth Labs Vicious Dogs **Tenant Discards Neighbor Complaints** 24/7 Time Commitments **Constant Turnover** Neglected Landscaping Decreasing Rent in Soft Market Lock & Key Control **Ever-Changing Laws** Early Lease Termination **Ineffective Documents & Forms** Non-Residents Service Legal Notices **Expensive Advertising** 

## "What we think, what we know, or what we believe is in the end of little consequence. The only consequence is what we do."

## License Law – Day One

# License Law, Rules & Trust Accounts

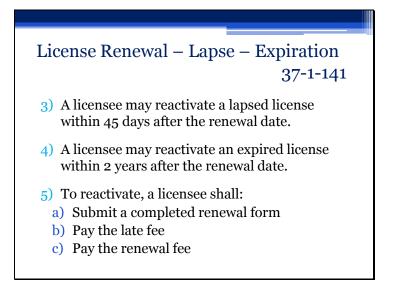


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**37-1-141.** License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification and continuing education requirements, and remit renewal fees before the end of the renewal period.

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements.

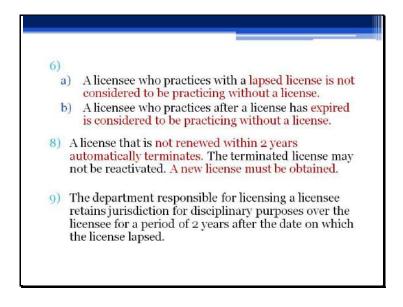
(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5) and complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule.

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

(a) submit the completed renewal form;

(b) pay the late penalty fee provided for in subsection (7); and

(c) pay the current renewal fee as prescribed by the department or the board.



(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

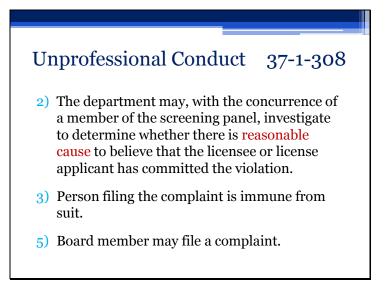
(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, an occupational or professional license that is not renewed within 2 years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138.



**37-1-308.** Unprofessional conduct -- complaint -- investigation -- immunity -- exceptions. (1) Except as provided in subsections (4) and (5), a person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

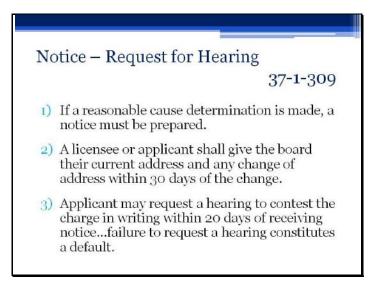
(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have committed a violation of this part, the department may, with the concurrence of a member of the screening panel established in 37-1-307, investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.

(3) A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

(4) A person under legal custody of a county detention center or incarcerated under legal custody of the department of corrections may not file a complaint under subsection (1) against a licensed or certified provider of health care or rehabilitative services for services that were provided to the person while detained or confined in a county detention center or incarcerated under legal custody of the department of corrections unless the complaint is first reviewed by a correctional health care review team provided for in 37-1-331.

(5) A board member may file a complaint with the board on which the member serves or

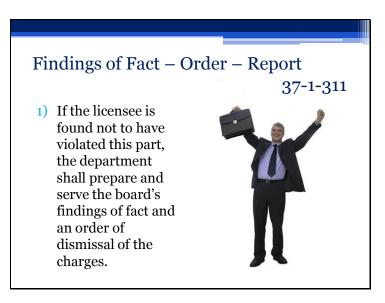
otherwise act in concert with a complainant in developing, authoring, or initiating a complaint to be filed with the board if the board member determines that there are reasonable grounds to believe that a particular statute, rule, or standard has been violated.



**37-1-309.** Notice -- request for hearing. (1) If a reasonable cause determination is made pursuant to <u>37-1-307</u> that a violation of this part has occurred, a notice must be prepared by department legal staff and served on the alleged violator. The notice may be served by certified mail to the current address on file with the board or by other means authorized by the Montana Rules of Civil Procedure. The notice may not allege a violation of a particular statute, rule, or standard unless the board or the board's screening panel, if one has been established, has made a written determination that there are reasonable grounds to believe that the particular statute, rule, or standard has been violated.

(2) A licensee or license applicant shall give the board the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the board may enter a decision on the basis of the facts available to it.

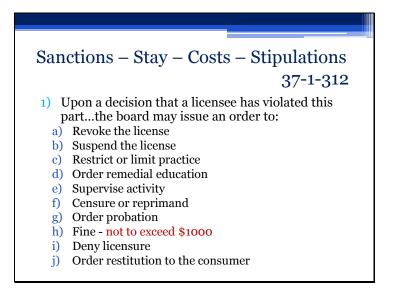


**37-1-311. Findings of fact -- order -- report.** (1) If the board decides by a preponderance of the evidence, following a hearing or on default, that a violation of this part occurred, the department shall prepare and serve the board's findings of fact and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated this part, the department shall prepare and serve the board's findings of fact and an order of dismissal of the charges.

(2) (a) The department shall within a reasonable amount of time report to the public the issuance of a summary suspension, a notice under 37-1-309, an accepted stipulation, a hearing examiner's proposed decision, and a final order.

(b) In addition to any other means of notice, the department shall post the required information on a publicly available website.

(c) This subsection (2) may not be construed to require a meeting to be open or records to be disseminated when the demands of individual privacy clearly exceed the merits of public disclosure.



**37-1-312. Sanctions** -- **stay** -- **costs** -- **stipulations.** (1) Upon a decision that a licensee or license applicant has violated this part or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (3), the board may issue an order providing for one or any combination of the following sanctions:

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) restriction or limitation of the practice;

- (d) satisfactory completion of a specific program of remedial education or treatment;
- (e) monitoring of the practice by a supervisor approved by the disciplining authority;

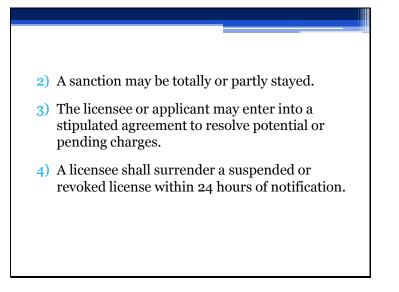
(f) censure or reprimand, either public or private;

(g) compliance with conditions of probation for a designated period of time;

(h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited in the state general fund.

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer.

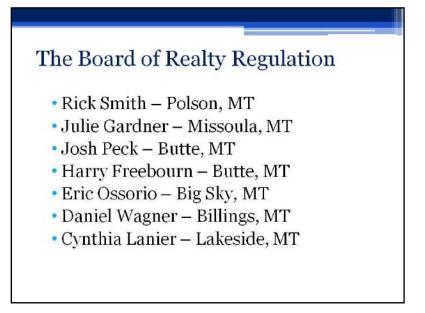


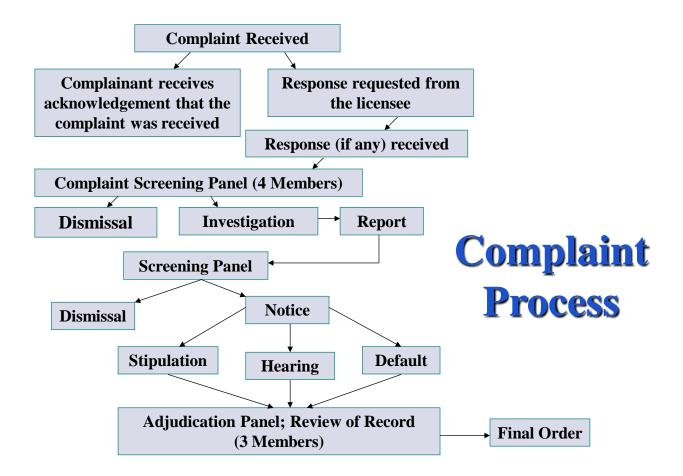
(2) A sanction may be totally or partly stayed by the board. To determine which sanctions are appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the board consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

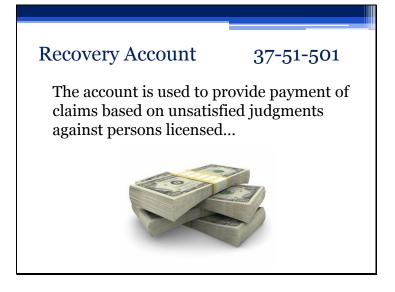
(3) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(4) A licensee shall surrender a suspended or revoked license to the board within 24 hours after receiving notification of the suspension or revocation by mailing it or delivering it personally to the board.

**37-1-313. Appeal.** A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

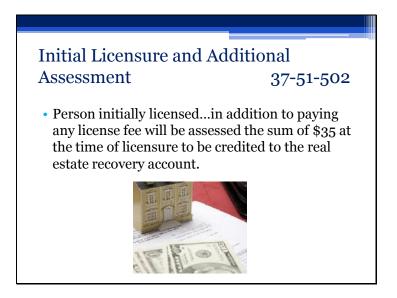






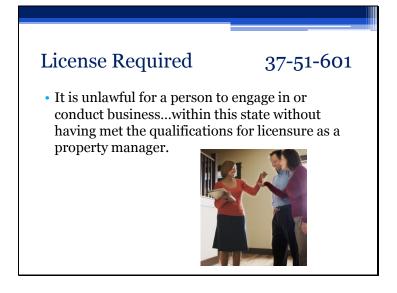
**37-51-501. Real estate recovery account established -- minimum balance -- interest.** (1) There is established in the state special revenue fund for the use of the board a real estate recovery account. The account is used to provide payment of claims based on unsatisfied judgments against persons licensed under the provisions of this chapter. The real estate recovery account is statutorily appropriated as provided in 17-7-502.

(2) The board shall maintain a minimum balance of \$100,000 in the account. The board may in its discretion transfer any money in excess of that amount from the account to the state special revenue fund for the use of the board in accordance with the purposes provided in 37-51-204.(3) Money earned on the investment of funds in the account must be credited to the account annually.

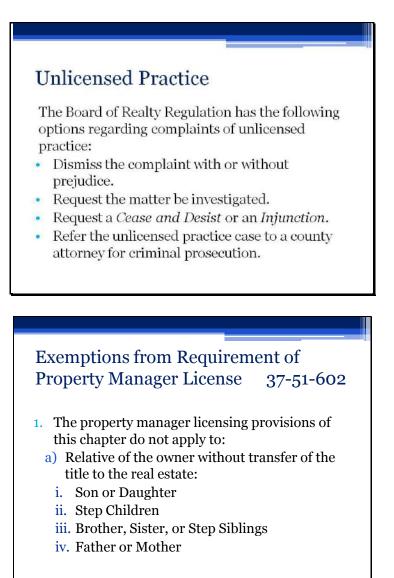


**37-51-502. Initial licensure and additional assessment.** (1) A person initially licensed under the provisions of this chapter in 1986 or thereafter shall, in addition to paying any license fee required under this chapter, be assessed the sum of \$35 at the time of licensure, to be credited to the real estate recovery account.

(2) If at any time the balance in the real estate recovery account is less than \$100,000, every person licensed under this chapter may be assessed a sum, which sum is determined by the board to be sufficient to maintain the balance of the account at a minimum of \$100,000.



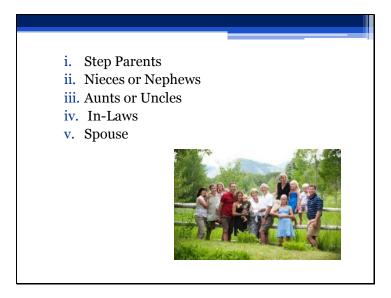
**37-51-601.** License required to manage property. It is unlawful for a person to engage in or conduct business, directly or indirectly, or to advertise as a property manager within this state without having met the qualifications for licensure as a property manager and having been granted a license by the board.



#### 37-51-602. Exemptions from requirement of property manager license. (1) The property

manager licensing provisions of this chapter do not apply to:

- (a) a relative of the owner of the real estate, defined as follows:
- (i) a son or daughter of the property owner or a descendant of either;
- (ii) a stepson or stepdaughter of the property owner;
- (iii) a brother, sister, stepbrother, or stepsister of the property owner;
- (iv) the father or mother of the property owner or the ancestor of either;



(v) a stepfather or stepmother of the property owner;

(vi) a son or daughter of a brother or sister of the property owner;

(vii) a brother or sister of the father or mother of the property owner;

(viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-inlaw of the property owner; or

(ix) the spouse of the property owner;

b)	No more than four residential real estate units
c)	Attorney-in-fact under power of attorney
d)	Attorney at law
e)	Receiver, trustee
f)	Officer of the state
g)	Manager of a housing complex
h)	Person who receives compensation from the
	owner – unless that person holds signatory
	authority on the account

(b) a person who leases no more than four residential real estate units;

(c) a person acting as attorney-in-fact under a power of attorney from the owner of real

estate who authorizes the final consummation of any contract for the renting or leasing of the real estate. This exemption is meant to exclude a single or irregular transaction and may not be routinely used to escape the necessity of obtaining a license.

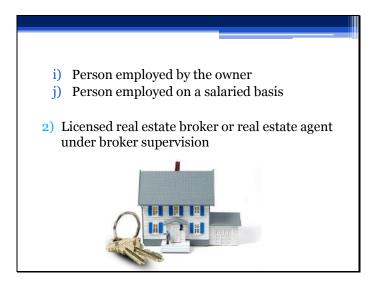
(d) an attorney at law in the performance of duties as an attorney;

(e) a receiver, trustee in bankruptcy, personal representative, person acting in regard to real estate pursuant to a court order, or a trustee under a trust agreement, deed of trust, or will;

(f) an officer of the state or any of its political subdivisions in the conduct of official duties;

(g) a person acting as a manager of a housing complex for low-income individuals subsidized either directly or indirectly by the state, any agency or political subdivision of the state, or the government or an agency of the United States;

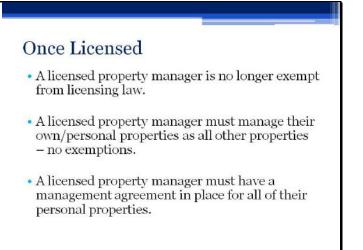
(h) a person who receives compensation from the owner of the real estate in the form of reduced rent or salary, unless that person holds signatory authority on the account in which revenue from the real estate is deposited or disbursed;



(i) a person employed by the owner of the real estate if that person's property management duties are incidental to the person's other employment-related duties; or

(j) a person employed on a salaried basis by only one person.

(2) A licensed real estate broker on active status or a licensed real estate salesperson on active status and acting under a supervising broker may act as a property manager without meeting any qualifications in addition to those required for licensure as a real estate broker or real estate salesperson and without holding a separate property manager's license.





**37-51-603.** Qualification of property manager applicants -- examination -- form of licenses. (1) The board by rule shall require an applicant for licensure to provide information that the board believes is necessary to ensure that a person granted a property manager license is of good repute and competent to transact the business of a property manager in a manner that

safeguards the welfare and safety of the public.

(2) (a) The board shall require an applicant for a property manager license to:

(i) apply for licensure to the department;

(ii) furnish written evidence that the applicant has completed the number of classroom hours that the board determines appropriate in a course of study approved by the board and taught by instructors approved by the board; and

(iii) satisfactorily complete an examination dealing with the material taught in the course of study.

(b) The course of study must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

(3) An applicant for licensure as a property manager must be at least 18 years of age and must have graduated from an accredited high school or completed an equivalent education as determined by the board.

(4) The license must bear the seal of the board. A property manager shall display the license conspicuously in the property manager's place of business.

(5) The department shall prepare and deliver to the licensee a pocket card in a form and at times prescribed by the board.

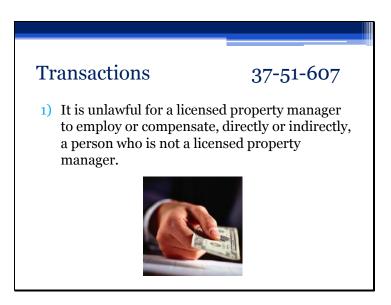
## Property Manager's Office 37-51-605



A property manager shall maintain a fixed office.

If the property manager changes the location of the office, he must notify the department in writing of the new address, within 10 days after the change of address.

**37-51-605. Property manager's office -- notice of change of address.** A property manager shall maintain a fixed office in this state at which the original license of the property manager must be prominently displayed. If the property manager changes the location of the office, the property manager shall notify the department of the new address within 10 days after the change of address.



**37-51-607.** Transactions with nonlicensed persons unlawful -- action for compensation limited to licensees. (1) It is unlawful for a licensed property manager to employ or compensate, directly or indirectly, a person who is not a licensed property manager for performing the acts regulated by this part.

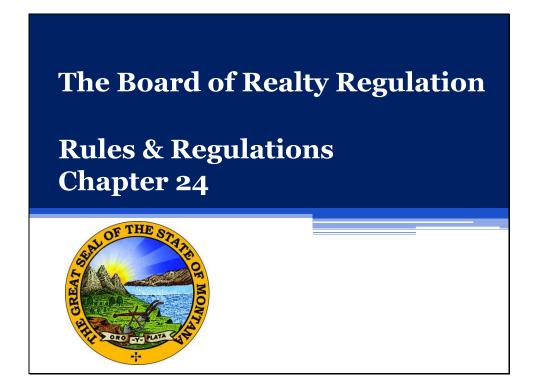
(2) An action may not be brought or maintained in the courts for the collection of compensation for the lease of real estate unless the plaintiff first alleges that the plaintiff was licensed or was authorized to act without a license at the time the alleged cause of action or claim arose.

# Penalties – Criminal & Civil 37-51-608 1) A person who acts without a license...not less than \$100 or more than \$500 or by imprisonment for a term not to exceed 90 days. 2) If a person is determined in a civil action to have received any money or the equivalent as a fee, commission, or other compensation...the person is also liable for a penalty of not less than the amount received and not more than 3 times the amount received...

**37-51-608. Penalties** -- **criminal** -- **civil.** (1) A person who acts without a license or while a license is suspended or revoked or who violates any provision of this part is guilty of a misdemeanor. For a first conviction, the person shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment for a term not to exceed 90 days, or both. Upon conviction of a second or subsequent offense, the person shall be punished by a fine of not less than \$500 or more than \$2,000 or by imprisonment for a term not to exceed 6 months, or both.

(2) If a person is determined in a civil action to have received any money or the equivalent as a fee, commission, or other compensation while violating the provisions of this part, the person is also liable for a penalty of not less than the amount received and not more than three times the amount received, as the court may determine.

# **Administrative Rules – Day One**



## INDEX

## Administrative Rules:

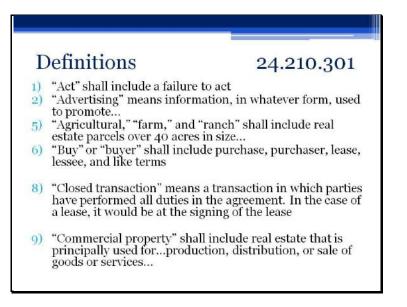
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# Public Participation 24.210.202 1) The Board of Realty Regulation adopts and incorporates by reference the public participation rules of the Department of Commerce, as listed in ARM Title 8, chapter 2, except that the board does not adopt ARM 8.2.202(1)(b), which allows for public participation in the granting or denying of a license for which a hearing is required. The public is entitled to observe, but not participate in licensing decisions and other contested cases as allowed by law.

#### 24.210.202 PUBLIC PARTICIPATION

The Board of Realty Regulation adopts and incorporates by reference the public participation rules of the Department of Commerce, as listed in ARM Title 8, chapter 2, except that the board does not adopt ARM <u>8.2.202(1)(b)</u>, which allows for public participation in the granting or denying of a license for which a hearing is required. The public is entitled to observe, but not participate in licensing decisions and other contested cases as allowed by law.



#### 24.210.301 DEFINITIONS

The terms used in this chapter shall have their common meaning as used in the real estate industry, and unless the context otherwise requires, the following meanings shall also apply: (1) "Act" shall include a failure to act.

(2) "Advertising" means information, in whatever form, used to promote real property for sale, lease, rent, exchange, or purchase, or to promote the brokerage or sales services of a licensee, except that the dissemination of property data to an individual prospective buyer or seller at the individual's request shall not be deemed advertising for the purpose of these rules.

(3) "Agency" or "agency relationship" shall include those relationships which are expressed in<u>37-51-102</u> and <u>37-51-313</u>, MCA, and specifically do not include the common law of agency.

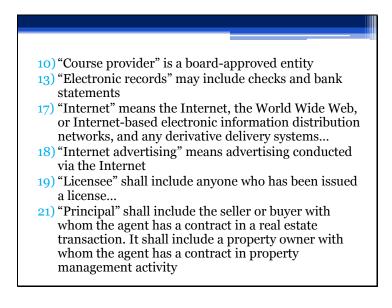
(4) "Agent" shall include subagent.

(5) "Agricultural," "farm," and "ranch" shall include real estate parcels over 40 acres in size, principally used for, or capable and intended for use in, the production of plant or animal crops.
(6) "Buy" or "buyer" shall include purchase, purchaser, lease, lessee, and like terms.

(7) "Cancellation" is the period of time following the release of the salesperson license from the supervising broker, and prior to transfer of the license to another broker, or placed on inactive status.

(8) "Closed transaction" means a transaction in which parties have performed all duties in the agreement. In the case of a lease, it would be at the signing of the lease.

(9) "Commercial property" shall include real estate that is principally used for, or capable and intended for use in, the production, distribution, or sale of goods or services, and any real estate which has over four residential units when transferred as a group of units.



(10) "Course provider" is a board-approved entity that is responsible to the board for the administration of approved education courses in accordance with board laws and rules.
(11) "Designated broker" is a broker who has been designated by other brokers of a real estate brokerage company to be the broker with the authority for the maintenance of a trust account, if any.

(12) "Distance education" is a course or courses in which the instruction does not take place in a traditional classroom setting, but rather, through other media where the teacher and student are separated by distance and sometimes by time.

(13) "Electronic records" may include checks and bank statements.

(14) "Entry-only listing" is a listing in which the seller and the seller's agent have agreed to limit the seller agent's involvement in the transaction process.

(15) "Hour" of education is equal to 50 minutes of instructional time.

(16) "Incapacity" as used in ARM <u>24.210.601</u>, means being in a condition as a result of accident or illness that renders the person wholly incapable of conducting the business of a supervising broker. A voluntary or anticipated incapacity or an extended absence from the supervising broker's office is not an incapacity.

(17) "Internet" means the Internet, the World Wide Web, or Internet-based electronic information distribution networks, and any derivative delivery systems or evolutions of such

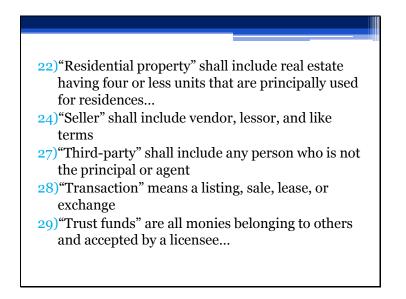
delivery systems that may be connected to individual computers, terminals, and other consumer electronic interface devices through which information is delivered via computer servers connected via phone lines or other cable, wire, fiber, wireless, or other analogous linkages to a computer, computer network or networks including, but not limited to, web pages, e-mail, news groups, discussion lists, bulletin boards, instant messaging, chat rooms, voice over net, multimedia advertising, links, and/or banner advertisements.

(18) "Internet advertising" means advertising conducted via the Internet.

(19) "Licensee" shall include anyone who has been issued a license by the board or who has made application for a license from the board. For disciplinary purposes, "licensee" also includes anyone with a lapsed or expired license.

(20) "Licensee identification" as used in this chapter means a written disclosure of the licensee's name, and identifying that the advertisement is made by a real estate licensee or by a brokerage company.

(21) "Principal" shall include the seller or buyer with whom the agent has a contract in a real estate transaction. It shall include a property owner with whom the agent has a contract in property management activity.



(22) "Residential property" shall include real estate having four or less units that are principally used for, or capable and intended for use as, residences, and any single unit in a group of units when transferred as a single unit.

(23) "Routine application" is a complete application, which shows compliance with board rules and no disciplinary issues. All other complete applications are nonroutine.

(24) "Seller" shall include vendor, lessor, and like terms.

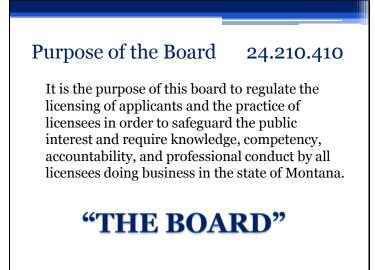
(25) "Supervising broker" is a broker who is responsible for supervision and training of one or more licensed salespersons pursuant to <u>37-51-302</u>, MCA.

(26) "Supervision" shall include substantially day-to-day, active overseeing.

(27) "Third-party" shall include any person who is not the principal or agent.

(28) "Transaction" means a listing, sale, lease, or exchange.

(29) "Trust funds" are all monies belonging to others and accepted by a licensee, while acting in the capacity of a licensee.



#### 24.210.410 PURPOSE OF BOARD

(1) It is the purpose of this board to regulate the licensing of applicants and the practice of licensees in order to safeguard the public interest and require knowledge, competency, accountability, and professional conduct by all licensees doing business in the state of Montana.



#### 24.210.430 INTERNET ADVERTISING RULES

(1) Licensees who engage in any form of Internet advertising, including, but not limited to, web sites, blogs, video streaming, and social media, either directly or indirectly, shall comply with the Internet advertising rules set out in this rule. This rule does not apply to traditional forms of advertising or promotion, such as newspaper, television, radio advertisements, yard signs, or direct mailings.

(2) All Internet advertising shall truthfully and accurately describe the real property or service advertised. Real property advertisements shall identify the city, town, or county in which the real property is located. A specific street address is not required.

3) All Internet advertising shall provide licensee
identificationas follows:
<ul> <li>a)every viewable page should include licensee</li> </ul>
identification
b) E-mail shall include a licensee identification at the
beginning or end of each message
<ul> <li>News groups, discussion lists, and bulletin boards shall include licensee identification</li> </ul>
d) Licensee identification is not necessary in connection with
instant messages if the licensee provided the written
instant messages if the licensee provided the written licensee identification via another format
e) Licensee identification is required prior to providing
services
g) Licensee identification is not necessary for audible
messaging
h) Licensee identification should be visible as part of the
advertising message
i) Banner ads should link to a web page that has licensee
identification, unless the banner ad has licensee identification contained in it.
identification contained in it.

(3) All Internet advertising shall provide licensee identification. The timing and placement of such licensee identification shall vary, depending upon the nature of the advertisement or promotion, as follows:

(a) Whenever a licensee or brokerage company owns a web page or controls its content, every viewable page should include (or link to) a licensee identification. (A viewable page is one that may or may not scroll beyond the borders of the screen and includes the use of framed pages.)
(b) E-mail shall include a licensee identification at the beginning or end of each message, unless the licensee has previously provided licensee identification to all recipients of the e-mail.
(c) News groups, discussion lists, and bulletin boards shall include licensee identification at the beginning or end of each message.

(d) Licensee identification is not necessary in connection with instant messages if the licensee provided the written licensee identification via another format or medium (e.g., e-mail or letter) prior to providing or offering to provide, licensable services.

(e) Licensee identification is required prior to providing or offering to provide licensable services during a chat session or in text visible on the same web page that contains a chat session if the licensee or brokerage company controls the web site hosting the chat session.

(f) Licensee identification is required prior to the advertising message or in text visible on the same web page that contains a voice over net (VON) session.

(g) Licensee identification is not necessary for audible messaging if it was provided via another medium (i.e., e-mail, letter) prior to providing or offering to provide licensable services.

(h) Licensee identification should be visible as part of the advertising message when using multimedia advertising (e.g., web-based, executable e-mail, attachments, etc.).

(i) Banner ads should link to a web page that has licensee identification, unless the banner ad has licensee identification contained in it.

(4) Licensees' Internet advertising may include real properties on which neither the licensee nor the brokerage company is the listing agent, so long as the listing agent has offered cooperation and has consented to Internet advertising by the licensee engaging in the Internet advertising, and the owners of the property have consented to the same.

(a) The offer of cooperation and consent to Internet advertising may arise pursuant to the rules and regulations of a multiple listing service in which the listing agent and the licensee, engaging in the Internet advertising, are both participating (provided the multiple listing system gives the listing agents the option of prohibiting Internet advertising of some or all of their listings by some or all of the participants on that multiple listing system) or by specific written agreement between them.

(b) The owner's consent may be included in the listing agreement and need not identify the specific licensee to whom consent to Internet advertising is given.

(c) Licensees' Internet advertising of real properties, on which neither the licensee nor the brokerage company is the listing agent, must set forth as part of the property information, a statement that the subject property is listed with another licensee or brokerage company and shall identify the listing agent or brokerage company.

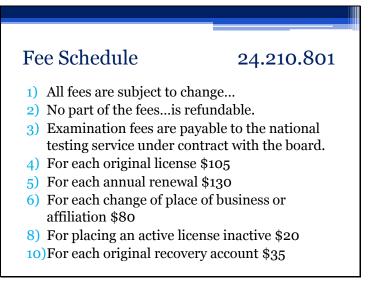
(d) The content of any property data obtained from another listing agent or multiple listing system may not be changed in whole or in part. However, such property data may be formatted differently, be condensed, and further advertised if the advertisement contains the following statement or similar language: "The foregoing material was abstracted from another source and does not contain all of the information available at the source site. Please request further information when considering this property."

(e) No licensee shall be responsible for errors or misrepresentations of others who reproduce or further disseminate the information concerning the licensee's listings, unless the licensee originated the error or misrepresentation and failed to update the information.

(5) All Internet advertising must be current as of the date of the advertisement and must be updated within seven days in the event of material changes to the listing, such as its expiration, termination, or amendment, and/or in the event of material changes to the information otherwise found in the Internet advertising. Internet advertising shall indicate the date on which it was created and last updated.

(6) All information, disclosures, statements, and the like required by this rule to be included in a licensee's Internet advertising shall be displayed in a size, color, typestyle, and location that a reasonable person will notice and be able to read.

(7) The licensee is responsible to assure the accuracy of Internet advertising published or disseminated by another person or another party under the direction of the licensee.



#### 24.210.801 FEE SCHEDULE

(1) Except as otherwise provided by statute or rule, the following fees are required by the board for each of the licensing services provided to property management licensees and listed below. All fees are subject to change by the board, within the limitations provided in <u>37-51-311</u>, MCA.

(2) No part of the fees paid in accordance with the provisions of this chapter is refundable. Fees are deemed earned by the board upon receipt.

(3) Examination fees are payable to the national testing service under contract with the board.

(4) For each original license \$105

(5) For each annual renewal 130

(6) For each change of place of business or affiliation 80

(7) Reinstatement of a license suspended or revoked within a

license period 50

(8) For placing an active license inactive 20

(9) For activating an inactive license 80

(10) For each original recovery account assessment 35

(11) Continuing education course application 130

(12) Education course instructor application for approval

or renewal 87.50

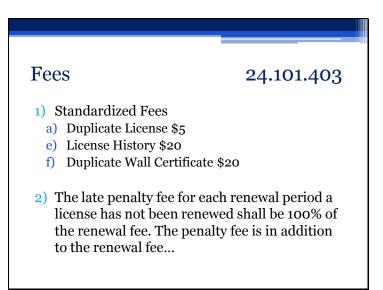
(13) Prelicensing course application for approval or renewal 150

(14) Individual CE request application (per course) 45

(15) Late filing of individual CE request application (per course) 100

(16) Instructor/course development course \$175 per course

(17) Additional standardized fees are specified in ARM 24.101.403.



### 24.101.403 FEES

(1) Standardized fees, in addition to those fees charged by a specific licensing entity are as follows:

(a) duplicate license \$ 5

(b) licensee lists or rosters 20

(c) photocopies per page (in excess of 20 pages) .25

(d) certified copies per page (in excess of ten pages) .50

(e) license history 20

(f) duplicate wall certificate 20

(g) returned check fee, including but not limited to, checks issued

with nonsufficient funds, stop payment requests, or missing signatures 30

(h) license verification 20

(i) the license verification fee is waived for any licensing entity with a signed reciprocal agreement with another licensing entity and the licensing entities have agreed that no fees are to be charged;

(i) status change fee from inactive to active during the licensure period is the difference between the cost of an inactive license and an active license renewal fee;

(j) renewal fee for a suspended license is 50 percent of the renewal fee; and

(k) renewal fee for a probationary license is the same as the renewal fee.

(2) The late penalty fee for each renewal period a license has not been renewed shall be 100 percent of the renewal fee. The penalty fee is in addition to the renewal fee and must be paid for each renewal period that the license has not been renewed. If the license has not been renewed on or before the date set by ARM <u>24.101.413</u>, the late penalty fee must be paid.
(a) In the event a renewal fee has been abated, the late penalty fee still applies. The late penalty fee that must be paid is 100 percent of the renewal fee that would have been charged had the renewal fee not been abated.

(3) There is no late fee for licensed guides under the jurisdiction of the Board of Outfitters.

(4) When converting an inactive status license to an active status license, the difference between the inactive status fee and the active status fee must be paid for the remainder of the current renewal period.

(5) When a military reservist renews a professional or occupational license after being discharged from active duty, the renewal fee will be the current renewal fee. No past fees accrued while the reservist was on active duty will be charged pursuant to <u>37-1-138</u>, MCA.
(6) All fees are nonrefundable.

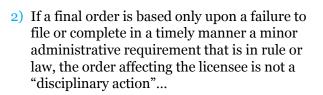
# Posting Disciplinary Orders on Licensee Lookup Database 24.101.404

 ...Any final order imposing a sanction against a professional or occupational license holder that is based on competence to practice issues or based on an allegation that generally or specifically is a violation of law or regulation, is a "disciplinary action" that must be published and noted on the licensee lookup.

UNLESS THE FOLLOWING APPLY ...

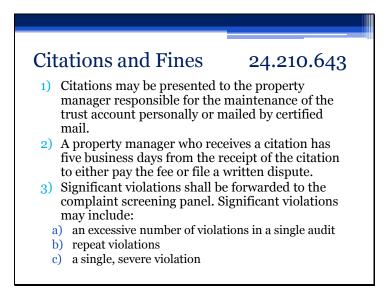
#### 24.101.404 POSTING DISCIPLINARY ORDERS ON LICENSEE LOOKUP DATABASE

(1) Unless the exceptions in (2) and (3) are applicable, any final order imposing a sanction against a professional or occupational license holder that is based on competence to practice issues or based on an allegation that generally or specifically is a violation of law or regulation, is a "disciplinary action" that must be published and noted on the licensee lookup.



3) A final order of license denial based solely upon an applicant's failure to meet minimum licensure qualifications and not based on competence to practice issues or involving the applicant's past disciplinary or legal actions is not a "disciplinary action"...

(2) If a final order is based only upon a failure to file or complete in a timely manner a minor administrative requirement that is in rule or law, the order affecting the licensee is not a "disciplinary action" for the purposes of publication and notice on the licensee lookup.
(3) A final order of license denial based solely upon an applicant's failure to meet minimum licensure qualifications and not based on competence to practice issues or involving the applicant's past disciplinary or legal actions is not a "disciplinary action" for the purposes of publication and notice on the licensee for the purposes of publication and not based on competence to practice issues or involving the applicant's past disciplinary or legal actions is not a "disciplinary action" for the purposes of publication and notice on the licensee lookup.

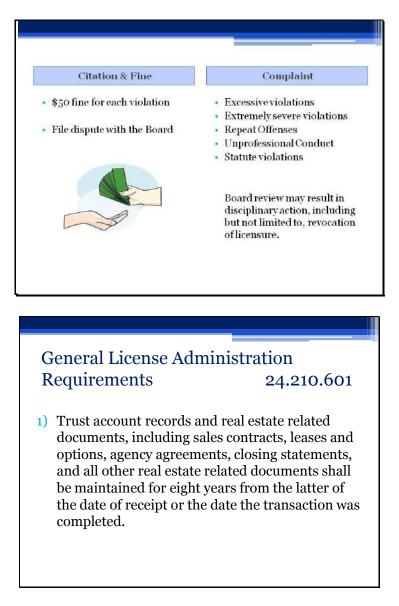


### 24.210.643 CITATIONS AND FINES

(1) Citations issued by the department may be presented to the broker or property manager responsible for the maintenance of the trust account personally or mailed by certified mail.
 (2) A broker or property manager who receives a citation has five business days from the receipt of the citation to either pay the fee or file a written dispute. Failure to either pay the fine or file a written dispute within five business days is unprofessional conduct and subject to board discipline.

(3) Significant violations shall be forwarded to the complaint screening panel. Significant violations may include:

- (a) an excessive number of violations in a single audit;
- (b) repeat violations; or
- (c) a single, severe violation.



#### 24.210.601 GENERAL LICENSE ADMINISTRATION REQUIREMENTS

(1) Trust account records and real estate related documents, including sales contracts, leases and options, agency agreements, closing statements, and all other real estate related documents shall be maintained for eight years from the latter of the date of receipt or the date the transaction was completed.

(2) Any time that a salesperson's association with the supervising broker is terminated, the supervising broker shall immediately return the salesperson's license to the board office with a letter noting the termination. The supervising broker remains the supervising broker for the salesperson, until the license and release are received by the board.

(3) A dispute between a salesperson and the supervising broker shall not be cause for failing to immediately return the salesperson's license to the board office.

(4) A salesperson whose license has been cancelled because of termination of association with their supervising broker, must properly notify the board of any new supervising broker relationship, or the desire to place the license on inactive status and pay all required fees within ten days of the board receiving the termination of association.

(5) A licensee shall not practice with a cancelled license. A license shall remain cancelled until transferred to a new supervising broker or placed on inactive status.

(6) When required in writing to do so by a salesperson formerly associated with a supervising broker, the supervising broker shall promptly provide the former salesperson with a certified statement on the form prescribed by the board, identifying all real estate transactions in which the salesperson was involved in connection with the salesperson's association with the supervising broker, within the three years preceding the request.

(7) Upon termination of a salesperson's association with the salesperson's supervising broker, the supervising broker shall immediately notify all principals as to the listings or pending transactions in which the salesperson was involved, that the salesperson is no longer affiliated or associated with the supervising broker, and that the listings and pending transactions are the responsibility of the supervising broker.

(8) Listings and pending transactions of a salesperson are the responsibility of the supervising broker upon termination of the association between the salesperson and supervising broker.
(9) Supervising brokers are responsible for the performance of salespeople under the supervising brokers' supervision. If a complaint is submitted to the Board of Realty Regulation, alleging improper conduct on the part of a salesperson, a copy of the complaint shall be provided to the supervising broker who shall also provide a response to the complaint.

(10) Supervising brokers must provide ongoing real estate training to all salespeople under their supervision, in order to assure competent practice of the profession.

(11) A listing agreement negotiated by a salesperson is not valid until it is reviewed, signed, and dated by the supervising broker.

(12) Supervising brokers have the responsibility to exercise adequate supervision to assure that all documents for a real estate transaction, prepared by salespeople under their supervision, are appropriately prepared and executed.

(13) A broker shall not sign the application of a salesperson, unless the broker and salesperson will be in lawful association, through employment contract or otherwise.

(14) Principals and agents to a particular transaction may consent to communication directly with each other's client.

(15) A salesperson whose supervising broker has failed to renew or reinstate the broker's expired broker license or supervising broker endorsement must request to be placed on inactive status or transfer their salesperson license to another supervising broker within ten days of being notified by the board that their supervising broker's broker license or supervising broker endorsement has expired. A salesperson shall not conduct licensed activity during this unsupervised period.

(16) A supervising broker must immediately inform the broker's supervised salespeople that the supervising broker's broker license or supervising broker endorsement has expired.

(17) An active, licensed salesperson may be temporarily associated with a supervising broker other than the existing supervising broker of record listed on the salesperson's pocket card as follows:

(a) The temporary transfer of supervision must be in writing and must be provided to the salesperson by the broker of record. The writing must include:

(i) authorization of the transfer of supervision of the salesperson by the existing supervising broker, including the name and signature of the existing supervising broker;

(ii) acceptance of responsibility for the performance of the salesperson by the temporary supervising broker, including the name and signature of the temporary supervising broker;(iii) the names of all salespersons transferring to the temporary supervising broker, which may be less than all of the salespersons under the supervision of the existing supervising broker; and (iv) the effective beginning date and termination date of the temporary transfer.

(b) An existing supervising broker supervising more than one salesperson may temporarily transfer said salespersons to different temporary supervising brokers. Each individual salesperson may only have one temporary supervising broker at any given time.

(c) An existing supervising broker may not transfer temporary supervision of a salesperson for more than 60 days in any 12-month period, and any individual salesperson may not be temporarily supervised by anyone for more than 60 days in any 12-month period, unless transferred to a new supervising broker of record. This limit may not be extended without written approval by the board, which must be based on good cause. A temporary supervising broker may exceed 60 days of temporary supervision in any 12-month period. A temporary supervising broker is not the "broker of record" of any salesperson who is temporarily transferred to the temporary supervising broker.

(d) The existing supervising broker may terminate the temporary transfer of supervision prior to the effective termination date by providing notice to the temporary supervising broker. Written notice shall also be provided to the board.

(e) A temporary supervising broker must supervise the salespeople for the agreed length of time and may not transfer supervision to any broker, other than the original existing supervising broker of record.

(f) Temporary transfers of supervision may be extended beyond the effective termination date subject to the limitation of (16)(c).

(g) The written transfer of supervision must be provided to the board no later than the three business days prior to the effective beginning date of the temporary transfer of supervision. A late filing will result in a late fee assessed against the existing supervising broker regardless of cause.

(18) In the event of the death or unanticipated incapacity of a salesperson's supervising broker (both existing and temporary):

(a) The salesperson may not practice real estate until the salesperson's license is transferred to a different supervising broker.

(b) The salesperson must inform the board of the death or incapacity within ten days of the existing supervising broker's death or incapacity.

(c) Supervision of the salesperson may be transferred to a temporary supervising broker as provided in (17). However, the authorization set forth in (17)(a) shall not be required.

(19) A salesperson who does not wish to be supervised by a temporary supervising broker may place their salesperson license on inactive status or transfer their license to another supervising broker as provided in this rule.

# Property Management Definitions

24.210.803

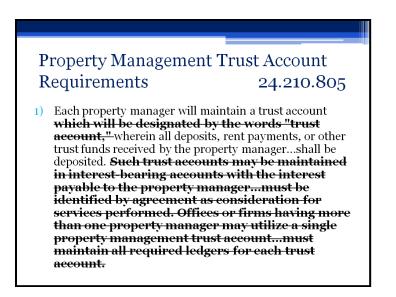
"Salaried employee" as used in Title 37, chapter 51, part 6, MCA, means an individual employed by an owner to manage the property of that owner. This term does not include an unlicensed real estate or property management secretary...



### 24.210.803 PROPERTY MANAGEMENT DEFINITIONS

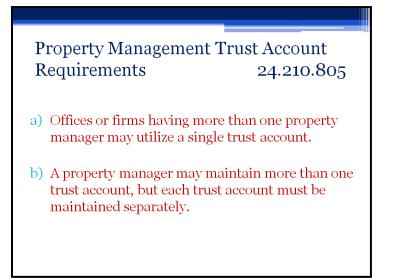
The terms used in this chapter shall have their common meaning as used in the property management industry and, unless the content otherwise requires, the following meanings shall also apply:

"Salaried employee" as used in Title 37, chapter 51, part 6, MCA, means an individual employed by an owner to manage the property of that owner. This term does not include an unlicensed real estate or property management secretary or the holder of a similar position employed to manage many owners' property for a single broker or property manager.
 "Board" means the Board of Realty Regulation provided in <u>2-15-1757</u>, MCA.

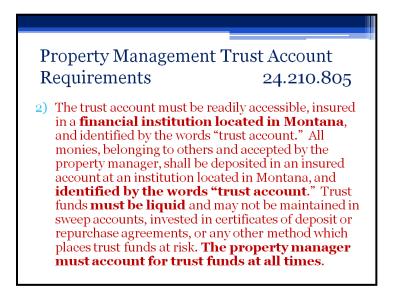


### 24.210.805 PROPERTY MANAGEMENT TRUST ACCOUNT REQUIREMENTS

(1) Each property manager will maintain a trust account wherein all deposits, rent payments, or other trust funds received by the property manager, on behalf of any other person, shall be deposited.



(a) Offices or firms having more than one property manager may utilize a single trust account.(b) A property manager may maintain more than one trust account, but each trust account must be maintained separately.

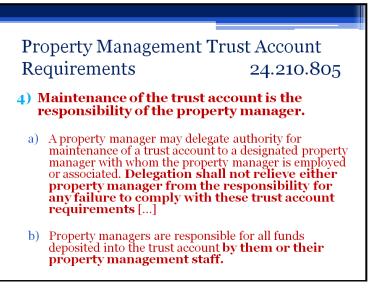


(2) The trust account must be readily accessible, insured in a financial institution located in Montana, and identified by the words "trust account." All monies, belonging to others and accepted by the property manager, shall be deposited in an insured account at an institution located in Montana, and identified by the words "trust account." Trust funds must be liquid and may not be maintained in sweep accounts, invested in certificates of deposit or repurchase agreements, or any other method which places trust funds at risk. The property manager must account for trust funds at all times.

Property Management Trust Account Requirements 24.210.805

3) Trust funds **may be maintained in interestbearing accounts** with the interest payable to the property manager, principal, third-party, or any other person as may be **designated by written agreement**. Interest payable to the property manager shall be identified by written agreement as consideration for services performed and will be considered personal funds unless otherwise designated.

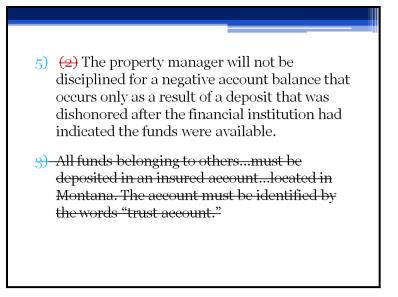
(3) Trust funds may be maintained in interest-bearing accounts with the interest payable to the property manager, principal, third-party, or any other person, as may be designated by written agreement. Interest payable to the property manager shall be identified by written agreement as consideration for services performed and will be considered personal funds unless otherwise designated.



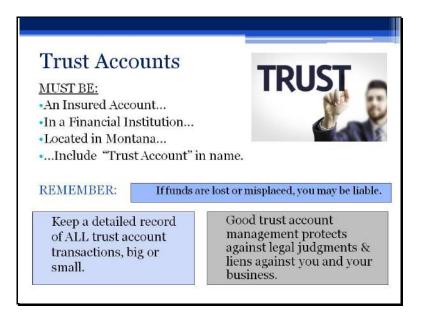
(4) Maintenance of the trust account is the responsibility of the property manager.

(a) A property manager may delegate authority for maintenance of a trust account to a designated property manager with whom the property manager is employed or associated. Delegation shall not relieve either property manager form responsibility for any failure to comply with these trust account requirements whether by the delegating property manager or the designated property manager.

(b) Property managers are responsible for all funds deposited into the trust account by them or their property management staff.

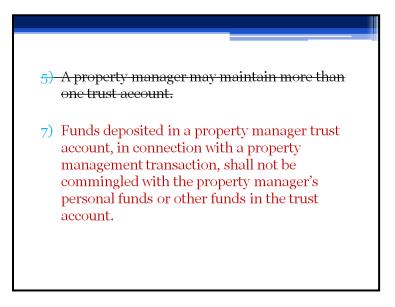


(5) The property manager will not be disciplined for a negative account balance that occurs only as the result of a deposit that was dishonored after the financial institution had indicated the funds were available.

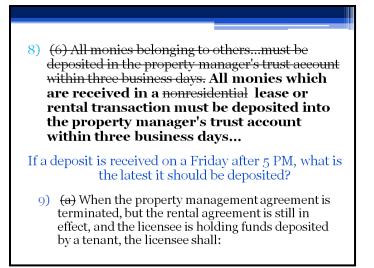


6) (4) ...shall not be commingled with the property manager's personal funds or other funds in the trust account... A property manager may deposit and keep a sum not to exceed \$1000 of a property manager's personal funds ... which sum includes any interest earned on the trust account which acerues if the trust account is maintained in an interest-bearing account and interest accrues ... Personal funds may be distributed for trust account bank charges related trust account maintenance expenses, and when due and payable to the property manager. ... When depositing funds, the date of the deposit, the source of funds, and the amount must be shown. When the disbursing funds, the date of the disbursement, name of the payee, and amount must be shown. A running balance must be shown after each entry.

(6) A property manager may deposit and keep a sum not to exceed \$1000 of a property manager's personal funds in the trust account, which sum includes any interest earned on the trust account if the trust account is maintained in an interest-bearing account and the interest accrues to the property manager. Personal funds may be distributed for trust account bank charges, related trust account maintenance expenses, and when due and payable to the property manager. If personal funds are held in the trust account, a chronological ledger must be kept showing all deposits and disbursements of personal funds. The record entries must clearly identify the parties to a transaction, the dates, and the amounts received. When depositing funds, the date of the deposit, the source of funds, and the amount must be shown. When disbursing funds, the date of the disbursement, the name of the payee, and the amount must be shown. A running balance must be shown after each entry.

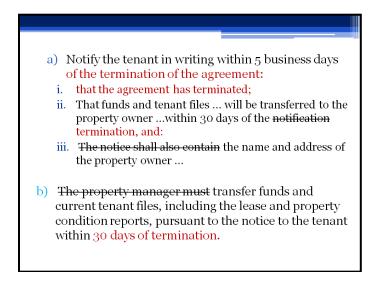


(7) Funds deposited in a property manager trust account, in connection with a property management transaction, shall not be commingled with the property manager's personal funds or other funds in the trust account.



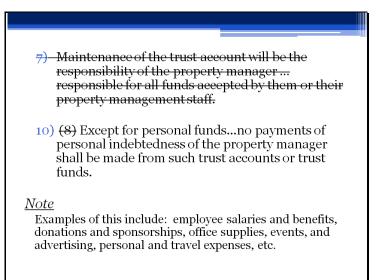
(8) All monies belonging to others, which are received by a property manager in a lease or rental transaction, must be deposited into the property manager's trust account within three business days, unless otherwise provided in the lease or rental agreement.

(9) When the property management agreement is terminated, but the rental agreement is still in effect, and the licensee is holding funds deposited by a tenant, the licensee shall:

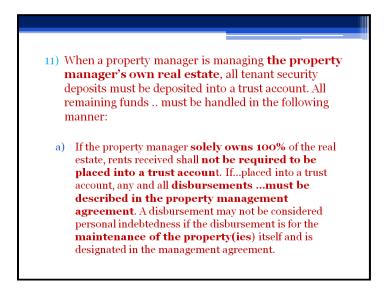


- (a) notify the tenant in writing within five business days of termination of the agreement:
  - (i) that the agreement has terminated;
  - (ii) that the funds and current tenant files, including lease and condition reports, will be transferred to the property owner or the owner's designee within 30 days of the termination; and
  - (iii) the name and address of the property owner or the owner's designee to whom the funds are to be transferred;

(b) transfer funds and current tenant files, including the lease and property condition reports, pursuant to the notice to the tenant within 30 days of termination.

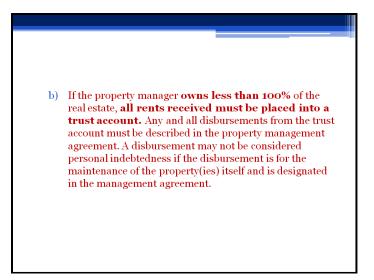


(10) Except for personal funds referenced in (6), no payments of personal indebtedness of the property manager shall be made from such trust accounts or trust funds.

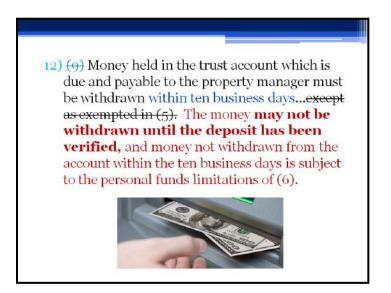


(11) When a property manager is managing the property manager's own real estate, all tenant security deposits must be deposited into a trust account. All remaining funds received and disbursed must be handled in the following manner:

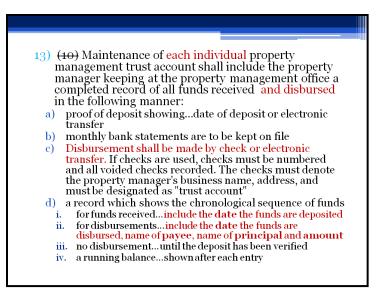
(a) if the property manager solely owns 100 percent of the real estate, rents received shall not be required to be placed into a trust account. If rents received are placed into a trust account, any and all disbursements from the trust account must be described in the property management agreement. A disbursement may not be considered personal indebtedness if the disbursement is for the maintenance of the property(ies) itself and is designated in the management agreement; and



(b) if the property manager owns less than 100 percent of the real estate, all rents received must be placed into a trust account. Any and all disbursements from the trust account must be described in the property management agreement. A disbursement may not be considered personal indebtedness if the disbursement is for the maintenance of the property(ies) itself and is designated in the management agreement.



(12) Money held in the trust account, which is due and payable to the property manager, must be withdrawn within ten business days after such money becomes due and payable. The money may not be withdrawn until the deposit has been verified and money not withdrawn from the trust account within the ten business days is subject to the personal funds limitations of (6).



(13) Maintenance of each individual property management trust account shall include the property manager keeping at the property management office a completed record of all funds received and disbursed in the following manner:

(a) proof of deposit showing the date of deposit or electronic transfer, amount, source of money, and where deposited;

(b) monthly bank statements are to be retained and kept on file;

(c) disbursement of trust funds shall be made by either check or electronic transfer. If checks are used, trust account checks must be numbered and all voided checks recorded. The checks must denote the property manager's business name, address, and must be designated as "trust account";

(d) a record which shows the chronological sequence in which funds are received and disbursed;(i) for funds received, the record must include the date the funds are deposited, the name of the party who is giving the money, the name of the principal, and the amount;

(ii) for disbursements, the record must include the date the funds are disbursed, the name of the payee, the name of the principal, and the amount;

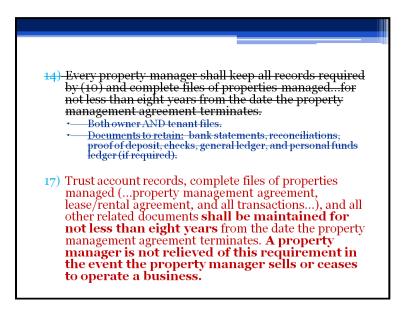
(iii) no disbursement from the trust account shall be made until the deposit has been verified;

(iv) a running balance must be shown after each entry.

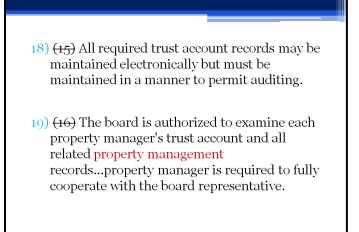
14) (11) A chronological ledger must be kept for each tenant showing all rents, deposits, and disbursements. The record entries must clearly identify the parties...
15) (12) A chronological record must be kept for each property owner showing all income, expenses, and disbursements...running balance must be shown after each entry.
16) (13) The trust account must be reconciled monthly, except in the case where there has been no activity during that month.

(14) A chronological ledger must be kept for each tenant showing all rents, deposits, and disbursements. The record entries must clearly identify the parties to a transaction, the dates, and the amounts received. When disbursing funds, the date, payee, and the amount must be shown. A running balance must be shown after each entry.

(15) A chronological record must be kept for each property owner showing all income, expenses, and disbursements. The record entries must clearly identify the parties to a transaction, the date, and the amounts received. When disbursing funds, the date, the payee, and the amount must be shown. A running balance must be shown after each entry.
(16) The trust account must be reconciled monthly, except in the case where there has been no activity during that month.



(17) Trust account records, complete files of properties managed (including, but not limited to, the property management agreement, lease, or rental agreement, and all transactions concerning the property in which the property manager was involved), and all other related documents shall be maintained for not less than eight years from the date the property management agreement terminates. A property manager is not relieved of this requirement in the event the property manager sells or ceases to operate a business.



(18) All required trust account records may be maintained electronically, but must be maintained in a manner to permit auditing.

(19) The board is authorized to examine each property manager's trust account and all related property management records. Such examination will be conducted by a board representative and will be at such time as the board representative may request during normal business hours. The property manager is required to fully cooperate with the board representative.

# Trust Account Requirements Overview



# Trust Accounting Rules

- <u>Apply to all licensees:</u> Property Managers Brokers Real Estate Sales
- Apply to all property types Property Managers Brokers Real Estate Sales



# **Trust Accounting Rules**

#### Trust Funds:

All money belonging to another (tenant OR owner) must be deposited in a trust account, including security deposits, pet deposits, rent, and property maintenance funds.

•MUST be kept separate and deposited in an account labeled "Trust Account".

•NEVER deposit trust funds in a personal account or business account.

# Funds to Keep Separate

### Trust Account Funds

#### Personal/Operating Funds

- Security Deposit Returns
- Owner Payments
- Rents/Fees

# Upon owner specification in the management agreement:

- Advertising Fees
- Maintenance Fees
- Cleaning Fees
- Property Bills/Utilities

- Payroll
- Office Supply Fund
- Business Bills/Utilities
- Business Advertising
   Sponsorship Funds

(etc.)

- Avoid Commingling
- Maintain a larger reserve from your owners.
- If you are making mortgage payments on behalf of your owners, require an additional reserve of at least one full month mortgage payment in addition to any other cash reserves.
- Review your incoming bills daily to avoid an oversight on a payment that could overdraw your owner's account.



# Depositing Funds into Interest-Bearing Accounts

- Trust funds may be deposited into interestbearing accounts.
- All accounts must contain the wording "trust account" and include the property manager's name and address.
- Trust account must be insured and placed in a financial institution located in Montana.
- Interest on trust accounts may be retained by the property manager but must be identified by agreement as consideration for services performed.

# Depositing Funds into Interest-Bearing Accounts

Q: Is it permissible to have multiple trust accounts?

- A: Yes. Must include general ledger and any other required ledger, for EACH.
- Q: Can the interest from these accounts be retained by the Property Manager?
- A: Yes. Must be clearly outlined in the management agreement.

"consideration for services performed".

# Documentation Required for an Audit

- Checkbook for each trust account
- Checkbook registers must include a running balance total after each entry...
- Checks must have the name, address, "trust account" designation and be numbered in sequence
- · All voided checks must be recorded



# Deposit Ticket Records for Each Trust Account

- Proper identification must be included on each deposit to indicate date, amount, and source of funds.
- Many banks do not return cancelled checks with your statement.
- It is recommended that property managers keep a ring binder with statements and copies of processed checks for easy audit access.

# File Retention

• Keep in mind that if you are managing a property with government tax credits, it may be necessary to retain documents for up to 20 years.



# File Audit

- In addition to cash audits, an auditor may audit your tenant and owner files. The purpose of this audit is to verify that you have a dated, signed management agreement on file, as well as proof of ownership from the property owner.
- The tenant file review may consist of tracking a new tenant's pro-rated rent and security deposit through the system from start to finish.

# So You're Being Audited ...

You will be asked to provide:

- General Ledger
- Owner Ledger
- Tenant Ledger
- Personal Funds Ledger
- Bank Statements
- Bank Reconciliation Reports
- Proofs of Deposit

# So You're Being Audited ...

- Property Files Should Include:
  - ManagementAgreement(s)
  - Lease / Rental Agreement (s)
  - Disclosures (mold, lead-based paint)
  - Invoices / Receipts
  - Condition Reports
  - Security Deposit Documentation

# So You're Being Audited ...

#### Additional Audit Criteria

- Funds
- Never commingled
- Timely Deposits
- Made within 3 days unless otherwise specified in agreement
   Timely Withdrawal of Fees
- Made within 10 business days/when ledgers are reconciled
- Personal Funds
  - Between \$0 to \$1,000
  - Personal debts never paid from trust account
- Ethical recommendations
  - When recommending services, always disclose: family relationship by the service of the service of
  - relationship, business relationship, or financial interest.

# The Most Common Audit Problems

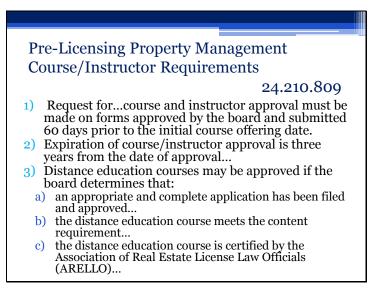
- Personal Transactions
- Commingling Funds
- Timely Bank Statement Reconciliation
- Maintaining Organized Records
- Timely Deposits
- Payment of Personal Expenses
- Assumption that reconciling the trust account checkbook means balancing your trust account cash.

Property Management License Transfer Requirements 24.210.807

1) A property management licensee who changes the office location must notify the board office in writing within ten business days of the change. The proper fee must accompany such notice. The board office will then issue a corrected pocket card for the remainder of the renewal year.

## 24.210.807 PROPERTY MANAGEMENT LICENSE TRANSFER REQUIREMENTS

(1) A property management licensee who changes the office location must notify the board office in writing within ten business days of the change. The proper fee must accompany such notice. The board office will then issue a corrected pocket card for the remainder of the renewal year.



#### **24.210.809** PRELICENSING PROPERTY MANAGEMENT COURSE AND INSTRUCTOR REQUIREMENTS

(1) Request for prelicensing education course and instructor approval must be made on forms approved by the board and submitted 60 days prior to the initial course offering date.

(2) Expiration of course approval or instructor approval is three years from the date of approval, but may be revoked for cause.

(3) Distance education courses may be approved if the board determines that:

(a) an appropriate and complete application has been filed and approved by the board;

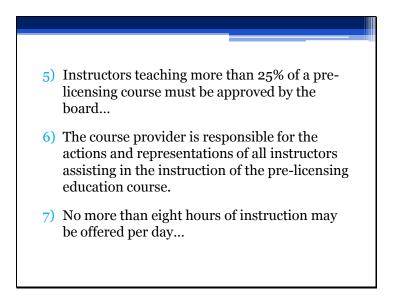
(b) the distance education course meets the content requirements as established under this rule;

(c) the distance education course is certified by the Association of Real Estate License Law Officials (ARELLO) and the course provider has provided appropriate documentation that the

ARELLO certification is in effect. Approval will cease immediately should the ARELLO certification be discontinued for any reason; and

(d) the distance education course meets all other requirements as prescribed in the statutes and rules that govern the operation of approved courses.

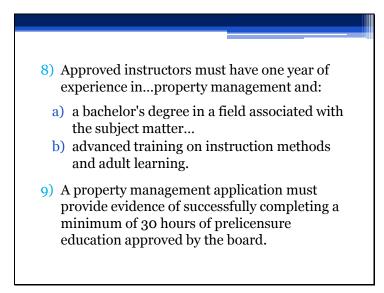
(4) It is the responsibility of the applicant to verify that courses are approved for Montana prior to completing the course for credit.



(5) Instructors teaching more than 25 percent of a prelicensing course must be approved by the board as prelicensing instructors.

(6) The course provider is responsible for the actions and representations of all instructors who aid or assist in the instruction of the prelicensing education course.

(7) No more than eight hours of instruction may be offered per day. Examination time does not count as hours of instruction.



(8) Approved instructors must have one year of experience in the practice of property management or property management education and:

(a) a bachelor's degree in a field traditionally associated with the subject matter being taught; or

(b) advanced training on instruction methods and adult learning.

(9) A property management application must provide evidence of successfully completing a minimum of 30 hours of prelicensure education approved by the board.

10) The prelicensure curriculum must consist of the
following topics:

- a) Landlord Tenant Law (Title 70, chapter 24, MCA)
- b) Federal and State Fair Housing Laws
- c) Americans with Disabilities Act
- d) State Licensing Law and Rules
- e) Trust Accounts
- f) Accounting Procedures
- g) Definitions and terms commonly used in the industry
- h) Contract Law
- i) Agency
- j) Leasing Principles

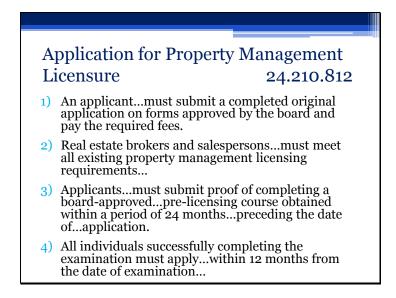
(10) The prelicensure curriculum must consist of the following topics:

- (a) landlord tenant law (Title 70, chapter 24, MCA);
- (b) federal and state fair housing laws;
- (c) Americans with Disabilities Act;
- (d) state licensing law and rules;
- (e) trust accounts;
- (f) accounting procedures;
- (g) definitions and terms commonly used in the industry;
- (h) contract law;
- (i) agency; and
- (j) leasing principles.

11) Courses must be designed so that no more than ten minutes per 60 minutes are allowed for breaks in instruction. Break time may be accumulated and used in blocks at the instructor's discretion.

12) The applicant must attend 90% of the first hour and 100% of each additional hour of the approved course time in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions. (11) Courses must be designed so that no more than ten minutes per 60 minutes are allowed for breaks in instruction. Break time may be accumulated and used in blocks at the instructor's discretion.

(12) The applicant must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.



### 24.210.812 APPLICATION FOR PROPERTY MANAGEMENT LICENSURE

(1) An applicant for a property management license must submit a completed original application on forms approved by the board and pay the required fees.

(2) Real estate brokers and salespersons wishing to obtain a property management license must meet all existing property management licensing requirements, including completion of the prelicensing course described in ARM <u>24.210.809</u>, passing the examination, submitting the license application, and paying the required fee.

(3) Applicants for licensure as a property manager must submit proof of completing a boardapproved property management prelicensing course obtained within a period of 24 months, immediately preceding the date of the submission of the application.

(4) All individuals successfully completing the examination must apply for licensure within 12 months from the date of examination. Failure to make application within that time shall invalidate examination results.

(5) The board will review all nonroutine applications.

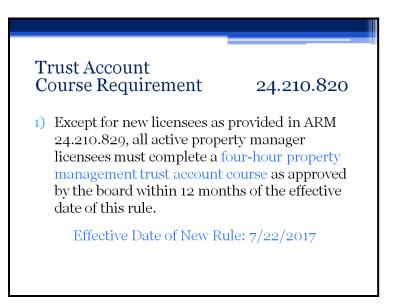
# Property Management Exam 24.210.818 1) License examinations may be held at such times and places as determined by the board. 2) The rules established by the examination provider shall be obeyed by all persons...violation of a rule may result in imposition of any sanction... 3) The board may from time to time review and amend the examination.... 4) The passing score is 80 percent.

## 24.210.818 PROPERTY MANAGEMENT EXAMINATION

(1) License examinations may be held at such times and places as determined by the board.
(2) The rules established by the examination provider shall be obeyed by all persons taking an examination. A violation of a rule may result in imposition of any sanction found in <u>37-1-312</u>, MCA.

(3) The board may from time to time review and amend the examination type, format, and the score upon which the pass or fail determination is made.

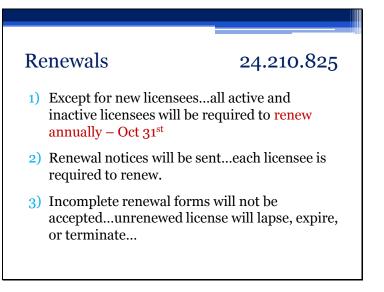
(4) The passing score is 80 percent.



### 24.210.820 TRUST ACCOUNT COURSE REQUIREMENT

(1) Except for new licensees as provided in ARM 24.210.829, all active property manager licensees must complete a four-hour property management trust account course as approved by the board within 12 months of the effective date of this rule.

\*Effective Date: 7/22/2017



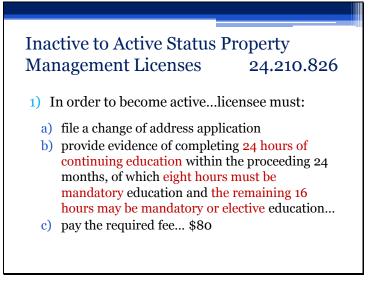
## 24.210.825 RENEWALS

(1) Except for new licensees as provided in ARM <u>24.210.827</u>, all active and inactive licensees will be required to renew as set by ARM <u>24.101.413</u>.

(2) Renewal notices will be sent as specified in ARM <u>24.101.414</u>. Each licensee is required to renew.

(3) Incomplete renewal forms will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the renewal date set forth in ARM <u>24.101.413</u>. An unrenewed license will lapse, expire, or terminate per <u>37-1-141</u>, MCA.

(4) The provisions of ARM <u>24.101.408</u> apply.



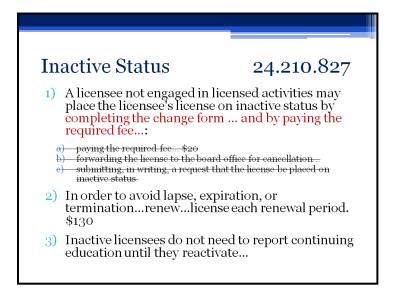
### **24.210.826** INACTIVE PROPERTY MANAGEMENT LICENSES AND REACTIVATION OF PROPERTY MANAGEMENT LICENSES

(1) In order to become active, an inactive property management licensee must:

(a) file a change of address application;

(b) provide evidence of completing 24 hours of continuing education within the proceeding 24 months, of which eight hours must be mandatory education and the remaining 16 hours may be mandatory or elective education; and

(c) pay the required fee in accordance with ARM 24.210.801.

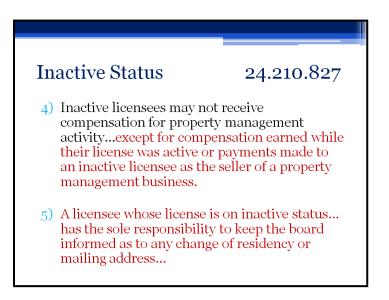


### 24.210.827 INACTIVE STATUS

(1) A licensee not engaged in licensed activities may place the licensee's license on inactive status by completing the change form requesting that the license be placed inactive and by paying the required fee in accordance with ARM 24.210.401:

(2) In order to avoid lapse, expiration, or termination of their license, inactive licensees must renew their inactive license each renewal period.

(3) Inactive licensees do not need to report continuing education until they reactivate their license as found in ARM <u>24.210.826</u>.



(4) Inactive licensees may not receive compensation for property management activity except for compensation that was earned while their license was active or payments made to an inactive licensee as the seller of a property management business.

(5) A licensee whose license is on inactive status with the board has the sole responsibility to keep the board informed as to any change of the licensee's residency or mailing address during the period of time the license remains on inactive status.

# Unprofessional Conduct 24.210.828

- 1) In any transaction in which a property management licensee is involved...violation of any statute or rule...may be considered by the board in determining whether or not the licensee has failed to meet the generally accepted standards of practice.
- 2) If the board determines that a licensee has committed an act that violates a statute or the rule...deemed an act against the interest of the public for which the board may take disciplinary action...

### 24.210.828 UNPROFESSIONAL CONDUCT FOR PROPERTY MANAGEMENT LICENSEES

(1) In any transaction in which a property management licensee is involved as a licensee or as a party, has held self out as a licensee, or in which any party has reasonably relied on a licensee's status as a licensee, violation of any statute or rule administered by the board may be considered by the board in determining whether or not the licensee has failed to meet the generally accepted standards of practice.

(2) If the board determines that a licensee has committed an act that violates a statute or the rules administered by the board, such act shall be deemed an act against the interest of the public for which the board may take disciplinary action permitted by law against the licensee.

	ne following are considered unprofessional nduct:
b) c) d) e)	failing to maintain a level of knowledgeincluding laws and rules violating laws and rules engaging in activities that constitute the practice of law engaging the services of any attorney, insurance agent, maintenance service, or other like personon behalf of a principalwithout informing and obtaining consent from the person obligated to pay for the services; engaging or recommending the services of an attorney, insurance company, maintenance service, or other like personwithout disclosing any family relationship or financial interest

(3) In addition to all other provisions contained in the statutes and rules administered by the board, the following are considered unprofessional conduct:

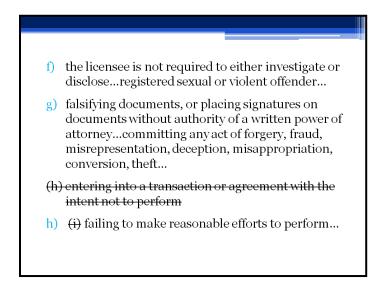
(a) failing to maintain a level of knowledge customary for licensees of this state, including laws and rules administered by the board;

(b) violating laws and rules affecting any transaction in which the licensee acts;

(c) engaging in activities that constitute the practice of law;

(d) engaging the services of any attorney, insurance agent, maintenance service, or other like person or like entity, on behalf of a principal, third-party, or other person, without informing and obtaining consent from the person obligated to pay for the services;

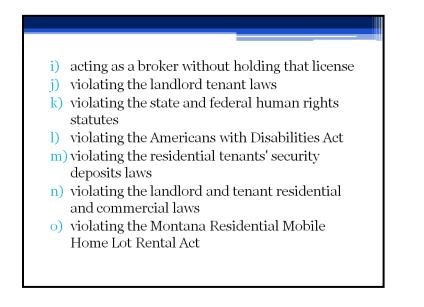
(e) engaging or recommending the services of an attorney, insurance company, maintenance service, or other like person or entity, on behalf of a principal, third-party, or other person, without disclosing any family relationship, financial relationship, and/or financial interest that the licensee or property management agency with which the licensee is associated may have in that person or entity being engaged or recommended;



(f) the licensee is not required to either investigate or disclose whether a registered sexual or violent offender resides in proximity to any property with which the licensee manages, shows, negotiates for the rental, or otherwise is involved;

(g) falsifying documents, or placing signatures on documents without authority of a written power of attorney from the party, or committing any act of forgery, fraud, misrepresentation, deception, misappropriation, conversion, theft, or any other like act;

(h) failing to make reasonable efforts to perform all obligations arising from any agreement entered into;



(i) acting as a broker without holding that license separately;

(j) violating the landlord tenant laws of Title 70, chapter 24, MCA;

(k) violating the state and federal human rights statutes;

(I) violating the Americans with Disabilities Act;

(m) violating the residential tenants' security deposits laws of Title 70, chapter 25, MCA;

(n) violating the landlord and tenant residential and commercial laws of Title 70, chapter 26, MCA;

(o) violating the Montana Residential Mobile Home Lot Rental Act of Title 70, chapter 33, MCA;



(p) violating the Residential Lead-Based Paint Disclosure Program of Title X, section 1018 of the United States Code;

(q) when entering into a management agreement failing to make a prompt effort to verify that the principal entering the agreement is the owner or is authorized by the owner to enter such agreement;

(r) failing to disclose to all customers and clients their contractual relationship;

(s) openly advertising property belonging to others, whether by means of printed material, radio, television, or display, or by other means, without a signed property management agreement from the owner of the property. The agreement must be valid as of the date of advertisement. Internet advertising is subject to the provisions of ARM <u>24.210.430</u>;

(t) failing to include the name of the property management company, or the term "property manager" in any real estate advertising, including property owned by the licensee. Internet advertising is subject to the provisions of ARM <u>24.210.430</u>.

- u) failing to disclose the fact that the individual is a licensee
- v) failing as a licensee to repay the recovery account for any amounts paid from the account, based on an unsatisfied judgment against the licensee
- w) managing property owned by a separate person or entity without a written property management agreement in place, signed by the owner
- x) failing to comply with all continuing education completion and reporting requirements

(u) failing to disclose the fact that the individual is a licensee when the licensee first seeks information from the owner, the owner's agent, or tenant about any property, whether for the licensee's own account or as agent for another.

(v) failing as a licensee to repay the recovery account for any amounts paid from the account, based on an unsatisfied judgment against the licensee;

(w) managing property owned by a separate person or entity without a written property management agreement in place, signed by the owner;

(x) failing to comply with all continuing education completion and reporting requirements as established by the board;

<ul> <li>y) accepting, giving, or charging ar commission, rebate, or profit on for a principal</li> <li>z) committing any act of forgery, f misrepresentation, deception, m conversion, theft</li> <li>aa) failing to respond to a request fab) engaging in or conducting busin managerwhen the licensee's lie inactive status, or has been cance payments received by the seller management business even if th licensee is not considered engag business as a property manager;</li> <li>ac) indicating on a renewal form tha completed all required continuin date of submissionwhen the licensee</li> </ul>	n expenditures made fraud, nisappropriation, from the board ness as a property cense has expired, is on celled; however, of a property ne seller is no longer a fing in or conducting ; t the licensee has

(y) accepting, giving, or charging an undisclosed commission, rebate, or profit on expenditures made for a principal;

(z) committing any act of forgery, fraud, misrepresentation, deception, misappropriation, conversion, theft, or any other like act;

(aa) failing to respond to a request from the board;

(ab) engaging in or conducting business as a property manager, or advertising as a property manager, or engaging in or conducting the business of a property manager at a time when the

licensee's license has expired, or is on inactive status; however, payments received by the seller of a property management business even if the seller is no longer a licensee is not considered engaging in or conducting business as a property manager; or

(ac) indicating on a renewal form that the licensee has completed all required continuing education as of the date of submission of the renewal form when the licensee has not completed the continuing education.

4) The revocation or suspension or other disciplinary treatment of any other professional or occupational license or privilege held by the licensee...demonstrates the licensee's unworthiness or incompetency to act as a property manager.

5) A licensed property manager is responsible for the actions of their employees...at no time may an unlicensed employee perform an activity for which a license is required.

(4) The revocation or suspension or other disciplinary treatment of any other professional or occupational license or privilege held by the licensee in this state or another state, whether as an attorney, salesperson, broker, appraiser, or similar occupation or profession, shall be grounds for license discipline in this state, if the board, after appropriate notice and hearing, determines that the substantive grounds for that disciplinary treatment demonstrates the licensee's unworthiness or incompetency to act as a property manager.

(5) A licensed property manager is responsible for the actions of their employees who aid or assist the property manager in the performance of property management functions. At no time may an unlicensed employee perform an activity for which a license is required.

# New Licensee Mandatory Continuing Education 24.210.829

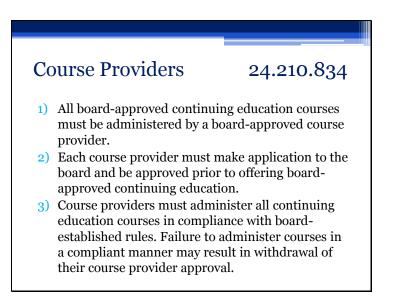
1) All new property management licensees are required to complete 12 hours of property management continuing education by the second renewal date...following their original license issue date. Four of those hours must consist of courses in property management trust accounts.

## 24.210.829 NEW LICENSEE MANDATORY CONTINUING EDUCATION - PROPERTY MANAGER

(1) All new property management licensees are required to complete 12 hours of new licensee mandatory continuing education by the second renewal date as set by ARM <u>24.101.413</u>, following their original license issue date. Six of those hours must consist of:

- (a) four hours of trust accounts;
- (b) two hours of leasing principles; and
- (c) two hours of state law update.

(2) New property managers will receive an interim license that will terminate on the second renewal date as set by ARM <u>24.101.413</u>, following their original license issue date.



#### 24.210.834 COURSE PROVIDER

(1) All board-approved continuing education courses must be administered by a boardapproved course provider.

(2) Each course provider must make application to the board and be approved prior to offering board-approved continuing education.

(3) Course providers must administer all continuing education courses in compliance with board-established rules. Failure to administer courses in a compliant manner may result in withdrawal of their course provider approval.

	Property Ma	0
Education		24.210.835
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result in a la	nte renewal and p	
hour and 10	o percent of each	percent of the first additional hour
<ol> <li>The required by the board</li> </ol>		n courses approved
	ich the required	e board will identify hours of education
<ol> <li>No licensee same report</li> </ol>		rse for credit in the

## 24.210.835 CONTINUING PROPERTY MANAGEMENT EDUCATION

(1) Each active licensee is required to complete a minimum of 12 hours of board-approved continuing property management education every licensing year. The licensing year is from November 1 through October 31.

(2) Courses completed after the renewal deadline will result in a late renewal and penalty, regardless of when the licensee submits the renewal application.

(3) The licensee must attend 90 percent of the first hour and 100 percent of each additional hour of the approved course time in order to receive credit for attendance. Reasonable accommodations will be made for people with medical conditions.

(4) The required hours shall be in courses approved by the board.

(5) By August 1 of each year, the board will identify topics in which the required hours of education must be obtained. The board, in its discretion, may adjust the topics at any time.(6) No licensee may repeat a course for credit in the same reporting period, without the course receiving prior board approval.

7)	The course provider must supply each licensee
	with a course completion certificate and student
	evaluation formand must verify attendance

- 8) The course provider must provide...evaluation forms to course attendees
- 9) A board representative may...audit all boardapproved courses for rule compliance
- 10)All continuing education course providers must report licensee attendance...to the board within 20 days
- 11) The course provider must report all education attendance in a format approved and provided by the board.

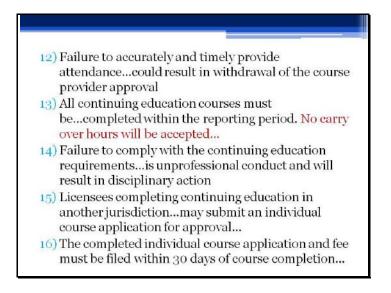
(7) The course provider must supply each licensee with a course completion certificate and

student evaluation form approved by the board and must verify attendance of each licensee. (8) The course provider must provide board-approved course and instructor evaluation forms to course attendees. A board representative may collect the forms and forward them to the board office.

(9) A board representative may, at no charge, audit all board-approved courses for rule compliance.

(10) All continuing education course providers must report licensee attendance at approved continuing education offerings to the board within 20 days of the course offering.

(11) The course provider must report all education attendance in a format approved and provided by the board.



(12) Failure to accurately and timely provide attendance information to the board could result in withdrawal of the course provider approval.

(13) All continuing education courses must be taken and completed within the reporting period. No carry over hours will be accepted from one reporting period to another, except as provided in ARM <u>24.210.829</u>.

(14) Failure to comply with the continuing education requirements established by the board is unprofessional conduct and will result in disciplinary action by the board.

(15) Licensees completing continuing education in another jurisdiction or completing education that the licensee believes meets the topic requirements of the board, but which has not previously been submitted to the board for approval, may submit an individual course application for approval consideration.

(16) The completed individual course application and accompanying fee must be filed with the board office within 30 days of completion of the course. Failure to timely file the application will result in a late filing fee.

## **Board Approved CE Topics**

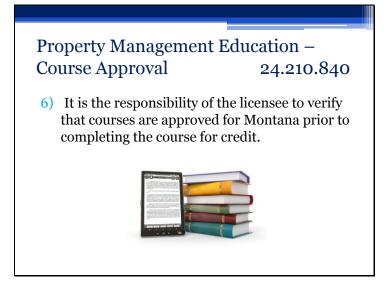
#### Mandatory:

- Agency
- Brokerage Management
- Consumer Tax Issues
- Contract Law
- Data Security
- Ethics and Standards of Practice Fair Housing
- Finance
- Landlord/Tenant Law
- Montana Licensing Laws and Rules
- Non-Residential Real Estate
- Property Management Related Topics
- Real Estate Law
- Risk Reduction
- Trust Accounts

#### Board Approved CE Topics Elective: • Agriculture Issues • Business Valuation NEW

- Conflict Resolution
- Land Use Planning, Construction and Land Development
- Economic Conditions & Issues
- Energy Conservation
- Environmental Issues
- Escrow, Closing & Settlement Procedures
- Financial Strategies/Creative Financing
- Forms
- Fractional Interest Ownership
- How Government/Community Works
- Mobile & Other Manufactured Homes NEW
- Negotiation
- Property Inspection
- Title Insurance





#### 24.210.840 CONTINUING PROPERTY MANAGEMENT EDUCATION -- COURSE APPROVAL

(1) Requests for approval of a continuing property management education course must be made on forms approved by the board or its designee and submitted at least 30 days prior to the date of the intended course, with payment of the required fee.

(2) The initial approval of a course will be in effect for the remainder of that calendar year, and the next calendar year in its entirety, expiring on December 31. Course approval may be revoked for cause.

(3) Courses must be designed so that no more than ten minutes per 60 minutes are allowed for breaks in instruction. Break time may be accumulated and used in blocks at the instructor's discretion.

(4) The board or its designee may, at its discretion, and without requiring further qualification, approve courses from the approved topic list under the following instances:

(a) courses approved by another jurisdiction's real estate licensing authority, or

(b) courses which lead to designations or certifications by board-recognized trade or professional associations.

(5) A distance education course may be approved if the board determines that:

(a) an appropriate and complete application has been filed and approved by the board;

(b) the distance education course meets the content requirements as established under ARM24.210.835;

(c) the distance education course is certified by the Association of Real Estate License Law Officials (ARELLO) and the course provider has provided appropriate documentation that the ARELLO certification is in effect. Approval will cease immediately should ARELLO certification be discontinued for any reason; and

(d) the distance education course meets all other requirements as prescribed in the statutes and rules.

(6) It is the responsibility of the licensee to verify that courses are approved for Montana prior to completing the course for credit.



#### 24.210.843 CONTINUING PROPERTY MANAGEMENT EDUCATION -- INSTRUCTOR APPROVAL

(1) Request for approval of a continuing education instructor must be made on forms approved by the board or its designee and submitted at least 30 days prior to the intended instruction with payment of the required fee.

(2) The initial approval of an instructor will be in effect for the remainder of that calendar year and the next calendar year in its entirety, expiring December 31. Approval may be revoked for cause.

(3) Approved instructors must have:

(a) at least a bachelor's degree in a field traditionally associated with the subject matter of property management or current experience or qualifications approved by the board; or
(b) a designated real estate instructor or other nationally recognized instructor designation.
(4) Persons such as attorneys, investigators, government officers or employees, or mortgage loan officers may be approved as instructors or may act as speakers under the supervision of approved instructors as long as instruction is limited to the instructor's field of expertise.
(5) Instructor approval will be for specific topics and will not carry over to other topics of education. An instructor must make application for each topic and may not be deemed approved for other topics without approval from the board or its designee.

# **Additional Resources**

Bookmark these sites!

MONTANA RULES CHAPTER 24 http://www.mtrules.org

MONTANA CODE ANNOTATED http://leg.mt.gov/bills/mca\_toc/

# Day Two – The Residential Landlord Tenant Act of 1977



# Residential Tenants' Security Deposit Act

# Landlord and Tenant Residential and Commercial

# The Montana Residential Mobile Home Lot Rental Act

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#### Purpose

- Recognize the importance of both parties
- Establish a contractual legal relationship
- Avoid misunderstandings and controversies
- Apply it to reasonable people
- Cover "all" relationships between residential landlords and tenants

## Sources of MRLTA

- Section 70-24: This is the bulk of the Residential Landlord/Tenant Law
- Section 70-25: This is better known as the Residential Tenant Security Deposit Act
- Section 70-26: Deals with Residential and Commercial
- Section 70-33: Mobile Home Lot Rental Act
- Section 70-27: Commercial only, does not apply to residential properties.

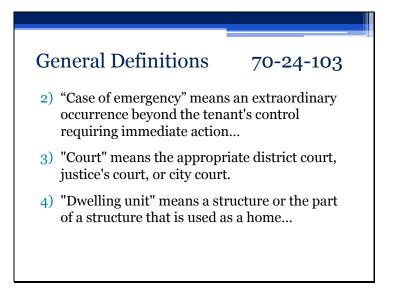
**70-24-101. Short title.** This chapter may be cited as "The Montana Residential Landlord and Tenant Act of 1977".

**70-24-102.** Purposes -- liberal construction to promote. (1) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this chapter are to:

(a) simplify, clarify, modernize, and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants; and

(b) encourage landlords and tenants to maintain and improve the quality of housing.



**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...
- 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...

(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 other legal or commercial entity.

- 8) "Owner" means one or more persons, jointly or severally...
- 9) "Person" includes an individual or organization.
- 10)"Premises" means a dwelling unit and the structure of which it is a part...
- 11) "Rent" means all payments to be made to the landlord under the rental agreement.
- 12) "Rental agreement" means all agreements, written or oral...

(8) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:(a) the legal title to property; or

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

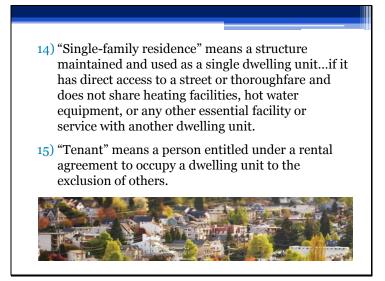
(9) "Person" includes an individual or organization.

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

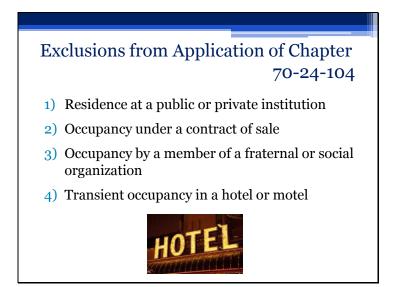
(11) "Rent" means all payments to be made to the landlord under the rental agreement.

(12) "Rental agreement" means all agreements, written or oral, and valid rules adopted

under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.



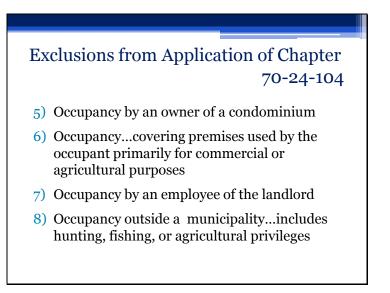
(13) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of which are used in common by occupants in the structure.
(14) "Single-family residence" means a structure maintained and used as a single dwelling unit. A dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or service with another dwelling unit.
(15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.



**70-24-104.** Exclusions from application of chapter. Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

 (1) residence at a public or private institution if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service, including all housing provided by the Montana university system and other postsecondary institutions;
 (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the occupant is the purchaser or a person who succeeds to the purchaser's interest; (3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(4) transient occupancy in a hotel or motel;

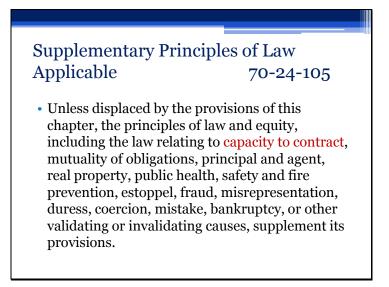


(5) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

(6) occupancy under a rental agreement covering premises used by the occupant primarily for commercial or agricultural purposes;

(7) occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises; and

(8) occupancy outside a municipality under a rental agreement that includes hunting, fishing, or agricultural privileges, along with the use of the dwelling unit.

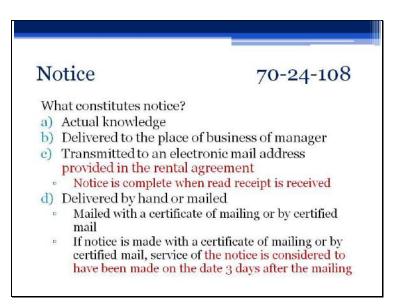


**70-24-105.** Supplementary principles of law applicable. Unless displaced by the provisions of this chapter, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire

prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes, supplement its provisions.

**70-24-106.** Construction against implicit repeal. No part of this chapter is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

**70-24-107. Territorial application.** This chapter applies to, regulates, and determines rights, obligations, and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.



**70-24-108. What constitutes notice.** (1) A person has notice of a fact if any of the following is true:

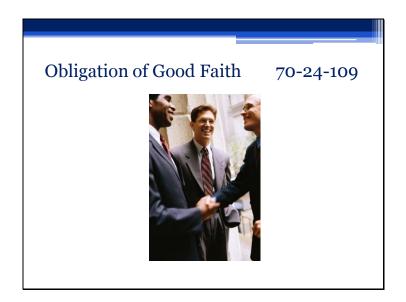
(a) the person has actual knowledge of it;

(b) in the case of a landlord, it is delivered at the place of business of the landlord through which the rental agreement was made;

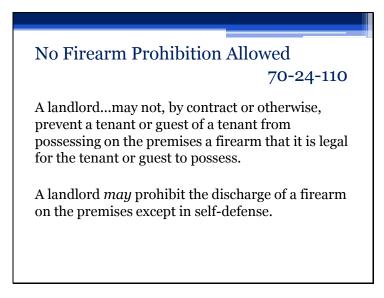
(c) in the case of a tenant or a landlord, it is transmitted to an electronic mail address provided by the tenant or the landlord in the rental agreement. Notice by electronic mail is complete on receipt of a read receipt generated by an electronic mail system or an electronic mail reply other than an automatically generated electronic mail reply.

(d) in the case of a landlord or tenant, it is delivered in hand to the landlord or tenant or mailed with a certificate of mailing or by certified mail to the person at the place indicated by the person as the place for receipt of the communication or, in the absence of a designation, to the person's last-known address. If notice is made with a certificate of mailing or by certified mail, service of the notice is considered to have been made on the date 3 days after the date of mailing.

(2) Notice received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised reasonable diligence.



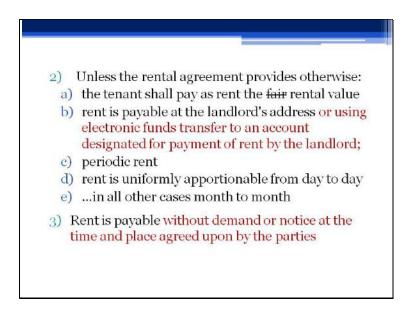
**70-24-109. Obligation of good faith.** Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement.



**70-24-110.** Landlords and tenants -- no firearm prohibition allowed. A landlord or operator of a hotel or motel may not, by contract or otherwise, prevent a tenant or a guest of a tenant from possessing on the premises a firearm that it is legal for the tenant or guest to possess. A landlord or operator of a hotel or motel may prohibit the discharge of a firearm on the premises except in self-defense.



**70-24-201. Rental agreement** -- **terms and conditions.** (1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule or law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.



(2) Unless the rental agreement provides otherwise:

(a) the tenant shall pay as rent the rental value for the use and occupancy of the dwelling unit as determined by the landlord;

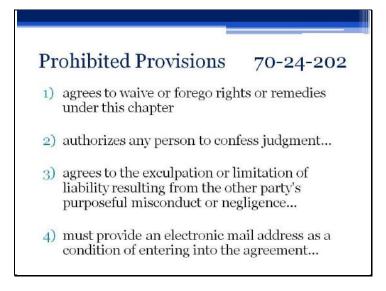
(b) rent is payable at the landlord's address or using electronic funds transfer to an account designated for the payment of rent by the landlord;

(c) periodic rent is payable at the beginning of a term of a month or less and otherwise in equal monthly installments at the beginning of each month;

(d) rent is uniformly apportionable from day to day; and

(e) the tenancy is week to week in the case of a roomer who pays weekly rent and in all other cases month to month.

(3) Rent is payable without demand or notice at the time and place agreed upon by the parties or provided for by subsection (2).



**70-24-202.** Prohibited provisions in rental agreements. A rental agreement may not provide that a party:

(1) agrees to waive or forego rights or remedies under this chapter;

(2) authorizes any person to confess judgment on a claim arising out of the rental agreement;

(3) agrees to the exculpation or limitation of liability resulting from the other party's purposeful misconduct or negligence or to indemnify the other party for that liability or the costs or attorney fees connected with that liability; or

(4) must provide an electronic mail address as a condition of entering into the agreement. However, a party may voluntarily provide an electronic mail address if the agreement contains a provision allowing a party to elect to receive notice by electronic mail.

## **Confession Judgment**

• Confession of judgment is an agreement by a party to a lease or promissory note that in the event of a default the other party, usually a landlord or lender, may proceed to the county courthouse to declare a default and enter judgment immediately in an agreed upon amount. The defaulting party does not receive the benefit of a trial.

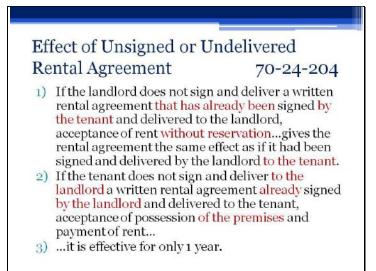
#### Exculpation or Limitation of Liability

- Exculpatory clauses extinguish or limit liability of a potentially culpable party through the use of disclaimer, assumption of risk, and indemnification clauses as releases of liability.
- Not legal in Montana on residential leases/rental agreements – limit a landlord's liability to a tenant for breach of the implied warranty of habitability

## Agreement Not to Permit Receipt of Rent Free of Obligation 70-24-203

• Under the Residential Landlord Tenant Act, the Legislature decided that as a matter of policy, landlords and tenants cannot by mutual consent or otherwise avoid complying with 70-24-303

**70-24-203.** Agreement not to permit receipt of rent free of obligation. A rental agreement or a document related thereto may not permit the receipt of rent free of the obligation to comply with 70-24-303.

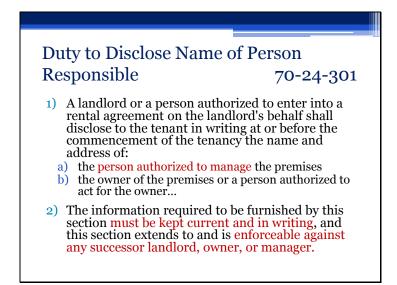


70-24-204. Effect of unsigned or undelivered rental agreement. (1) If the landlord does not sign and deliver a written rental agreement that has already been signed by the tenant and delivered to the landlord, acceptance of rent by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord to the tenant.
(2) If the tenant does not sign and deliver to the landlord a written rental agreement that has already been signed by the landlord and delivered to the tenant, acceptance of possession of the premises and payment of rent without reservation by the tenant gives the rental agreement the same effect as if it had been signed and delivered by the tenant gives the rental agreement the same effect as if it had been signed and delivered to the tenant, acceptance of possession of the premises and payment of rent without reservation by the tenant gives the rental agreement the same effect as if it had been signed and delivered by the tenant to the landlord.
(3) If a rental agreement given effect by the operation of this section provides for a term longer than 1 year, it is effective for only 1 year.



#### 70-24-205. Extension of written rental agreements.

(1) If the landlord and tenant fail to establish a default extension period for the lease in the rental agreement and neither party gives a 30-day written notice to the other to terminate the tenancy before the rental agreement's original termination date, the tenancy continues on a month-to-month basis.



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

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

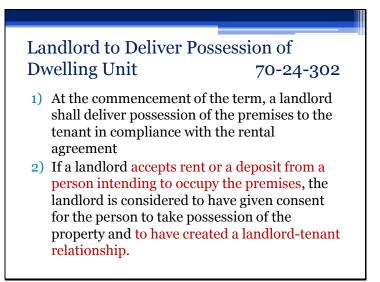
(b) the owner of the premises or a person authorized to act for the owner for the purpose of service of process and receiving notices and demands.

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

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

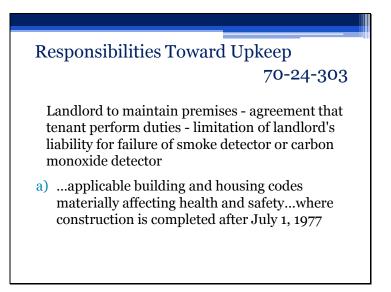
- (a) service of process and receiving notices and demands; and
- (b) performing the obligations of the landlord under this chapter and under the rental

agreement and expending or making available for that purpose all rent collected from the premises.



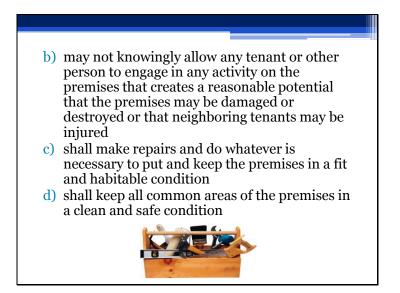
**70-24-302.** Landlord to deliver possession of dwelling unit. (1) At the commencement of the term, a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and 70-24-303. A landlord may bring an action for possession against a person wrongfully in possession.

(2) If a landlord accepts rent or a deposit from a person intending to occupy the premises, the landlord is considered to have given consent for the person to take possession of the property and to have created a landlord-tenant relationship.



#### **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:

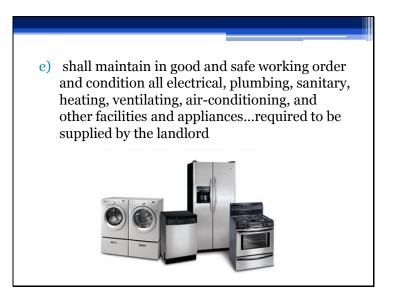
(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;



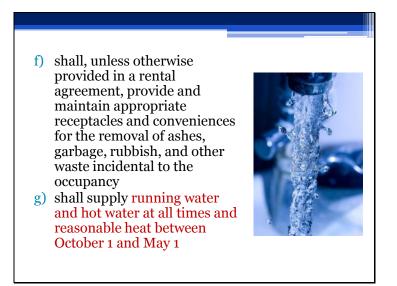
(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured;

(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

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

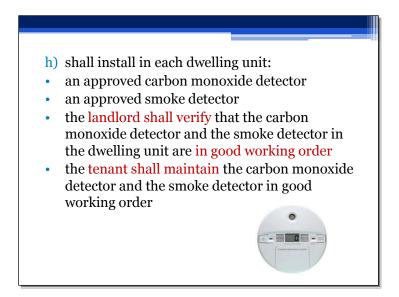


(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;



(f) 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) shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and



(h) shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke detector, in accordance with rules adopted by the department of justice. Upon commencement of a rental agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling unit are in good working order. The

tenant shall maintain the carbon monoxide detector and the smoke detector in good working order during the tenant's rental period. For the purposes of this subsection, an approved carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113, bear a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

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

#### DOJ Standards for Smoke Detectors

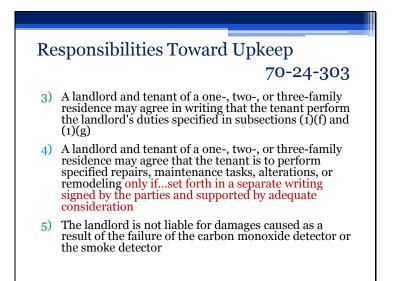
#### 23.12.406 Smoke Detectors In Rental Units

- In accordance with the Residential Landlord and Tenant Act of 1977, an approved smoke detector shall be installed by the landlord in each dwelling unit rented to another person
- An approved smoke detector is a device that is capable of detecting visible or invisible particles of combustion, that emits an alarm signal, and that bears a label or other identification issued by an approved testing agency which inspects materials and workmanship at the factory during fabrication and assembly.

### DOL Standards for CO Detectors

#### **Carbon Monoxide Detectors**

- 1) The department provides the following standard for the location, number, and type of approved carbon monoxide detectors required to be installed in dwelling units as provided by 70-20-113 and 70-24-303, MCA:
  - a) In dwelling units containing fuel-fired appliances or having attached garages, a carbon monoxide detector must be installed outside each separate sleeping area in the immediate vicinity of the bedrooms.
  - b) Single station carbon monoxide detectors must comply with Underwriters Laboratory (UL) 2034 and be installed in accordance with the manufacturer's instructions.



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

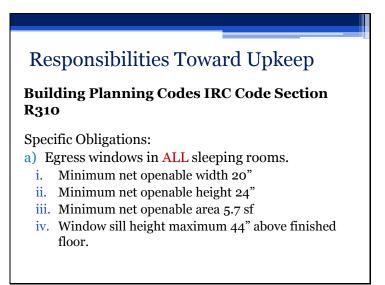
(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

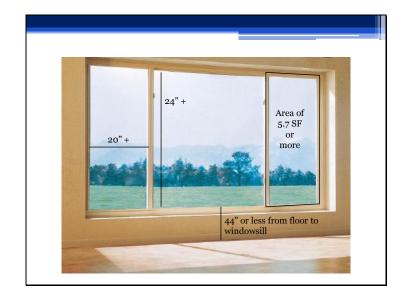
(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

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

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

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

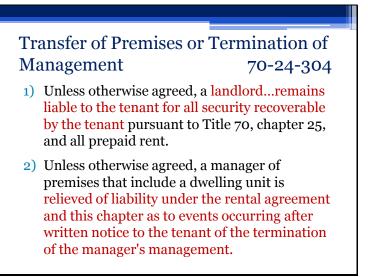




## Responsibilities Toward Upkeep

#### **Specific Obligations Regarding Detectors:**

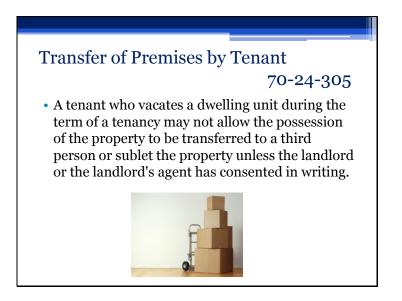
- Smoke detectors in all sleeping rooms
- Hallways adjacent to sleeping rooms
- At least one on every level, regardless of whether there is a sleeping room or not
- Must install carbon monoxide detectors



#### 70-24-304. Transfer of premises or termination of management -- relief from liability. (1)

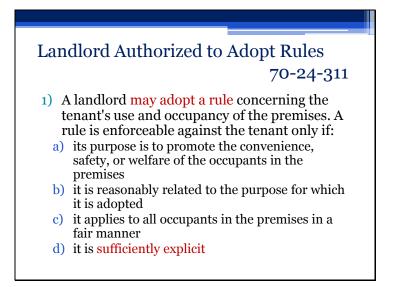
Unless otherwise agreed, a landlord who conveys, in a good faith sale to a bona fide purchaser, premises that include a dwelling unit subject to a rental agreement is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the conveyance. The landlord remains liable to the tenant for all security recoverable by the tenant pursuant to Title 70, chapter 25, and all prepaid rent.

(2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of the manager's management.



**70-24-305. Transfer of premises by tenant.** A tenant who vacates a dwelling unit during the term of a tenancy may not allow the possession of the property to be transferred to a third person or sublet the property unless the landlord or the landlord's agent has consented in writing.

#### 70-24-306 through 70-24-310 reserved.



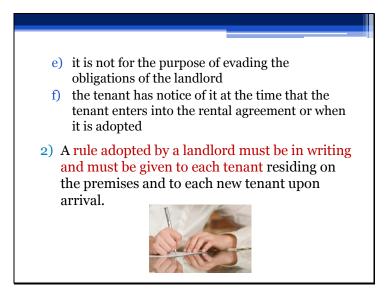
**70-24-311.** Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

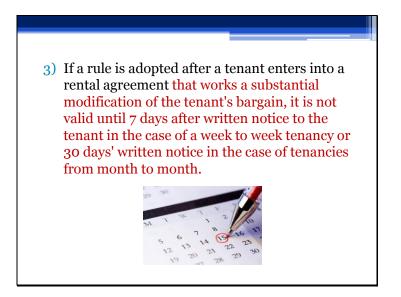
(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply;



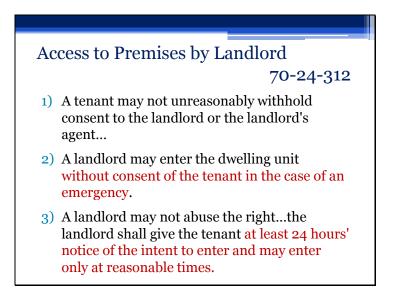
(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time that the tenant enters into the rental agreement or when it is adopted.

(2) A rule adopted by a landlord must be in writing and must be given to each tenant residing on the premises and to each new tenant upon arrival.



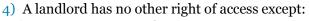
(3) If a rule is adopted after a tenant enters into a rental agreement that works a substantial modification of the tenant's bargain, it is not valid until 7 days after written notice to the tenant in the case of a week to week tenancy or 30 days' written notice in the case of tenancies from month to month.



**70-24-312.** Access to premises by landlord. (1) A tenant may not unreasonably withhold consent to the landlord or the landlord's agent to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

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

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



- a) Pursuant to court order
- b) As permitted by 70-24-425 and 70-24-426 (2)
- c) When the tenant has abandoned or surrendered the premises
- 5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises without the written permission of the landlord...the tenant shall provide the landlord with a key to ensure that the landlord will have the right of access
- (4) A landlord has no other right of access except:
  - (a) pursuant to court order;
  - (b) as permitted by 70-24-425 and 70-24-426(2); or
  - (c) when the tenant has abandoned or surrendered the premises.

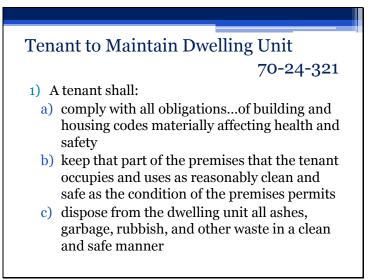
(5) A tenant may not remove a lock or replace or add a lock not supplied by the landlord to the premises without the written permission of the landlord. If a tenant removes a lock or replaces or adds a lock not supplied by the landlord to the premises, the tenant shall provide the landlord with a key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

#### 70-24-313. Repealed.

**70-24-314. Resident associations -- meetings.** The membership of a resident association may elect officers of the association at a meeting at which a majority of the members are present. All residents may attend meetings.

#### 70-24-315. Repealed.

70-24-316 through 70-24-320 reserved.

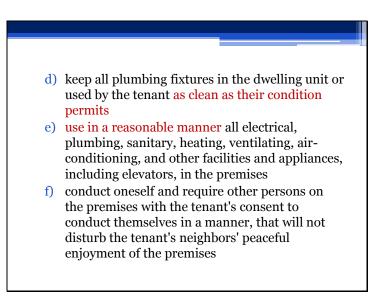


#### 70-24-321. Tenant to maintain dwelling unit. (1) A tenant shall:

(a) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(b) keep that part of the premises that the tenant occupies and uses as reasonably clean and safe as the condition of the premises permits;

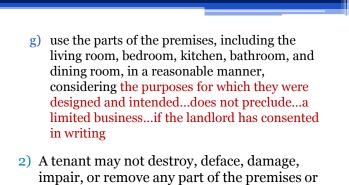
(c) dispose from the dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;



(d) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(e) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, airconditioning, and other facilities and appliances, including elevators, in the premises;

(f) conduct oneself and require other persons on the premises with the tenant's consent to conduct themselves in a manner, that will not disturb the tenant's neighbors' peaceful enjoyment of the premises; and



permit any person to do so.

(g) use the parts of the premises, including the living room, bedroom, kitchen, bathroom, and dining room, in a reasonable manner, considering the purposes for which they were designed and intended. This section does not preclude the right of the tenant to operate a limited business or cottage industry on the premises, subject to state and local laws, if the landlord has consented in writing. The landlord may not unreasonably withhold consent if the limited business or cottage industry is operated within reasonable rules of the landlord.
(2) A tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so.

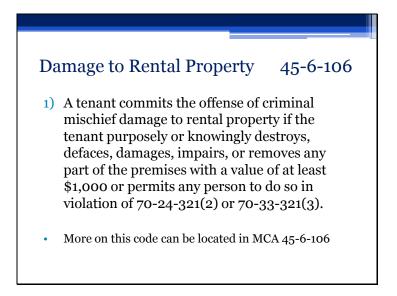
# 3) A tenant may not engage or knowingly allow any person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, including but not limited to any of the following activities:

- (a) criminal production or manufacture of dangerous drugs as prohibited by 45-9-110
- (b) operation of an unlawful clandestine laboratory as prohibited by 45-9-132
- (c) gang-related activities as prohibited by Title 45, chapter 8, part 4
- (d) unlawful possession of a firearm, explosive, or hazardous or toxic substance
- (e) any activity that is otherwise prohibited by law

(3) A tenant may not engage or knowingly allow any 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, including but not limited to any of the following activities:

- (a) criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;
- (b) operation of an unlawful clandestine laboratory as prohibited by 45-9-132;
- (c) gang-related activities as prohibited by Title 45, chapter 8, part 4;

(d) unlawful possession of a firearm, explosive, or hazardous or toxic substance; or (e) any activity that is otherwise prohibited by law.



**45-6-106.** Criminal mischief damage to rental property. (1) A tenant commits the offense of criminal mischief damage to rental property if the tenant purposely or knowingly destroys, defaces, damages, impairs, or removes any part of the premises with a value of at least \$1,000 or permits any person to do so in violation of 70-24-321(2) or 70-33-321(3).

(2) A person convicted of the offense of criminal mischief damage to rental property shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person convicted of criminal mischief damage to rental property must be ordered to make restitution in an amount and manner to be set by the court pursuant to 46-18-201(5) and 46-18-241 through 46-18-249.

(4) A prosecution under this section is independent of and does not constitute a waiver of any of the rights, duties, obligations, and remedies otherwise provided for under Title 70, chapter 24 or 33.

(5) A person convicted of criminal mischief damage to rental property under this section is not subject to the provisions of 45-6-101.



70-24-322. Tenant to occupy as dwelling unit only -- extended absence. (1) Unless otherwise agreed, a tenant shall occupy the tenant's dwelling unit only as a dwelling unit.
(2) The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of 7 days no later than the first day of the extended absence.



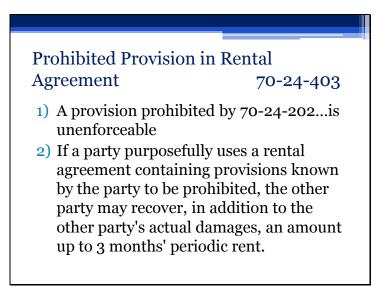
**70-24-401.** Administration of remedies -- enforcement. (1) The remedies provided by this chapter must be administered so that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) A right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

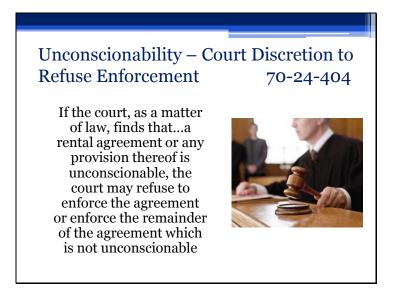
(3) Rules and regulations that are not a part of this chapter and that affect the relationship between the landlord and tenant must be uniformly and fairly applied and enforced.



**70-24-402. Settlement of disputed claim or right.** A claim or right arising under this chapter or on a rental agreement, if disputed in good faith, may be settled by agreement.



70-24-403. Prohibited provision in rental agreement -- unenforceability -- damages. (1) A provision prohibited by 70-24-202 that is included in a rental agreement is unenforceable.
(2) If a party purposefully uses a rental agreement containing provisions known by the party to be prohibited, the other party may recover, in addition to the other party's actual damages, an amount up to 3 months' periodic rent.



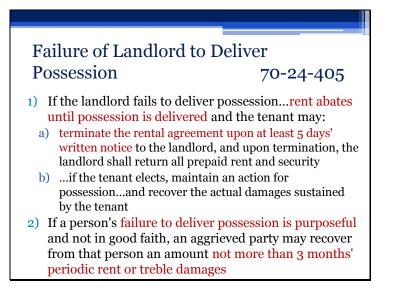
**70-24-404.** Unconscionability -- court discretion to refuse enforcement. (1) If the court, as a matter of law, finds that:

(a) a rental agreement or any provision thereof is unconscionable, the court may refuse to enforce the agreement or enforce the remainder of the agreement without the unconscionable provision to avoid an unconscionable result; or

(b) a settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement is unconscionable, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.(2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

### Unconscionable: 2-Step Analysis

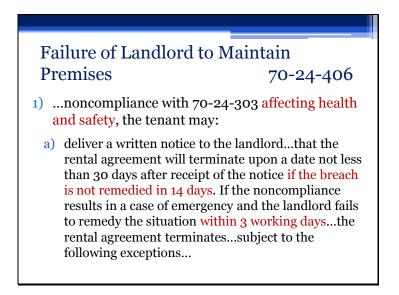
- **Procedural unconscionability** results from inequalities between the parties as to age, intelligence, and relative bargaining power. It disclose that both parties did not freely consent to all terms proposed.
- **Substantive unconscionability** results when contract terms are excessively oppressive or harsh. Substantive unconscionability involves cases where the terms of bargain themselves disclose that transaction may be suspect.



**70-24-405.** Failure of landlord to deliver possession -- tenant's remedies. (1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in 70-24-302, rent abates until possession is delivered and the tenant may:

(a) terminate the rental agreement upon at least 5 days' written notice to the landlord, and upon termination, the landlord shall return all prepaid rent and security; or

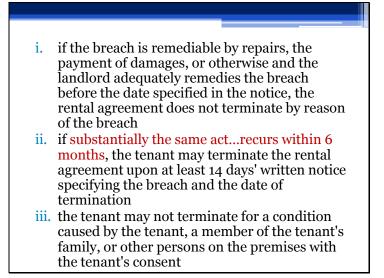
(b) demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or a person wrongfully in possession and recover the actual damages sustained by the tenant.(2) If a person's failure to deliver possession is purposeful and not in good faith, an aggrieved party may recover from that person an amount not more than 3 months' periodic rent or treble damages, whichever is greater.



**70-24-406.** Failure of landlord to maintain premises -- tenant's remedies. (1) Except as provided in this chapter, if there is a noncompliance with 70-24-303 affecting health and safety, the tenant may:

(a) deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 30 days after

receipt of the notice if the breach is not remedied in 14 days. If the noncompliance results in a case of emergency and the landlord fails to remedy the situation within 3 working days after written notice by the tenant of the situation and the tenant's intention to terminate the rental agreement, the tenant may terminate the rental agreement.

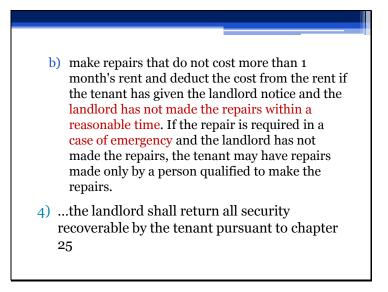


The rental agreement terminates as provided in the notice subject to the following exceptions:

(i) if the breach is remediable by repairs, the payment of damages, or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate by reason of the breach;

(ii) if substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within 6 months, the tenant may terminate the rental agreement upon at least 14 days' written notice specifying the breach and the date of termination of the rental agreement;

(iii) the tenant may not terminate for a condition caused by the tenant, a member of the tenant's family, or other persons on the premises with the tenant's consent.



(b) make repairs that do not cost more than 1 month's rent and deduct the cost from the rent if the tenant has given the landlord notice and the landlord has not made the repairs within a reasonable time. If the repair is required in a case of emergency and the landlord has not made the repairs, the tenant may have repairs made only by a person qualified to make the repairs.(2) Except as provided in this chapter, the tenant may recover actual damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or 70-24-303.

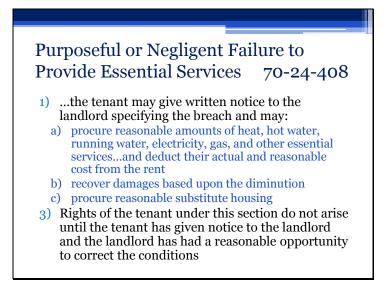
(3) The remedy provided in subsection (2) of this section is in addition to a right of the tenant arising under subsection (1).

(4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant pursuant to chapter 25 of this title.



**70-24-407.** Damages for minor violations by landlord. If the landlord fails to comply with the rental agreement or 70-24-303 and the reasonable cost of compliance is less than the 1 month's rent, the tenant may recover damages for the breach under 70-24-406(2).





#### 70-24-408. Purposeful or negligent failure to provide essential services -- tenant's

**remedies.** (1) If contrary to the rental agreement or 70-24-303 the landlord purposefully or negligently fails to supply heat, running water, hot water, electric, gas, or other essential services, the tenant may give written notice to the landlord specifying the breach and may:

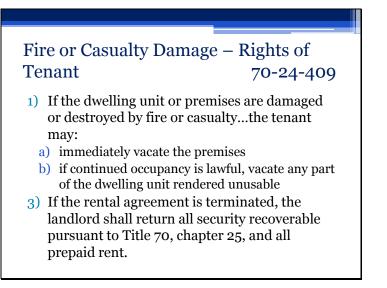
(a) procure reasonable amounts of heat, hot water, running water, electricity, gas, and other essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) If the tenant proceeds under this section, the tenant may not proceed under 70-24-406 or 70-24-407 as to that breach.

(3) Rights of the tenant under this section do not arise until the tenant has given notice to the landlord and the landlord has had a reasonable opportunity to correct the conditions or if the conditions were caused by the act or omission of the tenant, a member of the tenant's family, or any other person on the premises with the tenant's consent.



**70-24-409.** Fire or casualty damage -- rights of tenant. (1) If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

(a) immediately vacate the premises and notify the landlord in writing within 14 days of the tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(b) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

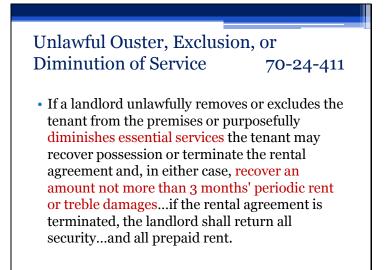
(2) This section does not apply when the fire and casualty damage was caused by the purposeful or negligent act of the tenant or the tenant's family or guests.

(3) If the rental agreement is terminated, the landlord shall return all security recoverable pursuant to Title 70, chapter 25, and all prepaid rent. Accounting for rent in the event of termination or apportionment must be made as of the date of the fire or casualty.



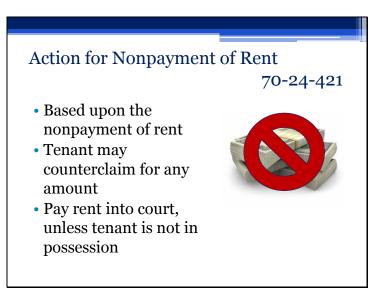
**70-24-410. Unlawful or unreasonable entry by landlord -- tenant's remedies.** If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated

demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may either obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages.



**70-24-411. Unlawful ouster, exclusion, or diminution of service -- tenant's remedies.** If a landlord unlawfully removes or excludes the tenant from the premises or purposefully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electricity, gas, or other essential services, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than 3 months' periodic rent or treble damages, whichever is greater. If the rental agreement is terminated, the landlord shall return all security recoverable pursuant to chapter 25 of this title and all prepaid rent.

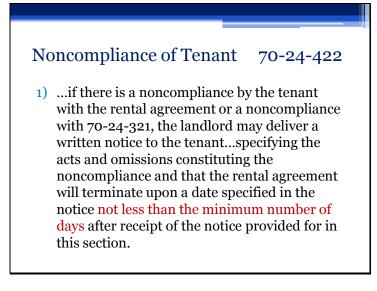
#### 70-24-412 through 70-24-420 reserved.



**70-24-421.** Action for nonpayment of rent -- tenant's counterclaim. (1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in

possession, the tenant may counterclaim for any amount the tenant may recover under the rental agreement or this chapter. The court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing and shall determine the amount due to each party. The party to whom a net amount is owed must be paid first from the money paid into court and the balance by the other party. The court may at any time release money paid into the court to either party if the parties so agree or if the court finds a party entitled to the sums released. If no rent remains due after application of this section, judgment must be entered for the tenant in the action for possession.

(2) In an action for rent when the tenant is not in possession, the tenant may counterclaim as provided in subsection (1) but is not required to pay any rent into court.



**70-24-422.** Noncompliance of tenant generally -- landlord's right of termination -- damages -injunction. (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate upon a date specified in the notice not less than the minimum number of days after receipt of the notice provided for in this section. The rental agreement terminates as provided in the notice, subject to the following:

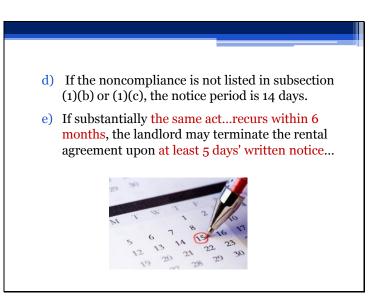
- a) If the noncompliance is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the noncompliance before the date specified in the notice, the rental agreement does not terminate.
- b) If the noncompliance involves an unauthorized pet, the notice period is 3 days.
- c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is 3 days.

The rental agreement terminates as provided in the notice, subject to the following:

(a) If the noncompliance is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the noncompliance before the date specified in the notice, the rental agreement does not terminate.

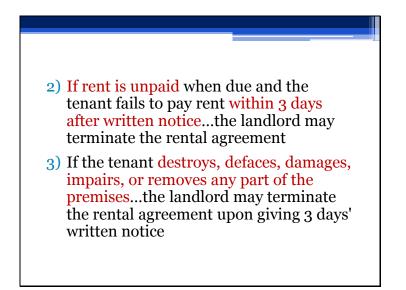
(b) If the noncompliance involves an unauthorized pet, the notice period is 3 days.

(c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is 3 days.



(d) If the noncompliance is not listed in subsection (1)(b) or (1)(c), the notice period is 14 days.

(e) If substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the noncompliance and the date of the termination of the rental agreement.

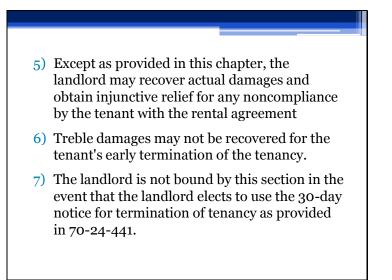


(2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the noncompliance under the provisions of 70-24-321(2).

4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, in violation of 70-24-321(3), the landlord may terminate the rental agreement upon giving 3 days written notice specifying the violation and noncompliance under the provisions of 70-24-321(3)

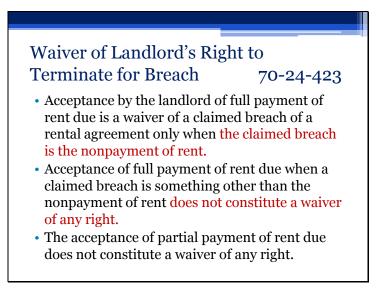
(4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured in violation of 70-24-321(3), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the violation and noncompliance under the provisions of 70-24-321(3).



(5) Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (6), if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

(6) Treble damages may not be recovered for the tenant's early termination of the tenancy.

(7) The landlord is not bound by this section in the event that the landlord elects to use the 30day notice for termination of tenancy as provided in 70-24-441.

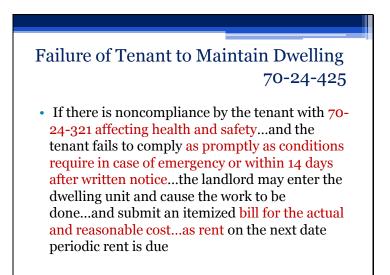


**70-24-423.** Waiver of landlord's right to terminate for breach. Acceptance by the landlord of full payment of rent due is a waiver of a claimed breach of a rental agreement only when the claimed breach is the nonpayment of rent. Acceptance of full payment of rent due when a claimed breach is something other than the nonpayment of rent does not constitute a waiver of any right. The acceptance of partial payment of rent due does not constitute a waiver of any right.

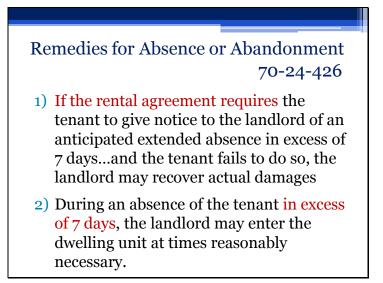


**70-24-424. Refusal of access -- landlord's remedies.** (1) If the tenant refuses to allow lawful access, the landlord may either obtain injunctive relief to compel access or terminate the rental agreement. In either case the landlord may recover actual damages.

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

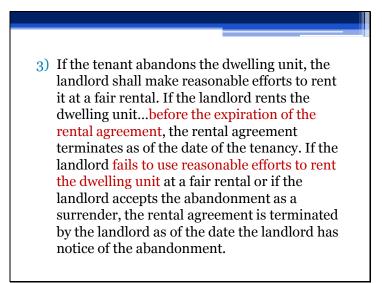


**70-24-425.** Failure of tenant to maintain dwelling -- landlord's right to enter and repair. If there is noncompliance by the tenant with 70-24-321 affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning and the tenant fails to comply as promptly as conditions require in case of emergency or within 14 days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit an itemized bill for the actual and reasonable cost, the fair and reasonable value thereof as rent on the next date periodic rent is due or, if the rental agreement has terminated, for immediate payment.



**70-24-426. Remedies for absence or abandonment.** (1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of 7 days, as provided for in70-24-322, and the tenant fails to do so, the landlord may recover actual damages from the tenant.

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



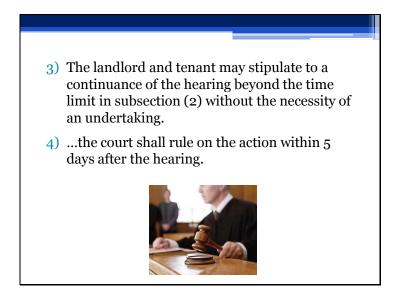
(3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, the rental agreement terminates as of the date of the tenancy. If the landlord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



**70-24-427.** Landlord's remedies after termination -- action for possession. (1) If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for any breach of the rental agreement.

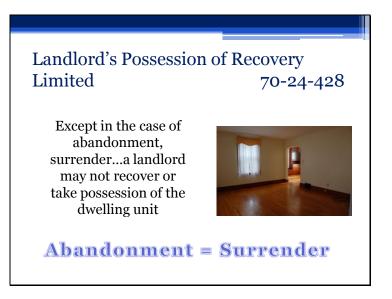
2) An action filed pursuant to subsection (1) in a court must be heard within 14 days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons. If the action is appealed to the district court, the hearing must be held within 14 business days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the hearing must be held within 5 business days after the case is transmitted to the district court.

(2) An action filed pursuant to subsection (1) in a court must be heard within 14 days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons. If the action is appealed to the district court, the hearing must be held within 14 days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the hearing must be held within 14 days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the hearing must be held within 5 business days after the case is transmitted to the district court.

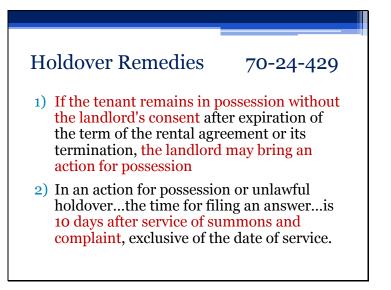


(3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in subsection (2) without the necessity of an undertaking.

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 days after the hearing.



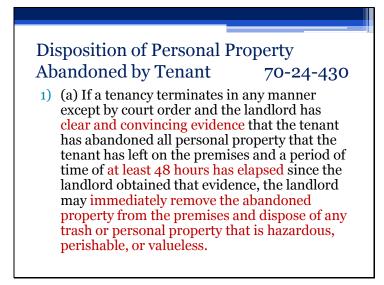
**70-24-428.** Landlord's recovery of possession limited. Except in the case of abandonment, surrender, or as permitted in this chapter, a landlord may not recover or take possession of the dwelling unit by action or otherwise, including purposeful diminution of services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electricity, gas, or other essential services.



**70-24-429.** Holdover remedies -- consent to continued occupancy -- tenant's response to service in action for possession. (1) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession. If the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount not more than 3 months' periodic rent or treble damages, whichever is greater.

(2) In an action for possession or unlawful holdover, the provisions of Title 25, chapter 23, apply, except that the time for filing an answer under Rule 4C(2)(b) is 10 days after service of summons and complaint, exclusive of the date of service.

(3) If the landlord consents to the tenant's continued occupancy, 70-24-201(2)(e) applies.



**70-24-430. Disposition of personal property abandoned by tenant after termination.** (1) (a) If a tenancy terminates in any manner except by court order and the landlord has clear and convincing evidence that the tenant has abandoned all personal property that the tenant has left on the premises and a period of time of at least 48 hours has elapsed since the landlord obtained that evidence, the landlord may immediately remove the abandoned property from

the premises and immediately dispose of any trash or personal property that is hazardous, perishable, or valueless.

b) An item that is clearly labeled "rent to own" or
"leased" or likewise identified may be discarded
only with confirmation from the lessor that the
item does not have a lien
c)the following definitions apply:
i. "Hazardous" means any item that isflammable, a
biohazard, orotherwise capable of inflictingharm
or injury.
5 5
ii. "Perishable" means any item requiring
refrigerationwith a marked expiration date.
iii. "Valueless" means any item that has insubstantial
resale value but does not include personal photos,
jewelry, or other small items that are irreplaceable.

(b) An item that is clearly labeled "rent to own" or "leased" or likewise identified may be discarded only with confirmation from the lessor that the item does not have a lien, provided that the lessor can be easily identified from the label and the landlord makes a reasonable effort to contact the lessor.

(c) For the purposes of this subsection (1), the following definitions apply:

(i) "Hazardous" means an item that is potentially or actually flammable or a biohazard or an item otherwise capable of inflicting personal harm or injury.

(ii) "Perishable" means any item requiring refrigeration or any food item with a marked expiration date.

(iii) "Valueless" means any item that has an insubstantial resale value but does not include personal photos, jewelry, or other small items that are irreplaceable.

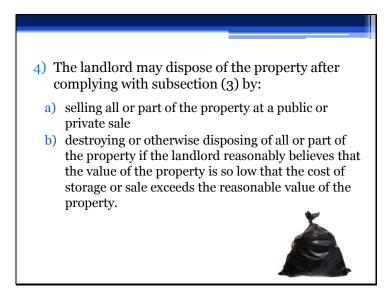
2) The landlord shall inventory and store all abandoned personal property of the tenant that the landlord reasonably believes is valuable in a place of safekeeping and shall exercise reasonable care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the cost of removal of the property to the place of storage. The landlord may store the property in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost of removal of the property to the place of storage.

(2) The landlord shall inventory and store all abandoned personal property of the tenant that the landlord reasonably believes is valuable in a place of safekeeping and shall exercise

reasonable care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the cost of removal of the property to the place of storage. The landlord may store the property in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost of removal of the property to the place of storage.

3) After complying with subsection (2), the landlord shall make a reasonable attempt to notify the tenant in writing that the property must be removed from the place of safekeeping by sending a notice with a certificate of mailing by certified mail to the last-known address of the tenant, stating that at a specified time, not less than 10 days after mailing the notice, the property will be disposed of if not removed.

(3) After complying with subsection (2), the landlord shall make a reasonable attempt to notify the tenant in writing that the property must be removed from the place of safekeeping by sending a notice with a certificate of mailing or by certified mail to the last-known address of the tenant, stating that at a specified time, not less than 10 days after mailing the notice, the property will be disposed of if not removed.



(4) The landlord may dispose of the property after complying with subsection (3) by:

(a) selling all or part of the property at a public or private sale; or

(b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes that the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the property.

5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord on or before the day specified in the notice that the tenant intends to remove the property and does not do so within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage. Reasonable storage costs are allowed a landlord who stores the property, and actual storage costs are allowed a landlord who stores the property in a commercial storage costs allowed under this subsection before the tenant may remove the property.

(5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord on or before the day specified in the notice that the tenant intends to remove the property and does not do so within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage. Reasonable storage costs are allowed a landlord who stores the property, and actual storage costs are allowed a landlord who stores the property. A landlord is entitled to payment of the storage costs allowed under this subsection before the tenant may remove the property.

6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is liable for actual damages.

 7) A public or private sale authorized by this section must be conducted under the provisions of 30-9A-601 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

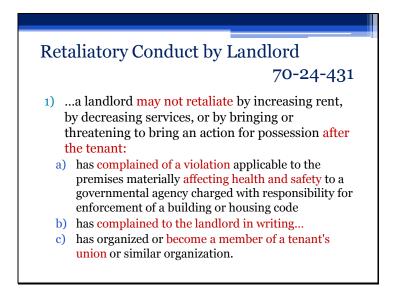
(6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is liable for actual damages.

(7) A public or private sale authorized by this section must be conducted under the provisions of 30-9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

- 8) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale and any delinquent rent or damages owing on the premises and shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be found, the remaining proceeds must be deposited with the county treasurer of the county in which the sale occurred and, if not claimed within 3 years, must revert to the general fund of the county available for general purposes.
- 9) The landlord shall ensure that the terms of this section are included in plain and understandable language as a notification in any lease or rental agreement at the time of the agreement or when the tenant occupies the property. The landlord shall provide the same notification upon termination of the lease or rental agreement.

(8) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale and any delinquent rent or damages owing on the premises and shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be found, the remaining proceeds must be deposited with the county treasurer of the county in which the sale occurred and, if not claimed within 3 years, must revert to the general fund of the county available for general purposes.

(9) The landlord shall ensure that the terms of this section are included in plain and understandable language as a notification in any lease or rental agreement at the time of the agreement or when the tenant occupies the property. The landlord shall provide the same notification upon termination of the lease or rental agreement.



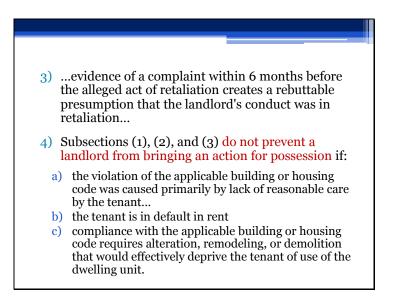
**70-24-431. Retaliatory conduct by landlord prohibited.** (1) Except as provided in this section, a landlord may not retaliate by increasing rent, by decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or

housing code;

- (b) has complained to the landlord in writing of a violation under 70-24-303; or
- (c) has organized or become a member of a tenant's union or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-24-411 and has a defense in any retaliatory action against the tenant for possession.



(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this section, "rebuttable presumption" means that the trier of fact is required to find the existence of the fact presumed unless and until evidence is introduced that would support a finding of its nonexistence.
(4) Subsections (1), (2), and (3) do not prevent a landlord from bringing an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of the tenant's family, or any other persons on the premises with the tenant's consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition that would effectively deprive the tenant of use of the dwelling unit.
(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-24-405(2).

#### 70-24-432. Repealed.

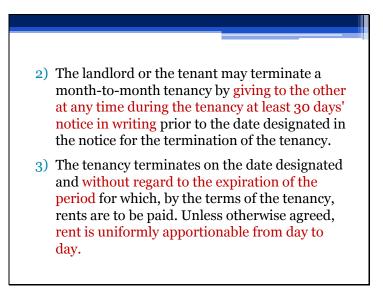
#### 70-24-433 through 70-24-435 reserved.

70-24-436. Repealed.

70-24-437 through 70-24-440 reserved.



**70-24-441. Termination by landlord or tenant.** (1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least 7 days before the termination date specified in the notice.



(2) The landlord or the tenant may terminate a month-to-month tenancy by giving to the other at any time during the tenancy at least 30 days' notice in writing prior to the date designated in the notice for the termination of the tenancy.

(3) The tenancy terminates on the date designated and without regard to the expiration of the period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.



70-24-442. Attorney fees -- costs. (1) In an action on a rental agreement or arising under this chapter, reasonable attorney fees, together with costs and necessary disbursements, may be awarded to the prevailing party notwithstanding an agreement to the contrary.
(2) As used in this section, "prevailing party" means the party in whose favor final judgment is rendered.



# Residential Tenants' Security Deposit Act

Title 70 Chapter 25



## Definitions

70-25-101

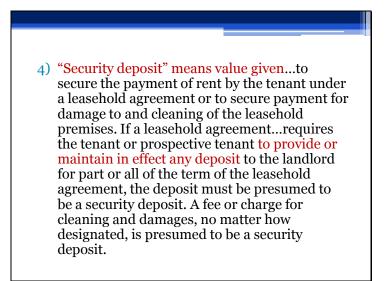
- "Cleaning expenses" means the actual and necessary cost of cleaning done by an owner...not attributable to normal wear brought about by the tenant's failure to bring the premises to the condition it was at the time of renting.
- 2) "Damage" means any and all tangible loss...caused by the willful or accidental acts of the tenant...
- 3) "Leasehold premises" means the premises occupied by the tenant together with all common areas, recreational facilities, parking areas, and storage facilities to which the tenant has access...

**70-25-101. Definitions.** As used in this chapter, the following definitions apply:

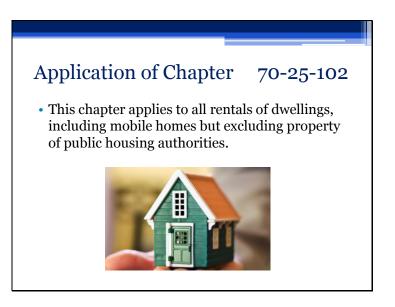
(1) "Cleaning expenses" means the actual and necessary cost of cleaning done by an owner or the owner's selected representative for cleaning needs not attributable to normal wear brought about by the tenant's failure to bring the premises to the condition it was at the time of renting.

(2) "Damage" means any and all tangible loss, injury, or deterioration of a leasehold premises caused by the willful or accidental acts of the tenant occupying the leasehold premises or by the tenant's family, licensees, or invitees, as well as any and all tangible loss, injury, or deterioration resulting from the tenant's omissions or failure to perform any duty imposed upon the tenant by law with respect to the leasehold.

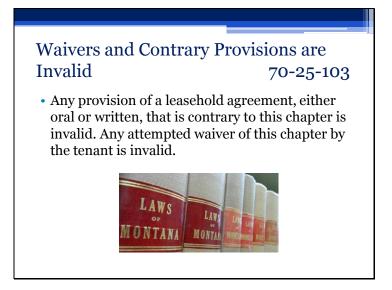
(3) "Leasehold premises" means the premises occupied by the tenant together with all common areas, recreational facilities, parking areas, and storage facilities to which the tenant has access, as well as all personal property owned or controlled by the landlord the use of which is permitted to the tenant.



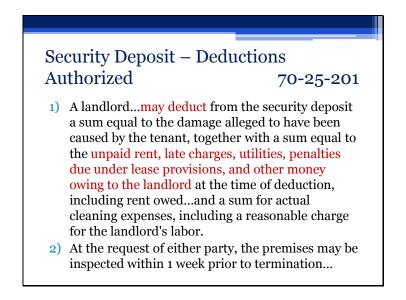
(4) "Security deposit" means value given, in money or its equivalent, to secure the payment of rent by the tenant under a leasehold agreement or to secure payment for damage to and cleaning of the leasehold premises. If a leasehold agreement or an agreement incident to a leasehold agreement requires the tenant or prospective tenant to provide or maintain in effect any deposit to the landlord for part or all of the term of the leasehold agreement, the deposit must be presumed to be a security deposit. A fee or charge for cleaning and damages, no matter how designated, is presumed to be a security deposit.



**70-25-102. Application of chapter.** This chapter applies to all rentals of dwellings, including mobile homes but excluding property of public housing authorities.



**70-25-103.** Waivers and contrary provisions invalid. Any provision of a leasehold agreement, either oral or written, that is contrary to this chapter is invalid. Any attempted waiver of this chapter by the tenant is invalid.

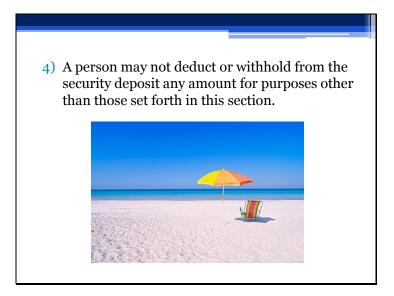


**70-25-201.** Security deposit -- deductions authorized therefrom. (1) A landlord renting property covered by this chapter may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant, together with a sum equal to the unpaid rent, late charges, utilities, 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.

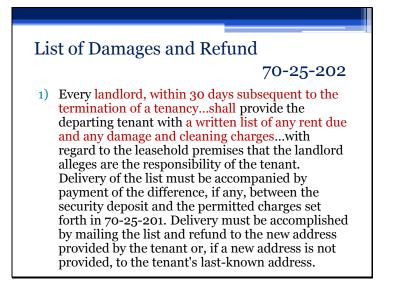
(2) At the request of either party, the premises may be inspected within 1 week prior to termination of the tenancy.

3) ... cleaning charges may not be deducted until written notice has been given to the tenant. The notice must include the cleaning not accomplished by the tenant and the additional type or types of cleaning that need to be done by the tenant to bring the premises back to its condition at the time of its renting...the tenant has 24 hours to complete the required cleaning. If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the cleaning charges from the deposit.

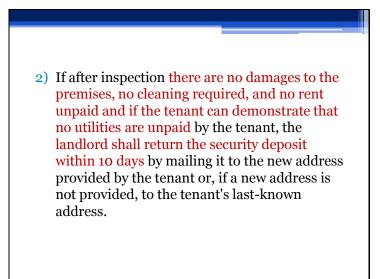
(3) Cleaning charges may not be imposed for normal maintenance performed on a cyclical basis by the landlord as noted by the landlord at the time that the tenant occupies the space unless the landlord is forced to perform this maintenance because of negligence of the tenant. Additionally, cleaning charges may not be deducted until written notice has been given to the tenant. The notice must include the cleaning not accomplished by the tenant and the additional and type or types of cleaning that need to be done by the tenant to bring the premises back to its condition at the time of its renting. After the delivery of the notice, the tenant has 24 hours to complete the required cleaning. If notice is mailed by certified mail, service of the notice is considered to have been made 3 days after the date of the mailing. A tenant who fails to notify the landlord of the intent to vacate or who vacates the premises without notice relieves the landlord of the requirement of giving notice and allows the landlord to deduct the cleaning charges from the deposit.



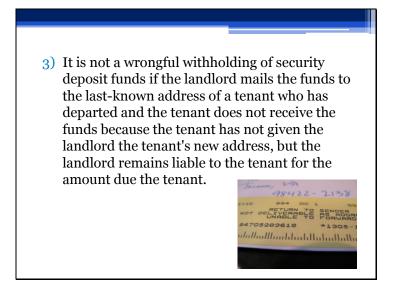
(4) A person may not deduct or withhold from the security deposit any amount for purposes other than those set forth in this section.



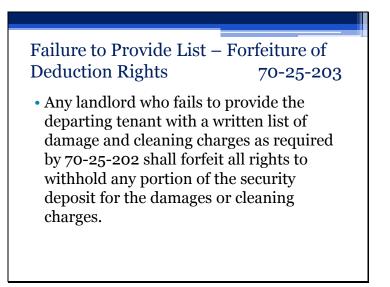
**70-25-202.** List of damages and refund -- delivery to departing tenant. (1) Every landlord, within 30 days subsequent to the termination of a tenancy or within 30 days subsequent to a surrender and acceptance of the leasehold premises, whichever occurs first, shall provide the departing tenant with a written list of any rent due and any damage and cleaning charges, brought after the provisions of 70-25-201 have been followed, with regard to the leasehold premises that the landlord alleges are the responsibility of the tenant. 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.



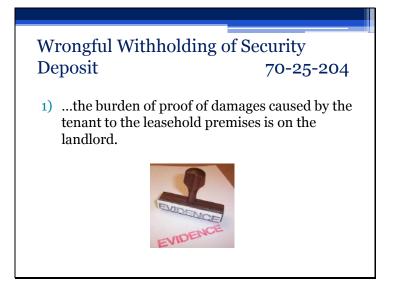
(2) If after inspection there are no damages to the premises, no cleaning required, and no rent unpaid and if the tenant can demonstrate that no utilities are unpaid by the tenant, the landlord shall return the security deposit within 10 days by mailing it to the new address provided by the tenant or,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



(3) 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.



**70-25-203.** Failure to provide list -- forfeiture of deduction rights. Any landlord who fails to provide the departing tenant with a written list of damage and cleaning charges as required by 70-25-202 shall forfeit all rights to withhold any portion of the security deposit for the damages or cleaning charges.



**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 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;

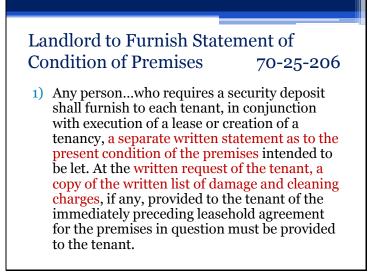
(b) the expiration of a 30-day period after the termination of a tenancy;

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

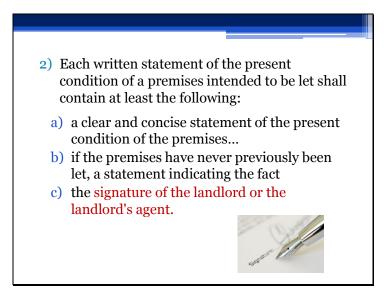
(d) the expiration of a 10-day period after the landlord has indicated there were no damages to the premises, no cleaning was required, no rent was unpaid, and no utilities were unpaid by the tenant.



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



**70-25-206.** Landlord to furnish statement of condition of premises at beginning of lease. (1) Any person engaged in the rental of property for residential purposes who requires a security deposit shall furnish to each tenant, in conjunction with execution of a lease or creation of a tenancy, a separate written statement as to the present condition of the premises intended to be let. At the written request of the tenant, a copy of the written list of damage and cleaning charges, if any, provided to the tenant of the immediately preceding leasehold agreement for the premises in question must be provided to the tenant.



(2) Each written statement of the present condition of a premises intended to be let shall contain at least the following:

(a) a clear and concise statement of the present condition of the premises known to the landlord or the landlord's agent or which should have been known upon reasonable inspection;

(b) if the premises have never previously been let, a statement indicating the fact; and (c) the signature of the landlord or the landlord's agent.

3) A person engaged in the rental of property for residential purposes who fails to furnish a tenant...a separate written statement of the present condition of the premises intended to be let and, upon the written request of the tenant, a written list of damage and cleaning charges provided to the tenant of the immediately preceding leasehold agreement is barred from recovering any sum for damage to or cleaning of the leasehold premises unless the person can establish by clear and convincing evidence that the damage occurred during the tenancy in question...

(3) A person engaged in the rental of property for residential purposes who fails to furnish a tenant, in conjunction with the execution of the lease or creation of the tenancy, with a separate written statement of the present condition of the premises intended to be let and, upon the written request of the tenant, a written list of damage and cleaning charges provided to the tenant of the immediately preceding leasehold agreement is barred from recovering any sum for damage to or cleaning of the leasehold premises unless the person can establish by clear and convincing evidence that the damage occurred during the tenancy in question and was caused by the tenant occupying the leasehold premises or the tenant's family, licensees, or invitees.

# Landlord and Tenant Residential and Commercial

Title 70 Chapter 26

### Letting of Parts of Rooms Prohibited 70-26-101

• A person who hires part of a room for a dwelling is entitled to the whole of the room, notwithstanding any agreement to the contrary, and if a landlord lets a room as a dwelling for more than one family, the person to whom the landlord first lets any part of it is entitled to the possession of the whole room for the term agreed upon, and every tenant in the building under the same landlord is relieved from all obligation to pay rent to the landlord while the double letting of any room continues.

**70-26-101. Letting of parts of rooms prohibited.** A person who hires part of a room for a dwelling is entitled to the whole of the room, notwithstanding any agreement to the contrary, and if a landlord lets a room as a dwelling for more than one family, the person to whom the landlord first lets any part of it is entitled to the possession of the whole room for the term agreed upon, and every tenant in the building under the same landlord is relieved from all obligation to pay rent to the landlord while the double letting of any room continues.

**70-26-102. Transferee of rental property to have same rights as transferor.** A person to whom any real property is transferred or devised, upon which rent has been reserved, or to whom any rent is transferred is entitled to the same remedies for recovery of rent, for nonperformance of any of the terms of the lease, or of any waste or cause of forfeiture as the person's grantor or devisor might have had.

Attornment of Tenant to Stranger Void 70-26-103
The attornment of a tenant to a stranger is void unless it is made with the consent of the landlord...
In other words, the tenant may not sub-lease to another party without the landlord's approval, which should always be in writing

**70-26-103. Attornment of tenant to stranger void.** The attornment of a tenant to a stranger is void unless it is made with the consent of the landlord or in consequence of a judgment of a court of competent jurisdiction.

Notice of Action Served on Tenant – Duty to Inform Landlord 70-26-104 • A tenant who receives notice of a proceeding to recover the real property occupied by the tenant or the possession of the real property shall immediately inform the landlord of the notice and shall also deliver to the landlord the notice, if in writing, and is responsible to the landlord for all damages that the landlord may sustain by reason of any omission to inform the landlord of the notice or to deliver it to the landlord if in writing.

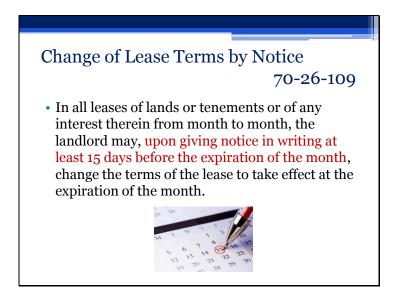
**70-26-104.** Notice of action by third person served on tenant -- duty to inform landlord. A tenant who receives notice of a proceeding to recover the real property occupied by the tenant or the possession of the real property shall immediately inform the landlord of the notice and shall also deliver to the landlord the notice, if in writing, and is responsible to the landlord for all damages that the landlord may sustain by reason of any omission to inform the landlord of the notice or to deliver it to the landlord if in writing.

**70-26-105. Assignee of lessee -- remedies of lessor against.** Whatever remedies the lessor of any real property has against the lessor's immediate lessee for the breach of any agreement in the lease or for recovery of the possession, the lessor has against the assignees of the lessee for any cause of action accruing while they are assignees, except when the assignment is made by way of security for a loan and is not accompanied by possession of the premises.

**70-26-106. Rights of lessee and assignees against lessor and assignees.** Whatever remedies the lessee of any real property may have against the lessee's immediate lessor for the breach of any agreement in the lease, the lessee may have against the assigns of the lessor and the assigns of the lessee may have against the lessor's assigns, except upon covenants against encumbrances or relating to the title or possession of the premises.

**70-26-107. Remedy for rent on lease for life.** Rent due upon a lease for life may be recovered in the same manner as upon a lease for years.

**70-26-108. Rent dependent on life -- recovery.** Rent dependent on the life of a person may be recovered after as well as before the person's death.



**70-26-109. Change of lease terms by notice.** In all leases of lands or tenements or of any interest therein from month to month, the landlord may, upon giving notice in writing at least 15 days before the expiration of the month, change the terms of the lease to take effect at the expiration of the month. The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish as a part of the lease the terms, rent, and conditions specified in the notice if the tenant shall continue to hold the premises after the expiration of the month.

**70-26-110.** Lease of city lot for over **75** years void. No lease or grant of any town or city lot for a period longer than **75** years, in which shall be reserved any rent or service of any kind, shall be valid.

# Term of Lease When None Specified<br/>20-26-201A hiring of real<br/>property, other than<br/>lodgings and dwelling<br/>houses, in places where<br/>there is no usage on the<br/>subject, is presumed to<br/>be for 1 year from its<br/>commencement unless<br/>otherwise expressed in<br/>the hiring.

**70-26-201. Term of lease when none specified.** A hiring of real property, other than lodgings and dwelling houses, in places where there is no usage on the subject, is presumed to be for 1 year from its commencement unless otherwise expressed in the hiring.

**70-26-202. Rent -- when payable.** When there is no usage or contract to the contrary, rents for real property under an arrangement not governed by chapter 24 of this title are payable at the termination of the holding if it does not exceed 1 year. If the holding is by the day, week, month, quarter, or year, rent is payable at the termination of the respective periods, as it successively becomes due.

**70-26-203.** Failure of lessor to repair -- lessee's remedies. (1) If within a reasonable time after notice to the lessor of dilapidations that the lessor ought to repair, the lessor neglects to do so and if the cost of the repairs does not require an expenditure greater than 1 month's rent of the premises, the lessee may perform the repairs and deduct the expenses of the repairs from the rent or the lessee may vacate the premises, in which case the lessee is discharged from further payment of rent or performance of other conditions.

(2) Subsection (1) does not apply to real property leased under an arrangement governed by Title 70, chapter 24.

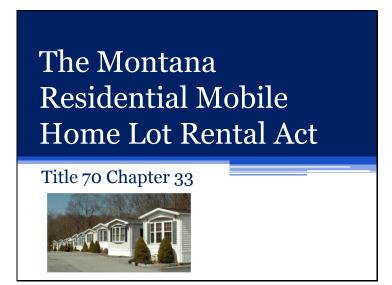
**70-26-204. Renewal of lease by lessee's continued possession.** If a lessee of real property leased under an arrangement not governed by Title 70, chapter 24, remains in possession of the property after the expiration of the hiring and the lessor accepts rent from the lessee, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding 1 month when the rent is payable monthly, or in any case 1 year.

**70-26-205.** Notice required to terminate lease. (1) A hiring of real property for a term not specified by the parties is presumed to be renewed as stated in 70-26-204 at the end of the term implied by law unless one of the parties gives notice to the other of the intention to terminate the hiring at least as long before the expiration of the hiring as the term of the hiring itself, not exceeding 1 month.

(2) Subsection (1) does not apply to real property leased under an arrangement governed by Title 70, chapter 24.

**70-26-206. Rights of tenant for years or at will.** (1) A tenant for years or at will, unless the tenant is a wrongdoer by holding over, may occupy the buildings, take the annual products of the soil, and work mines and quarries open at the commencement of the tenancy and may cultivate and harvest the crops growing at the end of the tenancy.

(2) A tenant for years or at will has no other rights to the property than those given to the tenant by the agreement or instrument by which the tenancy is acquired or by subsection (1).(3) Subsection (2) does not apply to arrangements governed by Title 70, chapter 24.



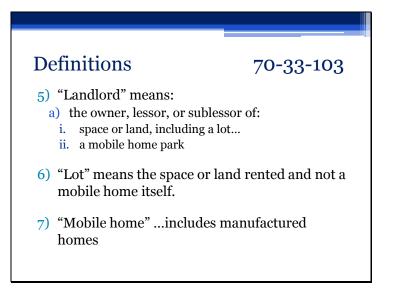
**70-33-101. Short title.** This chapter may be cited as "The Montana Residential Mobile Home Lot Rental Act".

**70-33-102. Purpose -- liberal construction.** (1) This chapter must be liberally construed and applied to promote the underlying purposes and policies of this chapter.

(2) The underlying purposes and policies of this chapter are to:

(a) simplify and clarify the law governing the rental of land to owners of mobile homes and manufactured homes and the rights and obligations of landlords and tenants concerning lot rentals; and

(b) encourage landlords and tenants to maintain and improve the quality of housing.



**70-33-103. Definitions.** Unless the context clearly requires otherwise, 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 electricity, gas, running 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) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means:

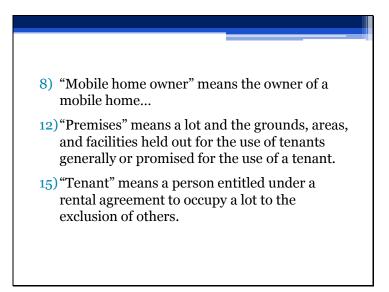
(a) the owner, lessor, or sublessor of:

(i) space or land, including a lot, that is rented to a tenant for a mobile home; or

(ii) a mobile home park; or

(b) a manager of the premises who fails to disclose the managerial position.

(6) "Lot" means the space or land rented and not a mobile home itself.



(7) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured homes as defined in 15-1-101.

(8) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to occupy a lot.

(9) "Mobile home park" means a trailer court as defined in 50-52-101.

(10) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(11) "Person" includes an individual or organization.

(12) "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(13) "Rent" means all payments to be made to a landlord under a rental agreement.

(14) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-33-311 embodying the terms and conditions concerning the use and occupancy of the premises.

(15) "Tenant" means a person entitled under a rental agreement to occupy a lot to the exclusion of others.

**70-33-104. Applicability.** (1) This chapter applies to landlord-tenant relationships in which the landlord is renting a lot to the tenant for placement of the tenant's mobile home. This chapter applies to land rental in a mobile home park as well as to the rental of individual parcels of land not in a mobile home park that are for the placement of a tenant's mobile home.

(2) Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

(a) occupancy under a contract of sale of a lot if the occupant is the purchaser or a person who succeeds to the purchaser's interest;

(b) occupancy under a rental agreement covering premises used by the occupant primarily for commercial or agricultural purposes;

(c) occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises;

(d) occupancy outside a municipality under a rental agreement that includes hunting, fishing, or agricultural privileges along with the use of the lot; and

(e) any rental premises that are governed by the Montana Residential Landlord and Tenant Act of 1977, Title 70, chapter 24.

(3) The combined rental of the lot and mobile home, when the landlord owns both, are covered by the Montana Residential Landlord and Tenant Act of 1977.

**70-33-105. Supplementary principles of law.** Unless superseded by the provisions of this chapter, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes, supplement the provisions of this chapter.

70-33-106. Notice. (1) A person has notice of a fact if:

(a) the person has actual knowledge of the fact;

(b) in the case of a landlord, the notice is delivered at the place of business of the landlord through which the rental agreement was made; or

(c) in the case of a landlord or tenant, the notice is personally delivered to the landlord or tenant or mailed with a certificate of mailing or by certified mail to the place held out by the landlord or tenant as the place for receipt of the communication or, in the absence of a designation, to the landlord's or tenant's last-known address. When notice is made by certificate of mailing or certified mail, the service of the notice must be considered to have been made 3 days after the date of mailing.

(2) Notice received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction on behalf of the organization and, in any event, from the time the notice would have been brought to the individual's attention if the organization had exercised reasonable diligence.

**70-33-107. Obligation of good faith.** Every duty under this chapter and every act that must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement.

**70-33-201. Rental agreements.** (1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule or law.

(2) Unless the rental agreement provides otherwise:

(a) the tenant shall pay as rent the rental value for the use and occupancy of the lot as determined by the landlord;

(b) rent is payable at the landlord's address or using electronic funds transfer to an account designated for the payment of rent by the landlord;

(c) periodic rent is payable at the beginning of a term that is a month or less and otherwise in equal monthly installments at the beginning of each month;

(d) rent is uniformly apportionable from day to day; and

(e) the tenancy is from month to month.

(3) Rent is payable without demand or notice at the time and place agreed upon by the parties or as provided by subsection (2).

**70-33-202.** Prohibited provisions in rental agreements. (1) A rental agreement may not require a party to:

(a) waive or forego rights or remedies under this chapter;

(b) authorize any person to confess judgment on a claim arising out of the rental agreement; or

(c) agree to the exculpation or limitation of liability resulting from the other party's purposeful misconduct or negligence or to indemnify the other party for that liability or related costs or attorney fees.

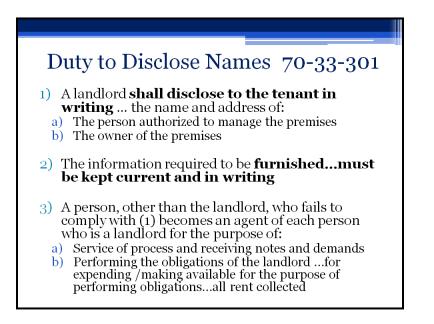
(2) A rental agreement or a related document may not permit the receipt of rent free of the obligation to comply with the provisions of 70-33-303.

**70-33-203.** Effect of unsigned or undelivered rental agreement. (1) If the landlord does not sign and deliver a written rental agreement that has already been signed by the tenant and delivered to the landlord, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord to the tenant.

(2) If the tenant does not sign and deliver to the landlord a written rental agreement that has already been signed and delivered to the tenant, acceptance of possession of the premises and

payment of rent without reservation by the tenant gives the rental agreement the same effect as if it had been signed and delivered by the tenant to the landlord.

(3) If a rental agreement given effect by the operation of this section provides for a term longer than 1 year, it is effective for only 1 year.



**70-33-301.** Duty to disclose name of person responsible. (1) A landlord or a person authorized to enter into a rental agreement on a landlord's behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

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

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

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

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

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

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

**70-33-302.** Landlord to deliver possession of premises. (1) At the commencement of the rental term, a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and 70-33-303. A landlord may bring an action for possession against a person wrongfully in possession.

(2) If a landlord accepts rent or a deposit from a person intending to occupy the premises, the landlord is considered to have given consent for the person to take possession of the property and to have created a landlord-tenant relationship.

# Duty to Maintain Premises 70-33-303 A landlord shall Comply with requirements of applicable building and housing codes... Make repairs ...to put and keep the premises in a fit and habitable condition; Keep all common areas..clean and safe Maintain in good and safe working order all electrical, plumbing, sanitary, heating, ventilating... ...provide and maintain appropriate receptacles ...for removal of ashes, garbage, rubbish, and waste.... Supply running water at all times...

## 70-33-303. Landlord to maintain premises -- agreement that tenant perform duties.

(1) A landlord shall:

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

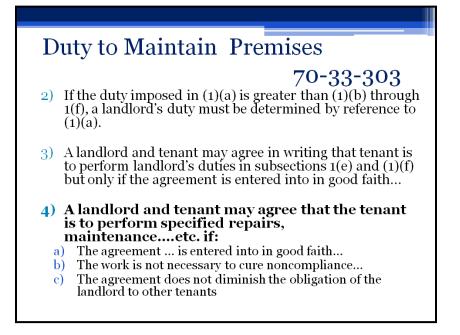
(b) make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

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

(d) for the premises, 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;

(e) 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 lot and arrange for their removal; and

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



(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through (1)(f), a landlord's duty must be determined by reference to subsection (1)(a).
(3) A landlord and tenant may agree in writing that the tenant is to perform the landlord's duties specified in subsections (1)(e) and (1)(f) but only if the agreement is entered into in good faith and not for the purpose of evading the obligations of the landlord.

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

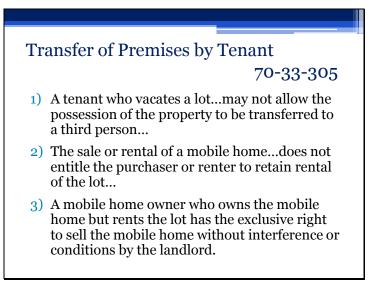
(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

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

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

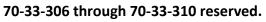
**70-33-304.** Transfer of premises or termination of management -- relief from liability. (1) Unless otherwise agreed, a landlord who conveys premises subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the conveyance. The landlord remains liable to the tenant for all security recoverable by the tenant pursuant to Title 70, chapter 25, and all prepaid rent.

(2) Unless otherwise agreed, a manager of premises subject to a rental agreement is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of the manager's management duties.



70-33-305. Transfer of premises by tenant. (1) A tenant who vacates a lot during the term of a tenancy may not allow the possession of the property to be transferred to a third person or sublet the property unless the landlord or the landlord's agent has consented in writing.(2) The sale or rental of a mobile home located upon a lot does not entitle the purchaser or renter to retain rental of the lot unless the purchaser or renter enters into a rental agreement with the owner of the lot.

(3) A mobile home owner who owns the mobile home but rents the lot has the exclusive right to sell the mobile home without interference or conditions by the landlord. The new purchaser shall make suitable arrangements with the landlord in order to become a tenant on the mobile home lot. The purchase of the mobile home does not automatically entitle the purchaser to rent the mobile home lot.





70-33-311. Landlord authorized to adopt rules. (1) A landlord may adopt a rule concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if:(a) its purpose is to promote the convenience, safety, or welfare of the occupants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of

services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all occupants in the premises in a fair manner;

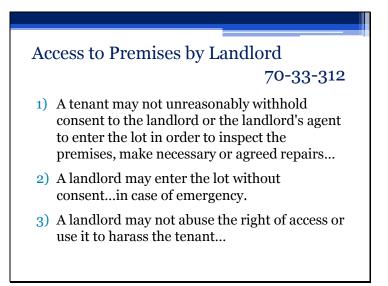
(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant shall or may not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of the rule at the time that the tenant enters into the rental agreement or when the rule is adopted.

(2) A rule adopted by a landlord must be in writing and must be given to each tenant residing on the premises and to each new tenant upon arrival.

(3) If a rule is adopted after a tenant enters into a rental agreement that involves a substantial modification of the rental agreement, it is not valid until after 30 days' written notice in the case of month-to-month tenancies.



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

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

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

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

- (a) pursuant to a court order;
- (b) as permitted by 70-33-425 and 70-33-426(1)(b); or
- (c) when the tenant has abandoned or surrendered the premises.

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

**70-33-313.** Lot rules. (1) A landlord may adopt a rule concerning the rental occupancy of a lot and the use of common areas and facilities in accordance with 70-33-311. A rule may not be unreasonable, and a rule that does not apply uniformly to all tenants of a similar class creates a rebuttable presumption, as defined in 70-33-431(3), that the rule is unfair.

(2) Each common area facility must be open or available to residents at all reasonable hours, and the hours of a common recreational facility must be posted at the facility.

**70-33-314. Resident associations -- meetings.** (1) The membership of a resident association may elect officers of the association at a meeting at which a majority of the members are present. All residents may attend meetings, but the landlord and the landlord's employees may not be members and may not attend meetings unless specifically invited by the tenants' resident association. The landlord may not interfere with or prevent the attendance of an invitee at a resident association's meeting.

(2) The landlord may not prohibit meetings by a resident association or tenants relating to:

- (a) mobile home living; or
- (b) the future plans for the mobile home park, including sale or change of use.



**70-33-315. Road maintenance obligations.** In addition to the obligations imposed by 70-33-303, the mobile home park landlord shall maintain common roads within the mobile home park in a safe condition, including arranging for snow plowing as is reasonable to keep the roads passable.

#### 70-33-316 through 70-33-320 reserved.

#### 70-33-321. Tenant to maintain lot. (1) A tenant shall:

(a) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(b) keep that part of the premises that the tenant occupies and uses as reasonably clean and safe as the condition of the premises permits;

(c) dispose of all ashes, garbage, rubbish, and other waste from the lot in a clean and safe manner;

(d) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, airconditioning, and other facilities and appliances, including elevators, in the premises;

(e) conduct oneself and require other persons on the premises with the tenant's consent to conduct themselves in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the premises; and

(f) use the parts of the premises in a reasonable manner considering the purposes for which they were designed and intended.

(2) This section does not preclude the right of the tenant to operate a limited business or cottage industry on the premises, subject to state and local laws, if the landlord has consented in writing. The landlord may not unreasonably withhold consent if the limited business or cottage industry is operated within reasonable rules of the landlord.

(3) A tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so.

(4) A tenant may not engage or knowingly allow any 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 by any of the following:

- (a) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;
- (b) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or
- (c) gang-related activities, as prohibited by Title 45, chapter 8, part 4.

**70-33-322.** Notice of extended absence. The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of 7 days not later than the first day of the extended absence.

**70-33-401.** Administration of remedies -- enforcement -- agreement. (1) The remedies provided by this chapter must be administered so that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) A right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

(3) Rules and regulations that are not a part of this chapter and that affect the relationship between the landlord and tenant must be uniformly and fairly applied and enforced.

(4) A claim or right arising under this chapter or on a rental agreement, if disputed in good faith, may be settled by agreement.

**70-33-402.** Prohibited provisions -- damages. (1) A provision prohibited by 70-33-202 that is included in a rental agreement is unenforceable.

(2) If one party purposefully uses a rental agreement containing provisions known by that party to be prohibited, the other party may recover, in addition to actual damages, an amount up to 3 months' rent.

**70-33-403.** Unconscionability -- court discretion. (1) If the court, as a matter of law, finds that:

(a) a rental agreement or any provision of the rental agreement is unconscionable, the court, in order to avoid an unconscionable result, may refuse to enforce the agreement or may enforce the remainder of the agreement without the unconscionable provision result; or

(b) a settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement is unconscionable, the court, in order to avoid an unconscionable result, may refuse to enforce the settlement, may enforce the remainder of the

settlement without the unconscionable provision, or may limit the application of any unconscionable provision.

(2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties must be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making its determination.

**70-33-404.** Landlord's failure to deliver premises -- tenant's remedies. (1) If the landlord fails to deliver possession of the lot to the tenant as provided in 70-33-302, rent abates until possession is delivered and the tenant may:

(a) terminate the rental agreement upon at least 5 days' written notice to the landlord and, upon termination, the landlord shall return all prepaid rent and security; or

(b) demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the lot against the landlord or a person wrongfully in possession and recover the actual damages sustained by the tenant.

(2) If a person's failure to deliver possession is purposeful and not in good faith, an aggrieved party may recover from that person an amount of not more than 3 months' rent or treble damages, whichever is greater.

**70-33-405.** Landlord's failure to maintain premises -- tenant's remedies. (1) Unless otherwise provided in this chapter, if there is a noncompliance with 70-33-303 affecting health and safety, the following procedures apply:

(a) The tenant may deliver a written notice to the landlord specifying the nature of the breach and that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 14 days. If the noncompliance results in a case of emergency and the landlord fails to remedy the situation within 3 working days after written notice by the tenant of the situation and the tenant's intention to terminate the rental agreement, the tenant may terminate the rental agreement. The rental agreement terminates as provided in the notice subject to the following exceptions:

(i) if the breach is remediable by repairs, the payment of damages, or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement does not terminate by reason of the breach;

(ii) if substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within 6 months, the tenant may terminate the rental agreement upon at least 14 days' written notice specifying the breach and the date of termination of the rental agreement;

(iii) the tenant may not terminate the rental agreement for a condition caused by the tenant, a member of the tenant's family, or any other persons on the premises with the tenant's consent.

(b) (i) The tenant may make repairs that do not cost more than 1 month's rent and deduct the cost from the rent if the tenant has given the landlord notice and the landlord has not made the repairs within a reasonable time. If the repair is required in a case of emergency and the landlord has not made the repairs, the tenant may have repairs made only by a person qualified to make the repairs.

(ii) If the landlord fails to comply with the rental agreement or 70-33-303 and the reasonable cost of compliance is less than 1 month's rent, the tenant may recover damages for the breach under subsection (2).

(2) Unless otherwise provided in this chapter, the tenant may recover actual damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or 70-33-303.

(3) The remedy provided in subsection (2) is in addition to a right of the tenant arising under subsection (1).

(4) If the rental agreement is terminated, the landlord shall return all security recoverable by the tenant pursuant to Title 70, chapter 25.

**70-33-406.** Landlord's failure to provide essential services -- tenant's remedies. (1) If contrary to the rental agreement or 70-33-303 the landlord purposefully or negligently fails to supply running water, electric, gas, or other essential services, the tenant may give written notice to the landlord specifying the breach and may:

(a) procure reasonable amounts of running water, electricity, gas, and other essential services during the period of the landlord's noncompliance and deduct the actual and reasonable cost from the rent;

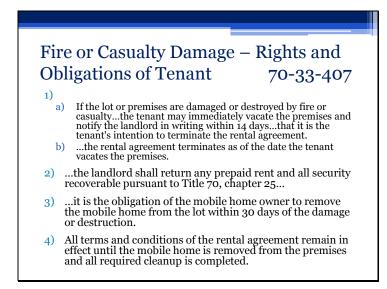
(b) recover damages based upon the diminution in the fair rental value of the lot; or

(c) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) A tenant proceeding under this section may not proceed under 70-33-405 for a landlord's failure to provide essential services.

(3) The rights of a tenant under this section do not arise until the tenant has given notice to the landlord and the landlord has had a reasonable opportunity to correct the conditions.

(4) A tenant does not have rights under this section if the conditions were caused by the act or omission of the tenant, a member of the tenant's family, or any other person on the premises with the tenant's consent.



**70-33-407.** Fire or casualty damage -- rights and obligations of tenant. (1) (a) If the lot or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the lot is substantially impaired, the tenant may immediately vacate the premises and notify the landlord in writing within 14 days of vacating the premises that it is the tenant's intention to terminate the rental agreement.

(b) If the tenant complies with the provisions of subsection (1)(a), the rental agreement terminates as of the date the tenant vacates the premises.

(2) If the rental agreement is terminated pursuant to subsection (1), the landlord shall return any prepaid rent and all security recoverable pursuant to Title 70, chapter 25. Accounting or apportionment for rent in the event of termination must be made as of the date of the fire or casualty.

(3) If the tenant's mobile home is damaged or destroyed by fire or casualty to an extent that enjoyment of the mobile home is substantially impaired and 70-33-430 does not apply, it is the obligation of the mobile home owner to remove the mobile home from the lot within 30 days of the damage or destruction.

(4) All terms and conditions of the rental agreement remain in effect until the mobile home is removed from the premises and all required cleanup is completed.

**70-33-408. Unlawful or unreasonable entry by landlord -- tenant's remedies.** If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry that is otherwise lawful but has the effect of unreasonably harassing the tenant, the tenant may either obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages.

**70-33-409.** Unlawful ouster, exclusion, or diminution of services -- tenant's remedies. (1) If a landlord unlawfully removes or excludes the tenant from the premises or purposefully diminishes services to the tenant by interrupting or causing the interruption of running water, electricity, gas, or other essential services, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount of not more than 3 months' periodic

rent or treble damages, whichever is greater.

(2) If the rental agreement is terminated, the landlord shall return all security recoverable pursuant to Title 70, chapter 25, and any prepaid rent.

**70-33-410.** Action for nonpayment of rent -- tenant's counterclaim. (1) (a) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount recoverable under the rental agreement or this chapter.

(b) (i) The court may order the tenant to pay into court all or part of the rent accrued and afterwards accruing, and the court shall determine the amount due to each party.

(ii) A party to whom a net amount is owed must be paid first from the money paid into court, and the balance must be paid by the other party.

(iii) The court may at any time release money paid into the court to any party if the parties agree or if the court finds a party is entitled to the money.

(c) If there is no rent remaining due after application of this section, judgment must be entered for the tenant in an action for possession.

(2) In an action for rent when the tenant is not in possession, the tenant may counterclaim as provided in subsection (1) but may not be required to pay any rent into court.

#### 70-33-411 through 70-33-421 reserved.

**70-33-422.** Noncompliance of tenant generally -- landlord's right of termination -- damages -- injunction. (1) If the tenant destroys, defaces, damages, impairs, or removes any part of the

premises in violation of 70-33-321(3), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the noncompliance under the provisions of 70-33-321(3).

(2) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, as evidenced by the tenant being arrested or charged with an act that violates the provisions of 70-33-321(4), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the violation and noncompliance under the provisions of 70-33-321(4).

(3) Except as otherwise provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-33-321. Except as provided in subsection (4) of this section, if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

(4) Treble damages may not be recovered for the tenant's early termination of the tenancy.

**70-33-423.** Waiver of landlord's right to termination. (1) Acceptance by the landlord of full payment of rent due is a waiver of a claimed breach of a rental agreement only when the claimed breach is the nonpayment of rent.

(2) Acceptance of full payment of rent due when a claimed breach is something other than the nonpayment of rent does not constitute a waiver of any right.

(3) The acceptance of partial payment of rent due does not constitute a waiver of any right.

**70-33-424. Refusal of access -- landlord's remedies.** (1) If the tenant refuses to allow lawful access, the landlord may either obtain injunctive relief to compel access or terminate the rental agreement. In either case, the landlord may recover actual damages.

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

**70-33-425. Tenant's failure to maintain lot** -- **landlord's right to enter and repair.** If there is noncompliance by the tenant with 70-33-321 affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning and the tenant fails to comply as promptly as conditions require in case of emergency or within 14 days after written notice by the landlord specifying the breach and requesting that the tenant remedy the breach within that period of time, the landlord may enter the lot and cause the work to be done in a competent manner and submit an itemized bill for the actual and reasonable cost, the fair and reasonable cost, or the fair and reasonable value of the work as rent on the next date rent is due or, if the rental agreement has terminated, for immediate payment.

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

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

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

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

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

**70-33-427.** Landlord's remedies after termination -- action for possession. (1) If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for any breach of the rental agreement.

(2) (a) An action filed pursuant to subsection (1) in a court must be heard within 20 days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of noncompliance under 70-33-321(4), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons.

(b) If the action is appealed to the district court, the hearing must be held within 20 days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under 70-33-321(4), the hearing must be held within 5 business days after the case is transmitted to the district court.

(3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in subsection (2) without the necessity of an undertaking.

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 days after the hearing.

**70-33-428.** Landlord's recovery of possession limited. Except in the case of abandonment or surrender or as permitted in this chapter, a landlord may not recover or take possession of the lot by action or otherwise, including purposeful diminution of services to the tenant by interrupting or causing the interruption of running water, electricity, gas, or other essential services.

**70-33-429.** Holdover remedies -- consent to continued occupancy. (1) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or other termination of the rental agreement, the landlord may bring an action for possession. If the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount of not more than 3 months' rent or treble damages, whichever is greater.

(2) In an action for possession or unlawful holdover, the provisions of Title 25, chapter 23, apply, except that the time for filing an answer under Rule 4C(2)(b) is 10 days after service of summons and complaint, exclusive of the date of service.

(3) If the landlord consents to the tenant's continued occupancy, 70-33-201(2)(e) applies.

**70-33-430. Disposition of abandoned personal property.** (1) If a tenancy terminates in any manner except by court order, if the landlord reasonably believes that the tenant has abandoned all personal property that the tenant has left on the premises, and if at least 5 days have elapsed since the occurrence of the events upon which the landlord has based the belief of abandonment, the landlord may remove the property from the premises.

(2) The landlord shall inventory and store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the cost of

removal of the property to the place of storage. The landlord may store the property in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost of removal of the property to the place of storage.

(3) After complying with subsections (1) and (2), the landlord shall:

(a) make a reasonable attempt to notify the tenant in writing that the property must be removed from the place of safekeeping;

(b) notify the local law enforcement office of the property held by the landlord;

(c) make a reasonable effort to determine if the property is secured or otherwise encumbered; and

(d) send a notice by certified mail to the last-known address of the tenant and each known party having a lien or encumbrance of record, stating that at a specified time, not less than 15 days after mailing the notice, the property will be disposed of if not removed.

(4) The landlord may dispose of the property after complying with subsection (3) by:

(a) selling all or part of the property at a public or private sale; or

(b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes that the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the property.

(5) (a) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord on or before the day specified in the notice that the tenant intends to remove the property and does not do so within 7 days after delivery of the tenant's response, the tenant's property is conclusively presumed to be abandoned.

(b) If the tenant removes the property, the landlord is entitled to storage costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage. Reasonable storage costs are allowed to a landlord who stores the property, and actual storage costs are allowed to a landlord who stores the property in a commercial storage company. A landlord is entitled to payment of the storage costs allowed under this subsection before the tenant may remove the property.

(6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is caused by the landlord's purposeful or negligent act, in which case the landlord is liable for actual damages.

(7) (a) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale and, subject to any prior security interest of record, any delinquent rent or damages owing on the premises. The landlord shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting.

(b) If the tenant cannot after due diligence be found, the remaining proceeds must be deposited with the county treasurer of the county in which the sale occurred and, if not claimed within 3 years, must revert to the general fund of the county.

**70-33-431. Retaliatory conduct by landlord prohibited.** (1) Except as provided in this section, a landlord may not retaliate by increasing rent, by decreasing services, or by bringing or threatening to bring an action for possession after the tenant:

(a) has complained of a violation applicable to the premises materially affecting health and safety to a governmental agency charged with responsibility for enforcement of a building or housing code;

(b) has complained to the landlord in writing of a violation under 70-33-303; or

(c) has organized or become a member of a tenant's union, mobile home park resident association, or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in 70-33-409 and has a defense in any retaliatory action against the tenant for possession.

(3) In an action by or against the tenant, evidence of a complaint within 6 months before the alleged act of retaliation creates a rebuttable presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. For purposes of this subsection, "rebuttable presumption" means that the trier of fact is required to find the existence of the fact presumed unless evidence is introduced that would support a finding of its nonexistence.

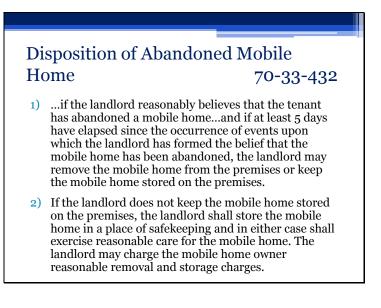
(4) Subsections (1) through (3) do not prevent a landlord from bringing an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, a member of the tenant's family, or any other persons on the premises with the tenant's consent;

(b) the tenant is in default in rent; or

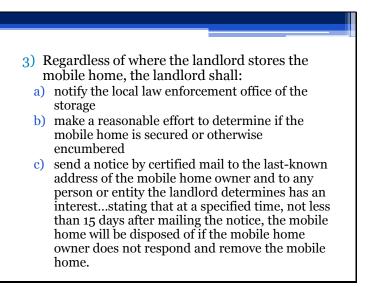
(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition that would effectively deprive the tenant of use of the lot.

(5) The maintenance of an action under subsection (4) of this section does not release the landlord from liability under 70-33-404(2).



**70-33-432. Disposition of abandoned mobile home.** (1) If a tenancy terminates, if the landlord reasonably believes that the tenant has abandoned a mobile home occupying a mobile home lot, and if at least 5 days have elapsed since the occurrence of events upon which the landlord has formed the belief that the mobile home has been abandoned, the landlord may remove the mobile home from the premises or keep the mobile home stored on the premises.

(2) If the landlord does not keep the mobile home stored on the premises, the landlord shall store the mobile home in a place of safekeeping and in either case shall exercise reasonable care for the mobile home. The landlord may charge the mobile home owner reasonable removal and storage charges.

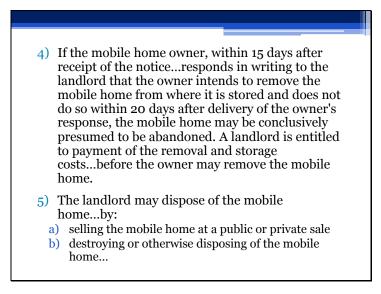


(3) Regardless of where the landlord stores the mobile home, the landlord shall:

(a) notify the local law enforcement office of the storage;

(b) make a reasonable effort to determine if the mobile home is secured or otherwise encumbered; and

(c) send a notice by certified mail to the last-known address of the mobile home owner and to any person or entity the landlord determines has an interest referred to in subsection (3)(b), stating that at a specified time, not less than 15 days after mailing the notice, the mobile home will be disposed of if the mobile home owner does not respond and remove the mobile home.



(4) If the mobile home owner, within 15 days after receipt of the notice provided for in subsection (3)(c), responds in writing to the landlord that the owner intends to remove the mobile home from where it is stored and does not do so within 20 days after delivery of the owner's response, the mobile home may be conclusively presumed to be abandoned. A landlord is entitled to payment of the removal and storage costs allowed under subsection (2) before the owner may remove the mobile home.

(5) The landlord may dispose of the mobile home after complying with subsection (3) by:(a) selling the mobile home at a public or private sale; or

(b) destroying or otherwise disposing of the mobile home if the landlord reasonably believes that the value of the mobile home is so low that the cost of a sale would exceed the reasonable value of the mobile home. Disposal may include having the mobile home removed to an appropriate disposal site.

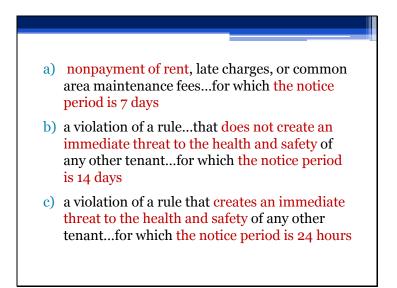
- 6) A public or private sale authorized by this section must be conducted under the provisions of 30-9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.
  7) The landlord has a lien on the mobile home and
  - (7) The failed of a sale...for the mobile none and the proceeds of a sale...for the reasonable costs of removal, storage, notice, sale, or delinquent rent or damages owing on the premises. The sale proceeds are subject to any prior security interest of record...if the owner cannot after due diligence be found, the remaining proceeds must be deposited in the general fund of the county in which the sale occurred and, if not claimed within 3 years, are forfeited to the county.

(6) A public or private sale authorized by this section must be conducted under the provisions of 30-9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

(7) The landlord has a lien on the mobile home and the proceeds of a sale conducted pursuant to subsection (6) for the reasonable costs of removal, storage, notice, sale, or delinquent rent or damages owing on the premises. The sale proceeds are subject to any prior security interest of record. A writing or recording is not necessary to create the lien provided for in this section. In the case of a sheriff's sale, the sheriff shall conduct the sale upon receipt of an affidavit from the landlord stating facts sufficient to warrant a sale under this section. After satisfaction of the lien, the landlord shall remit to the mobile home owner the remaining proceeds, if any. If the owner cannot after due diligence be found, the remaining proceeds must be deposited in the general fund of the county in which the sale occurred and, if not claimed within 3 years, are forfeited to the county.

### Grounds for Termination of Rental Agreement 70-33-433

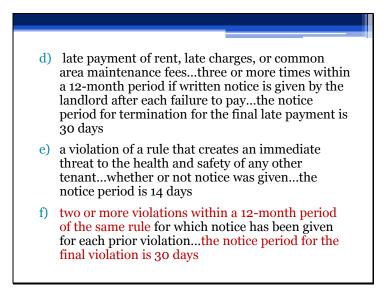
 If there is a noncompliance by the tenant...the landlord may deliver a written notice to the tenant...specifying the acts or omissions constituting the noncompliance and stating that the rental agreement will terminate upon the date specified in the notice...The rental agreement terminates as provided in the notice for one or more of the following reasons and subject to the following conditions: **70-33-433.** Grounds for termination of rental agreement. (1) If there is a noncompliance by the tenant with the rental agreement or with a provision of 70-33-321, the landlord may deliver a written notice to the tenant pursuant to 70-33-106 specifying the acts or omissions constituting the noncompliance and stating that the rental agreement will terminate upon the date specified in the notice that may not be less than the minimum number of days after receipt of the notice provided for in this section. The rental agreement terminates as provided in the notice for one or more of the following reasons and subject to the following conditions:



(a) nonpayment of rent, late charges, or common area maintenance fees as established in the rental agreement, for which the notice period is 7 days;

(b) a violation of a rule other than provided for in subsection (1)(a) that does not create an immediate threat to the health and safety of any other tenant or the landlord or manager, for which the notice period is 14 days;

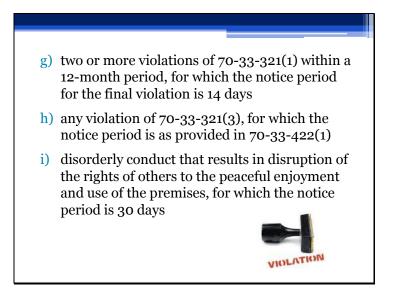
(c) a violation of a rule that creates an immediate threat to the health and safety of any other tenant or the landlord or manager, for which the notice period is 24 hours;



(d) late payment of rent, late charges, or common area maintenance fees, as established in the rental agreement, three or more times within a 12-month period if written notice is given by the landlord after each failure to pay, as required by subsection (1)(a), for which the notice period for termination for the final late payment is 30 days;

(e) a violation of a rule that creates an immediate threat to the health and safety of any other tenant or the landlord or manager whether or not notice was given pursuant to subsection (1)(c) and the violation was remedied as provided in subsection (3), for which the notice period is 14 days;

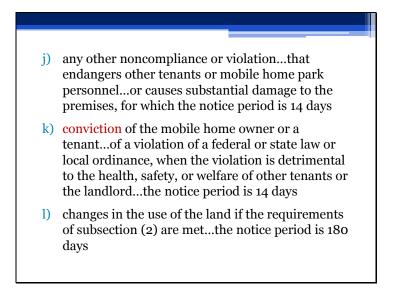
(f) two or more violations within a 12-month period of the same rule for which notice has been given for each prior violation, as provided in subsection (1)(a), (1)(b), or (1)(c), for which the notice period for the final violation is 30 days;



(g) two or more violations of 70-33-321(1) within a 12-month period, for which the notice period for the final violation is 14 days;

(h) any violation of 70-33-321(3), for which the notice period is as provided in 70-33-422(1);

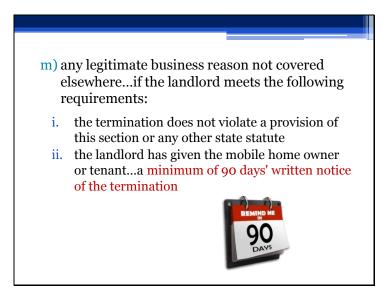
(i) disorderly conduct that results in disruption of the rights of others to the peaceful enjoyment and use of the premises, for which the notice period is 30 days;



(j) any other noncompliance or violation not covered by subsections (1)(a) through (1)(i) that endangers other tenants or mobile home park personnel or the landlord or manager or causes substantial damage to the premises, for which the notice period is 14 days;

(k) conviction of the mobile home owner or a tenant of the mobile home owner of a violation of a federal or state law or local ordinance, when the violation is detrimental to the health, safety, or welfare of other tenants or the landlord or manager or the landlord's documentation of a violation of the provisions of Title 45, chapter 9, for which the notice period is 14 days;

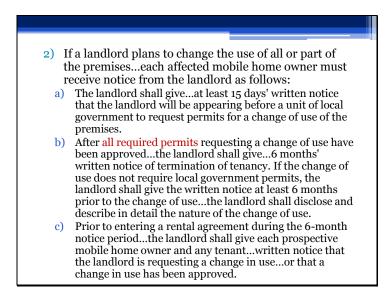
(I) changes in the use of the land if the requirements of subsection (2) are met, for which the notice period is 180 days;



(m) any legitimate business reason not covered elsewhere in this subsection (1) if the landlord meets the following requirements:

(i) the termination does not violate a provision of this section or any other state statute; and

(ii) the landlord has given the mobile home owner or tenant of the mobile home owner a minimum of 90 days' written notice of the termination.

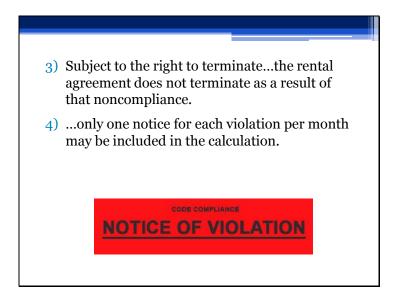


(2) If a landlord plans to change the use of all or part of the premises from mobile home lot rentals to some other use, each affected mobile home owner must receive notice from the landlord as follows:

(a) The landlord shall give the mobile home owner and a tenant of the mobile home owner at least 15 days' written notice that the landlord will be appearing before a unit of local government to request permits for a change of use of the premises.

(b) After all required permits requesting a change of use have been approved by the unit of local government, the landlord shall give the mobile home owner and a tenant of the mobile home owner 6 months' written notice of termination of tenancy. If the change of use does not require local government permits, the landlord shall give the written notice at least 6 months prior to the change of use. In the notice the landlord shall disclose and describe in detail the nature of the change of use.

(c) Prior to entering a rental agreement during the 6-month notice period referred to in subsection (2)(b), the landlord shall give each prospective mobile home owner and any tenant of the mobile home owner whose identity and address have been provided to the landlord written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.



(3) Subject to the right to terminate in subsections (1)(d) through (1)(k), if the noncompliance described in subsections (1)(a) through (1)(c) is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the noncompliance before the date specified in the notice, the rental agreement does not terminate as a result of that noncompliance.
(4) For purposes of calculating the total number of notices given within a 12-month period under subsection (1)(d), only one notice for each violation per month may be included in the calculation.

**70-33-434. Attorney fees** -- **costs.** In an action on a rental agreement or arising under this chapter, reasonable attorney fees, together with costs and necessary disbursements, may be awarded to the prevailing party notwithstanding an agreement to the contrary.

# Schedule Review

- Unauthorized Pet
- Unauthorized Person
- Non-Payment of Rent
- Damage to Property
- Violations Affecting Health and Safety
- Gangs, Drugs, Lab

- 3 days to Correct or Quit
- 3 days to Correct or Quit
- 3 days to Pay or Quit
- 3 days to Quit
- 3 days to Quit
- 3 days to Quit

# Schedule Review

- Deposit of Rent Check
  Withdrawal of PM's \$
  Landlord Violation Affecting Health and Safety
  Business Days
  10 Business Days
  14 Days
- Landlord to Correct <u>3 Business Days</u> Emergency
- Tenant to Correct 14 Days

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# Day Three – Contracts, Leasing Principles, and Forms

# Contracts, Leasing Principles Forms



# Contracts, Leasing Principles Forms





One of the most important decisions we make as Property Managers is to whom we rent.

#### The Rental Application

• This is the most important part of the rental process. Without proper execution of a rental application, the rest of your efforts may be meaningless. Resident screening for resident selection is essential to effective property management.

#### Bruno's Rule #1

The three times a property manager gets into trouble is when:

- They get hurried or rush something
- They feel sorry for someone
- They feel that a potentially bad tenant is better than no tenant

#### Good Looks, Nice Car, Bad Tenant

Bad tenants are professionals at seeming to be wonderful people...

- They know the right things to say
- They make you feel sorry for them
- They count on you not checking on them
   THEN
- They destroy your property!

#### Top Six Methods of Screening Residents

- Personal Interviews
- Credit Checks
- Personal References
- Employment Check
- Previous Residence
   History
- Responses on the Application



#### **Reducing Bad Debt and** Delinquencies Begins with the **Application and Screening** Process



#### The Application Process

- The application process is the key to:
- Avoiding defaults
- Avoiding evictions
- Avoiding judgments
- Avoiding collection problems
- Recovering the money you're owed

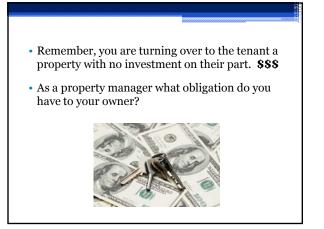
· Create your application with the "worst case scenario" in mind ...



· You will be glad you have all this information if collection becomes an issue!

#### **Require Complete Disclosure and** Accept Nothing Less!

- · Why do you need a thorough application?
  - Avoiding evictions, skips, bad tenants, and the resulting collection process
  - Resident screening is your only opportunity to prevent unqualified applicants from gaining occupancy.
  - If a tenant does default, your collection efforts will be greatly facilitated by the information you gather during the application process.



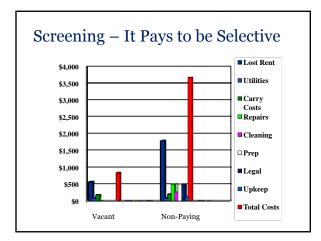
# Vacancy is Far Less Costly Than a Non-Paying Resident

#### **Cost of Vacancy** Lost Income

- Utilities
- Carrying Costs

#### Cost of a Non-Paying Resident

- Lost Income Cleaning Costs
- Attorney/Court Costs
- · Loss of Good Residents
- · Landlord/Owner Distress
- Prep and Painting
- Utilities
- Opportunity Qualified Applicants



# The Cost of a Bad Tenant is Beyond Calculation

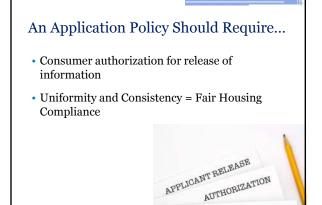


#### **Rental Policies and Standards**

- Three major advantages of having policies and standards in place:
- It "self screens" applicants Bad tenants will walk away
- It forces the manager to consider the minimum standards that are acceptable for a tenant
- If properly drawn up and managed, rental standards protect Property Managers against Fair Housing complaints.

#### An Application Policy Should Require...

- Complete Applications
- No Blanks Allowed
- Emergency Contacts = #1 Resource in Collection Efforts
- Personal References
- Documentation
- Photo ID
- Bank Statements
- Car Registration



#### **Application Content** • Do you smoke? • Name - Full Legal • Next of Kin and Friend Have you ever used • Address another name? • Phone Address • Emergency Contact How long have you been at this address? Current Rent/Mortgage • Social Security # • Type of Current Lease Date of Birth Month-to-Month, • Drivers License Year, etc. • Telephone # Have you been late in rent payment before? List of Pets

#### **Application Content**

- Current Landlord
- Confirm that this is the real landlord
- Clerk & Recorder
- Property Tax Assessor
- Contact Info
- Reason for Moving
- Previous Landlords
- Contact Info
- Reason for Moving
- Have you ever been
- evicted?

- Other Occupants
- Names • Employer
- Occupation
- Where
- Length of Time
- Salary per Month
- Supervisor's Name/#
- Previous Employer
- Occupation
- Date
- Contact Info

#### **Application Content**

- Financial Info
- Bank
- Address/Phone
- Contact Person
- Checking Account #
- Savings Account #
- Copy of Current Statement
- Bankruptcy History
- Judgments

- Payments
  - Mortgage
- Auto
- Loans
- Balances
- Are you delinquent?
- Credit Cards
- Name/Account #
- Balances

#### **Application Content**

- Vehicle Info
- Number of Cars
- Make
- Model
- Year
- Color
- License #
- VIN #
- Liens

- Criminal History
- Convictions?
- Has any occupant been charged with a felony? Pled Guilty
- No Contest
- Convicted
- Sexual Misconduct



- Fair Housing
- ADA

- · Special Needs
- Credit Reporting
- Authorization Applicant
  - Investigation of All Information
- Release Reporting
- Sources of Liability

- "I've always lived at home."
- "I need to move tomorrow."
- "I need it now."
- "My landlord is dead."
- Citizenship Status Alien Residents Check status with INS
- Valid, verifiable SSN or ITIN Individual **Taxpayer Identification Number**
- Address Inconsistencies
- No verifiable personal or family references

# Screening and **Application Red Flags**



- Previous landlord would not rent to applicant again
- No personal or emergency references
- Addresses that don't match up
- Cash Income
- · Does not earn enough to qualify for the rent
- Writes an initial check that is not honored by the bank
- · Cannot pay the full deposit or fees in advance
- Has a credit history of unpaid bills, collections, liens...

- An unmarried minor with no responsible adult to co-sign the rental agreement
- The number of credit reports pulled recently
- Cannot provide two forms of identification (at lease one photo ID)
- Fails to complete and sign the rental application
- Falsifies information on any form
- Will not provide references
- · Has pets if your policy strictly forbids them
- · Has a history of property destruction
- · Has a history of disturbing neighbors

- Has certain types of criminal convictions, civil judgments, or eviction judgments
- Violent felons Absolutely do not rent to!
- Applicant is willing to pay more than the offered rent and security deposit
- · Wants to do all the maintenance themselves
- Fights the application process because they have always owned their own property
- They immediately slander their landlord
- They don't have a credit report even though they have been working and renting for years
- Relatives are their employers and landlords

- Their salary doesn't match the job position or length of time
- Their SSN brings up conflicting information
- Unsatisfactory references from landlords, employers, or personal references
- Evictions
- · Frequent Moves
- · Bad Credit Report
- · Too short a time on the job
- Too new to the area
- · No verifiable source of income

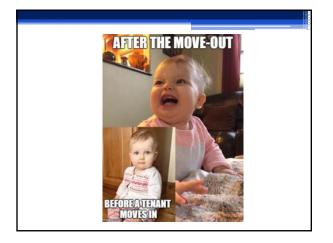
- Too Many Vehicles
- Too Many Occupants
- History of Drug Use
- Pets
- · History of Illegal Activity
- History of Late Rental Payments
- Insufficient Income
- Too Much Debt
- Conviction of a crime which was a threat to property in the last five years
- Conviction for the manufacture or distribution of a controlled substance in the last five years

#### Top Three Reasons for Tenant Rejection

- Poor Credit or Negative Credit References
- Negative References from Previous Landlords



• Insufficient Income



# The Rental Application Form



# Application Checklist For The Applicant

- Please read through the entire application prior to filling it out.
- Supply ALL necessary phone numbers and addresses
- Complete each page, initialing and signing where noted
- Do not leave any blanks, if not applicable put NA
- Include a copy of your most recent bank statement

- Include verification of income: Employment, Trust Fund, SI, Financial Aid, etc.
- Include a copy of your vehicle registration
- Include a copy of your drivers license or valid state ID
- Pay the application fee and third party guaranty fee, if applicable



# Renting Policies & Procedures



# Fair Housing Statement

Tenants include our co-workers, employees, neighbors, family, and friends.



#### Expectations

- You have an obligation to ensure that the properties you manage are rented and maintained...
- Protects the quality of dwellings and neighborhoods
- · A thorough screening process based on objective

#### **Guidelines for Applicants**

- Once you have selected a rental:
  - Each person over the age of 18 must submit a separate rental application
- Complete criminal history of all intended occupants
- If you do not qualify financially, you will need a co-signer, an additional handling fee may also apply

- Fee for each application
- Fees must be paid by money order, bankable check, or cash
- All fees are non-refundable
- Must have a valid photo ID

# • You must meet the following minimum requirements:

- Sufficient Income
- Verifiable Good Credit
- Good Previous Rental History
- Complete Application





#### Notices of Timing and Policy

- · We will process your application within 24 hours
- If you have not received a response within 2 business days of submission...
- · Applications will not be pre-screened
- All submitted applications become the property of Management
- We cannot guarantee any unit
- The first approved applicant with the full security deposit paid will receive the unit

- If your move-in date is not immediate, a security deposit and the first months rent will be collected in advance
- If you choose not to move into the dwelling, we will deduct charges representing the actual costs
- Your security deposit is fully refundable, depending on the condition of the unit
- Pets require an additional security deposit and monthly rent
- Only properties that allow pets will be available
- · A separate pet agreement will be required.

#### **Disclosure and Authorization**

- The undersigned declares this information is true and correct, any false statements or misrepresentations may result in rejection.
- The undersigned authorizes the investigation and release of any and all information pertaining to me and the statements and representations contained herein.
- Waive any right of action

- I warrant that the facts are true, complete, and correct
- If any facts prove to be untrue the manager may terminate my tenancy



- The Rental Application and Third Party Guaranty are an integral part of the rental agreement
- Changes in the personal information reported within 48 hours of any criminal proceeding
- Report to national credit reporting agencies
- Subsequent consumer credit reports in connection with any update, renewal, modification, or extension

- At the time I tender a deposit, I agree to the conditions of the lease, although the lease may not yet be signed
- At the date of occupancy I agree that the lease agreement shall be in full force



#### Fair Housing Statement

• "Fair Housing" will not refuse access to any housing or accommodation on the basis of age, sex, race, religion, marital/family status, physical or mental handicap, color, creed, ethnicity, national origin, or sexual orientation.



# Authorization

# Notice of the contractual relationship between the property owner and management:

Management is the sole and exclusive agent of the Owner of the properties listed for rent or lease and represents the Owner's interest in any and all transactions related to the rent or lease of said property.

Applicant Signature:\_\_\_\_\_ Date:\_\_\_\_\_Time:\_\_\_\_\_ Received by:\_\_\_\_\_Date:\_\_\_\_ Time:\_\_\_\_\_

Rental	App	lication
recircuit	P P -	noution

#### **Personal Information**

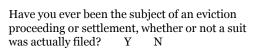
Applicant's Full Name:		
Have you ever used another name(s)?	Y	Ν
If yes, what name(s):		
SSN:		
Phone Number:		
Cell Phone:		
Email:		
List any other intended occupants, inclu	iding	age
and relationship:		

Do you have any pets?	Y	N		
If yes, how many:	-			
Type of pet(s):				
Breed(s):	Age(	(s):		
Weight(s):	Ge	nder(s):		
Do any of the intended	0000000	te emoko?	y v	Ν

Do you have any special i that we need to be aware If yes, please describe:	of? Y N
Name of nearest living re Relationship: Phone:	
Whom should we contac Relationship: Phone:	

<b>Resident Hist</b>	ory		
Present Address			
City:	State:	Zip:	
How long have	you been at this	address?	
From:			
То:			
Rent/Mortgage	Amount:		
Present Landlor	d/Mortgage Ho	lder:	
Phone:			
Reason for Mov	ing:		
Has your lease e	expired? Y	Ν	
If no, when is yo	our lease due to e	expire:	

	ess:		
City:	State:	Zip:	
0	you at this add	lress?	
From: To:			
Monthly Rent/	Mortgage:		
Previous Land	lord/Mortgage	Holder:	
Phone:			
	ving:		



If yes, please explain including dates, address, and contact information for the property owner/manager:\_\_\_\_\_

Applicant Signature:\_\_\_\_ Date:\_\_\_\_\_

### **Criminal History**

Have you or any other intended occupant, including any minors, ever been charged, convicted of, or pled "guilty" or "no contest" to a felony (whether or not it resulted in a conviction)?

Have you or any other intended occupant, including any minors, ever been charged, convicted of, or pled "guilty" or "no contest" to a misdemeanor involving sexual misconduct (whether or not it resulted in a conviction)? Are you or any other intended occupant, including any minors, required to register as a violent or sex offender in any jurisdiction?

Note: Applicants with a history of violent felony or sexual misconduct charge(s) and conviction(s) can be and should be refused.



# Criminal Background Check

- Department of Corrections Website • http://www.cor.mt.gov
- Department of Justice Website
   http://www.doj.mt.gov



#### **Employment Information**

Employed by:		
For how long:		
From:	-	
То:	-	
Address:		
Phone:		
Position:		-
Monthly Income:		
Supervisor:		

Previously emplo	oyed by:		
For how long:	years	months	
From:			
То:			
Address:			
Phone:			
Position:		_	
Monthly Income	:		
Supervisor:			

Other sources of income:
Other sources of income include financial aid, social security, loans, mutual funds, stocks, bonds, family assistance, etc
Provide recent copies documenting each source of income
Source Contraction of the source of the sour

Banking	and	Credit	Information	
		oreant	Annot matterion	

Provide copies of the most recent statement for each bank account

Bank:\_

Phone:\_\_\_\_\_

Checking Account #:\_\_\_\_\_ Savings Account #:

Have you ever filed for bankruptcy? Y N If yes, when:\_\_\_\_\_

Are there any judgments against you? Y N If yes, please list specifics of judgments and collections:

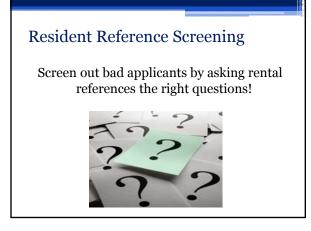
List your financial obligations, including student loans, credit cards, auto and home loans, child support, etc. per month:\_\_\_\_\_



Automobi	le Information			
Provide a copy of the registration for each vehicle, to be used in enforcing parking restrictions				
Parking restrictions <ul> <li>Unregistered vehicles on site</li> <li>Liens in the event of collection</li> </ul>				
Make:	Model:	Vin#:		
Year: Color: Plate:				
Signature:_		Date:		

# Rental Reference Application Form





# Rental History Verification Form Name of Applicant: Name of rental reference: Rental reference's address: City: State: Zip: Rental reference's phone:



# \_(Applicant) has made an

application for a property managed by Property Management. It is important that we determine the applicant's past rental history of meeting financial obligations. We also need to determine whether the applicant has a record of non-financial lease violations or eviction notices. The information that we ask you to supply will be kept confidential and used only for the purpose of evaluating the applicant's rental application. As indicated by the signature at the end of the form, the applicant has consented to the release of the information we request. We request that this information be supplied within 24 hours, so as not to unnecessarily delay this applicant. Your prompt cooperation is appreciated.



# **Rental Payment Information**

- · Social Security Number
- Is the applicant currently living in your community?
- Are you related to the applicant?
- Did the applicant have a lease?
- Date moved in?
- Date moved out?
- Monthly rent?

- Did the applicant have a record of paying rent promptly?
- If the applicant paid late, how many days late?
- · How often did they do this?
- Did you ever begin eviction proceedings against the applicant for non-payment?
- Does the applicant still owe you money? How much?
- Did the applicant keep the dwelling clean?

## **General Questions**

- Did the applicant or applicant's family or guests damage the dwelling or common areas beyond ordinary wear and tear?
- Did the applicant pay for the damage?
- Did you keep any of the applicant's security deposit?
- How much and why?

- Did the applicant ever threaten the welfare, health, or safety of any other residents or employees?
- Did the applicant ever become violent or engage in criminal or drug-related activities? Please describe.
- Were any notices of violations issued to the applicant for any reason?
- Did the applicant ever create any noise disturbances or disruptions? Please describe.
- Did the applicant ever have anyone other than those named on the lease living in the dwelling?

- · Did the applicant ever have any pets in the dwelling?
- Did the applicant give you proper notice before moving?
- Did you ever give the applicant a termination notice? If yes, why?
- Would you rent to this applicant again? Please explain.
- Did the applicant have a co-signer, guarantor, or roommate?
- Were any negative responses given to the above questions due to the conduct of the co-signer, guarantor, or roommate?

# **Resident Release**

By my signature below, I hereby authorize the release of the information on this application to Property Management.



# Third Party Warranty - Guarantor

- 1. This is an integral part of the Rental Application and Rental Agreement (or Lease) for the following named applicant(s)\_\_\_\_\_\_.
- 2. In consideration of your lease of the Premises to the Applicant(s), I hereby guarantee and agree to be jointly and severally liable for any or all of the Applicant(s) liability to you arising as a result of the rental agreement. I further expressly guaranty payment of the rent, any damages, cleaning expenses, unpaid utilities, fees, fines, exemplary or punitive damages, costs, and administrative charges including without limitation; attorney's fees, court costs, or any other liability incurred and full performance of the Rental Agreement including any extensions, renewals, modifications, or amendments thereto.

# Third Party Warranty - Guarantor

- 3. While agreeing to be bound by all terms and conditions of the Rental Agreement, I specifically and irrevocably waive all possessionary rights to the Premises for the entire term of the Rental Agreement, including all extensions thereto. Additionally, I agree to have management run a credit check on me for the purpose of financial verification.
- 4. The Guarantor's liability will remain in force for the term of the Rental Agreement and subsequent agreements, unless the Tenant wishes to show his ability to handle his own tenancy, without a Guarantor. This will require the Tenant to resubmit an application and qualify independently based on the criteria listed in the Rental Application.

# Third Party Warranty - Guarantor

5. The undersigned co-signs as unconditional Guarantor on any Rental Agreements executed by the Applicant(s). The undersigned specifically authorizes and directs any and all persons or entities named by the Guarantor herein to receive, provide, and exchange with management, it's principals, agents, and employees, any information pertaining to me, including but not limited to confidential information pertaining to my credit and payment history, the opinions and recommendations of my personal and employment references, my rental history, my criminal history, my driving record, my military background, my civil listings, my educational background, and any professional licenses.

# Third Party Warranty - Guarantor

- 6. I acknowledge that I have voluntarily provided the above information for the purpose of securing housing and I have carefully read and understand this authorization.
- 7. Guarantor's Information: Name, Address, Phone, etc...
- 8. Notary Public Signature and Seal



- You MUST tell the tenant if information you obtain in a credit check is used against them.
- Any property manager who uses a credit report or another type of consumer report to deny a tenant's application for credit, insurance, or employment – or to take another adverse action against the tenant, must tell them and give them the name, address, and phone number of the agency that provided the information.

# Third-Party Guarantees Work!

Remember to notify the Guarantor when taking any action in which their guarantee may be an issue

Remember

# The Application Fee – Why Charge?

- It pays for the time and expense of screening an applicant
- It cuts down on the number of unqualified applicants
- It sends a message to your prospective tenant from the beginning that you run your rental business as a business

# Responsibilities When Charging An Application Fee

- You have to tell them what you are going to check.
- You have to inform them of their right to dispute any credit information you uncover.
- You may not charge a fee unless you actually have a unit available to rent at that moment or expect one within a reasonable length of time.
- You must refund the application fee if you do not screen the applicant.

#### **Evaluating Your Screening Procedures**

- · Review all policies and procedures
- Review applicant's application for completeness and accuracy
- Review your criteria too lax too vague?
- Are you experiencing an unacceptable default rate?
- The problem may stem from your screening procedures.

# **In-House Testing**

- Randomly select a group of 5-10 application files.
- Were rejected applicants granted occupancy after rejection? By whom?
- Compare applicant's credit report to your criteria.
- Was a full screening performed or was the process stopped short?

# **Application Screening Tips**

- · All documentation must be "valid and verifiable"
- Rental Application should be referenced in the Rental Agreement
- Do not make exceptions Risk/Exposure
- Adverse Action Letter Denial



- Do not add or delete any information to an application.
- Emergency Contacts Make sure you verify them for possible future collection actions
- Identity Theft Excuse Sorry, this is company policy and we are insured.
- Copy of the first check

Adjust to the market but never lower your standards!



# Fair Housing Compliance

- Consistency and uniformity are your best protection.
- Never make exceptions.
- Adjust criteria rather than override rejected applications.
- Document the date and reason for criteria adjustments.

# Foreclosure of the Premises – Obligations and Rights

- 1. The foreclosure will generally wipe out the lease. Tenants become "at will" and the new owner can give them 90 days notice.
- 2. The security deposit belongs to the tenant. If the dwelling is foreclosed, the departing tenant is entitled to their security deposit.

# **Types of Leases**

- Gross Lease
  - Typical Rental Lease all is included
- Net Lease
  - Commercial operating costs are paid by tenant
- Percentage Lease
- Retail
- Bilateral Lease
- Between the Lessor and Lessee
- Ground Lease
  - Mobile Home Park

# The Lease Agreement - Bilateral

- A lease is a contract between a landlord (lessor) and a tenant (lessee)
- Lease should reduce or eliminate misunderstandings.
- Agency
- With whom..
- How to disclose...
- When to disclose...



#### The Rental/Lease Agreement Fundamental Elements of Leases/Rental Agreements: Offer Line 21 a. Valuable Consideration b. Line 70 Capacity to Contract Line 411 c. d. The Parties - Landlord/Tenant Line 8 Description of Premises Lines 22-25 e. Lease/Rental Term Line 30 f. Lines 78 Lines 76-77 Payment Terms g. h. Security Deposit Late Fees and Other Charges Lines 78-82 i. Use of Premises Line 294 j. k. Subleasing Rules and Obligations Lines 192 Lines 279-320 1. m. Acceptance Lines 422

# The Rental Agreement

This is a legally binding contract, including the specific and general terms described below and consisting of 10 pages. If not understood, Tenant (s) should seek advice from competent legal counsel before signing.



# A lease should never look like this...

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## A lease should never look like this...

Between (Owner) and (Tenant).

- 1. Property Location: Unit 205 at 210 ABC Road, Smalltown, MT 59999
- 2. Lease Term: May 1, 2016 May 1, 2017
- 3. Rental Rate: \$800 per month. Due the 5<sup>th</sup> of each month. Envelope must be postmarked no later than the 5<sup>th</sup>.
- 4. Mail To: Owner at 123 Main Street, Suburbia, NC 27777

# A lease should never look like this...

- 5. Late Penalty: \$15 per day. If penalty and rent are not paid by the 25<sup>th</sup> of the same month, lease is broken.
- 6. Occupants: Tenant, Tenant's mother and 1 cat. Picture of cat must be submitted. Cat cannot be substituted or replaced without owner's permission.
- 7. Habits: The smoking of tobacco, marijuana, or similar products is not allowed.

# A lease should never look like this...

- 8. Damages: Tenant will pay repair costs required to bring the apartment back to the condition it was in at lease origination. Reasonable wear and tear expected.
- 9. Fees: Tenant will pay electric and gas. Owner will pay property tax and HOA fees

# Specific Terms

#### NOTICE OF STATUS AS MANAGER:

Manager hereby notifies Tenant(s) that Manager is authorized to manage the Premises, which are described below, on behalf of its owner, as the owner's representative and that the Manager is authorized to accept service of process, notices, and demands on behalf of the owner. The address of the Manager, for purposes of service of process, notices, and demands is \_\_\_\_\_.

**PREMISES:** The Tenant(s) hereby agree to lease the premises located at \_\_\_\_\_

**ADDITIONAL OCCUPANTS:** In addition to the Tenant(s) identified above, the following individuals may occupy the premises:

**RENEWAL:** Upon expiration of the initial Lease Term, Manager and Tenant agree to accept the default extension period for the lease chosen by the Tenant

The Manager, with 30-days written notice prior to the expiration of initial Lease Term, gives the Tenant notice of changes to the rental agreement that would apply to subsequent terms, including, but not limited to, the right to increase the monthly rent or to retain possession of the premises.

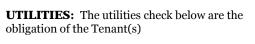


# **PAYMENT TERMS:** The Tenant(s) agree to pay Manager the amounts set out as follows:

First Month's (pro-rated) Rent:	\$
Monthly Rental:	\$
Security Deposit:	\$
Additional Deposit:	\$
Late Charge:	\$

•Rent must be received in the Manager's office by 5:00 •NSF Check Fee: Up to \$30.00

•Administrative Costs for Default of Lease



**SERVICES:** The services checked below are the obligation of the Tenant(s)

**KEYS/GARAGE DOOR OPENERS:** The Tenant(s) shall pay actual costs for rekeying or replacement for the keys and/or garage door opener

## **Related Documents**

Incorporated into the terms of this Agreement are the following:

- Tenant's Application for Rental
- •Addendum to Lease Agreement
- Rules and Regulations
- •EPA Lead Based Paint Handout
- Smoking/Fire Safety Letter
- Move-In Property Condition Report
- •CD with Move-In Photos
- Present Condition of Premises



# **General Terms**

**RENT:** Rent is payable in advance, on, or before 5:00 pm on the day indicated herein for each calendar month to Manager at the address indicated

**LATE CHARGE:** In the event rent is not paid by the date set out in the Specific Terms of this Agreement, a late charge in the amount set forth therein shall arise

The late charge period is not a grace period.

**PAY OR VACATE NOTICE:** Tenant agrees to pay Manager's administrative costs upon issuance of a Pay or Vacate Notice (POV)

**NSF CHECK CHARGE:** Tenant(s) payment shall not be considered made until such funds are made good. Tenant(s) shall also pay the NSF Check Fee



## Security Deposits

- Tenant(s) agree to pay concurrent with the signing of this Agreement
- Manager will hold all security deposits in a trust account
- All interest will be retained by Manager to cover bank service charges related to the trust account



- Security deposit shall not be deemed rent for any rental month
- If security deposit is insufficient to satisfy such sums, owing Tenant(s) shall pay the deficiency upon demand
- Any excess of the security deposit will be returned in accordance with the Residential Tenant(s) Security Deposit Act



# Animals and Pets

- No pets shall be permitted on the premises, except the following...
- Tenant is solely responsible for all damages caused by pets
- Tenants will sign a separate pet agreement in the event that Manager approves a request for a pet



# General Terms Cont.

General Terms Cont.

**RULES AND REGULATIONS:** Tenant(s) additional occupants and all guests shall abide by all Rules and Regulations

**ORDINANCES AND STATUTES:** Tenant(s) shall comply with all applicable statutes, ordinances...

**ASSIGNMENT AND SUBLETTING:** Tenant(s) will not assign their interest in this Agreement or sublet any portion of the premises...

## Maintenance, Repairs, or Alterations

- Tenant(s) acknowledge that the premises are in good order and repair
- Tenant(s) will maintain the premises...[and] all smoke detectors and carbon monoxide detectors
- Tenant(s) shall be liable for damages caused by their actions and those of additional occupants and guests

# General Terms Cont.

**INSPECTIONS:** Except in emergencies, Manager, shall give Tenant(s) a 24 hour notice of intent to enter

#### **INSURANCE AND LIABLITY:**

• Tenant(s) shall obtain and maintain a policy of renter's insurance

•Manager is not liable...for any personal injury or property damage caused by the act or omission of any other Tenant(s) or third party **ABSENCES:** Tenant(s) shall notify Manager of any anticipated absence greater than 7 days or such absence will be considered abandonment

**DEFAULT:** Failure by Tenant(s) to comply with one or more of such terms shall constitute a default under the terms of this Agreement

# **ABANDONED PERSONAL PROPERTY:** Manager shall adhere to Montana Code Annotated 70-24-430, a copy of which is herewith provided

## Vacating Premises Prior to Termination

- Tenant(s) obligation under the terms of this Agreement shall not cease upon surrender of the premises
- In all cases, vacating Tenant(s) shall remain jointly and severally liable under the terms and conditions of this Agreement

# **Termination of Tenancy**

- Tenant(s) shall return premises...in the same condition and repair as when received
- Free of Tenant(s)' personal property, trash, and debris
- Manager shall provide Tenant(s) written notice of the cleaning necessary
- Tenant(s) shall have 24 hours after receipt of notice to complete the required cleaning

- Failure to accomplish said cleaning within the time allowed entitles Manager to deduct the cost of cleaning
- Within 30 days after the termination of the tenancy...
- If after inspection there are no damages to the premises...Manager shall return the security deposit within 10 days

# Early Termination of Lease

Tenant(s) remain liable to Manager for damages, cleaning, and all rent that shall accrue until the dwelling is re-rented.



# Tenant(s) Obligations

- · Comply with all...building and housing codes
- Keep the premises...clean and safe
- Dispose from the dwelling all...garbage, rubbish, and other waste
- Keep all plumbing fixtures...as clean as their condition permits

#### • Use in a reasonable manner all...

- Electrical
- Plumbing
- Sanitary
- Heating
- Conduct themselves in a manner that will not disturb neighbors' peaceful enjoyment
- Use parts of the premises in a reasonable manner

- · Neither commit nor allow any illegal acts
- Immediately notify the Manager of necessary repairs
- No Smoking There will be no smoking of any substance in or within 25 feet of the leased premises by Tenant or Tenant's guests
- "Smoking" includes...the smoking of any substance, legal or illegal...including marijuana and/or marijuana derivatives

- Tenant shall not grow ... marijuana plants
- Tenant shall not allow any other person to...grow, manufacture, trade, sell, convey or otherwise transfer marijuana or marijuana products...



# General Terms Cont.

#### HAZARDS:

- Satellite Dishes
- Water Beds
- Aquariums



**WAIVER OF DEFAULT:** Manager's failure to require strict compliance...

**APPLICATION OF PAYMENTS:** All payments made by the Tenant will be applied first to damage and cleaning charges, then to insufficient funds check charges, late charges, attorney's fees, and past due rent from the oldest month to the newest month, in that order

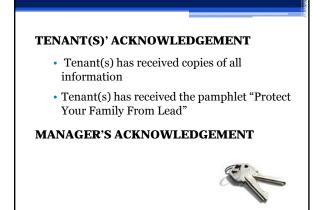
**SEVERABILITY:** If a part of this Agreement is invalid, all parts that are severable from the invalid part shall remain in effect

**NOTICES:** Unless otherwise provided, all notices shall be in writing, mailed or delivered to Manager

**JOINT AND SEVERAL LIABILITY:** Each Tenant will be responsible for timely payment of rent...

**LEAD BASED PAINT DISCLOSURE:** Lead Warning Statement





#### **CERTIFICATIONS**

#### FAIR HOUSING

#### ATTORNEY'S FEES AND COSTS OF **COLLECTION:**

• Tenant(s) agrees that in the event Manager places any unpaid balance for collection with any third party agency, Manager may charge a collection fee of up to 50%

#### **ENTIRE AGREEMENT:**

• The foregoing constitutes the entire agreement between the parties

#### **NEGOTIATED AGREEMENT:**

 The Parties agree that each has had the opportunity to negotiate each term in this Agreement

## Remember...

If the tenant does not move out on or before the date in the termination notice and has not cured where allowed to do so, the landlord must file an action for possession in Justice or Municipal Court.

- 1. A private party landlord may represent himself.
- 2. A property manager may NOT represent a landlord.
- Best Advice Hire an attorney and spend a small amount 3. at the beginning to avoid having an attorney clean up a bigger mess later on.
- Property owners may represent themselves, unless the 4. property is held by a corporation, LLC, family trust, or other form of fictitious name.

## Review

#### The form of the notice letter is important!

- Make sure to specify the correct reason. 1.
- Terminations for cause have lesser notice requirements, however, most allow tenant to cure 2. violation.
  - a. 14 Days Violation of Rental Agreement
- b. 14 Days Failure to Maintain Health/Safety
- 3 Days Unauthorized Pet c.
- 3 Days Unauthorized Resident d.
- e. 5 Days - Recurrence Within 6 months
- 3 Days Nonpayment of Rent f.
- 3 Days Defacing or Damaging Premises 3 Days Violation of 70-24-321(3) g. h.







Property Address:	
Lease Duration:	
We would like to add lease.	to our
We would like to release our lease.	from
Tenant understands that the security de key transfer between residents is their responsibility and not that of Manager.	posit and

Tenant also understands that there will be a move out inspection done in conjunction with this transaction. Any charges for damages or cleaning that are assessed as a result of the inspection will be the responsibility of the existing resident(s).



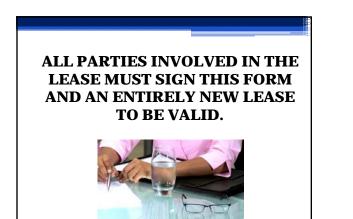
New or remaining residents assume full and equal responsibility for the condition and cleanliness of the unit for the remainder of the lease.

Tenant understands that the utilities must not be turned off.

There will be an administrative fee per person in order to be added or released from the lease. The entire fee is payable in full at the time of addition or release. The resident being released understands that any balance currently owing on this account must be settled up between he/she and the remaining tenant(s).

OR

The new tenant must understand that any balance currently owing on this account is a debt they assume as their own upon the signing of the addition form.



#### Tenant Defaults/Skips • The Paper Trail – Copy Call Employers Everything! Call Relatives Applications Call Friends Credit Reports Call Utility Companies Memos – To and From · Check with the Post Office Tenant ACR – Address Correction Notes on Conversations Request Telephone Messages Neighbor Complaints • ID's

## Time is of the Essence

- Train your residents to be good tenants...
- Regular and timely notices
- Rent is due on the 1<sup>st</sup>
- <sup>•</sup> Rent is delinquent on the 2<sup>nd</sup>
- <sup>a</sup> 3 Day Notice Should be sent when...?
- It will expedite the eviction and collection process

# Lease Drafting Consideration: Forms, Default, and Remedy Clauses

- Review your leases! Time passes faster than you realize and that lease you have always used may be more than five years old...laws change, so stay updated!
- 2. There is no automatic default or remedies. If tenant is in violation, you must follow notice provisions before filing for possession.
- 3. Be careful with clauses. You must ensure they do not violate the tenant's rights.

## **Tenant Education**

- Review the rental agreement with each tenant before giving them the keys.
- Tenant education is part of the rental process.
- Fewer than 5% of tenants understand the lease they sign.
- Most residents do not understand that if they break their lease or are evicted, they remain responsible for rent until the unit is re-rented.

## Real Estate Agent/Investor Checklist

- · Insist on a review of ALL tenant files
  - Rental Application
- Property Condition Report
- Signed by Manager/Owner
  Rental Agreement
- Term
- Communication Log
- Tenant History
  - Financial
- Tenant Transaction Ledger
- Maintenance History

# The Agency and Property Management Agreement



# The Agency and Property Management Agreement

This is intended to be a legally binding contract, including specific and general terms described below, consisting of seventeen pages. If not understood, you are advised to seek the advice of competent legal counsel.

This agreement is subject to arbitration pursuant to the Montana Uniform Arbitration Act, MCA Title 27 Chapter 5.

1. Parties	Line 4
2. Term	Line 22
3. Property Description	Lines 8-18
4. Manager's Authority	Lines 49-98
• Agency	Lines 4-6
Contract	Line 54
Set Rates, Collect Fees	Lines 59-61
Bank Accounts	Lines 83-87
• Maintenance	Lines 63-72
• Advertising	Lines 51-52

<ul> <li>Disclosure</li> </ul>	Lines 28-47
<ul> <li>Financial Management</li> </ul>	Lines 83-98
<ul> <li>Reports to Owner</li> </ul>	Lines 80-81
<ul> <li>General Terms</li> </ul>	Lines 187-213
6. Owner's Obligations	Lines 100-143
<ul> <li>Compensation</li> </ul>	Lines 112-116
<ul> <li>Indemnify</li> </ul>	Lines 104-110
<ul> <li>Property Condition</li> </ul>	Line 145
7. Signature – Authorization	Line 243

# Basic Components of a Management Agreement

1. Parties

- a. Agency Name and Address
- b. Owner Name, Address, Phone, and Email

#### 2. Table of Contents Section 1 – Appointment of Managing Agent Section 2 – Bank Accounts

Section 3 - Collection of Rents and Other Receipts

Et Cetera

# 

#### 1.3 Term

The term of this Agreement shall be the initial period of \_\_\_\_ (years, months, or "the initial term") from the \_\_\_\_ day of \_\_\_\_\_, to and including the \_\_\_\_ day of \_\_\_\_\_, and thereafter shall be automatically renewed from year to year unless terminated.



#### Section 2 – Bank Accounts

#### 2.1 Bank Accounts

Bank Accounts established under this Agreement shall at all times be established in the Agent's name.

#### 2.2 Trust Account

Agent shall maintain one or more operating accounts, known as the trust account, separate and apart from the Agent's partnership accounts for the deposit of receipts collected and disbursement of expenditures as described herein.

#### 2.3 Initial Deposit and Contingency Reserve

Owner shall remit to Agent the sum of \$\_\_\_\_\_\_ to be deposited in the trust account as an initial deposit replacing the estimated first month disbursements to be made in the first month following the commencement of this agreement, plus an additional sum of \$\_\_\_\_\_\_ as a contingency reserve.



#### 2.4 Security Deposit Account

Agent shall maintain on behalf of tenants one or more separate accounts for tenant security deposits and advance rentals.

#### 2.5 Fidelity Bond

Agent shall cause all personnel who handle or are responsible for the safekeeping of any monies belonging to Owner to be covered by a fidelity bond.

#### Section 3 - Collection of Rents/Receipts

#### 3.1 Agent's Authority

Agent shall collect and give receipts for (if necessary) all rents, charges, and other amounts receivable on Owner's account in connection with the management and operation of the Premises.

#### 3.2 Special Charges

If permitted by applicable law, Agent may collect from prospective tenants an application fee and from tenants any or all of the following; late payment of rent, non-negotiable checks, credit report fee, and broker's commission for subleasing.

#### 3.3 Security Deposits

Owner pays tenants interest upon such security deposits only if required to do so by law, otherwise, any interest earned on tenant security deposits is to be retained by Agent as compensation for administering these funds.



#### Section 4 – Disbursements From Trust Account

#### 4.1 Operating Expenses

Agent will incur various costs and expenses in performing services under this Contract which are not included in the management fee.

The Owner agrees to pay for those costs and expenses.

#### 4.2 Debt Service

Owner shall give Agent advance written notice of at least 60 days, if Owner desires Agent to make any additional monthly or recurring payments such as mortgage indebtedness.

#### 4.3 Net Proceeds

Agent shall transmit cash balances to Owner periodically on or before the 5<sup>th</sup> of each month following rent collection.

# Section 5 – Agent Not Required to Advance Funds

Owner shall, immediately upon notice, remit to Agent sufficient funds to cover the deficiency and replenish the contingency reserve. In no event shall Agent be required to use its own funds to pay such disbursements.



#### Section 6 – Financial and Other Reports

#### 6.1 Reports

Agent shall, on a mutually acceptable schedule, prepare and submit to Owner such reports as are agreed on by both parties as set forth:

#### 6.2 Owner's Right to Audit

Owner shall have the right to request periodic audits of all applicable accounts managed by Agent and the cost of such an audit shall be paid by Owner.

#### Section 7 – Advertising

Agent is authorized to advertise the Premises or portions thereof for rent using periodicals, signs, plans, brochures, displays, or such other means as Agent may deem proper and advisable.



#### Section 8 – Leasing and Renting

8.1 Agent's Authority to Lease Premises

Agent shall use all reasonable efforts to keep the Premises rented by procuring tenants for the Premises.

#### 8.2 No Other Rental Agreement

Owner shall not authorize any other person, firm, or corporation to negotiate or act as leasing agent with respect to any leases for space in the Premises.

#### 8.3 Rental Rules

Agent is authorized to establish, change, or revise all rents, fees, and deposits.

#### 8.4 Enforcement of Leases

Agent is authorized to institute, in Owner's name, all legal actions or proceedings for the enforcement of any lease term, the collection of rent or other income generated by the Premises, and the eviction or dispossession of tenants or other persons from the Premises.



#### Section 9 – Employees

#### 9.1 Agent's Authority to Hire

Agent is authorized to hire, supervise, discharge, and pay all servants, employees, or contractors. All employees shall be deemed employees of the Owner and Agent shall not be liable to Owner or others for any act or omission on the part of such employees.

9.2 Hold Harmless - Labor Laws

Agent shall be responsible for compliance with all applicable state and federal labor laws. Owner shall indemnify, defend, and save Agent harmless from all claims, investigations, and suits, or from Owner's actions or failure to act with respect to any alleged or actual violation of the law.

#### Section 10 - Maintenance and Repair

#### 10.1 General Maintenance and Repair

Agent is authorized to make or cause to be made, through contracted services or otherwise, all ordinary repairs and replacements reasonably necessary to preserve the Premises in its present condition.



#### 10.2 Approval for Exceptional Maintenance Expense

The expense to be incurred for any one item of maintenance, alteration, refurbishing, or repair shall not exceed the sum of \$400 unless such expense is specifically authorized by Owner, reasonably deemed to be an emergency, or where repairs are immediately necessary for the preservation and safety of the Premises.

#### **Section 11 – Contracts and Services**

Agent is authorized to negotiate contracts for nonrecurring items of expense, not to exceed \$300.

#### Section 12 - Relationship of Parties

The relationship of the parties to this Agreement shall be that of Principal and Agent, and all duties to be performed by Agent under this Agreement shall be for and on behalf of the Principal.

#### Section 13 – Save Harmless

Owner shall indemnify and save Agent harmless from any and all personal injuries, damages, claims, suits, costs, and recoveries of every name and nature which may arise from the use, occupancy, management, operation, or maintenance of the Premises.

#### Section 14 - Liability Insurance

Owner shall obtain and keep in full force and effect during the life of this Agreement, at his sole cost and expense, a policy of public liability and property damage insurance which protects the Agent against loss.

#### Section 15 – Agent Assumes No Liability

Agent assumes no liability whatsoever for any acts or omissions of Owner, any previous owners of the Premises, or any previous management or other agent of either.



# Section 16 – Owner Responsible for Expenses of Litigation

#### 16.1 Expenses Incurred by Agent

Owner shall pay all expenses incurred by Agent, including but not limited to; reasonable attorney's fees, Agent's costs and time, and any liability, fines, penalties or the like, in connection with any claim, proceeding, or suit involving an alleged violation by Agent or Owner.

#### 16.2 Fees for Legal Advice

Owner shall pay reasonable expenses incurred by Agent in obtaining legal advice regarding compliance with any law affecting the Premises.

#### Section 17 – Agent's Compensation and Expenses

#### 17.1 For Management Services

The greater of 75 per month or \_\_\_% of the total monthly gross receipts from the Premises, payable by the 20<sup>th</sup> day of the month for the duration of this Agreement.

#### 17.2 For Apartment Leasing

A **\$25** leasing fee for each new lease or renewal.

#### 17.3 For Set-Up

A one time set-up fee of \$150 at the execution of Agreement.

#### Section 18 – Representations

Owner represents and warrants that Owner has full power and authority to enter this Agreement.

#### Section 19 – Structural Changes

Owner expressly withholds from Agent any power or authority to make any structural changes.

#### Section 20 – Building Compliance

Agent does not assume and is given no responsibility for compliance of the Premises, any building thereon, or any equipment therein, with the requirements of any building codes.

# Section 21 – Residential Lead-Based Paint Disclosure

Owner shall meet all disclosure, certification, and acknowledgement of disclosure requirements of a Lessor with respect to known lead-based paint and/or lead-based paint hazards under the statute.



#### **Section 22 – Termination**

#### 22.1 Termination by Either Party

This Agreement may be terminated by either Owner or Agent, with or without cause, at the end of the initial term or during any following term year upon giving 60 days written notice prior to the end of said initial term or following term year.

#### 22.2 Termination for Cause

- a. Breach of Agreement 30 Days after receipt of notice by either party to the other specifying in detail a material breach of this Agreement.
- b. Failure to Act, Etc In the event that any insurance required of Owner is not thereof, or any act or failure to act by the Owner.
- c. Excessive Damage Upon the destruction of or substantial damage to the Premises by any cause.
- d. Inadequate Insurance If Agent deems that the liability insurance obtained by Owner is inadequate.

#### 22.3 Termination Compensation

If Owner terminates this Agreement before the end of the initial term, Owner shall be obligated to pay Agent as liquidated damages an amount equal to the management fee earned by Agent.

#### 22.4 Owner Responsible for Payments

Upon termination of or withdrawal from this Agreement, Owner shall assume the obligations of any contract or outstanding bill executed by Agent.

#### 22.5 Sale of Premises

In the event that the Owner wishes to place the Premises on the market for sale during the period of this Agreement:

- a. Owner will provide 60 days written notice to Agent.
- b. Owner will provide written notice to Agent within 3 days of acceptance of an offer.
- c. Owner will provide no less than 10 days notice regarding the closing date.
- d. Owner will assume full responsibility for any costs that Agent incurs due to the sale of the Premises.

#### Section 23 – Arbitration

Any dispute arising under this Agreement, or in connection with the purchase and sale transaction contemplated to be performed hereunder, shall be submitted for arbitration in Missoula, MT in accordance with the Montana Uniform Arbitration Act.

#### Section 24 – Complete Agreement

This Agreement, including any specified attachments, constitutes the entire agreement between Owner and Agent. Any and all amendments, additions, or deletions to this Agreement shall be null and void unless approved by the Owner and Agent in writing.

# Section 25 – Applicable Law and Partial Invalidity

The execution, interpretation, and performance of this Agreement shall in all respects be controlled and governed by the laws of the State of Montana.

#### Section 26 – Notices

Any notices, demands, consents, and reports shall be in writing and shall be addressed as follows:

Agent Address:\_

Owner Address:

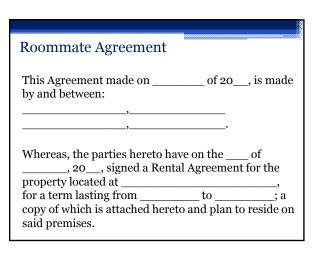
#### Section 27 – Agreement Binding Upon Successors and Assigns

This Agreement shall be binding upon the parties hereto and their respective personal representatives, heirs, administrators, executors, successors, and assigns.



# Forms Review – Roommate Agreement

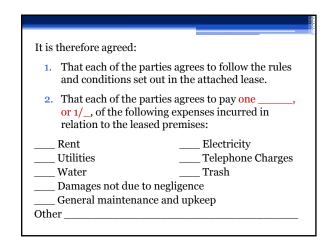




Whereas, a security deposit of \$\_\_\_\_\_ was paid to \_\_\_\_\_ Owner/Manager of said premises;

Whereas, the parties wish to provide for the sharing of responsibilities in the renting of said premises;





\*If any of the parties pays more than the one \_\_\_\_\_(1/\_\_) share, the other parties agree to reimburse the first party.

- 3. Each party agrees to pay for long distance telephone calls he/she makes
- 4. The parties agree that one \_\_\_\_\_(1/\_) of the security deposit is the property of each of the parties.
- 5. Each of the parties agrees to remain a resident of the premises during the term of the lease, or to continue to pay his/her share of the rent during the said term, unless the following conditions are met:
  - a. The party, at his/her own expense, locates a tenant to sublet his/her share, said tenant being acceptable to the other parties to this Agreement; and
- b. Written consent to sublet is obtained from the Owner/Manager of the premises.

- 6. The repairs or improvements to the premises, the cost of which are to be shared by the parties, in excess of \$\_\_\_\_\_ in cost, shall be approved by all parties in advance.
- 7. If pets are permitted under the lease, each pet owner shall be solely responsible for all damages caused by his/her pet. This includes but is not limited to; damage to furniture, carpeting, doors, lawn, and garden.
- 8. The parties agree to handle the issue of overnight guests as follows;

9. The parties agree to be equally responsible for mowing, watering, trimming, raking, and all other yard care responsibilities.

#### 10. Additional Agreements: \_

SIGNATURE

Signatures:

DATE

\_\_\_\_

\*It is very important that ALL parties sign and date this agreement\*

# Pet Lease Agreement



Pet Lease Agreement				
This Agreement is an integral part of the Rental Agreement dated:				
(Manager), as Agent of the Owner of the property located at:				
grants permission to (Tenant) in the above premises to keep the below named pet(s) subject to the following:				
<ol> <li>This permission extends only to the specifically named pet(s);</li> </ol>				
Name: Spayed/Neutered:				
Type: Breed: Age:				
Weight:				
City/License#:/				

*You would record the previous information in the same manner for each pet, being sure to identify each one clearly*
Also Include:

Veterinarian: \_\_\_\_\_ Address: \_\_\_\_\_

Phone:

Pets younger than six months of age will not be allowed at this premises.

2. Tenant(s) agree that the Manager has the right to

becomes a nuisance, causes disturbances, or

belonging to the premises. Refusal to comply shall cause a termination of the Rental

such behavior include but are not limited to;

disturbance of any person at any time of day or

Pets who relieve themselves on walls or floors of

a. Personal injury or property damage

night.

common aread.

c.

b. Pets who make noise continuously to the

damages the premises or personal property

remove a pet permanently from the premises if it

Agreement and immediate eviction. Examples of

Copy of License

- \_\_\_\_ Photograph of Pet
- \_\_\_\_ Breed Documentation (Dog)

The following dog breeds will not be permitted to reside or visit any of the properties managed by Property Management:

- Rottweiler
- Chow
- Pitbull
- Doberman Pinscher
- Wolf Hybrids



- d. Animals who exhibit aggressive or vicious behavior.
  - e. Pets who are conspicuously unclean or parasite infested.
- 3. No additional pets of any kind are authorized under this Agreement, even temporarily. No other pet(s) shall be allowed to be on the premises unless written permission is received from the Manager and an additional consent form executed. Pets of guests are not allowed inside the premises.

# e. Pets who are conspicuously inforted

#### 4. Rules and Care of Pet:

- a. Tenant(s) agree that the pet(s) named and described will be confined to the premises at all times, except when on a leash and accompanied.
- b. At no time will the pet be left unattended when outside of the premises.
- c. Tenant(s) who walk pets are responsible for immediately cleaning up after their pets and discarding the securely bagged pet waste in an appropriate trash receptacle on a daily basis.
- d. Dogs and cats are required to be "house broken." Cats must be litter box trained.

- e. No pets may be kept, bred, or maintained for any commercial purposes.
- f. Tenant agrees that no offspring will be allowed to remain on the premises.
- g. Tenant agrees not to leave their pets unattended for any unreasonable length of time.
- h. Tenant agrees not to leave food or water for their pets outside their dwelling.
- i. Tenant understands that feeding, caring for, or otherwise aiding stray animals is prohibited.

- j. Tenant shall take precautions to eliminate pet odor within the unit or about the premises.
- k. Tenant will provide adequate and regular veterinary care of pet.
- 1. Tenant agrees not to breach any type of health or safety codes, or any local, state, or federal laws and regulations by having the pet.
- m. Manager will require more frequent housekeeping inspections for tenants with pets.

- 5. A picture of the named pet(s) is to be submitted before the signing of this Agreement.
- 6. Pet Damages Hold Harmless

Manager shall not be liable for any damages to person or property caused by the pet(s) and Tenant hereby agrees to hold Manager harmless from such liability. Tenants who own pets shall be liable for the entire amount of all damages caused by their pet(s) and all cleaning and deodorizing required because of such pet(s).

Pet liability insurance can be obtained through most insurance agents and can be included in renters' policies.

Tenant is responsible for any and all damages caused by the pet and agrees to reimburse Manager for all such damage. Tenant also understands that any damage to the landscaping or lawn area will be replaced with new landscaping and lawn will be reseeded.

It is also understood and agreed that Tenant will permit the Manager to professionally fumigate the premises, including the grounds for fleas, ticks, and clean the carpets when Tenant vacates the premises, if such service is required. This will be at the sole expense of the Tenant.

#### 7. Additional Covenants:

- I accept financial responsibility for the entire amount of any damages or injury to persons or property which may occur because of my pet.
- I have received a copy of the pet lease and agree to comply with its terms.
- I understand that violation of any of these rules may be grounds for removal of my pet and/or termination of my tenancy.
- Should it become necessary for Manager to obtain an attorney for the collection of any sums due under the terms of the lease, I agree to pay all reasonable attorney's fees incurred, plus any related costs and expenses whether or not a suit is filed, and pay any collection agency fees.

• In the event that any of the terms of this lease shall be determined invalid by the courts, the remainder of the lease shall remain valid.

#### Release Clause:

The Tenant understands when signing this document that the Manager may be delayed in assisting the Tenant in an emergency situation, if the Tenant's pet prohibits entry to the dwelling or otherwise indicates aggressive or protective behavior. Appropriate emergency persons would be called to resolve the situation at Tenant's expense. The Tenant, therefore, will not hold Manager responsible for personal damages or problems resulting from the delay.

#### 8. Tenants with Disabilities

Notwithstanding any other provision herein, people with visual, hearing, and physical disabilities may keep certified guide dogs or service animals, respectively, in their premises. Further, nothing herein shall hinder full access to the premises and the common areas by persons with disabilities.

#### 8. Payment Information

Monthly Rent for Pet 1	\$
Monthly Rent for Pet 2	\$
Total Monthly Pet Rent:	\$

Additional Security Deposi		\$
Additional Security Deposi Total Additional Security I		\$ \$
*Now tie i	t all together*	
Total due in installme by,, 2		
Signature Page:		
Manager:	Dat	te:
Property Management Cor	npany:	
Tenant:	Dat	e:
Printed Name:		



# Sample Property Management Forms



# RENTAL APPLICATION (PLEASE PRINT)



1	Date of this application:					
2	2       Type and size of Apartment desired:         3       Price range of residence desired:         4       Do you have a waterbed?         4       Do you have a waterbed?					
3	3 Price range of residence desired: Desired date of occupancy:					
4	4 Do you have a waterbed? Piano/organ? Smoke?					
5	Do you have pets?	If YES, comp	blete Pet Profile.			
7	PERSONAL INFORMATION					
9	Applicant's full name:					
10	Applicant's full name: Are you been known by any othe	er names? If so, p	lease indicate:			
11 12	Data of Birth:					
12	Date of Birth:					
14	Social Security No: Telephone No:		—			
15	Names of persons other than the	e above applicant	who will be residing which	unit <sup>.</sup>		
16				ant.		
17						
18 19	Have you or any member of you contest" to a felony? Yes	r household ever	been convirties of or plead	ed guilty or "no		
20	Have you or any member of you	ir household ever	been convicted of or plead	ed quilty or "no		
21	contest" to a misdemeanor invo					
22	If yes, please describe:			_		
23	Are you required to register as a	sexual or viole	on nder? Yes No			
	· · · ·					
25		RESIDENCE	ISTORY			
27	We require two (2) rental referen	nces or tro (2) full	years of rental history, wh	ichever is greater.		
28	Please list your actual landlord of		er, <u>NOT ROOMMATES</u> .			
29	Present Address: How long there?: From					
30	How long there?: From	lo	Amount of rent:			
31	Present Landlord:		Phone/Cell:			
32						
33 24	Previous Address: How long there?: From	T_	Amount of ront:			
34	Previous Landlord:	10	Anount of rent Phone/Cell:			
36	Reason for leaving					
37	Please account for unv "gaps" in	this rental histor	<i>,</i> •			
38						
39	Is there any hason you cannot	have the utilities tu	Irned on in your name?	If yes,		
40	please explain:					
41	· · · ·					
43	PERSONAL REFERENCES (No	o relatives)				
45	Name	How long	Address	Phone/Cell #		
46	1					
47	2					
48	3					



# 48 LIST ALL VERIFIABLE SOURCES OF INCOME YOU WISH TO HAVE CONSIDERED IN THE 49 EVALUATION OF YOUR APPLICATION:

51 52 53	Source 12		-	Verification phone/cell#
54	2 3			
56	CREDIT REFERENCES			
58 59 60	Reference 1 2			Phone/Cell #
61	3			
	Checking Acct. # Savings Acct. #		Bank	
65 66 67 68	AUTOMOBILE(S): Make/Model 1 2		Year	State/License #
70 71 72 73	EMERGENCY CONTACT Name: Address: Phone:	INFORMATION:		
77	Name: Address: Phone:			
80 81 82 83 84 85 86 87 88	I hereby authorize the employers, agencies, offi- material which is of smed	are threand correct. A grears or older, or of hat will be fully respond andlord, his agent or states, groups or organization necessary to verify the ation is approved and I	otherwise competent to nsible for the terms of taff to contact any pers tions to obtain any info information and staten desire to rent the prem	enter into a binding rental the rental contract. ons, corporations, rmation, credit report or
91	SIGNATURE:		DATE:	

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

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	<b>RESIDENTIAL LEA</b>	ASE/RENTAL AGRE	EMENT
TERMS DESCRI	BED BELOW AND CONS	SISTING OF 10 PAGE	E SPECIFIC AND GENERAI CS. IF NOT UNDERSTOOD, EGAL COUNSEL BEFORE
PARTIES:	PARTIES:, hereinafter known as "Manager" and		
hereinafter known a	as "Tenant(s)" agree as follo	ws:	
	<u>SPEC</u>	CIFIC TERMS	
authorized to mana representative and t behalf of the owner	hat the Manager is authorized. The address of the Manage	lescribed below, on beh ed to accept service of p er, for purposes of servit	alf of the owner, as the owner's process, notices and demands on
	Fenant(s) hereby agree to lease	of Pedroom(s), _	at, in the city/county of, Bath(s), Smoke
ADDITIONAL O	CCUPANTS: In addition to cupy the premises:	o ure Tenant(s) identifie	
	l be entitled to rossession of	f the unit. This tenancy	is (check one of the following):
			agreement terminates by Manage ment thirty days written notice to
		ration of the agreed upo	20 A fixed term lease on term, subject to the Holdover, ement.
default extension p renewal term shall		the Tenant pursuant to l lease is not agreed to b	• •

46 47	Upon expiration, unless 30-days written notice is provided to the Manager, the Tenant <b>agrees that the following shall occur by default:</b>
	Tonowing shan occur by ucrauit.
48 49	a. The lease shall be renewed for an additional term of equal length as the original
	a. The lease shall be renewed for an additional term of equal length as the original
50	term;
51	Tenant(s) Manager
52	b. The lease shall automatically renew for a set term of months.
53	
54	Tenant(s) Manager
55	c. The lease shall automatically renew on a month-to month basis.
56	;
57	Tenant(s) Manager
58	d. The lease shall automatically terminate at the conclusion of the initial tent of the
59	tenancy.
60	
61	Tenant(s) Manager
62	
63	The Manager, with 30-days written notice prior to the expiration of main Lease Term, gives the
64	Tenant notice of changes to the rental agreement that would apply the closequent terms,
65	including, but not limited to, the right to increase the monthly. Into r to retain possession of the
66	premises.
67	
68	<b>PAYMENT TERMS:</b> The Tenant(s) agrees to pay tan. ger the amounts set out as follows:
69	
70	First Month's (pro-rated) Rent: Upon entry into this Agreement.
71	Monthly Rental: On the day feach month hereafter.
72	Utility Reimbursement: On the day of each month hereafter. \$
73	Utilities: If Manager pays utilities wality charges are due days after invoice.
74	Pet Rent Per Month:   On the log of each month hereafter.   \$
75	Security Deposit: Upon e. try into this Agreement. \$
76	Additional Deposit: Used entry into this Agreement.       \$
77	Late Charge: \$
78	
79	NSF Check F.e: Up to \$30.00, in accordance with Montana law.
80	Pay or Vacat. Notice (POV):       As provided in General Terms.       \$
81	Adminis rat on Costs for Default of Lease: Invoiced at actual cost.
82	Ot. vr
83	
84	
85	
86	
87	Total Amount due before possession:   \$
88	

89 UTILITIES: The utilities checked below are the obligation of the Tenant(s). Tenant(s) shall contract
 90 with and pay the utility provider directly for the indicated utilities.

	□ Sewer / Septic □ Public Water □ Private Water □ Electric □ Gas □ Heat □ Other(s)
	SERVICES: The services checked below are the obligation of the Tenant(s). If Tenant(s) retains third parties to provide any of the services, Tenant(s) shall pay such third party directly.         Snow Removal       Image: Lawn Care         Sprinkler       Image: Other(s)
	<b>KEYS/GARAGE DOOR OPENERS:</b> The Tenant(s) shall pay actual costs for rekeying or
	replacement for the keys and/or garage door opener, if the following are either lost or not returned upon
	termination of this Agreement:
	$\Box \text{ Door Key}(s) \_ \Box \text{ Mail Box Key}(s) \_ \Box \text{ Storage Key}(s) \_ \Box \text{ Lerne v Key}(s) \_$
	□ Garage Key(s) □ Other(s) □ Garage Yool Opener(s)
	<b>RELATED DOCUMENTS:</b> Incorporated into the terms of this Agreement retile following (Check
	Il that apply):
[	□ Tenant's Application for Rental □ Addendum to Lease Agreemen □ Rules & Regulations
1	□ EPA Lead Based Paint Handout □ Smoking / Fire Safety Letter □ Move-in Property Condition
	Report  CD with Move-in Photos  Present Condition of Pre. ic.s  Pet Agreement/Description Mont. Code Ann. § 70-24-430 (Disp. of Abandoned Property)  Mold Disclosure  Other(s):
	$\square$ Mont. Code Ann. § 70-24-450 (Disp. of Abandoned Property) $\square$ Mold Disclosure $\square$ Other(s).
	SPECIAL PROVISIONS:
	THE GENERAL TERMS CONTAINED. N THE SECTION THAT IMMEDIATELY
	FOLLOWS ARE AN INTEGRAL PART OF THIS AGREEMENT.
	GENERAL TERMS
]	<b>RENT:</b> Rent is payable in dv oc or on or before 5:00 p.m. on the day indicated herein for each
	calendar month to Mana, er at he address indicated in the specific Terms of this Agreement, or at such
	other place as may be designed by Manager from time to time. Acceptance of rent does not constitute
	a waiver of prior Ter. nt(s) default. All payments made by Tenant(s) shall apply first to the oldest sums
	due and owing us as the terms of this Agreement. The rent must be paid with a single check unless the
	Manager has agreed in writing to accept separate checks from the Tenants. The Manager will not accept
	postdated of indorsed third party checks. Payments are payable to
	<b>LATE CHARGE:</b> In the event rent is not paid by the date set out in the Specific Terms of this
	Agreement, a late charge in the amount set forth therein shall arise. The late charge period is not a grace
	period and Manager is entitled to pursue the remedies provided herein if rent is not paid when due. All
	late fees shall be deemed additional rent for the rental month and shall be paid and collected as such.

134 **PAY OR VACATE NOTICE.** Manager will charge and Tenant agrees to pay Manager's

- administrative costs upon issuance of a Pay or Vacate Notice (POV). This fee is non-refundable and
   Manager will charge Tenant each month a POV is issued due to late rent payment.
- 137

138 NSF CHECK CHARGE: In the event any payment, made by check, to the Manager by Tenant(s) is 139 returned unpaid, the Tenant(s) payment shall not be considered made until such funds are made good. 140 In addition, Tenant(s) shall also pay the NSF Check Fee set out in the Specific Terms of this Agreement 141 and from that time, forward all payments shall be made in the form of a cashier's check or money order.

- 141
- 142

143 **SECURITY DEPOSITS:** Tenant(s) agree to pay concurrent with the signing of this Agreement a 144 security deposit to secure Tenant(s) compliance with all of the conditions of this Agree me. And 145 Manager's Rules and Regulations, if any. Manager will hold all security deposits in trut a count. If held in an interest bearing trust account, all interest will be retained by Manager to over bank service 146 147 charges relating to the trust account. Manager is not required to provide trus account information to the 148 Tenant(s). The security deposit shall not be deemed rent for any rental month, upless Manager elects to 149 do so nor shall it constitute a measure of Manager's damage in the event of default by Tenant(s). If the Tenant(s) defaults under the conditions of this Agreement and/or Mana er . Rules and Regulations, if 150 151 any, or upon the expiration for the term of this Agreement, Manage in y deduct a sum equal to the damage alleged to have been caused by the Tenant(s), together with a unpaid rent due 152 and owing at the time of the termination of the lease, late charges, stillities, damages due under lease 153 provisions, and other money owing to the Manager at the table of deduction, including a sum for actual 154 cleaning expenses. If the security deposit is insufficient to strisfy such sums, owing Tenant(s) shall pay 155 the deficiency upon demand. If Tenant(s) fail to pay uc, deficiency upon demand, Manager may 156 proceed with collection of such deficiency using any lawful means. Any excess of the security deposit 157 will be returned in accordance with the Residentian P nant(s)'s Security Deposit Act (Mont. Code Ann. 158 §70-25-101, et. seq.) to the forwarding addres privided by Tenant(s) together with a security deposit 159 160 statement. 161

ADDITIONAL OCCUPANTS / C ES TS: The premises shall not be occupied by any person other than those named as Tenant(s) or a ditional occupants in this Agreement, without the prior written consent of the Manager. Tena t(s) shall not permit any guest to stay more than seven consecutive days in any twelve-month per od, itmout prior written consent of the Manager. Any guest who stays in excess of this amount shall be considered an unauthorized occupant.

167

168 LAWN CARE AND NOW REMOVAL: When required by this Agreement, lawn care includes 169 weeding, trimming and raking as necessary as well as mowing at least every seven days and watering in 170 accordance with local regulations. Tenants will remove snow in accordance with local regulations. If 171 the Tenant fails to perform lawn care or snow removal obligations, Manager will cause said performance 172 and bill the Tenant for actual costs incurred.

173

ANIMALS / PETS: No pets shall be permitted on the premise, except the following described pet(s)
 for which an additional security deposit has been made:

- Tenant is solely responsible for all damages caused by pets. Failure to properly supervise and/or care for pets shall be grounds for termination of this agreement. Tenant(s) or their guests will not bring or allow animals on the premises at any time without a prior written consent from the Manager. Tenants will sign a separate pet agreement in the event that Manager approves a request for a pet.
- 182
- **RULES AND REGULATIONS:** The Manager may adopt Rules and Regulations concerning the
   Tenant(s) use and occupancy of the premises pursuant to Mont. Code Ann. §70-24-311. Tenant(s),
   additional occupants and all guests shall abide by all Rules and Regulations, including but not limited to
   those concerning noise, odors, disposal of refuse, animals, parking, and use of common areas.
- 187
- ORDINANCES AND STATUTES: Tenant(s) shall comply with all applicable statutes, refinances, and requirements of all Municipal County, State, and Federal authorities and with arg applicable private restrictive covenants regarding the use of the premises.
- ASSIGNMENT AND SUBLETTING: Tenant(s) will not assign their interact in this Agreement or
   sublet any portion of the premises without prior written consent of the Menager.
- MAINTENANCE, REPAIRS, OR ALTERATIONS: Tenant(s) acrowledge that the premises are in good order and repair, unless otherwise indicated in this Agreem un Tenant(s) shall not destroy, deface, damage, impair or remove any part of the premises. Tenant(s, with maintain the premises in a clean, safe and sanitary manner, including the maintenance of all stroke detectors and carbon monoxide detectors located in the premises. Tenant(s) shall be liable for damages caused by their actions and those of additional occupants and guests. Tenant(s) walk of re-key any locks, paint, paper, redecorate, or make other alterations to the premises without the proof written consent of the Manager.
- INSPECTIONS: Except in emergencies, M nagor shall give Tenant(s) a (24) hour notice of intent to
   enter the premises at a reasonable time for an parpose including, but not limited to, inspections, to make
   repairs or alterations, to supply services or an ibit the premises to potential tenants, purchasers,
   mortgagees, owners or workmen. Tenan(s) shall not deny Manager or Manager's inspector access to
   the premises.
- INSURANCE AND LU BLUTT: Tenant(s) shall obtain and maintain a policy of renter's insurance in an amount of no less than \$\_\_\_\_\_\_). Tenant(s) shall name Manager as an additional named insured on the policy and provide a copy of the policy indicating the coverage to the Manager within (30) days after assume g occupancy.
- 213 214
- 214
- 215 216

- \_\_\_\_, Tenant(s) provided a copy of the policy required herein.
- MANAGER
- 218 Manager is not liable to Tenant(s), and does not insure Tenant(s), for any personal injury or property 219 damage caused by the act or omission of any other Tenant(s) or third party, or by any criminal act or
- activity, war, riot, insurrection, fire or act of God. Tenant(s) acknowledges responsibility for securing
- Renter's insurance to cover Tenant(s)' personal property against any loss or damage.
- 222

- ABSENCES: Tenant(s) shall notify Manager of any anticipated absence of greater than (7) days or such absence will be considered abandonment of the premises and Manager may reenter and re-rent the premises. Tenant(s) shall be responsible for any damages to the premises caused by the Tenant(s) absence.
- 227
- 228 **DEFAULT:** Tenant(s) agree that each of the terms of this Agreement and of Manager's Rules and 229 Regulations, if any, constitutes an independent condition of Tenant(s) right to possession of the 230 premises. Any failure by Tenant(s) to comply with one or more of such terms shall constitute a default 231 under the terms of this Agreement and Manager may terminate Tenant(s) right to possession of the 232 premises and other rights under this Agreement, together with such other remedies as provided by
- 233

Montana law.

- 234
- ABANDONED PERSONAL PROPERTY: Upon termination of tenancy, if Ten. nt(s) fails to remove personal property from the premises, Manager shall adhere to Mont. Code A in. § 0-24-430, a copy of which is herewith provided.
- VACATING PREMISES PRIOR TO TERMINATION: Tenant(s) obligation under the terms of this Agreement shall not cease upon surrender of premises. Such obligation shall continue until this Agreement expires. In the event that one or more, but fewer that a Tenant(s) vacate prior to the termination of this Agreement, the remaining Tenant(s) shall cmail liable for the full sums due hereunder. The remaining Tenant(s) may locate a prospect v Tenant(s) acceptable to them; however, Manager must approve such prospective Tenant prior to ak a occupancy. In all cases, vacating
  - 244 Manager must approve such prospective Tenant prior to aking occupancy. In all cases, vacating 245 Tenant(s) shall remain jointly and severally liable up er up terms and conditions of this Agreement.
  - Furthermore, no portion of the security deposit sharbe returned, until the termination of this
  - Agreement, and, if then, only as provided herein
  - 248

256 257

258 259 260

261 262

263

264

- **TERMINATION OF TENANCY:** Upon emination of tenancy, Tenant(s) shall return premises to Manager in the same condition and repair to when received, ordinary wear and tear expected, and free of all Tenant(s)' personal property, traction debris. Tenant(s) acknowledges that no representations as to the condition or repair of the premises, or as to Manager's intentions with respect to any improvements, alteration, decoration or repair of the premises, have been made to Tenant(s), unless provided in this Agreement. Tenant(s) a knowledges receipt of a written statement of the condition of the premises. Upon termination of this agreement, the parties agree as follows:
  - 1. Manager s. all provide Tenant(s) written notice of the cleaning necessary to bring the premises ack to its condition at the time of its renting.
  - 2. To ant(s) shall have (24) hours after receipt of said notice to complete the required cleaning.
    - 3. Failure to accomplish said cleaning within the time allowed entitles Manager to deduct the cost of cleaning and/or repairs from the security deposit.
    - 4. Within (30) days after the termination of the tenancy, Manager shall provide Tenant(s) with a written list of any rent due and any damages and cleaning charged deducted from the security

267	deposit and payment of the difference, if any, between the security deposit and the deducted
268	charges.
269	
270	5. If after inspection there are no damages to the premises, no cleaning required, and no rent
271	unpaid and if the Tenant(s) can demonstrate that no utilities are unpaid by the Tenant(s), the
272	Manager shall return the security deposit within (10) business days.
273	
274	EARLY TERMINATION OF LEASE: Tenant(s) agree that they shall pay Manager the sum of
275	additional actual costs associated with the early termination of the lease. In addition to this fee,
276	Tenant(s) remain liable to Manager for damages, cleaning, and all rent that shall accure until the
277	dwelling is re-rented.
278	
279	<b>TENANT(S) OBLIGATIONS:</b> Tenant(s) are obligated as follows:
280	
281	1. To comply with all obligations primarily imposed upon Tenant(s) vapplicable provisions of
282	building and housing codes materially affecting health and safety.
283	2. To keep that part of the premises that they occupy and use a real onably clean and safe as the
284	condition of the premises allows.
285	3. To dispose from the dwelling all ashes, garbage, rubtish, and other waste in a clean and safe
286	manner.
287	4. To keep all plumbing fixtures in the dwelling up rused by Tenant(s) as clean as their
288	condition permits.
289	5. To use in a reasonable manner all electric p. mbing, sanitary, heating, ventilating, air
290	conditioning facilities as well as elevators and other facilities on the premises.
291	6. To conduct themselves and require other resons on the premises by consent of Tenant(s) to
292	conduct themselves in a manner that will not disturb neighbors' peaceful enjoyment of their
293	premises.
294	7. To use parts of the premises in buding the living room, bedroom, kitchen, and dining room in
295	a reasonable manner core delays the purposes for which they were designed and intended;
296	8. To neither commit nor a low any illegal acts on or about the premises.
297	9. To periodically inspective premises and immediately notify Manager of necessary repairs;
298	10. To not place indoc immiture outside at any time.
299	11. To not store pusor al property in the interior common areas and hallways and to utilize
300	exterior st rage only as designated.
301	12. NO SMOLUNG. Pursuant to the terms of the Lease/Rental Agreement, the Parties
302	a knowledge that there will be no smoking of any substance in or within 25 feet of the
303	er ed/rented premises by Tenant or Tenant's guests or invitees.
304	13. For purposes of this Lease/Rental Agreement, the Parties stipulate and agree that the term
305	"smoking" includes, but is not limited to the "smoking" of any substance, legal or illegal. It
306	specifically includes smoking marijuana and/or marijuana derivatives, regardless of whether
307	the use of the marijuana or marijuana derivative is otherwise legal.
308	14. Tenant shall not grow, or allow to be grown, marijuana plants in or upon the leased premises.
309	15. Tenant shall not allow any other person who is upon the premises with Tenant's consent to:
310	grow, manufacture, trade, sell, convey or otherwise transfer marijuana or marijuana products
311	to any other person.

- 312 a. This prohibition shall apply to all growth and manufacture of marijuana and 313 marijuana products whether legal or illegal upon the premises. 314 16. Violation of the prohibition on the growth and/or manufacture and/or trade/sale of marijuana 315 plants or marijuana products constitutes a material violation of the Lease/Rental Agreement and is grounds for termination of the Lease/Rental Agreement upon 14 days' notice by 316 317 Manager. 318 17. Pursuant to Montana law, and the Lease/Rental Agreement, Tenant agrees to not use, 319 manufacture sell, distribute or possess any illegal drugs upon the Leased/Rented premises or 320 allow or tolerate others who are there with their permission to do so. 321 HAZARDS: BBQ grills, satellite dishes, waterbeds, aquariums, trampolines, swimming 322 ls and hot tubs as well as any other hazardous or potentially hazardous item, are allowed only with writen 323 324 permission. 325 326 WAIVER OF DEFAULT: Manager's failure to require strict compliance w th t' e conditions of this 327 Agreement or to exercise any right provided for herein, shall not be deemed a waiver of such default, nor limit Manager's rights with respect to that, or any subsequent defact. 328 329 APPLICATION OF PAYMENTS. All payments made by the Terror will be applied first to damage 330 and cleaning charges, then to insufficient funds check charges, 'ate charges, attorney's fees, and past due 331 rent from the oldest month to the newest month, in that order 332 333 SEVERABILITY: If a part of this Agreement is in the all parts that are severable from the invalid 334 335 part shall remain in effect. 336 **NOTICES:** Unless otherwise provided, all stices shall be in writing. Notices may be given personally 337 or by mail, postage prepaid, with certificate finaling to Tenant(s) at the premises or to the Manager at the address stated in the Specific Terms of this Agreement or at such other places as may the parties may 338 339 designate from time to time. Notice de med effective (3) days after mailing or upon personal 340 341 delivery. 342 **TIME:** Time is of the *e* sent to the terms of this Agreement. 343 344 **JOINT AND SEVELAL MABILITY:** It is expressively understood that this Agreement is between 345 346 the Manager and each Tenant(s) jointly and severally. Each Tenant(s) will be responsible for timely payment of r nt nd) erformance of all other provisions of this Agreement. 347 348 349 LEAD-BAS. D PAINT DISCLOSURE: Lead Warning Statement: Housing built before 1978 may contain lead-based. Lead from paint, paint chips, and dust can pose health hazards if not managed 350 351 properly. Lead exposures are especially harmful to children and pregnant women. Before renting pre-352 1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in 353 the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention. 354 355 MANAGER'S DISCLOSURES: The Manager hereby discloses the presence of lead-based paint
  - and/or lead-based paint hazards by initialing the blanks and checking the appropriate boxes as follows:

357 358	(a) Presence of lead-based paint and/or lead-based paint hazards (check one below)
359 360 361	□ Manager knows that lead-based paint and/or lead-based paint hazards are present in the property (explain):
362 363 364 365	□ Manager has no knowledge of lead-based paint and/or lead-based paint hazards in the property.
366	(b) Records and Reports available to the Manager (check one below):
367 368 369 370	□ Manager has provided the Tenant(s) with all available records and robot's portaining to lead-based paint and/or lead-based paint hazards in the property. These reports and records are itemized as follows:
371 372 373	□ Manager has no records or reports pertaining to lead-based paint and/or lead-based paint hazards in the property.
374 375	<b>TENANT(S)' ACKNOWLEDGMENT:</b> Tenant(s) acknowledges, by his/her initials in the blanks provided below, as follows:
376	(c) Tenant(s) has received copies of a'l n to mation listed in item (b).
<ul><li>377</li><li>378</li><li>379</li><li>380</li></ul>	(d) Tenant(s) has received the pemp. bt "Protect Your Family from Lead in Your Home."
381	MANAGER'S ACKNOWLEDGMENT The Manager acknowledges as follows:
382 383 384	(e) Manager has informed the owner of the premises of his obligations under 42 U.S.C. §4857. () and is aware of his/her responsibility to ensure compliance.
385 386 387	<b>CERTIFICATIONS:</b> The parties have reviewed the information above and certify, to the best of their knowledge, that the information, which they have provided, is true and accurate.
388 389 390 391	<b>FAIR HOUSING:</b> Givil rights laws of the United States prohibit housing discrimination based on race, religion, sex, national, rigin, color, handicap, or family status. All parties to this Agreement shall act according to saic law.
392 393 394 205	<b>ATTORNETS FEES AND COSTS OF COLLECTION</b> : In the event that it becomes necessary to initiate a collection action or legal action in order to collect fees and costs due under this Agreement, the prevailing party may be entitled to reasonable costs, attorney's fees including collection costs and fees.
395 396 397 398	TENANT(S) AGREES THAT, IN THE EVENT MANAGER PLACES ANY UNPAID BALANCE FOR COLLECTION WITH ANY THIRD PARTY COLLECTION AGENCY, MANAGER SHALL CHARGE A COLLECTION FEE OF UP TO 50% OF THE UNPAID BALANCE. THIS AMOUNT IS IN ADDITION TO ANY OTHER COSTS INCURRED DIRECTLY OR
399	INDIRECTLY TO COLLECT AMOUNTS OWED UNDER THIS AGREEMENT SUCH AS

		LATE FEES, AND ANY OTHER FE	
		FEE OF% AND THE ADD	
		EPRESENT THE ACTUAL COSTS	
		<b>IS OWED UNDER THIS AGREEM</b>	
		EXPECTED REVENUE RESULTIN	G FROM TENA
FAILURE '	ΓΟ PAY AS SPECIFIED Ι	N THIS AGREEMENT.	
	0	ng constitutes the entire agreement betw	1
		tion or agreements that either party may	
		heir own judgment and experience in er	
		legal age (or if Tenant(s) are not of lega	l age, <sup>r</sup> en. <sup>-</sup> (s) a
this Agreem	ent is for a necessity) and the	at they are of sound mind.	
NECOTI			
		Parties agree that each has had the o point	t nity to negotial
term in this	Agreement.		
<u> </u>	T ',' 1		· 1
Man	ager Initials	Ten nt(.) Ini	tials
		CH IS REQUIRED TO B. COMPLE DAY CAN BE PERK, 'RN ED ON TH	
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### AGREEMENT TO MANAGE PROPERTY

1 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, OWNER(S) IS ADVISED TO 2 SEEK THE ADVICE OF COMPETENT LEGAL COUNSEL.

4	PARTI	ES:	"Owner(s)" agrees to exclusively employ "Manager" to rent, lease, operate and
6 7	manage	e the real property(s) located at:	
8	1.		in the City
8 9	of	, County of	, Montana legally described
10	as		
12	2.		in the City
13	of	, County of	, Montana legal v described
14	as _	· · · · · · · · · · · · · · · · · · ·	
16	3.		in the City
17	of	, County of	, Monte a legally described
18	as		
20	Attach	additional sheets to identify additional properties if necessary.	V
22 23	TERM:	The initial term of this Agreement shall commence on This agreement shall on	and shall conclude on
24		. unless either the Owner s) o	the Manager provide written notice to not
25	renew f Agreen	, unless either the Owner s) c to the other, not later than thirty days prior to the conclusion of the or ment.	ed upon term or any renewal term of this

#### 28 STATUTORY DISCLOSURES:

- METHAMPHETAMINE: If the real property is in rebuilde real property, the Owner represents to the best of Owner's knowledge that the real property has to have not been used as a clandestine Methamphetamine drug lab. If the real property has been used as a clandestine Methamphetamine drug lab Owner agrees to execute and provide any documents or other inclusion that may be required under Montana law concerning the use of the real property as a clandestine Methamphetamine drug lab.
- LEAD BASED PAINT: If any dwelling, the real property was built before the year 1978, Owner has knowledge has no knowledge of knd-tased paint and/or lead-based paint hazards on the real property. If Owner has knowledge of lead-based, and and/or lead-based paint hazards on the real property Owner agrees to provide all pertinent reports and book concerning that knowledge. Owner acknowledges that Manager has advised Owner of Owner's obligation to make lead-based paint disclosures and Manager's obligation to ensure that Owner satisfies this obligation.
- 43 **MOLD:** If the real rooper vis inhabitable real property as defined in the Montana Mold Disclosure Act, Owner 44 represents to the best of Cwner's knowledge that the real property  $\Box$  has  $\Box$  has not been tested for mold and 45 that the real property  $\Box$  has  $\Box$  has not received mitigation or treatment for mold. If the real property has been 46 tested for mold of has received mitigation or treatment for mold owner agrees to provide any documents or other 47 information that may be required under Montana law concerning such testing, treatment or mitigation.
- 49 **MANAGER'S COTH R'.Y:** Owner(s) grants to Manager the authority and power to act on behalf of the Owner(s) as 50 follows:
- a. To a vertise the availability of the real property for rent or lease by any reasonable means, including, without
   limitation, the display of for rent signs.
- 54 b. To negotiate, enter, renew, or terminate leases or rental agreements for the property or any part thereof. 55 Provided, however, that any lease or rental agreement entered by the Manager shall not exceed a term of 56 without the prior written consent of the Owner(s).
- 58 c. To reasonably enforce the terms and provisions of all leases and rental agreements.

Page 1 of 4 / Initials: Owner Manager

- d. To collect all rents and other monies due to the Owner(s) from tenants of the real property in accordance with the terms of their respective leases or rental agreements, using such efforts as are both reasonable and available under the law.
- 63 To repair or cause to be repaired, without prior authorization of the Owner(s), such defects and damages as e. 64 necessary to protect the real property or the property of others; to avoid suspension of necessary services; to 65 avoid the imposition of penalties or fines; and/or to maintain services to the tenants as called for in their 66 respective leases or rental agreements.
- 68 f. To repair or cause to be repaired, or improve or cause to be improved, with prior authorization of the Owner(s), 69 any other defects, damages or conditions.
- 71 To maintain or cause to be maintained the real property in a condition so as to comply with the Residential a. Landlord and Tenant Act of 1977, Montana Code Annotated §70-24-101 et. seq. 72
- h. To acquire utility and other services and materials as reasonably necessary for the maintenance, repair, and 74 75 improvement of and other services for the real property.
- To retain, supervise and discharge all independent contractors reasonably needed for the montenance, repair, 77 i. and improvement of and other services for the real property. 78
- To maintain such records of receipts and expenditures, leases and rental agrees end, and all other documents 80 i. and records related to the management of the real property. 81
- To deposit all revenues or deposits received on the lease or rental of the real property into Manager's trust 83 k 84 account within three business days of receipt. Owner(s) agrees ne interest accruing on trust account 85 deposits, if any, shall be payable to
- If interest is payable to Manager, the parties agree that such sand are paid to cover bank service charges 86 87
- relating to the Manager's trust account. To pay for all maintenance, repairs, improvements, utility s rvices, services and materials from revenues expenses, beyond the funds available from revenues recented and operating reserves. In the event Manager 89 I. 90 elects to expend funds beyond revenues received and a prawing reserves, Owner(s) shall promptly reimburse 91 Manager.
- m. To deduct all sums owing to the Manager from even as received and/or operating reserves. To disburse all sums due and owing to the Over ). 94
- 96

n.

59

60

61

- o. To act for the Owner(s) for the purpose of process and receiving notices and demands. 98
- 100 **OWNER'S OBLIGATIONS:** Owner(s) shall be be ated as follows:
- 102 a. To retain and pay the costs and here of legal counsel for all legal actions involving the real property.
- To indemnify and hold by Manager harmless from any and all costs, expenses and attorney fees, suits, liabilities, damages or ian or damages, including but not limited to those arising out of injury or death to any 104 b. 105 106 person or persons or damage to any property of any kind whatsoever and to whomever belonging, including the 107 Owner(s), in any way relating to the management of the real property or the performance or exercise of any of 108 the duties, obligations, powers or authorities herein or hereafter granted to the Manager. The term Manager as 109 used in this sh-paragraph shall include all employees, agents, shareholders, partners, directors, officers, 110 managers mumbers of the Manager.
- 112 To av he manager the sums as follows: c.
- 114 % of the gross monthly income collected or a minimum of \$ \_\_\_\_\_\_for each property rented at any time during the month or \$ \_\_\_\_\_\_ for each unit I) unit of the real property rented at any time during the month or \$ 115 116 not so rented.
- II) \$ \_\_\_\_\_ upon execution of this Agreement. 118
- III) \$ \_\_\_\_\_\_ or \_\_\_\_\_ % for any capital improvement and the supervision thereof. 120
- \_\_\_\_\_ upon the entry of each new rental agreement. 122 IV)\$ \_\_\_\_\_
- 124 V) a sum adequate to reimburse Manager for all sums expended by Manager for advertising, repairs, 125 maintenance, improvement, materials, utilities, services, legal fees, court costs, and any other sums 126 expended by Manager in providing the management services anticipated by this Agreement.

Page 2 of 4 Initials: Owner Manager

- 127 d. Owner(s) agree to deposit upon entry into this Agreement and thereafter maintain an operating reserve in an 128 amount not less than \$\_\_\_\_\_\_.
- e. The parties agree to divide those monies received by the manager for NSF fees and/or late charges, first to reimburse the manager for all bank charges incurred as a result of the NSF check and thereafter such monies shall be divided \_\_\_\_\_\_ % to manager and the balance to owner.
- 134 f. Owner(s) shall be responsible for payment of all real property taxes and assessments levied against the real 135 property and to maintain hazard insurance upon the improvements thereon.
- h. Owner(s) represents and warrants that Owner(s) is the owner of the real property; that Owner(s) has the authority to enter into this Agreement; and the Owner(s) has given Manager all documents relating to any tenancy existing as of the date of this Agreement.

145 NOTICE OF DEFECTIVE CONDITIONS: Upon entry into or during the term of this Agreem at, mager may inspect 146 the real property. The Owner(s) acknowledge that the Manager is not a building instruct, and a structure of the safety, architect, engineer, electrician, builder, plumber, sanitarian, or expert in any other area in registers of the safety, design or structural condition of the property. If Owner(s) to such expert. If either during the output of such inspections or if Manager otherwise becomes aware of a condition of the property, the repair, mail tenane or improvement of which is a comply with existing federal acta and local larger and larger and local larger and local larger and local larger and local larger and larger and local larger and lar 147 148 149 150 required to make the property safe and comply with existing federal, state, and local laves, ordinances and regulations, 151 the Manager shall advise the Owner(s) in writing of the condition and the nature of the repair, maintenance or 152 improvements the Manager believes is necessary. A copy of this notice may be provided to existing or prospective tenants. Within ten days of the date of this notice Owner(s) shall undertail or authorize Manager to undertake the noted repair. Owner(s) agrees to assume all costs for such repairs, maintenance or improvements. 153 154 155

**SMOKE AND CARBON MONOXIDE DETECTORS:** Owner action leages that Montana law requires that Owner install approved smoke detectors and approved carbon monoxide letectors in any dwelling unit located on the real property. Owner further acknowledges that Montana law also acquires that Owner verify that said smoke detectors and carbon monoxide detectors are in good working order at the commencement of any rental agreement. Owner represents and warrants to Manager that smoke detectors and carbon monoxide detectors have been installed in the real property in accordance with Montana law and that and carbon monoxide detectors and carbon monoxide detectors are in good working order as of the execution of this Agreement.

**TERMINATION:** In the event Owner(s) terminate this Agreement before the expiration of the term described above, Owner(s) shall pay to Manager all sums that would have come due under sub-paragraph c(i) of the Owner's Obligations paragraph of this Agreement for the emaining term of the Agreement at the time of the termination.

169 **NOTICES:** All notices called for in this / greenent may be served by personal service, sent by United States Mail or 170 facsimile copy to the respect party at the address or facsimile numbers as follows: 171 Owner(s) mailing address: 172 Manager mailing address:

173 174	street	6.		street		
176 177	city	state	zip	city	state	zip
178 180	phone	/ facsimile		phone	/ facsimile	
182 183	Email addres.			Email address		
185	Social Security #			Tax Payer ID#		

186 The parties hereto, all agree that the transaction contemplated by this document may be conducted by electronic 187 means in accordance with the Montana Uniform Electronic Transaction Act.

> Page 3 of 4 / Initials: Owner Manager

#### **GENERAL TERMS:** 188

- a. Time is of the essence of this agreement. 190
- The Owner(s) is hereby notified that the Manager will operate in accordance with all applicable state, local and b. 192 federal rules and regulations. 193
- c. Civil rights laws of the United States prohibit housing discrimination on the basis of race, religion, sex, national 195 origin, color, handicap, or familial status, marital status, creed and age. All parties to this Agreement shall act 196 according to said law. 197
- Manager may not assign this Agreement to another party without written consent from the Owner(s). This d. 199 Agreement is binding upon the successors and assigns of the Owner(s). 200
- In the event either party engages an attorney's services in regard to or in case of suit or action on this е 202 Agreement, the prevailing party shall recover collection costs, court costs and reasonable attorney's fees. 203

206 207 208 210 211 212 213 214 215	<ul> <li>f. This Agreement, along with attached exhibits and addenda, constitute the entire agreement between Owner(s and Manager, and supersedes any other written or oral agreements between them Time Agreement may only be modified in writing, signed by both Owner(s) and Manager</li> <li>ADDENDA ATTACHED: Incorporated into the terms of this Agreement are the following (check and that apply):         <ul> <li>Bookkeeping</li> <li>W -9</li> <li>Lead Based Paint Disclosure</li> <li>Pet Profile</li> <li>Pet Profile</li> <li>Image: Construction of the terms of terms of</li></ul></li></ul>
216 217 218	SPECIAL PROVISIONS:
210	

244 245

246

248

249 Manager Signature

Owner

Signature

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

Date

Date

**Owner Signature** 

Page 4 of 4

Date

### PET AGREEMENT



- 1 **PLEASE NOTE:** Pets are a serious responsibility and risk for each tenant. If not properly
- 2 controlled and cared for, pets can disturb the rights of others and cause significant damage for3 which tenants may be held liable.

5	Date	of Rental Agreement:
7	Prem	ises:
9	Tenar	nt(s):
11	Owne	r/Manager:
13	TERN	IS:
15 16 17 18	1.	Conditional Authorization For Pet. Tenant is hereby authorized to keep a pet which is described below at the above premises until the lease expires. Authorization may be terminated if tenant's right of occupancy is terminated or if the pet rules listed below are violated in any way by tenant or tenant's fem. v, guests or invitees.
20 21 22 23	2.	Additional Security Deposit. Tenant shall deposit with the Owner/Agent an "Additional Deposit" in the amount of \$ which shall be held as security for the faithful performance of this Pet Agreen end and as an additional security deposit for any damages that may be caused by 1 count's pet(s).
25 26 27 28	3.	No Limit on Liability. The additional ecurity deposit to be paid by Tenant under this Pet Agreement is not a limit or ter ant's liability for property damages, cleaning, deodorizing, defleaing, replacement a naror personal injuries set forth below or under applicable law.
30 31 32 33	4.	Indemnification. Topal shall indemnify and hold Owner and Agent harmless from any and all liab. Ity as sociated with Tenant keeping a pet on the premises including, without limitation, any damage to the premises, Tenant's personal property, and any damage or injuries to others.
35	DESC	RIPTON.
37 38 39	5.	Description of Pet. Only the following pet(s) are authorized to be kept on the premises. No substitutions are allowed. No other pets shall be permitted on the premises unless listed on this Pet Agreement.

41	Species	Breed	Color	Age	Weight	Name
42						
43						

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#### 44 Attach Addendum if more lines are needed.

#### 46 **PET RULES**:

- 48 6. Tenant is responsible for the actions of the pet at all times and agrees to abide by the49 following rules:
- 51a. Tenant agrees that the pet will not disturb the rights, comforts or convenience of52others. This applies to whether the pet is inside or outside the premises leased by53Tenant.
- b. Unless Owner/Agent has restricted the pet(s) to a particular area of the premises, the
  entire premises leased may be used. However, Tenant is responsible to ensure that
  the premises are not damaged due to digging, overuse or defecation by the pet(s).
- 59 c. Pet will not be allowed to roam off the premises unattended
- 61 d. No pet offspring are allowed.
- 63 e. No kittens or puppies are allowed.
- f. This Agreement 
   does
   does not give the tenant permission to allow pet inside the house or apartment.
- Additional Rules: Landlord shall from time to time have the right to make reasonable
   changes and additions to the pet rules herein upon written notification to Tenant.

#### 71 LIABILITY:

- 73 8. Liability for Damages:
- 75 a. Tenant(s) must provide Landlord with Renter's Insurance Policy that includes pets.
- b. Tenants shall shall be for the entire amount of all damages caused by pet. This 77 78 applies can ets, doors, walls, drapes, windows, screens, furniture, appliances and any our part of the residence, including landscaping. If such items cannot be 79 satisf ctorily cleaned or repaired, tenant must pay for complete replacement by 80 81 over Payment for damages, repairs, cleaning, replacements, etc. shall be due in mediately upon demand. Tenant shall be strictly liable for the entire amount of 82 83 any injury to the person or property of others, caused by such pet, and tenant shall 84 indemnify owner for all costs of litigation and attorney's fees resulting from same.
- 86 9. <u>Move out.</u> Upon move out of property, the carpet(s) will be professionally cleaned by
   87 . Tenants shall
   88 also be liable for deodorizing and defleaing of the home. Tenant to submit a receipt
   89 to Owner/Agent.



90 10. <u>Violation of rules.</u> If any rule or provision of this Pet Agreement is violated by tenant, other
 91 occupants, guests or invitees, tenant shall at Owner's/Agent's option immediately and
 92 permanently remove the pet from the home upon written notice by Owner/Agent.
 93 Failure of Tenant to so remove the pet shall be considered a violation of the rental
 94 agreement and may subject Tenant to eviction.

96	THIS IS A BINDING LEGAL DOCUMENT. READ CAREFULI	LY BEFORE SIGNING.
98	Tenant	Date
101	Tenant	Date
104	Owner/Agent	D; te
	nonsti	
	tor Demonstration	



### PET PROFILE



	Applicants Name(s)	
4	Pet #1	
6	Name	
8	Breed	Attach Picture of Put Here
10	Age	(Pictures will not be regurned)
12	🗅 Male 🗅 Female	
14	Weight	
16	How long have you owned the pet?	
18	Shots?  Yes  No Shot Record provided?  Yes	ם No. Cny/County License? 🗆 Yes 🗆 No
20	Pet #2	0
22	Name	
24	Breed	Attach Picture of Pet Here
26	Age	(Pictures will not be returned)
28	🗅 Male 🗅 Female	
30	Weight	
32	How long have you own⊾tine pet?	
34	Shots?  Yes  Yes  Yes  Yes  Yes	
36	Applicants represent that statements may	de above are true and correct.
38	Signature	Date
41	Signature	Date
43	Form needs to be submitted with rental application befor	e a decision on the application will be made.

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### **MANAGER - TENANT STATEMENT OF** CONDITION OF THE RENTAL PROPERTY



1			Manager:		
2					
3					
4			Phone:		
5	Date:				
6	Time: 🔲 am 🗌 pm				
					•
8	To Tenant in Possession:				
9	Regarding Rental Premises at:				
10	-				
12	Previous Rental of the Property:	Thes	e premises have bee	n rented befor	e
13		Thes	e premises have not	been rented b	efore.
	_				
15	This statement of condition is to record	d the con	dition of the rental uni	t at the time of	f initial occupancy.
	The Manager and Tenant should a				
	form when completed.	0			
	·				
19			RATINGS / LEY		
20	1 - Poor	2 - Fair		3 - Good	4 - New Condition
I					
22	Item Rated	Rating	5	Conditions	& Comments
23	A. KITCHEN/DINING AREA				
24					
	1. WALLS (PAINT - HOLES)				
25	<ol> <li>WALLS (PAINT - HOLES)</li> <li>WINDOWS &amp; SCREENS</li> </ol>				
25			)		
25 26	2. WINDOWS & SCREENS				
25 26 27	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> </ol>		<b>)</b>		
25 26 27 28	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> </ol>				
25 26 27 28 29	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> </ol>				
25 26 27 28 29 30	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> </ol>				
25 26 27 28 29 30	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPEC</li> </ol>				
25 26 27 28 29 30 31	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPEC</li> </ol>				
25 26 27 28 29 30 31 32 33	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPT</li> <li>SINK &amp; GARB/ GL</li> </ol>				
25 26 27 28 29 30 31 32 33 33	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPE</li> <li>SINK &amp; GARB/GE</li> <li>DISPOS/L</li> </ol>				
25 26 27 28 29 30 31 32 33 33	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPE</li> <li>SINK &amp; GARB/ GL DISPOS/L</li> <li>CLOSETS &amp; CUPBOARDS</li> </ol>				
25 26 27 28 29 30 31 32 33 33 34 35 36	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPEC</li> <li>SINK &amp; GARBAGE</li> <li>DISPOSAL</li> <li>CLOSETS &amp; CUPBOARDS</li> <li>DRAWERS</li> </ol>				
25 26 27 28 29 30 31 32 33 34 35 36 37	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPT</li> <li>SINK &amp; GARB/ GL</li> <li>DISPOS/L</li> <li>CLOSETS &amp; CUPBOARDS</li> <li>DRAWERS</li> <li>FURNITURE</li> </ol>				
25 26 27 28 30 31 32 33 34 35 36 37 38	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPEC</li> <li>SINK &amp; GARBAGE</li> <li>DISPOSAL</li> <li>CLOSETER CUPBOARDS</li> <li>DRAWERS</li> <li>FURNITURE</li> <li>EXHAUST FAN</li> </ol>				
25 26 27 28 29 30 31 32 33 34 35 36 37 38 39	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPE</li> <li>SINK &amp; GARB/GE</li> <li>DISPOS/L</li> <li>CLOSETS &amp; CUPBOARDS</li> <li>DRAWERS</li> <li>FURNITURE</li> <li>EXHAUST FAN</li> <li>COUNTER TOPS</li> </ol>				
25 26 27 28 29 30 31 32 33 34 35 36 37 38 39	<ol> <li>WINDOWS &amp; SCREENS</li> <li>CURTAINS &amp; DRAPES</li> <li>DOORS</li> <li>CEILINGS</li> <li>LAMPS/LIGHT FIXTULES</li> <li>LIGHT BULBS</li> <li>FLOORS &amp; CARPE</li> <li>SINK &amp; GARBAGE</li> <li>DISPOSAL</li> <li>CLOSETS &amp; CUPBOARDS</li> <li>DRAWERS</li> <li>FURNITURE</li> <li>EXHAUST FAN</li> <li>COUNTER TOPS</li> <li>RANGE/OVEN</li> </ol>				

Initials: Owner/Manager

Manager-Tenant Statement of Condition of the Rental Property Initials /

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41				RATINGS KEY	
42		1 - Poor 2	2 - Fair	3 - Good	4 - New Condition
43	17.	DISHWASHER			
44	18.	OTHER			
45	В.	LIVINGROOM			
46	1.	WALLS (PAINT - HOLES)			
47	2.	WINDOWS & SCREENS			
48	3.	CURTAINS & DRAPES			
49	4.	DOORS			
50	5.	CEILINGS			
51	6.	LAMPS/LIGHT FIXTURES			
52	7.	LIGHT BULBS			
53	8.	FLOORS & CARPETS			
54	9.	MIRRORS			
55	10.	CLOSETS & CUPBOARDS			
56	11.	DRAWERS			
57	12.	FURNITURE			
58		OTHER			
59		BEDROOM #1		×.U	
		WALLS (PAINT - HOLES)			
		WINDOWS & SCREENS			
		CURTAINS & DRAPES			
		DOORS			
		CEILINGS			
		LAMPS/LIGHT FIXTURES			
		LIGHT BULBS			
		FLOORS & CARPETS			
	-	MIRRORS			
		CLOSETS & CUPBOARDS		•	
		DRAWERS			
		FURNITURE	·		
		OTHER			
		BEDROOM #2			
		WALLS (PAINT - H'LES)			
		WINDOWS & SULTEUS			
		CURTAIN 5 & L 74 /ES			
		DOORS			
78	5.	CEILINGS			
79	6.	LAMPS/LIGHT FIXTURES			

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80				RATINGS KEY	
81		1 - Poor	2 - Fair	3 - Good	4 - New Condition
82	7.	LIGHT BULBS			
83	8.	FLOORS & CARPETS			
84	9.	MIRRORS			
85	10.	CLOSETS & CUPBOARDS			
86	11.	DRAWERS			
87	12.	FURNITURE			
88	13.	OTHER			
89	Ε.	BEDROOM #3			
90	1.	WALLS (PAINT - HOLES)			
91	2.	WINDOWS & SCREENS			
92	3.	CURTAINS & DRAPES			
93	4.	DOORS			
94	5.	CEILINGS			
95	6.	LAMPS/LIGHT FIXTURES			
96	7.	LIGHT BULBS			
97	8.	FLOORS & CARPETS			
98	9.	MIRRORS			
99	10.	CLOSETS & CUPBOARDS			
100	11.	DRAWERS			
101	12.	FURNITURE			
102	13.	OTHER			
103	F.	BATHROOM #1			
104	1.	WALLS (PAINT - HOLES)			
105	2.	WINDOWS & SCREENS			
106	3.	CURTAINS & DRAPES			
107	4.	DOORS			
108	5.	CEILINGS			
109	6.	LAMPS/LIGHT FIXTURES			
110	7.	LIGHT BULBS			
111	8.	FLOORS & CARPETS			
112	9.	MIRROR/MEDICINE			
113		CABINET			
114	10.	CLOSETS & CLOSETS			
115	11.	DRAWERS			
116	12.	FURNITU. =			
117	13.	EXHAUST FAN			
118	14.	SINK & COUNTER TOPS			

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119				RATINGS KEY	
120		1 - Poor	2 - Fair	3 - Good	4 - New Condition
121	15.	TUB/SHOWER AREA			
122	16.	COMMODE/LAVATORY			
123	17.	OTHER			
124	G.	BATHROOM #2			
125	1.	WALLS (PAINT - HOLES)			
126	2.	WINDOWS & SCREENS			
127	3.	CURTAINS & DRAPES			
128	4.	DOORS			
129	5.	CEILINGS			
130	6.	LAMPS/LIGHT FIXTURES			
131	7.	LIGHT BULBS			
132	8.	FLOORS & CARPETS			•
133	9.	MIRROR/MEDICINE			
134		CABINET			
		CLOSETS & CUPBOARDS			
		DRAWERS		· ·	
137	12.	FURNITURE			
		EXHAUST FAN			
		SINK & COUNTER TOPS			
		TUB/SHOWER AREA			
		COMMODE/LAVATORY			
142		OTHER			
143		HALL & UTILITY ROOM			
		WALLS (PAINT - HOLES)			
		WINDOWS & SCREENS			
		CURTAINS & DRAPES			
		DOORS			
		CEILINGS			
		LAMPS/LIGHT FIXTURES			
		LIGHT BULBS			
		FLOORS & CARPETS			
		CLOSETS & CUPE VARDS			
		DRAWERS			
		LAUNDP' FAC YELES			
		FURNACL HEATER			
156	13.	OTHER 🔻			

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157				RATINGS KEY		
158		1 - Poor	2 - Fair	3 - Go	od	4 - New Condition
159	Ι.	BASEMENT				
160	1.	WALLS (PAINT - HOLES)				
161	2.	WINDOWS & SCREENS				
162	3.	CURTAINS & DRAPES				
163	4.	DOORS				
164	5.	CEILINGS				
165	6.	LAMPS/LIGHT FIXTURES				
166	7.	LIGHT BULBS				
167	8.	FLOORS & CARPETS				
		CLOSETS & CUPBOARDS				
		DRAWERS				
170	11.	LAUNDRY FACILITIES				
171	12.	FURNACE/HEATER				
		FURNITURE				
173		OTHER				
174	L	MISCELLANEOUS				
		PATIO/PORCH				
		GARBAGE FACILITIES				
		LAWN	_			
		FENCE & GATES				
		GARAGE/CARPORT				
		STORAGE SHED				
		TREES	_			
		SHRUBS				
		FIRE EXTINGUISHERS				
184	10.	CARBON MONOXIDE				
185		DETECTORS				
	·	OTHER				
	К.	GENERAL COMMENTS				
188 189						
190						
190						
192						
193						

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#### DETECTOR INSPECTION AND ACCEPTANCE BY TENANT

In accordance with applicable law, approved smoke detector(s) and approved carbon monoxide detector(s) have been installed in the premises. Manager and Tenant have verified that both the smoke detector(s) and the carbon monoxide detector(s) are in good working order on: \_\_\_\_\_\_\_. Tenant acknowledges that applicable law provides that Tenant shall maintain the smoke detector(s) and the carbon monoxide detector(s) in good working order during Tenant's period of occupancy and possession including changing batteries at least semi-annually and that Manager is not liable for damages caused as a result of the failure of the smoke detector(s).

205	Number of smoke detector(s)	Number of carbon monoxide detertor(s
206	Number of house/garage key(s)	_Number of mail key(s)
207	Number of garage door opener(s)	_Number of transfer strution, ass(es)
209	Initials//	
211	I have inspected the premises and believe that the foregoing s	statement of son ition is truthful and accurate.
212		//
213	Tenant Signature	Date
214		
215	Tenant Signature	Date
216		
217	Tenant Signature	Date
218		//
219	Tenant Signature	Date
221	I have inspected the premises and believe that the foregoing s	statement of condition is truthful and accurate.
	Manager Signature	/ Date
225		Date
	X	

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

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Initials: Owner/Manager	Manager-Tenant Statement of Condition of the Rental Property

 Page 6 of 6 Tenant(s)
 /

 y
 Initials
 /

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### **24 HOUR NOTICE TO ENTER PREMISES**



1 2 3 4	2 Address:	
6 7	6 Date:	
9 10 11	10 Regarding Rental Premises At:	
13 14	13    Please take notice that the Landlord and/or his agent plan      14    at am pm on the day of	
18 20 21	20 I hereby certify that on the day of	,, I served
22 24 25	24 $\Box$ U.S. Mail (Entry can occur for a ys (96 hrs.) a	
27 28		fter the date and time
30 31		rs. after the Tenant's
33	33	
38	38 Landlord/A	Agent Date

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

Iństan forms

### **30 DAY NOTICE TO QUIT AND TERMINATE THE RENTAL AGREEMENT**



Landlord:     Address:
Dhana
Date:
Time: $\square$ am $\square$ pm
To Tenant in Possession:
Regarding Rental Premises At:
Please take notice that the month to month tenancy under which we occupy and hold possession of the above premises is hereby terminated according to the provi ion c M.C.A. 70-24-441.
You are hereby required to quit and surrender possession of the remises to the Landlord on the day of
CERTIFICATE OF SERVICE
,, i served
Tenant's Name) a true and correct copy of the foregoing by:
$\Box$ U.S. Mail (Rec $\mu_{\rm P}$ is deemed to have occurred three (3) days after the date and $\mu_{\rm P}$ be of mailing).
Certified Mail ('co lipt is deemed to have occurred three (3) days after the date no time of mailing).
Hand-Delivery (Receipt is deemed to have occurred immediately upon personal service upon Tenant).
□ Other
Forwarding Audress:
Landlord/Agent Date

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.



### NOTICE OF CLEANING REQUIRED FOR RETURN OF SECURITY DEPOSIT



1 2	Landlord: Address:	
3		
4	Phone:	
5	Date:	
6	Date:	
8	To Tenant in Possession:	
9	Regarding Rental Premises At:	
10 12	You are hereby notified that the following items of cleaning had not been completed by	
13	you at the time of our inspection and must be remedied by you at your expension avoid	
14	deduction of the cost of said cleaning from your security deposit.	
15	Cleaning:	
16		
22	Montana Law allows you TWENTY FOUR (2.) hours in which to complete the cleaning	
23	noted above. If such cleaning is not made within ms time period then the Landlord/Agent may	
24	deduct the cost of cleaning from your securit, deposit.	
26	You are further notified that the subwing items have been damaged during the term of	
20 27	your tenancy.	
28	Damages:	
29		
35	□ (f this oox is checked, the Landlord/Agent is allowing you TWENTY FOUR (24)	
35 36	hours in which to effect repair or replacement of all the damaged items noted above. If such	
37	items are not appropriately repaired, bringing such items into the condition they were at the	
38	beginning of your tenancy, normal wear and tear accepted, or replaced the Landlord/Agent may	

39 deduct the cost of such repairs or replacement from your security deposit.



- 40 If this box is checked, the Landlord/Agent is only providing you notice of the damages
- 41 described above and is **not** asking you to repair or replace the damaged items. The
- 42 Landlord/Agent will affect repair or replacement of all the damages noted above and will deduct

43 the costs of such repairs or replacement from your security deposit.

Landlord/Agent	Date	
	CERTIFICATE OF SERVICE	
I hereby certify that	t on the, I see	erved
	(Tenant's Name) a true and corrections of the foregoing	g by:
□ U.S. Mail	(tenant has four days (96 hrs.) after the date ande of mailing to per cleaning and/or repair)	form
□ Certified Mail	(tenant has four days (96 hrs.) after the date and time of mailing to per cleaning and/or repair)	form
□ Hand-Delivery	(tenant has 24 hours from their a ceipt of notice to perform cleaning an repair)	1d/or
□ Other	<u> </u>	
	Landlord/Agent	
	Landlord/Agent	Date
X		

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.



### **3 DAY NOTICE TO CORRECT OR QUIT**



1 2		La A	ndlord: ddress:		
3					
4			Phone:		
5 6	Date:  Time:				
0					
8	To Tenant in Possession:				
9	Regarding Rental Premises At				
10					
11	YOU ARE HEREBY	NOTIFIED purs	uant to Section 70-24-4	422 (1)(b)(c) M C.A that	at as of
12	the day of	,	, you are in vie	olation of t'en stal agreen	ment by
13	which you hold possession. Su				
14	People other than thos	e listed on the rent	al agreement are residing	g on ve premises	
15	Pets not authorized by	the rental agreeme	ent or by other written pe	ermission are in the unit	
17					
17 18	Please correct the viol	ation(s) in the follo	owing manner:		
10					
20					
20					
22	Please be advised that	pursuant to Monta	ina la su have three of	days from receipt of this r	notice to
23	either fully correct the viola				
24	undersigned after paying all	rent due and owi	n, $o$ ether with any a	mounts due for cleaning	and/or
25	damage to the premises.				,
26		as set forth above.	legal proceedings may b	be initiated against you to	recover
27	possession of the premises, a	all delingue t) n	ounts owing, statutory	penalties including trebl	e rents,
28	damages and attorney's fees, and				
	-				
30		<b>EXTIFIC</b>	ATE OF SERVICE		
		V			
32	I hereby certify that of	he	day of	,,,	I served
33					
34				correct copy of the forego	oing by:
35			d to have occurred three	(3) days after the date	
36		and time of mailin	<b>e</b> /		
37 38	Centified Mail	(Receipt is deemed and time of mailin	d to have occurred three	(3) days after the date	
30 39			<b>e</b> /	diataly upon parsonal	
39 40		service upon Tena	d to have occurred imme	funatery upon personal	
40	□ Other	service upon rena	iii. <i>j</i> .		
11					
44			Landlord/Agent		Date

Landlord/Agent

Date

istan©t orms

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

## **3 DAY NOTICE TO PAY RENT OR QUIT**



1 2				
3 4		Phone	:	
5 6 7	Date: and	n 🗌 pm		
8 9 10	To Tenant in Possession: Regarding Rental Premises A			
12 13 14	YOU ARE HEREBY you are delinquent in your amounts set forth below:	NOTIFIED that as of the payment obligations for		scribed property in the
16 17 18	Late charges	s rent at the rate of	per morth	<u>\$</u>
20		Total due as o	of these test this notice	<u>\$</u>
22 23 24	Please be advised the notice to either pay the full premises to the undersigned a		y et forth above, or, sur	
26 27 28	If you fail to perfore recover possession of the prents, damages and attorney's		nounts owing, statutory p	enalties including treble
30 31	I hereby certify that	DERTIFICATE day	OF SERVICE	,, I served
32		(Topont's	Name) a true and correct	any of the foregoing by:
33			Name) a true and correct	copy of the folegoing by.
35 36		(Receipt is deemed to ha and time of mailing).	ve occurred three (3) days	after the date
37 38	Ce. ified Mail	(Receipt is deemed to ha and time of mailing).	ve occurred three (3) days	after the date
39 40	□ Hand-Delivery	0	ve occurred immediately	upon personal
41	□ Other	1 /		
43			Landlord/Agent	Date

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

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### **3 DAY NOTICE FOR DAMAGING OR REMOVING PREMISES**

	Landlord: Address:	
Date: Time: □	Phone:	
Time: □	am □ pm	
To Tenant in Possessio		
Regarding Rental Prem	nises At:	
M.C.A., that you have	tified pursuant to Section 70-24-321(2) M been destroying, defacing, damaging, imp ses in violation of the terms of your rental	pairing or removing items from
		0
	otified that you hav three (3) days from	m and after receipt of this not
to vacate the premis	es or an act on will be commenced ag l remedies, per alties and recourse allow	
to vacate the premis premises including all	l remedies, per alties and recourse allow CERTIFICATE OF SERV	red by law.
to vacate the premis	l remedies, per alties and recourse allow CERTIFICATE OF SERV	red by law. ICE
to vacate the premis premises including all	I remedies, per alties and recourse allow         CERTIFICATE OF SERV         ton th	red by law. ICE
to vacate the premis premises including all	I remedies, per alties and recourse allow         CERTIFICATE OF SERV         ton th	Ted by law. TCE ,, I ser d correct copy of the foregoing l
to vacate the premis premises including all I hereby certify tha	I remedies benalties and recourse allow         CERTIFICATE OF SERV         ton th	<b>ICE</b> d orrect copy of the foregoing hree (3) after the date and time
to vacate the premis premises including all I hereby certify tha []U.S. Mac	I remedies becalties and recourse allow         CERTIFICATE OF SERV         t n th	ICE,, I ser d correct copy of the foregoing hree (3) after the date and time ree (3) days after the date and t
to vacate the premis premises including all I hereby certify tha [] U. t. Mat [] Certified Mail	I remedies per alties and recourse allow         CERTIFICATE OF SERV         t n th       (ay of)	ICE,, I ser d correct copy of the foregoing hree (3) after the date and time ree (3) days after the date and the



### 3 DAY NOTICE TO TERMINATE FOR DRUG OR GANG RELATED ACTIVITY



1 2		Landlord: Address:
3		DI
4 5	Date:	Phone:
6	Time: am _ pr	- n
8	To Tenant in Possession:	
9	Regarding Rental Premises At:	
10		
12	You are hereby notified pu	rsuant to Section 70-24-422(4) M.C.A., that you have created a
13	•	es may be damaged or destroyed or that the burning tenants may be
14		ted for or charged with an act that viola is the provisions of Section
15	70-24-321(3) M.C.A., and the terms	of your rental agreement as is noted below cneck those that apply):
17	ariminal production or m	anufacture of democracia druge a probibited by Section 45.0.110
17 18	M.C.A.	anufacture of dangerous drugs as prohibited by Section 45-9-110
10		landestine laboratory, as provibued by Section 45-9-132 M.C.A.
20		prohibited by Title 45, chapter 8, part 4 M.C.A.
20	$\Box$ yany-related activities, as	
20		promoted by The To, Cup o, part Thiles, t
20	You are hereby notified t	hat three (3) days from and after receipt of this notice your
22 23	You are hereby notified t rental agreement for the premise	hat three (3) clave from and after receipt of this notice your as shall be term nated and you must vacate the premises or
22 23 24	You are hereby notified to rental agreement for the premise an action will be commenced	hat three (3) days from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you <sup>4</sup> , possession of said premises including all
22 23	You are hereby notified t rental agreement for the premise	hat three (3) days from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you <sup>4</sup> , possession of said premises including all
22 23 24 25	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a	hat three (3) clays from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you <sup>4</sup> , possession of said premises including all allowed by nw.
22 23 24 25 27	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed by tw. ERT FICATE OF SERVICE
22 23 24 25	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed by tw. ERT FICATE OF SERVICE
22 23 24 25 27 28	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed by tw. ERT FICATE OF SERVICE
22 23 24 25 27 28 29 30	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse I hereby certify that on the	hat three (3) clav. from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you 5, possession of said premises including all allowed b, nw. ERT FI ATE OF SERVICE ,, I served , I served , Tenant's Name) a true and correct copy of the foregoing by:
22 23 24 25 27 28 29 30 32	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail	hat three (3) days from and after receipt of this notice your as shall be term nated and you must vacate the premises or against you <sup>4</sup> , possession of said premises including all allowed b; w. ERT FI CATE OF SERVICE ,, I served , [1 served , [1 served ], I served , [1 served ], I served , [1 served three (3) days after the
22 23 24 25 27 28 29 30 32 33	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail 	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed b, w. ERT FI ATE OF SERVICE day of,, I served (Tenant's Name) a true and correct copy of the foregoing by: pt is deemed to have occurred three (3) days after the nd time of mailing).
22 23 24 25 27 28 29 30 32 33 34	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail Certified Mil (Recei	hat three (3) days from and after receipt of this notice your as shall be term nated and you must vacate the premises or against you 5, possession of said premises including all allowed b, nw. ERT FI ATE OF SERVICE ,, I served , [1 served , [1 served ], I served , [1 served ], [1 served _], [1
22 23 24 25 27 28 29 30 32 33 34 35	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail U.S. Mail Certified Mult (Receindate a	hat three (3) days from and after receipt of this notice your as shall be term nated and you must vacate the premises or against you <sup></sup>
22 23 24 25 27 28 29 30 32 33 34 35 36	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail U.S. Mail Certified Mull (Receindate a date a Hrud-Luslivery (Receindate)	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed b, w. ERT FI ATE OF SERVICE ,, I served , day of,, I served (Tenant's Name) a true and correct copy of the foregoing by: pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred immediately upon
22 23 24 25 27 28 29 30 32 33 34 35 36 37	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail U.S. Mail Certified Mull (Receindate a date a Hrud-Luslivery (Receindate)	hat three (3) days from and after receipt of this notice your as shall be term nated and you must vacate the premises or against you <sup></sup>
22 23 24 25 27 28 29 30 32 33 34 35 36	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail U.S. Mail Certified Mul Hrud-Lalivery (Recein persor	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed b, w. ERT FI ATE OF SERVICE ,, I served , day of,, I served (Tenant's Name) a true and correct copy of the foregoing by: pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred immediately upon
22 23 24 25 27 28 29 30 32 33 34 35 36 37 38	You are hereby notified to rental agreement for the premise an action will be commenced remedies, penalties and recourse a I hereby certify that on the U.S. Mail U.S. Mail Certified Mul Hrud-Lalivery (Recein persor	hat three (3) day, from and after receipt of this notice your es shall be term nated and you must vacate the premises or against you f, possession of said premises including all allowed b, w. ERT FI ATE OF SERVICE ,, I served , day of,, I served (Tenant's Name) a true and correct copy of the foregoing by: pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred three (3) days after the nd time of mailing). pt is deemed to have occurred immediately upon

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## **14 DAY NOTICE TO CORRECT OR QUIT**



1 2	Landlord: Address:
3 4 5	Phone:
6	Гіте: am _ pm
9 10 11	To Tenant in Possession: Regarding Rental Premises At:
13 14 15 16	YOU ARE HEREBY NOTIFIED pursuant to Section 70-24-422 (1 (a), 1 I.C.A., that you are in violation of the rental agreement by which you hold possession of the above described premises. Your violation(s) is set forth as follows:
20 21	Please correct the violation(s) in the following manner
25 26 27 28 29 30	You are hereby notified that you have nurteen (14) days from the date of delivery of this notice n which to correct the violation(s) as see forth above or vacate the premises. In the event you fail to correct the violation(s) or vacate the contal premises, action shall be commenced against you for possession of said premises including a monies, penalties, and other recourse allowed by law.
31 32 33	I hereby certify the control day of, I served, I served
35 36 37 38 39 40 41	<ul> <li>U.S. Mil</li> <li>(Receipt is deemed to have occurred three (3) days after the date and time of mailing).</li> <li>Centified Mail</li> <li>(Receipt is deemed to have occurred three (3) days after the date and time of mailing).</li> <li>Hand-Delivery</li> <li>(Receipt is deemed to have occurred immediately upon personal service upon Tenant).</li> </ul>
43	Landlord/Agent Date

NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

<sup>24</sup>hstan

### 5 DAY NOTICE TO QUIT AND TERMINATION OF THE RENTAL AGREEMENT FOR SECOND VIOLATION



1 2	Landlord:
$\frac{2}{3}$	Address:
4	Phone:
5	Date:
6	Time: am _ pm
7	
8	To Tenant in Possession:
9	Regarding Rental Premises At:
10	
11	
12	YOU ARE HEREBY NOTIFIED that the tenancy under which you occupy and hold possession
13	of the above-described premises is hereby terminated for repeating substantially the same violation
14 15	within six (6) months for which you were previously given Notice. That previous Notice was provided to you on or about the day of,
16	The violation consists as follows:
17	
18	
19	
20	
21	You are hereby required to quit and surrent r pssession of the premises to the Landlord five
22	(5) days after delivery of this Notice.
23	
24	CERTIF' CATE OF SERVICE
25	I hereby certify that on the day of,, I served
26 27	(Tenant's Name) a true and correct copy of the foregoing by:
27	(renance) a true and correct copy of the foregoing by:
20	$\Box$ U.S. Mail (Compute is deemed to have occurred three (3) days after the date
30	a. <sup>1</sup> ame of mailing).
31	$\Box$ Certified Main Receipt is deemed to have occurred three (3) days after the date
32	and time of mailing).
33	Hand-Delivery (Receipt is deemed to have occurred immediately upon personal
34	service upon Tenant).
35	□ other
36	
37 38	
38 39	Landlord/Agent Date
51	

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.



#### STATEMENT OF DEDUCTIONS FROM THE SECURITY DEPOSIT



1	Landlord:		
2			
3			
4	Phone:		
5	Date:		
6	Date: Time: am _ pm		
8	To Tenant in Possession:		
9	Regarding Rental Premises At:		
10			
12	In accordance with Section 70 25 202 MCA	un an actified that the fallow as definitions have	haan
12		you are notified that the following de luctions have	been
13	made from your Security Deposit and the balan	nce due is returned herewith.	
15	Socurity Donositi		
15	Security Deposit:		)
10	Damages (including late rent, property of		)
1/	Damages (including fate fent, property o	uamage, unnues suc.	
19		=\$	
19 20		=\$	
20 21			
21 22			
22			
23 24		=\$	
25			
23		*	
27	Total Damages	\$	
29	Cleaning charges:		
31		=\$	
32		=\$	
33		=\$	
34		=\$	
35		=\$	
36		=\$	
37		=\$	
39	Total Cleaning Charges	\$	

 $\mathbbm{C}Montana$  Association of REALTORS  $\mathbbm{R}$  , March 2006



#### 42 Other charges:

		=\$			
		=\$		—	
		=\$			
		=\$			
		=\$			
		=\$			
				_	
Total Other cha	arges	\$		-	
Total D	eductions		\$		
BALA	NCE		\$ _	0	
	CERTIF	ICATE OF	SERVICE		
I hereby certify that or	the day	y of	,	, I served	
		(Tenant's N	m true and co	prrect copy of the f	foregoing by:
[ ] U.S. Mail	(Receipt is dee	med o hav	occurred three da	ays from the time	of mailing)
[ ] Certified Mail	(Receipt is dee	n ed to hav	e occurred three da	ays from the time of	of mailing)
[] Hand-delivery	(Receir o oce	med to hav	e occurred immedi	iately upon person	al service
	upor ten nt)			apon person	
[ ] Other	<u>0</u> `				
			Landlord/Agen	t	Date
	Total Other cha Total D BALAN I hereby certify that or [] U.S. Mail [] Certified Mail [] Hand-delivery	I hereby certify that on the day [ ] U.S. Mail (Receipt is dee [ ] Certified Mail (Receipt is dee [ ] Hand-delivery (Receipt is dee upor ten nt)	Solution is deeled to hav upor fer nt)		

**NOTE:** Unless the expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as exept Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.



# CHANGE OF TERMS, RULES, REGULATIONS CONDITIONS

1 2		Landlord: Address:	
3			
4		Phone:	
5 6			
8	To Tenant in Possession:		
9	Deserving Dentel Dramines Ati		
10			
12 13 14 15	above-described premises will be changed follows:	<b>O</b>	
22	*Please note that this form is only an	plicably to enancies thirty (30) days or less	It is
23		for a tern greater than thirty $(30)$ days.	
		6	
25	CERTIF	SATE OF SERVICE	
26	I hereby certify that on the	day of,,	, I served
27		<u> </u>	
28		(Tenant's Name) a true and correct copy of	f the foregoing by:
30		ur four days (96 hrs.) after the date and tim	e
31			
32		ur four days (96 hrs.) after the date and tim	e
33			
34		cur twenty-four (24) hrs. after the Tenant'	S
35 36			
38			
39		Landlord/Agent	Date

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.



### **HOLDING DEPOSIT**



	For the	e consideration of \$	, the	e undersigned landlord/age	ent hereby
agre	es to hol	d the premises described a	S		_, city of
		d the premises described a, Monta	ana for the undersigned ap	plicant until 5:00 p.m.	
		,	·		
It is	further	agreed between the partie	es that if the applicant no	tifies landlord of his/her	intent not
		said premises, that the land			
	1.	Deduct	as reaso	onable costs for heiding	ie
	1.		ost of reletting the premise		
	2.	It is further agreed betwe	een the parties that if the p	rospecti e ten nt(s) notifi	es agent
	2.		nove into said premises, the		
			amount of the rent for the		
		is re-rented, not exceeding	ng thirty (30) days rental,	and. I cost of re-advertising	ng, utilities
		and showing said premis	ses to other prospective te	an 3. Deduct daily rental of	charge of
		\$	from the date term v	is to begin.	
Whe	en the la	ndlord receives from applic	cant, the balance of the first	st month's rent, the security	y deposit,
		ited copy of the lease or ren			
		e first month's rent.			
			5		
		l cannot be held responsible			
time	or previ	ious tenant causing damage	r ay unforeseen circu	mstances. Should the prese	ent tenant
		n time or the premises not			
		tire amount received ' ro	ded applicant's check has	cleared or she/he has paid	in cash or
by n	noney or	aer.)			
Date	e:				
Duk					
			Landlord/Agent		
			-		
		, U	Applicant	Telephone	
			Applicant's address		
				le se le st le sie se le s	

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

### **MOLD DISCLOSURE**



#### 1 Property Address: \_

3 MOLD DISCLOSURE: There are many types of mold. Inhabitable properties are not, and cannot be, 4 constructed to exclude mold. Moisture is one of the most significant factors contributing to mold growth. 5 Information about controlling mold growth may be available from your county extension agent or health 6 department. Certain strains of mold may cause damage to property and may adversely affect the health of 7 susceptible persons, including allergic reactions that may include skin, eye, nose, and throat irritation. Certain 8 strains of mold may cause infections, particularly in individuals with suppressed immune systems. Some 9 experts contend that certain strains of mold may cause serious and even life-threatening diseases. However, 10 experts do not agree about the nature and extent of the health problems caused by mold or about the level of 11 mold exposure that may cause health problems. The Centers for Disease Control and Prevention is studying 12 the link between mold and serious health conditions. The seller, landlord, seller's ag nt, , iver's agent, or 13 property manager cannot and does not represent or warrant the absence of mold. If the buyer's or tenant's 14 obligation to determine whether a mold problem is present. To do so, the have or tenant should hire a 15 qualified inspector and make any contract to purchase, rent, or lease cor inge t upon the results of that 16 inspection. A seller, landlord, seller's agent, buyer's agent, or property manager who provides this mold <sup>17</sup> disclosure statement, provides for the disclosure of any prior testing and any subsequent mitigation or <sup>18</sup> treatment for mold, and discloses any knowledge of mold is not liable in any action based on the presence of <sup>19</sup> or propensity for mold in a building that is subject to any contract to purch, se, rent, or lease.

20 The undersigned, Seller, Landlord, Seller's Agent and/or Property M mayer disclose that they have knowledge 21 that the building or buildings on the property have mold present in them. This disclosure is made in recognition 22 that all inhabitable properties contain mold, as defined by the Molt and Mold Disclosure Act (any mold, fungus, 23 mildew or spores). The undersigned are not representing that a significant mold problem exists or does not 24 exist on the property, as such a determination may only be made by a qualified inspector.

25 If Seller/Landlord knows a building located on the property has been tested for mold, Seller/Landlord has 26 previously provided or with this Disclosure provide ne Buyer/Tenant a copy of the results of that test (if 27 available) and evidence of any subsequent mitigation or treatment.

28 29 Seller/I	Landlord		Seller's Agent/Property Manager	Date
31				
32 Seller/I	Landlord	Date	Seller's Agent/Property Manager	Date

34 ACKNOWLEDGMENT: The undersigned Buyer/Tenant, Buyer's Agent or Statutory Broker acknowledge 35 receipt of this Disclosure, the test results (if available) and evidence of subsequent mitigation or treatment. 36 The undersigned Enge /Tenant agrees that it is their responsibility to hire a qualified inspector to determine if a 37 significant mild providem exists or does not exist on the property. They further acknowledge that the Seller, 38 Landlord, Seller's Agent, Buyer's Agent, Statutory Broker and/or Property Manager, who have provided this 39 Disclosure, are not liable for any action based on the presence of or propensity for mold in the property.

40 41	Buyer/Tenant	Date	Buyer's Agent/Statutory Broker	Date
43 44	Buyer/Tenant	Date	Buyer's Agent/Statutory Broker	Date
	NOTE: Unless otherwise expressly stated the ter	m "Days" means calend	dar days and not business days. Business days are	e defined as all days as

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

Mold Disclosure

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# LEAD-BASED PAINT DISCLOSURE

(Rental/Lease)



This Lead Based paint disclosure pertains to the property located at:

#### Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

#### **Lessor's Disclosures**

The Lessor hereby discloses the presence of lead-based paint and/or lead-based paint hazards by initial, g the blanks and checking the appropriate boxes as follows:

- Presence of lead-based paint and/or lead-based paint hazards (check one below):

  Lessor knows that lead-based paint and/or lead-based paint hazards are present. The property (explain):
  - □ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the property.
- (b) Records and Reports available to the Lessor (check one below):

(a)

- □ Lessor has provided the Lessee with all available records and reports prtaining to lead-based paint and/or lead-based paint hazards in the property. Those reports and cords are itemized as follows:
- Lessor has no records or reports pertaining to lead-based on t and/or lead-based paint hazards in the property.

#### Lessee's Ackno, lengment

Lessee acknowledges, by his/her initials in the blanks prover a pelow, as follows:

- (c) \_\_\_\_\_ Lessee has received copies of all information l'at 1 in item (b).
- (d) Lessee has received the pamphlet "Protect Yor, Family From Lead in Your Home."

#### 

The Manager acknowledges, by his/her initiation the blanks provided below, as follows:

(e) \_\_\_\_\_ Manager has informed the Lessor 5th premises of his obligations under 42 U.S.C. 4852(d) and is

aware of his/her responsibility to ensure compliance.

#### Certifications

The parties have reviewed the internation above and certify, to the best of their knowledge, that the information, which they have provided is true as a accurate.

	/		/
Lessee Signature	Date	Lessor Signature	Date
	/		/
Lessee Signature	Date	Lessor Signature	Date
	/		/
Lessee Signature	Date	Lessor Signature	Date
	/		/
Manager Signature	Date	Owner's Signature	Date

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.



#### NOTICE OF ABANDONED PERSONAL PROPERTY (NOT FOR USE WITH ABANDONED MOBILE HOMES)

	Phone:		
Date:			
Time: 🔲 am 🗌 pm			
To Tenant:			
Regarding Rental Premises At:			
tenancy was terminated. Forty-eight (44 clear and convincing evidence that this property that the undersigned reasonabl Manager to a place of safekeeping. Yo personal property. If you either fail to claid days from the date of the mailing of this such personal property within seven da	B) hours has elapsed si s personal property was y believes is valuable had ou must contact the Mar im and recover such pers s Notice (in no event les ys of providing Manage	nce the time the moursig abandone. An abandon is been invectoried and re- nager to arrange for the r sonal property on or before as anothen (10) days) or f witt n notice of your inter-	fail to recover ent to remove
	ed and Manager 1 sy	proceed to dispose of i	t pursuant to
Montana law.			
CERTIFIC	CATE OF CENTIFIED	MAILING	
· · · ·	hige her last known ad	dress, which is set out be	
	Manag	er	Date
TENANT'S RE	ELEASE OF PERSON	AL PROPERTY	
described above was my property. By I any personal that may be valuable, I hereby release all my right, title and	eaving such personal pr intended to abandon the interest in and to said	operty in the rental premise same, and by my signa	ses, including ature below, I
Tenant Date Tena	ant	Date Tenant	Date
	Regarding Rental Premises At: You are notified that personal property tenancy was terminated. Forty-eight (44 clear and convincing evidence that this property that the undersigned reasonabl Manager to a place of safekeeping. Yo personal property. If you either fail to claid days from the date of the mailing of thi such personal property within seven da such personal property, and pay for all conclusively presumed to be abandor Montana law. CERTIFIC I hereby certify that on the day of the Tenant, who is identified above, at I TENANT'S RE The Tenant, identified above, hereby described above was my property. By I any personal that may be valuable, I hereby release all my right, title and Manager to dispose of the same as he o	Regarding Rental Premises At:	Regarding Rental Premises At:

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### **NOTICE OF DEFAULT**



1 2							
3 4 5	Date:			Phone:			
6	Time:		] am 🗌 pm				
8 9 10		n Possession: Rental Premises A	At:				
12 13 14		U ARE HEREB you are in viol our violation(s) i	ation of the r				, the above described
16 17	$\Box$ at the rate of	delinquent in you f	r payment ob	ligations in the	amounts of _	<u>~</u>	month's rent
19 20	□.				- Children	)	
23 24 25 26 27	of this notic and rental a of such vi	ce. [Attention is on agreements subject	lirected to M et to the Residendlord may	.C.A. §7 ····· denti n · analo purst · such i	122 and 436 f rd and Tenant	for minimum no t Act] Failing fi	days of the date otice periods for lease all and timely remedy r the rental or lease
29 30	I he	ereby certify that		IFICATE (			, I served
31 32				(Tenant's ]	Name) a true a	and correct cop	y of the foregoing by:
34 35		U.S. Maik	(Receipt is and time of		e occurred th	ree (3) days aft	er the date
36 37		Crtifi U Iail	(Receipt is and time of		re occurred th	ree (3) days aft	er the date
38 39		Hand-Delivery		deemed to have	ve occurred in	nmediately upo	n personal
40		Other					
42 43					Landlord/Ag	gent	Date

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.





### **REQUEST FOR A REASONABLE ACCOMMODATION**

1 If you, a member of your household, or someone associated with you has a disability, and feel 2 that there is a need for a reasonable accommodation for that person to have equal use and 3 access to the community, please complete this form and give the form to your housing provider. 4 Check all items that apply and explain fully. Use the other side of this form if you need more 6 space. If you cannot fill out this form yourself, you may have someone assist you. <u>Please keep</u> 7 copies of all documents that you submit to your housing provider.

10	Name c	of Tenant or Applicant:	Date:
12 13 14	1.	<ul> <li>The person(s) who has a disability requiring a reasonable accomm</li> <li>Myself</li> <li>A person associated with me (such as a household member or</li> </ul>	
16 17 18 19		Name of person with disability: Phone#: Address:	
21 22 23 24	2.	I am requesting the following change or changes in a policy regulation so that my household members, grees, and I can live and enjoy and participate equally in housing	
28 29 30 31 32 33		OPTIONAL: If you know a compary organization, or individual that advise on the changes, please provide: Name:Address:Address:	
35 36 37 38		I hereby agree that his document shall constitute a waiver of any regulations necessary to obtain any medical information or recor- my request for a reasonable accommodation or my request for a re-	ds to be able to process
40 41	3.	I need the easonable accommodation because:	
ΔΔ	Please	notify me within ten working days on the attached Approval	or Denial of Reasonable

- <sup>44</sup> Please notify me within ten working days on the attached <u>Approval or Denial of Reasons</u> <sup>45</sup> <u>Accommodation and / or Reasonable Modification Request</u> form.
- 48 Signature of Tenant, Applicant, or Guest:
- 50 Address:

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

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#### **REQUEST FOR A REASONABLE MODIFICATION**



1 If you, a member of your household, or someone associated with you has a disability, and feel that 2 there is a need for a reasonable modification for that person to have equal use and access to the 3 community, please complete this form and submit the form to your housing provider. Check all 4 items that apply and explain fully. Use the other side of this form if you need more space. If you 5 cannot fill out this form yourself, you may have someone assist you. <u>Please keep copies of all</u> 6 documents that you submit to your housing provider.

9	Name of T	Cenant or Applicant:	Date:
11 12 13	1.	□ Myself	requiring a reasonable modification is such as a household member or que t).
15 16 17		Name of person with disability: Phone#: Address:	
19 20 21	2.	I am requesting the following mo and I can live here as easily as	dification(s) so that my household members, guests, others and enjoy no participate equally in housing:
24 25 26 27 28 29		also be responsible for costs incu The housing provider <u>may</u> reque modifications and / or restoratio	g the modul ration <u>may be</u> responsible for the costs le modification to the premises. This individual <u>may</u> rregin estoring the modification to original condition. That a licensed contractor be obtained to make the local you and / or your housing provider have any ns, please do not hesitate to contact our office.
31 32		OPTIONAL: If you know comp help or advise on the changes, pl	any, organization, or individual that might be able to ease provide:
34 35 36			
38 39 40 41		or regulations necessary to obta	t shall constitute a waiver of any HIPAA requirements in any medical information or records to be able to able accommodation or my request for a reasonable
43 44	3.	reed this reasonable modification	n because:

#### 47 Please notify me within ten working days on the attached <u>Approval or Denial of Reasonable</u> 48 Accommodation and / or Reasonable Modification Request form.

- 50 Signature of Tenant, Applicant, or Guest: \_\_\_\_
- 51

Address: \_



**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

#### COMMERCIAL LEASE



	ENDED TO BE A LEGALLY BINDING CONTRACT, INCLUDING THE ND GENERAL TERMS DESCRIBED BELOW. IF NOT UNDERSTOOD,				
LANDLORD(S) AND TENANT(S) ARE ADVISED TO SEEK THE ADVICE OF COMPETENT LEGAL COUNSEL.					
	SPECIFIC TERMS				
	o this Commercial Lease are hereinafter known as "Landlord" and				
	hereinalter known as "Tenal".				
LEASED PROPERTY: 7	The Leased Property is described as follows:				
General Terms as set ou <b>TERM:</b> This Commercial Tenant shall be entitled t	es to lease the Leased Property pursuant to the checific Terms and t in this Commercial Lease. Lease shall begin on,, at which time o possession of the Leased Propert, and shall terminate on ,, unless renewed as otherwise provided in this Commercial				
Lease.	es to pay Landlord, as rent, the amounts set out as follows:				
Monthly Rent	\$, on the day of each month, commencing				
First Month's Rent	\$, upon entry into this Commercial Lease				
Last Month's Rent	\$, upon entry into this Commercial				
Performance Deposit	, upon entry into this Commercial Lease.				
Common Area Maintenance "CAM"	□ yes, equal to % of the total CAM charges.				
Taxes	□ yes; □ no; □ included in CAM				
Hazard Insurance	$\Box$ yes; $\Box$ no; $\Box$ included in CAM				
Late Charge	\$ or % of the Monthly Rent, if the Monthly Rent is not paid in full by the day of each month.				
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33	Returned Check Fee	\$ for any returned check.
34	Other	Describe:

36 37 38	<b>RENEWAL:</b> Provided that covenants of this Commerce Lease for  one additional	ial Lease, Tenar	nt shall have	e the option to extend the t	erm of this Commercial	
39	by giving written notice to Landlord not later than days prior to the expiration of the term					
40	or renewal term, as provided above. COST OF LIVING INCREASES: The monthly rent, as set out above, shall be increased in the manner and					
41 42	at the times indicated as fol		nly rent, as	set out above, shall be inc	reased in the manner and	
42		10WS.				
44	No Increase		per the	Costs of Living Increase		
			- · ·	n in the General Terms, to	b	
			increased	every ye irs		
45	Other (describe manne	er and timing of i	ncreases) _			
46						
47						
49 50 51	<b>UTILITIES</b> : The utilities pro Tenant. Tenant shall contra					
52	Sewer / Septic	Public Wate	r 🔥	Private Water		
53	🗆 Gas	Electric	5	Internet Access		
54	□ Other/Exclusions					
58 59	Landlord shall contract with Premises and not checked	an an ay the util to cland not in	ity provider Icluded in th	directly for any utilities prone CAM.	vided to the Leased	
61	MAINTENANCE: The main	enance items c	hecked belo	ow are the obligation of the	e Tenant. Tenant shall	
62	either accomplish the re ma			5		
63	for the indicated mantenan	ce item.				
65		Exterior		🗌 Janitorial	🗖 Glass Repair	
66	Maintenance	Maintenance			and Maintenance	

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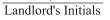
Landlord's Initials



67 68	Parking Area Maintenance	□ Snow Removal	Landscaping	Heating, Air Conditioning and Ventilation		
69	Other/Exclusions					
72 73	Landlord shall provide included in the CAM.	any maintenance to the	e Leased Premises that	is not checked above and not		
75 76	<b>PARKING:</b> Tenant is \$		parki	ng spaces at the monthly cost of		
78 79				ased Property for the purpose of		
82 83 84 86 87	Tenant, at the Tenant Landlord as additional <b>DEFAULT:</b> The time p	's expense, is \$	unt of liability insurance , and su fault, the terms of which	coverance to be carried by the ch liable ty insurance shall name		
89	Failure to pay rent or	monies payable by tena	ant to landlord the due	edays		
90 91	Any other term, condition or covenant to be kept or performed by the days tenant (other than the payment of rent or monies)					
92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109	constructed to exclude mold. Moisture is one or he most significant factors contributing to mold Information about controlling mold growth may be available from your county extension agent of department. Certain strains of mold may cau e damage to property and may adversely affect th susceptible persons, including allergic reactions that may include skin, eye, nose, and throat irr Certain strains of mold may cause in accoms, particularly in individuals with suppressed immun Some experts contend that certain strains of mold may cause serious and even life-threatening However, experts do not agree a out the nature and extent of the health problems caused by r about the level of mold excert that may cause health problems. The Centers for Disease Co Prevention is studying the link between mold and serious health conditions. The seller, landlord agent, buyer's agent, or price rty manager cannot and does not represent or warrant the absen It is the buyer's or ter ant's obligation to determine whether a mold problem is present. To do so or tenant should bire equalified inspector and make any contract to purchase, rent, or lease co upon the results of that inspection. A seller, landlord, seller's agent, buyer's agent, or property r who provides this mold disclosure statement, provides for the disclosure of any prior testing an subsequent sitigation or treatment for mold, and discloses any knowledge of mold is not liable action based on the presence of or propensity for mold in a building that is subject to any contract					
110 111 112 113 114 115	buildings on the proper inhabitable properties mildew or spores). The	rty have mold present i contain mold, as define e Owner, Landlord, and	n them. This disclosure d by the Montana Mold /or Property Manager a	ve knowledge that the building or is made in recognition that all Disclosure Act (any mold, fungus, re not representing that a significant ermination may only be made by a		

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This form presented by Bruno Friia | Lambros Real Estate ERA | (406) 532-9200 | Bruno@montana.com



- 116 If Owner/Landlord knows a building located on the property has been tested for mold, Owner/Landlord has
- 117 previously provided or with this Disclosure provides the Tenant a copy of the results of that test (if available)
- 118 and evidence of any subsequent mitigation or treatment.

120 The undersigned Tenant acknowledges receipt of this Disclosure, the test results (if available) and evidence 121 of subsequent mitigation or treatment. The undersigned Tenant agrees that it is their responsibility to hire a

.

122 qualified inspector to determine if a significant mold problem exists or does not exist on the property. They

123 further, acknowledge that the Owner, Landlord, and/or Property Manager, who have provided this

124 Disclosure, are not liable for any action based on the presence of or propensity for mold in the property.

125 The parties hereto, all agree that the transaction contemplated by this document may be conducted by

126 electronic means in accordance with the Montana Uniform Electronic Act.

128 🗌 Attached is a Methamphetamine Disclosure Notice

130 131 132	<b>NOTICE:</b> The mailing addr notice purposes are as following the pu		s Commercial Lease, for	Commercial Lease, for payment of reits and all			
133	Landlord		Tenant				
134 135			_				
136			_				
137 138	SPECIAL PROVISIONS	:					
143	licensees identified hereaft	er have been involved in	this rate ction in the ca	anacities indicat	ed below and the		
144	parties have previously rec	eived the required statut	te an closures setting for	orth the licensee	es duties and the		
145	limits of their obligations to	each party. The parties	funt is agree that the ter	m "seller's ager	it" is synonymous		
146 147	with the term "landlord's ag	jent" and the term "buy	s agent" is synonymous	with the term "	enant's agent".		
147	"buyer's agent" is synonym	ious with the term ter or	πs agent.				
149		f					
150	(name of licensee)		me of brokerage compar				
151 152	is acting as  seller's ag	ent of	☐ dual agent _ statute	ory broker			
153	· · · · · · · · · · · · · · · · · · ·		me of brokerage compar	ıy)			
154	is acting as 🗌 seller's 🥑	en. 🖃 buyer's agent	□ dual agent □ statute	ory broker			
450				- · <i>a</i> -			
156	conclusion: The partie above, and further up Verst	s to this Commercial Le	ease hereby agree to the	Specific Terms	, as set forth		
	in any addendur share to				iy payes and		
160		/			/		
161	Tenant Signature	Date	Landlord Signat	ure	Date		
400		1			1		
163 164	Tenant Signature	Date	Landlord Signat	uro	Date		
104	renam olghatare	2010	Landiora Oignat	uic	2010		
166 167			AL TERMS CONTAINED RAL PART OF THIS CO				
	NOTE: Unless otherwise express except Sundays and holid on	y stated the term "Days" means of ays. Any performance which is returned the	calendar days and not business da equired to be completed on a Satu next	ays. Business days a urday, Sunday or a h business	e defined as all days as bliday can be performed day.		
	1		ciation of REALTORS® Lease, January 2014		10		
	Landlord's Initials	Commercial	Lease, January 2014	Page 4 of	12/ Tenant's Initials		
	This form presented by Bruno	Friia   Lambros Real Estate	ERA   (406) 532-9200   Brur				
					255		

#### **GENERAL TERMS**

- 170 **RENT:** Rent is payable in advance or on or before 5:00 p.m. on the day indicated on for
- each calendar month to Landlord at the address indicated in the Specific Terms of this
- 172 Commercial Lease, or at such other place as may be designated by Landlord from time
- to time. Acceptance of rent does not constitute a waiver of prior Tenant default. All
- payments made by Tenant shall apply first to the oldest sums due and owing under the
- terms of this Commercial Lease. All sums due under the terms of this lease shall be
- 176 deemed additional rent and paid and collected as such.
- 178 **RENEWALS:** Any renewal of this Commercial Lease permitted under the Specific Terms
- shall be on the same terms and conditions as are provided this Commercial Lease and at
- 180 the same rent as was last being paid by Landlord, prior to renewal, being further subject
- 181 to all Cost of Living Adjustments as provided for herein.
- 183 COST OF LIVING INCREASES: If the Cost of Living Increases is selected in the Specific
- 184 Terms, at the times as set out in the Specific Terms of this Commercial Lease ine Monthly
- 185 Rent shall be increased to reflect any increase in the cost of living based the increase
- 186 in the U.S. Consumer Price Index for All Urban Consumers, as publicited by the Bureau
- 187 of Labor Statistics for the metropolitan area closest in proximity to the Leased Property (the
- 188 "CPI"). The increase shall be calculated as follows:
- 190 The Initial Monthly Rent called for in this Commercial Lease, multiplied by the
- 191 CPI for most current month before the adjustmines to take effect, divided
- by the CPI for the month that this Commercial Lesse commenced shall equal
  the increased Monthly Rent.
- 195 In no event shall the Monthly Rent be decreased inder the terms of this section.
- 197 LATE CHARGE: In the event rent is rot, and by the date set out in the Specific Terms of
- 198 this Commercial Lease, a late charge in the amount set forth in the Specific Terms shall
- arise. The late charge period is reasonable period and Landlord is entitled to pursue the
- 200 remedies provided herein if renues not paid when due. All late fees shall be deemed
- additional rent for the renta month and shall be paid and collected as such.
- RETURNED CHECKS. In the event any payment, made by check, to the Landlord by
   Tenant is returned unpaid, whether because of lack of funds, closed account, stop
   payment or otherwise, the Tenant's payment shall not be considered made until such funds
   are made good. It addition Tenant shall pay the Returned Check Fee set out in the
   Specific Teams or this Commercial Lease and from that time forward all payments must be
   in the form of a cashier's check or money order.
- PERFORMANCE DEPOSIT: To insure that Tenant will fully and faithfully perform all duties
   and obligations required of the Tenant as set forth in this Commercial Lease, during its
   term, Tenant shall tender to Landlord concurrent with the execution of this Commercial
   Lease, a performance deposit in the amount as set out in the Specific Terms. Tenant

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- agrees that Landlord shall hold such funds in Landlord's own account and utilize such funds
- for satisfying Tenant's performance obligations under the term of this Commercial Lease.
- 216 Tenant specifically authorizes Landlord to apply such portion of the performance deposit as
- 217 Landlord deems necessary and at such time as Landlord may deem appropriate to offset
- any delinquent rents, satisfy any liens or attachments levied against the Leased Property as
- a result of judgments, liens or encumbrances incurred by Tenant, or to satisfy any other
- performance required of Tenant. In the event Landlord elects to apply from the performance
- deposit sums to cure any existing or potential default of Tenant, the default shall not be
   deemed cured or satisfied by the application of funds from the performance deposit and will
- 223 not be deemed cured or satisfied until the amount of the performance deposit has been
- restored to its original balance.
- 226 COMMERCIAL LEASE: The parties agree and acknowledge that this Commercial Leas 227 is a commercial lease and as such the rights and obligations of the parties are as solved 228 herein, and neither the provisions of the Montana Residential Landlord and Tenan. Accord 229 1977 as amended, nor the Residential Tenants Security Deposits Act are applied ble to the 230 parties' rights and obligations as set forth under this Commercial Lease.
- 232 USE: Tenant shall occupy and use the Leased Property for the purpers as described in
- the Specific Terms. Tenant shall not use nor permit the Leased Property to be used for
- any purpose other than that set forth in the Specific Terms. To the extent that Tenant's
- use of the Leased Property causes an increase in the premiuns of hazard insurance
- maintained by the Landlord on the Leased Property, the Tonant shall pay for such
- increased cost. Tenant further covenants and agrees to coverve and comply promptly and completely with all statutes, ordinances, rules, order (reconations, and requirements of
- completely with all statutes, ordinances, rules, order (regulations, and requirements of
   Federal, State, County and City governments regulation, the use by the Tenant of the
- Leased Property. The restrictions set forth in this naragraph shall extend to all agents and
- employees of Tenant. Further, Tenant shall on use or occupy the Leased Property in any
- manner which interferes with or disturbs the lawful use and occupancy of the adjacent
- 243 premises or tenants.
- MAINTENANCE: In the Specific Arms, where it refers to Exterior Maintenance, it 245 specifically includes maintenance of the exterior walls of the building in which the Leased 246 247 Property is located, its roof, four dation and sidewalks, but does not include repair and maintenance to glass man tenance of parking areas and snow removal, which are 248 249 separately addressed. The Specific Terms, where it refers to Interior Maintenance, it 250 specifically includes maintenance of interior walls, ceilings, and flooring of the Leased Property, plumbing, and electrical systems serving the Leased Property, fixtures located 251 in the Lerbed Property, but does not include repair and maintenance to glass, 252 mainter the or parking areas and snow removal, which are separately addressed. 253 254 Regardles, of which party is required to maintain a specific item, if damage occurs to such 255 item so as to ordinarily require repair or maintenance by one party, but such damage is 256 caused by the negligence or fault of the other party, the other party shall repair the same 257 in a good, satisfactory and workmanlike manner at his sole expense.
- 259 **ANIMALS / PETS:** Unless otherwise provided herein, no animals will be brought on the

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- Leased Property by Tenant or guest at any time other than guide dogs assisting a
- 261 handicapped person.
- 263 **RULES AND REGULATIONS:** Landlord may adopt such reasonable written rules and
- regulations as it deems appropriate for the use and occupancy of the Leased Property.
- 265 Landlord shall provide copies of such rules and regulations to the Tenant upon entry into
- this Commercial Lease and shall further provide the Tenant with copies of any
- amendments to such rules and regulations. Tenant shall comply with all reasonable written
- rules and regulations adopted by the Landlord.
- 270 **ORDINANCES AND STATUTES:** Tenant shall comply with all applicable statutes,
- 271 ordinances, and requirements of all municipal, county, state, and federal authorities and
- with any applicable private restrictive covenants regarding the use of the Leased Property.
- 274 HAZARDOUS MATERIALS: Tenant shall not cause or permit any Hazardous Sub take to be used, stored, generated or disposed of on or in the Leased Property by and Tenant's 275 276 agents, employees, contractors or invitees, other than such materials typically sed, stored, 277 generated or disposed of in the normal course of operation of a business operation as 278 described in the "use" paragraphs of this Commercial Lease, provide such use, storage, generation and disposal is in compliance with all applicable federal, tate and local statutes, 279 280 laws, regulations and ordinances. If Hazardous Substances are used, 281 stored, generated or disposed of on or in the Leased Propert, except as permitted above, or if the Leased Property becomes contaminated at any time after the possession date in 282 any manner for which Tenant is legally liable, Tenant station and hold harmless 283 the Landlord from any and all claims, damages, finer (juc, ments, penalties, costs, 284 liabilities or losses (including, without limitation, a sect ase in value of the Leased 285 Property, damages due to loss or restriction of rentable or usable space, or any damages 286 due to adverse impact on marketing of the mach and any and all sums paid for settlement 287 of claims, attorneys' fees, consultant and type fees) arising during or after the term of this 288 Commercial Lease and arising as a result of such contamination by Tenant. This 289 indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any closing, removal or restoration mandated by a federal, state or local agency or political subortision. Without limitation of the foregoing, if Tenant causes 290 291 292 or permits the presence of of azardous substance on the Leased Property and such 293 results in contamination, it nant shall promptly, at Tenant's sole expense, take any and 294 all necessary action to etu in the Leased Property to the condition existing prior to the 295 presence of any such hazardous substance on the Leased Property. Tenant shall first obtain 296 297 Landlord's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance which is toxic, ignitable, reactive, or corrosive, and which is regulated 298 by any, cr. government, the State of Montana, or the United States Government. 299 "Hazardou Substance" includes any and all materials or substances which are defined as 300 "hazardous waste," "extremely hazardous waste," or "hazardous 301 substance," pursuant to state, federal or local governmental law. "Hazardous Substance" 302 303 includes, but is not restricted to, asbestos, polychlorobiphinyls ("PCBs") and petroleum.
- 305 **PARKING:** Tenant is entitled to the number of parking spaces for the cost, as indicated in

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the Specific Terms. The cost of parking, if any, shall be considered a part of and paid along
with the Monthly Rent. Such parking shall be used for parking of licensed, operating motor
vehicles only. No parking is permitted for trailers, boats, campers, buses or trucks larger
than one-ton. Landlord may assign parking spaces, and upon doing so the Tenant,
Tenant's employees, guests and invitee's shall limit their parking to such assigned spaces.
Vehicles leaking fluids shall not be parked in the parking spaces and no mechanical work
(other than emergency repairs) or storage of unlicensed or inoperable vehicles is

313 permitted.

315 **ASSIGNMENT AND SUBLETTING:** Tenant will not assign their interest in this

316 Commercial Lease or sublet any portion of the Leased Property without prior written

317 consent of the Landlord. If Tenant is a corporation, partnership, limited liability company

or some other business or legal entity, Tenant shall not change in the ownership of the

319 Tenant so as to add or remove one or more of Tenant's owners as of the date of the

320 Commercial Lease, without the prior written consent of Landlord.

322 ALTERATIONS: Tenant acknowledges that no representations as to the cond. on or 323 repair of the Leased Property, nor as to Landlord's intentions with respect - 1V 324 improvements, alteration, decoration or repair of the Leased Property have been made 325 to Tenant, unless provided in this Commercial Lease. Tenant shall not make any 326 alterations on or additions to the Leased Property nor make any co. tract therefor without prior written consent of the Landlord. Further, Tenant will not a cor cause to be placed 327 or maintained on any interior or exterior door, wall or window on the Leased Property any 328 sign, awning, canopy, advertising matter or other thing my kind, and will not place or 329 maintain any decoration, lettering or advertising matter of the glass, window or door of the 330 Leased Property without prior written consent of the Londlord. All alterations, additions, 331 and improvements made by Tenant to or upon up Leased Property (except signs, cases, 332 counters, or trade fixtures which shall remain the roperty of Tenant and be removed by 333 Tenant upon termination of this Lease) shall a once, when made or installed, be deemed 334 to have attached to the Leased Property no to have become the property of the Landlord. However, if prior to termination of this arease, Landlord so directs, by written notice to 335 336 Tenant, Tenant shall, prior to tere haven, remove all such alterations, additions and 337 improvements which were place in the Leased Property by the Tenant and which became 338 the property of the Landlorc parsuant to this provision and which are designated in said 339 notice; and further, T man shall repair any damage occasioned by such removal, and in 340 default thereof. Landlo d may effect said removals and repairs at Tenant's expense. 341

343 INSPECTIONS: Except in emergencies, Landlord shall give Tenant a twenty-four (24) 344 hour notice of intent to enter the Leased Property at a reasonable time for the purpose 345 includin, but nor limited to, inspections, to make repairs or alterations, to supply services 346 or exhibitive Leased Property to potential tenants, purchasers, mortgagees, owners or 347 workmen. Tenant shall not deny Landlord or Landlord's inspectors access to the Leased 348 Property. Nor shall Tenant cause the Leased Property to be re-keyed without the prior 349 written consent of the Landlord and without providing Landlord copies of any new keys.

351 **LIABILITY INSURANCE:** Landlord shall not be liable to Tenant, nor insure Tenant, for any

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Landlord's Initials

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- 352 personal injury or property damage caused by the act or omission of any other Tenant or
- third party, or by any criminal act or activity, war, riot, insurrection, fire or act of God.
- 354 Further, Tenant shall hold Landlord free and harmless from all claims, damages, suits, or
- 355 causes of action resulting from injuries to persons or property and arising in connection
- 356 with Tenant's operations on the Leased Property or common areas adjacent thereto.
- 357 Tenant shall carry, maintain and deposit proof with the Landlord of public liability insurance
- in such form and with such companies as shall be satisfactory to Landlord, insuring
- Landlord as his/her interest may appear against liability in the minimum amount as stated
- in the Specific Terms of this Commercial Lease.
- HAZARD INSURANCE: Landlord will obtain and maintain insurance on the structure 362 363 housing the Leased Property for purposes of hazards, fire or other casualty in such 364 amounts, with such insurers as Landlord deems appropriate. In the event the Specific Terms call for the Tenant to pay for such hazard insurance (other than as part of the Cru 365 366 the Tenant shall pay to the Landlord the amount of the hazard insurance premiuman before 15 days before it is due. The hazard insurance to be obtained by the lan. Yord does 367 not provide any protection to Tenant either for interruption of business, lo s of the 368 369 structure, or loss of any tenant improvements, trade fixtures, merchandise personal property. To the extent that Tenant wishes to be protected from loss due to 370 interruption of business, loss of the structure, or loss of any tenant is provements, trade 371 372 fixtures, merchandise or other personal property, Tenant shall cottan and maintain at
- 373 Tenant's sole expense such additional insurance coverage as Telent may desire.
- ABSENCES: Tenant shall notify Landlord of any anticipated absence of greater than
   seven (7) days or such absence will be considered a number of the Leased Property
   and Landlord may reenter and re-rent the Leased Property.
- DEFAULT: Tenant agrees that each of the most fit this Commercial Lease and of the 379 Landlord's Rules and Regulations, if any, onstitutes an independent condition of Tenant's 380 right to possession of the Leased Property. In the rent or monies payable by Tenant to 381 Landlord due under the terms of this Commercial Lease, or any part thereof, shall remain 382 unpaid for the period of time as the specific Terms after written notice is given 383 by Landlord to Tenant, or if any ther term, condition or covenant of this Commercial Lease 384 to be kept or performed by renant (other than the payment of rent or monies) shall be 385 386 violated or neglected and than remain so for the period of time as set out in the Specific Terms after written not be dereof to the Tenant by Landlord, then the Tenant does hereby 387 388 authorize and fully empower the Landlord to re-enter and take possession of the Leased 389 Property immediately without any previous notice of intention to re-enter and remove all persons and heir property therefrom and to use such force and assistance in effecting and 390 perfection, achieved as the Landlord may deem advisable to recover at once full and 391 392 exclusive, assession of all of the Leased Property, whether the Leased Property be in 393 possession of the Tenant or of third persons, or whether the Leased Property be vacant. 394 The Landlord may, however, at his option, at any time after such default or violation of 395 condition or covenant, re-enter and take possession of the Leased Property without such 396 re-entering working a forfeiture of the rents to be paid and the covenants to be kept and 397 performed by such Tenant for the full term of this Lease. In such case, the Landlord may

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Landlord's Initials

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- 399 re-let the Leased Property for Tenant's account and may make such repairs, alterations
- 400 and additions in or to the Leased Property as Tenant was obligated to make but had failed
- 401 to make during Tenant's occupancy, and Tenant shall, upon demand, pay the cost thereof
- 402 together with Landlord's expense of the re-letting. If the consideration collected by
- Landlord upon any such re-letting for Tenant's account is not sufficient to pay monthly the 403
- 404 full amount of the rent reserved in this Commercial Lease together with costs of such
- 405 repairs, alterations, and additions permitted under this paragraph and Landlord's expenses,
- 406 Tenant shall pay to the Landlord the amount of each monthly deficiency on demand, and
- 407 if the consideration so collected from such re-letting is more than sufficient to pay the full
- 408 amount of the rent reserved herein, Landlord may retain the same and Landlord, at the end
- 409 of the stated term of the Lease, shall account for the surplus to Tenant.
- 411 ABANDONED PERSONAL PROPERTY: Upon termination of tenancy, if the Tenant fail, to 412 remove personal property from the Leased Property, Landlord agrees to give Tena. Inc. (15) days notice, at Tenant's last known address, of the date Landlord intends to approve of 413
- 414 said property either by sale or destruction, if property is not removed by Terrent.
- 416 VACATING PRIOR TO TERMINATION: Tenant's obligations under the ten of this
- 417 Commercial Lease shall not cease upon surrender of Leased Proper Such obligations 418 shall continue until this Commercial Lease expires.
- 420 TERMINATION OF TENANCY: Upon termination of tenancy, Tenant shall return Leased
- Property to Landlord in as good condition and repair as when received, ordinary wear 421 422 and tear excepted, and free of all Tenant's personal proprior, renant's fixtures, trash and
- 423 debris.
- 425 KEYS: Tenant is responsible for the cost of re keying, if all keys are not returned upon
- 426 vacating. Tenant acknowledges that locks rev rechave been changed prior to taking
- 427 occupancy. Tenant has the option of require ting that the Landlord re-key the Leased
- 428 Property at Tenant expense.
- DAMAGE/DESTRUCTION: In the Leased Property shall be damaged by any 430 casualty, Landlord shall repair such damage and put the Leased Property in good condition 431 432 as soon as reasonably post the Tenant shall be entitled to an equitable abatement of the 433 Monthly Rent during the re-onstruction period unless said casualty and/or the resulting 434 damage was caused by the conduct or activities of the Tenant, in which case tenant shall not 435 be entitled to any obstement of the Monthly Rent. Notwithstanding any other provisions of this paragraph to the contrary, if more than 75% of the value of the Leased Property is at any 436 437 time dest bye Lor the Leased Property is condemned, then Landlord may at his election and 438 upon no in to Tenant within 30 days after such damage, terminate this Commercial Lease 439 as of the of such damage.
- 441 **HOLDOVER:** Should the Landlord permit the Tenant to holdover the Leased Property or 442 any part thereof after the expiration of the term of this Commercial Lease, unless renewed 443 as provided for herein, then, and unless otherwise agreed in writing, such holding over 444 shall constitute a tenancy from month-to-month only and shall in no event be construed as 445 a renewal of this Commercial Lease and all provisions of this Commercial Lease, not 446 inconsistent with a tenancy from month-to-month, shall remain in full force and effect.





- 447 During the month-to-month tenancy, Tenant agrees to give to Landlord thirty (30) days
- 448 prior written notice of Tenant's intent to vacate. Tenant agrees to vacate upon thirty (30)
- 449 days written notice from the Landlord.
- 451 ESTOPPEL: Tenant shall execute and return to Landlord any estoppel certificates 452 delivered to Tenant by Landlord or Landlord's agent, within 3 days after its receipt. The 453 estoppel certificate shall acknowledge that this Commercial Lease is unmodified and in 454 full force, or in full force as modified, and state the modifications. Failure to comply with this requirement: (i) shall be deemed Tenant's acknowledgment that the tenancy statement 455 456 is true and correct, and may be relied upon by a prospective lender or purchaser; and (ii) may be treated by Landlord as a material breach of this Commercial Lease. Tenant shall 457 also prepare, execute, and deliver to Landlord any financial statement (which will be held 458 459 in confidence) reasonably requested by a prospective lender or buyer.
- LANDLORD'S TRANSFER: Tenant agrees that the transferee of Landlord's interest to the
   Leased Property shall be substituted as Landlord under this Commercial Lease. andlord
   will be released of any further obligation to Tenant regarding any deposite transferred to
   the transferee. For all other obligations under this Commercial Lease, Landor is released
- 465 of any further liability to Tenant, upon Landlord's transfer.
- SUBORDINATION: This Commercial Lease shall be subordinate to an existing liens and 467 at Landlord's option, the lien of any first deed of trust or first ronging subsequently placed 468 upon the real property of which the Premises are a part, all to any advances made on the 469 security of the Premises, and to all renewals, modification consolidations, replacements, 470 and extensions. However, as to the lien of any deed of the or mortgage entered into after 471 execution of this Commercial Lease, Tenant's right o uiet possession of the Leased 472 Property shall not be disturbed if Tenant is not in depault and so long as Tenant pays the 473 Rent and observes and performs all of the provisions of this Commercial Lease, unless the Commercial Lease is otherwise terminated purpulant to its terms. If any mortgagee, 474 475 trustee, or ground Landlord elects to have this Commercial Lease placed in a security position prior to the lien of a mortgage, dred of trust, or ground lease, and gives written 476 477 notice to Tenant, this Commerci T ease shall be deemed prior to that mortgage, deed of trust, or ground lease, or the day ov recording. 478 479
- COMMON AREA M/ NTL NANCE (CAM): If so indicated in the Specific Terms, Tenant 481 agrees to pay a proportion te share of the Landlord's estimated monthly common area 482 maintenance cost: (CAM), including but not limited to costs for maintenance of common 483 areas, utility and survice costs, janitorial costs, snow removal, insurance, real estate taxes, 484 and any other cost or expense related to maintenance or operation of the common areas. 485 Tenant'share or the CAM shall equal the percentage as stated in the Specific Terms. 486 The Tena. 's share of the CAM shall be paid at the same time and with the Monthly Rent 487 otherwise due from the Tenant. On an annual basis the Landlord shall reconcile the actual 488 cost of the CAM for the preceding year, and to extent the CAM paid by the Tenant 489 exceeded the actual cost of the CAM the Tenant's CAM for the following twelve months 490 shall be reduced, and to the extent the CAM paid by the Tenant was less than the actual 491 cost of the CAM, the Tenant's CAM for the following twelve months shall be increased to 492 adjust for the discrepancy. 493

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Landlord's Initials

Page 11 of 12 / Tenant's Initials



494 **DISCLAIMER:** The parties agree that the real estate licensees identified in the Specific 495 Terms do not guarantee the condition or permitted uses of the Leased Property, the ability 496 of either party to perform under the terms of this Commercial Lease, nor any 497 representations made by either party or any third party. The parties are further aware that 498 the real estate licensees identified in the Specific Terms have not conducted an expert 499 inspection or analysis of the Leased Property or its condition and make no representations 500 to the Tenant as to its condition, do not assure that the Leased Property will be satisfactory 501 to the Tenant in all respects, that all equipment will operate properly or that the Property 502 and/or improvements or intended uses comply with current building and zoning codes. 503 These real estate licensees ARE NOT building inspectors, building contractors, structural engineers, electricians, plumbers, sanitarians, septic or cesspool experts, well drillers or 504 well experts, land surveyors, civil engineers, flood plain or water drainage experts, roofing 505 506 contractors or roofing experts, accountants, attorneys, or title examiners, or experts in 507 identifying hazardous waste and/or toxic materials.

509 **WAIVER OF DEFAULT:** Landlord's failure to require strict compliance with the conditions 510 of this Commercial Lease or to exercise any right provided for herein, she I not be deemed 511 a waiver of such default, nor limit Landlord's rights with respect to that, or a maubsequent 512 default.

514 **SEVERABILITY:** If a part of this Commercial Lease is invalid, a loc id parts that are

515 severable from the invalid part shall remain in effect. If part of the commercial Lease is

516 invalid in one or more of its applications, the part remains in effect in all valid applications

517 that are severable from the invalid applications.

519 **NOTICES:** Unless otherwise provided, any notice required to give pursuant to the terms 520 of this Commercial Lease, may be given personally or by mailing the same, postage 521 prepaid, certified to the party to receive the pure at the address stated in the Specific 522 Terms of this Commercial Lease or at succother places as may be designated in writing

523 by the parties from time to time. Notic we'be deemed effective three (3) days after

524 mailing or upon personal delivery.

526 **TIME:** Time is of the essence to the terms of this Commercial Lease.

528 **ATTORNEY'S FEES** In a v action brought by the Tenant or Landlord to enforce any of 529 the terms of this Commercial Lease, the prevailing party in such action shall be entitled to 530 such reasonable a torney fees and costs as the court or arbitrator shall determine just.

532 **ENTIRE / IGF =E) IENT:** The foregoing, Specific Terms and General Terms constitute the 533 entire a, rement between the parties and supersedes any oral or written representation 534 or agreements that may have been made by either party. Further, Tenant has relied 535 solely on their own judgment, experience and expertise in entering into this Commercial 536 Lease.

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Page 12 of 12 / Tenant's Initials



# **ADVERSE ACTION LETTER**

September 21, 2007

John Doe 123456 7<sup>th</sup> Street Happy, USA 12345

**RE: Neverland Apartments Application** 

Dear John:



Our office received your application for the Neverland Apartments in Happy, USA; however we regret that we are unable to approv the application due to your credit history. The decision was made upon for mation from a consumer 7512 report supplied by:

Trans Union P.O. Box 1000 Chester, PA 19022

1-800-888-4213

http://www.transunion.com dn

The above-named reporting agency that supplied the report did not make the decision to take maximum action and cannot give the specific reasons for it. However you have the right to dispute the accuracy or completeness of any information the co. sumer reporting agency (CRA) furnished and the right to a free report from the CRA upon request within sixty (60) days.

Sir ,ero

Property Management NEVERLAND MANAGEMENT, LLC.



# **TENANT ESTOPPEL CERTIFICATE**

Lar	ndlord	l:
Те	nant:	
Pre	emise	s:
The	e und	ersigned Tenant certifies as follows:
1.	LEA	SE TERMS
	Α.	Attached is a true, correct and complete copy of a certain lease between Lattice and Tenant regarding the Premises (the <b>"Lease"</b> ). The Lease is now in full force and effect and has not been amended, modified or supplemented, except as is set forth in subparagraph 1.F., below.
	В.	The term of the Lease commenced on
	C.	Current monthly base rent is \$, and is rais though No rent or other charges under the Lease have been paid for more than thirty (30) days in advance of its due date except as follows:
	D.	Security deposit: \$
	Е.	Other deposits: \$
	F.	The Lease (initial one): ( ) has not been amended, mean d, supplemented, extended, renewed or assigned. ( ) has been amended, mod ied supplemented, extended, renewed or assigned by the following described terms or agree, ents, copies of which are attached hereto.
2.		ant is the actual occupant and , in possession of the Premises. Tenant has not assigned, transferred or othecated its interest under the Lense.
3.		ant has no defenses, off-sess or counterclaims to the payment of rent or other amounts due from Tenant to dlord under the Lease.
4.	All w	vork is required to b operformed by Landlord has been completed except as follows:
5.		ant has not filed and is not the subject of any filing for bankruptcy or reorganization under federal bankruptcy laws milar state laws.
6.		ant has not committed any breach of the Lease and has not received any notice of default under the Lease, which not been cured. To the best of Tenant's knowledge there are no defaults on the part of the Landlord or Tenant

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under the Lease.

265 Instan

The foregoing certification is made with the knowledge that a lender may be about to fund a loan to Landlord or a third party purchaser may be about to purchase the Premises from Landlord and that such parties shall rely upon the representations herein made by Tenant.

Tenant Signature	Date
Tenant Signature	Date
Receipt Acnknowledged:	
Ву:	Date
Title	
By:	
nst.	
no	

©Montana Association of REALTORS® March 2013 Tenant Estoppel Certificate



# **Trust Accounting Workshop**





Trust Account Requirements Board of Realty Regulation Administrative Rule 24.210.805

#### What Is A Trust Account?

A "Trust Account" is a bank account wherein all money that is being held in trust for a third party is deposited and kept separate from the property manager's own funds.

Trust Fund Money includes, but is not limited to:

- Rent Payments
- Security Deposits
- Maintenance Reserves



#### Why Do I Need A Trust Account?

The primary reason for a "Trust Account" is to separate the funds being held in trust from the property manager's funds.

Other reasons include:

• In the event that you should die, the money in the trust account will not become part of the property manager's estate.

W b

- If a judgment is entered against you (PM Company), the trust funds will not be at risk.
- Individual accounting ensures proper documentation of all trust account transactions, and more accurate auditing by the Board, if necessary.

 Each property manager will maintain a trust account which will be designated by the words "trust account," wherein all deposits, rent payments, or other trust funds received by the property manager...shall be deposited. Such trust accounts may be maintained in interest-bearing accounts with the interest payable to the property manager...must be identified by agreement as consideration for services performed. Offices or firms having more than one property manager may utilize a single property management trust account...must maintain all required ledgers for each trust account.

#### **General Requirements 24.210.805**

- a) Offices or firms having more than one property manager may utilize a single trust account.
- b) A property manager may maintain more than one trust account, but each trust account must be maintained separately.

#### **General Requirements 24.210.805**

2) The trust account must be readily accessible, insured in a financial institution located in Montana, and identified by the words "trust account." All monies, belonging to others and accepted by the property manager, shall be deposited in an insured account at an institution located in Montana, and identified by the words "trust account." Trust funds must be liquid and may not be maintained in sweep accounts, invested in certificates of deposit or repurchase agreements, or any other method which places trust funds at risk. The property manager must account for trust funds at all times.

3) Trust funds may be maintained in interest-bearing accounts with the interest payable to the property manager, principal, third-party, or any other person as may be designated by written agreement. Interest payable to the property manager shall be identified by written agreement as consideration for services performed and will be considered personal funds unless otherwise designated.

#### **General Requirements 24.210.805**

- 4) Maintenance of the trust account is the responsibility of the property manager.
  - a) A property manager may delegate authority for maintenance of a trust account to a designated property manager with whom the property manager is employed or associated. **Delegation shall not** relieve either property manager from the responsibility for any failure to comply with these trust account requirements [...]
  - b) Property managers are responsible for all funds deposited into the trust account by them or their property management staff.

#### **General Requirements 24.210.805**

- (5) (2) The property manager will not be disciplined for negative account balance that occurs only as a result of a deposit that was dishonored after the financial institution had indicated the funds were available.
- (3) All funds belonging to others and accepted by the property manager must be deposited in an insured account in a financial institution located in Montana. The account must be identified by the words...Trust Account

(6) (4) Funds deposited in a property manager trust account in connection with a property management transaction shall not be commingled with the property manager's personal funds A property manager may deposit and keep a sum not to exceed \$1000 of a property manager's personal funds ... which sum includes any interest earned on the trust account which accrues if the trust account is maintained in an interest-bearing account and interest accrues ... Personal funds may be distributed for trust account bank charges related trust account maintenance expenses, and when due and payable to the property manager. ... When depositing funds, the date of the deposit, the source of funds, and the amount must be shown. When the disbursing funds, the date of the disbursement, name of the payee, and amount must be shown. A running balance must be shown after each entry.

#### **General Requirements 24.210.805**

(5) A property manager may maintain more than one trust account

(7) Funds deposited in a property manager trust account, in connection with a property management transaction, shall not be commingled with the property manager's personal funds or other funds in the trust account.



#### General Requirements 24.210.805

(8) (6) All monies belonging to others which are received by a property manager in a residential lease or rental transactions must be deposited in the property manager's trust account within three business days. All monies belonging to others which are received by a property manager in a nonresidential lease or rental transaction must be deposited into the property manager's trust account within three business days, unless otherwise provided in the lease or rental agreement.

- (9) (a) When the property management agreement is terminated but the rental agreement is still in effect, and the licensee is holding funds deposited by a tenant, the licensee shall
  (a) notify the tenant in writing within 5 business days of the termination of the agreement:
  (i) that the agreement has terminated;
  - (ii) that the guestion first terminated; (iii) that the funds and current tenant files, including lease and condition reports, will be transferred to the property owner or the owner's designee within 30 days of the notification the termination, and: (iii) The notion schall also certain the server and add
  - (iii) The notice shall also contain the name and address of the property owner or the owner's designee to whom the funds are to be transferred
- (b) The property manager must transfer funds and current tenant files including the lease and condition reports, pursuant to the notice to the tenant within 30 days of termination.

#### **General Requirements 24.210.805**

- (7) Maintenance of the trust account will be the responsibility of the property manager. Property managers are responsible for all funds accepted by them or their property management staff.
- (10) (8) Except for personal funds referenced in (3), no payments of personal indebtedness of the property manager shall be made from such trust accounts or trust funds.
- (11) When a property manager is managing the property manager's own real estate, all tenant security deposits must be deposited into a trust account. All remaining funds .. must be handled in the following manner:

#### General Requirements 24.210.805

- (a) If the property manager solely owns 100% of the real estate, rents received shall not be required to be placed into a trust account. If...placed into a trust account, any and all disbursements ...must be described in the property margement agreement. A disbursement may not be considered personal indebtedness if the disbursement is for the maintenance of the property(ies) itself and is designated in the management agreement.
- (b) If the property manager owns less than 100% of the real estate, all rents received must be placed into a trust account. Any and all disbursements from the trust account must be described in the property management agreement. A disbursement may not be considered personal indebtedness if the disbursement is for the maintenance of the property(ies) itself and is designated in the management agreement.

(12) (9) Money held in the trust account which is due and payable to the property manager must be withdrawn within ten business days after such money becomes due and payable or when the owner and tenant ledgers are reconciled, except as exempted in (5). The money may not be withdrawn until the deposit has been verified, and money not withdrawn from the account within the ten business days is subject to the personal funds limitations of (6).



#### **General Requirements 24.210.805**

(13) (19) Maintenance of each individual property management trust account shall include the property manager keeping at the property management office a completed record of all funds received and disbursed in the following manner:

(a) proof of deposit showing the date of deposit, or electronic transfer

(b) monthly bank statements are to be retained and kept on file;

(c) Disbursement shall be made by check or electronic transfer. If checks are used, checks must be numbered and all voided checks recorded. The checks must denote the property manager's business name, address, and must be designated as "trust account"

#### **General Requirements 24.210.805**

- (d) a record which shows the chronological sequence of funds
- i. for funds received...include the date the funds are deposited
- ii. for disbursements...include the date the funds are disbursed, name of payee, name of principal and amount
- iii. no disbursement...until the deposit has been verified
- iv. a running balance...shown after each entry



- (14) (41) A chronological ledger must be kept for each tenant showing all rents, deposits, and disbursements. The record entries must clearly identify the parties to a transaction, the dates, and the amounts received. When disbursing funds, the date, payee, and the amount must be shown. A running balance must be shown after each entry.
- (15) (12) A chronological record must be kept for each property owner showing all income, expenses, and disbursements. The record entries must clearly identify the parties to a transaction, the date, and the amounts received. When disbursing funds, the date, the payee, and the amount must be shown. A running balance must be shown after each entry.

#### **General Requirements 24.210.805**

(16) (13) The trust account must be reconciled monthly, except in the case where there has been no activity during that month.

(14) Every property manager shall keep all records required by (9) and complete files of properties managed (property management agreement, rental agreement, and all transactions concerning the property in which the property manager was involved) for not less than eight years from the date the property management agreement terminates.

#### General Requirements 24.210.805

(17) Trust account records, complete files of properties managed (...property management agreement, lease/rental agreement, and all transactions...), and all other related documents shall be maintained for not less than eight years from the date the property management agreement terminates. A property manager is not relieved of this requirement in the event the property manager sells or ceases to operate a business.

(18) (15) All required trust account records may be maintained electronically but must be maintained in a manner to permit auditing.

#### Ledgers 24.210.805

(19) (16) The board is authorized to examine each property manager's trust account and all related property management records. Such examination will be conducted by a board representative and will be at such time as the board representative may request during normal business hours. The property manager is required to fully cooperate with the board representative.



#### **Unclaimed Property 70.9.803**

- Any checks written but un-cashed after five years are considered Unclaimed Property and must be reported to the Department of Revenue. However, it is recommended that unclaimed property be reported to the state annually.
- A detailed list and downloadable forms are available at: http://unclaimedproperty.mt.gov/responsibilitiesandreporting.asp



#### **Computer Programs**

If you use a computer program for your business, the computer program selected must be capable of generating all reports required in the trust accounting requirements of ARM 24.210.805, such as:

- A cash register (journal) that shows all trust funds received and disbursed in chronological order with a debit/credit format and a running balance after each transaction.
- Individual ledgers that show all trust funds received and disbursed as they relate to each tenant and owner in chronological order with a debit/credit format and a running balance after each transaction.

All required trust account records can be maintained electronically, but must be kept in a manner to permit auditing.

Trust	Account Rule
<mark>Q</mark> . Can y	you invest trust funds?
	NO.
	ficates of deposit to hold trust s is <i>not</i> allowed in the state of
	Montana
Contraction of Contraction	C Greget Xhtiannal Bank Resources

#### **Understanding Debits & Credits**

In accounting terms, the <u>"Debit" refers to an entry</u> <u>on the left side of an</u> <u>account</u>, and the <u>"Credit"</u> <u>refers to an entry on the</u> <u>right side of an account</u>. The debit/credit conventions for each account type must be kept in mind in order to understand financial statements. The following summarizes the affects that debits and credits have on each account type.

Asset (Trust Account)				
Debit	Credit			
Increase	Decrease			
Liability	(Payables)			
<u>Debit</u>	Credit			
Decrease	Increase			
Equity (Personal Account Funds)				
<u>Debit</u>	Credit			
Decrease	Increase			

#### **Illustration Examples**

The following examples illustrate the process of accounting for receipt of income and disbursement of expense on rental properties. This example will show the checkbook register (journal), individual ledger and the personal funds ledger after one month of bookkeeping entries.

A) <u>Recording the deposit of personal funds to open the</u> real estate trust account for Your Property Management <u>Co.</u> \$100.00 cash was deposited to open your real estate management "Trust Account" on January 1, 2016.



Payee/Property Description Debit Credit Balanc Open Open 100.00 100.00



	Personal Funds Ledger								
	Tenant: Personal Funds Page Owner: Your Property Management Co. Address: 123 S. Hill Mountain, MT 55555								
•	Personal	funds kept i	n the "Trust Account". U	Jp to \$1,000	).00 per code	<b>.</b>			
	Date	Check #	Description	Debit	Credit	Balance			
	1/1/16	CASH	Prop. Mgmt. Co.		\$100	100.00			



Mo	untain, MT 5		Rent Due D	eposit: \$500 ate: 1 <sup>st</sup> of M ce Reserve:	onth
Date	Check #	Description	Debit	Credit	Balance
1/1/16	111	Mike Jones Rent/Sec Dep.		1000.00	1000.00
1/1/16	JE	Transfer to Wilson's owner ledger (owner's income)	500.00		500.00

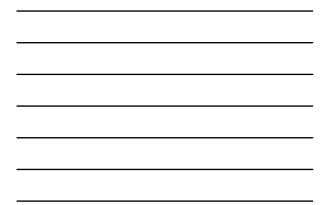
Properties: 564 Sands

Owner: Sam Wilson

Per the management agreement with Sam Wilson a 10% management fee will be charged based off of rents received. This fee is payable on the 15<sup>th</sup> of the month. Rent is \$500.00 per month with a security deposit equal to one months rent. Property management company is authorized to pay the mortgage for said rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January owner's income/564 Sands		500.00	500.00
/1/16	JE	income/564 Sands		500.00	500.00

gency: Your Prop. Mgmt. Co. ddress: 123 S. Hill Mountain, MT 55555			Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313			
Date	Check #	Payee/Property	Description	Debit	Credit	Balance
1/1/15	CASH	Your Prop. Mgmt. Co.	Open Account	100.00		100.00
1/1/15	111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00		1100.00



#### **Record Keeping**

C) <u>Recording a tenant's security deposit and the first</u> <u>month's rent on a property managed by Your Property</u> <u>Management Co.</u> On January 1, 2016, Your Property Management Co. receives check #354 for the amount of\$1500.00 from David Mills representing \$1000.00 for a security deposit and \$500.00 for his first months rent.

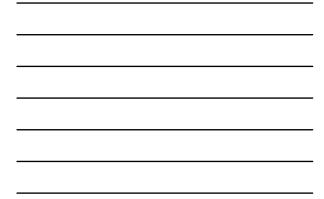


#### **Tenant Ledger**

Tenant: David Mills Address: 12 Park Mountain, MT 55555 Owner: Steve Nelson Rent Amount: \$500.00 Security Deposit: \$1000.00 Rent Due Date:1<sup>st</sup> of Month Maintenance Reserve: \$0.00

Date	Check #	Description	Debit	Credit	Balance
1/1/16	354	David Mills Sec. Deposit & Rent		1500.00	1500.00
1/1/16	JE	Transfer to Nelson Owner's ledger as Owner's income	500.00		1000.00

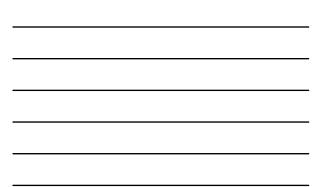
e property management agreement with Steve Nelson authorizes a 10% fee rable on the 15 <sup>th</sup> of the month. The rent is \$500.00 with a security deposit eque months rent. It also authorizes the property management company to pay an enses related to the rental property. Any interest paid on the trust account wi rable to the property management company in consideration for services dered.	ner: Stev	ve Nelson		Propertie	s: 12 Park	
January owner's	able on t months enses re	he 15 <sup>th</sup> of the rent. It also a lated to the re	month. The rent is s uthorizes the proper ental property. Any in	500.00 wit ty manage nterest pai	h a security of ment compared on the trus	deposit equa ny to pay any t account wi
	Date	Check #	Description	Debit	Credit	Balance
		IE			500.00	500.00



General	Ledger
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Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555 Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313

Check #	Payee/Property	Description	Debit	Credit	Balance
CASH	Your Prop. Mgmt. Co.	Open Account	100.00		100.00
111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00		1100.00
354	David Mills/12 Park	Rent/Sec Dep.	1500.00		2600.00
554	David Milla/12 T dik	Dep.	1300.00		2000.00
	CASH 111	CASH Your Prop. Mgmt. Co. 111 Mike Jones/564 Sands	CASH Your Prop. Mgmt. Co. Account Your Prop. Mgmt. Co. Rent/Sec. 111 Mike Jones/564 Sands Dep. Rent/Sec	CASH         Your Prop. Mgmt. Co.         Open Account         100.00           111         Mike Jones/564 Sands         Dep.         1000.00           Rent/Sec.         Rent/Sec.         1000.00	CASH         Your Prop. Mgmt. Co.         Open Account         100.00           111         Mike Jones/564 Sands         Dep.         1000.00           Rent/Sec.         Rent/Sec.         1000.00



#### **Record Keeping**

D) <u>Recording a tenant's first month's rent with no security</u> <u>deposit on a property managed by Your Property</u> <u>Management Co.</u> On January 1, 2016, Your Property Management Co. received check #265 for \$500.00 from Sarah Steward representing \$500.00 for her first months rent.



enant: Sarah Steward ddress: 514 16th Mountain, MT 55555			Owner: Judy Clark Rent Amount: \$500.00 Security Deposit: \$ 00.00 Rent Due Date:1 <sup>st</sup> of Month Maintenance Reserve: \$150.00		
Date	Check #	Description	Debit	Credit	Balance
1/1/16	265	Sarah Steward Rent		500.00	500.00
		Transfer to Clark Owner's ledger as Owner's income	500.00		0.00

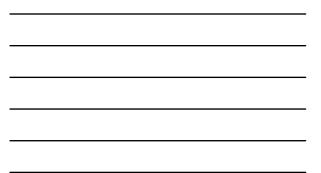


Properties: 514 16th

Owner: Judy Clark

The property management agreement with Judy Clark authorizes a 10% fee payable on the 15<sup>th</sup> of the month. The rent on the property is \$500.00 per month with no security deposit. It authorizes the property manager to pay expenses related to the rental property and Ms. Clark has requested you to deduct \$150.00 out of her 1<sup>st</sup> months owner income to hold in reserve for these expenses. Any interest paid on the trust account will be payable to the property manager in consideration for services performed.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January Owner's income/514 16th		500.00	500.00
1/1/10	JE	income/514 16th		500.00	500.00
		•			



#### **General Ledger**

Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555 Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313

1/1/16	CASH	Your Prop. Mgmt. Co.	Open Account	100.00	100.00
1/1/16	111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00	1100.00
1/1/16	354	David Mills/12 Park	Rent/Sec Dep.	1500.00	2600.00
1/1/16	265	Sarah Steward/514 16th	Rent	500.00	3100.00





Properties: 564 Sands

Owner: Sam Wilson

Per the management agreement with Sam Wilson a 10% management fee will be charged based off of rents received. This fee is payable on the 15<sup>th</sup> of the month. Rent is \$500.00 per month with a security deposit equal to one months rent. Property management company is authorized to pay the mortgage for said rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January owner's income/564 Sands		500.00	500.00
1/10/16	1001	County Bank/564 Sands mortgage	300.00		200.00

General	Ledger
---------	--------

Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555 Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313

Date	Check #	Payee/Property	Description	Debit	Credit	Balanc
1/1/16	CASH	Your Prop. Mgmt. Co.	Open Account	100.00		100.00
1/1/16	111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00		1100.00
1/1/16	254	David Mills/12 Park	Rent/Sec Dep.	1500.00		2600.00
1/1/16	365	Sarah Steward/514 16th	Rent	500.00		3100.00
1/10/16	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.00

# **Record Keeping**

- F) <u>Payment of expenses related to the rental property.</u> On January 12, 2016, Your Property Management Co. disbursed check #1002 for \$75.00 to Sewer Viewer for invoice #534 for 514 16<sup>th</sup> per written management agreement held by Your Property Management Co.
- \*This invoice must be retained for proof of the disbursement.



Properties: 514 16th

#### Owner: Judy Clark

The property management agreement with Judy Clark Authorizes a 10% fee payable on the 15th of the month. The rent on the property is \$500.00 per month with no security deposit. It authorizes the property manager to pay expenses related to the rental property and Ms. Clark has requested you to deduct \$150.00 out of her 1st months owner income to hold in reserve for these expenses. Any interest paid on the trust account will be payable to the property manager in consideration for services performed.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January Owner's income/514 16th		500.00	500.00
1/12/16	1002	Sewer Viewer Invoice # 534	75.00		425.00

General	Ledger
---------	--------

Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555 Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313

Date	Check #	Payee/Property	Description	Debit	Credit	Balanc
1/1/16	CASH	Your Prop. Mgmt. Co.	Open Account	100.00		100.0
1/1/16	111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00		1100.0
1/1/16	254	David Mills/12 Park	Rent/Sec Dep.	1500.00		2600.0
1/1/16	365	Sarah Steward/514 16th	Rent	500.00		3100.0
1/10/16	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.0
1/12/16	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.0

# **Record Keeping**

G) Payment of expenses related to the rental property. On January 12, 2016, Your Property Management Co. disbursed a check #1003 for \$57.16 to Montana Utilities for invoice #6992 for 12 Park per written management agreement held by Your Property Management Co.

\*This invoice must be retained for proof of the disbursement

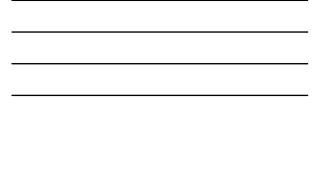


Properties: 12 Park

Owner: Steve Nelson

The property management agreement with Steve Nelson authorizes a 10% fee payable on the 15th of the month. The rent is \$500.00 with a security deposit equal to two months rent. It also authorizes the property management company to pay any expenses related to the rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January owner's income/12 Park		500.00	500.00
1/12/16	1003	Montana Utilities Invoice # 6992	57.16		442.84



Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555			Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance	
1/1/16	CASH	Your Prop. Mgmt. Co.	Open Account	100.00		100.00	
1/1/16	111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00		1100.00	
1/1/16	254	David Mills/12 Park	Rent/Sec Dep.	1500.00		2600.00	
1/1/16	365	Sarah Steward/514 16th	Rent	500.00		3100.00	
1/10/16	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.00	
1/12/16	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.00	
1/12/16	1003	Montana Utilities/12 Park	Invoice #6992		57.16	2667.84	

# **Record Keeping**

H) Payment to the property management company for January management fees. On January 15, 2016, Your Property Management Co. disbursed check #1004 to themselves for \$150.00 (\$50.00 564 Sands/\$50.00 12 Park/\$50 514 16<sup>th</sup>) for January management fees per written management agreements held by Your Property Management Co.



Properties: 564 Sands

#### Owner: Sam Wilson

Per the management agreement with Sam Wilson as 10% management fee will be charged based off of rents received. This fee is payable on the 15th of the month. Rent is \$500.00 per month with a security deposit equal to one months rent. Property management company is authorized to pay the mortgage for said rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January owner's income/564 Sands		500.00	500.00
1/10/16	1001	County Bank/564 Sands mortgage	300.00		200.00
1/15/16	1004	Your Prop Mgmt Co. Jan. Mgmt Fee	50.00		150.00

#### **Owner Ledger**

Owner: Steve Nelson Properties: 12 Park

The property management agreement with Steve Nelson authorizes a 10% fee payable on the 15th of the month. The rent is \$500.00 with a security deposit equal to two months rent. It also authorizes the property management company to pay any expenses related to the rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January owner's income/12 Park		500.00	500.00
1/12/16	1003	Montana Utilities Invoice # 6992	57.16		442.84
1/15/16	1004	Your Prop Mgmt Co. Jan. Mgmt Fee	50.00		392.84

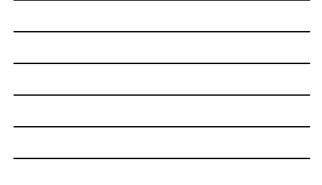
#### **Owner Ledger**

Owner: Judy Clark

Properties: 514 16th

The property management agreement with Judy Clark authorizes a 10% fee payable on the 15th of the month. The rent on the property is \$500.00 per month with no security deposit. It authorizes the property manager to pay expenses related to the rental property and Ms. Clark has requested you to deduct \$150.00 out of her 1st months owner income to hold in reserve for these expenses. Any interest paid on the trust account will be payable to the property manager in consideration for services performed.

Date	Check #	Description	Debit	Credit	Balance
1/10/16	JE	January Owner's income/514 16th		500.00	500.00
1/12/16	1002	Sewer Viewer Invoice # 534	75.00		425.00
1/15/16	1004	Your Prop. Mgmt. Co. Jan. Mgmt Fee	50.00		375.00



	Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill			Property Manager: Lee Rogers Telephone: (406) 123-4567				
	Mountain,	MT 55555	Trust Account No.: 02562313					
Date	Check #	Payee/Property	Description	Debit	Credit	Balance		
1/1/16	111	Mike Jones/564 Sands	Rent/Sec. Dep.	1000.00		1100.00		
1/1/16	254	David Mills/12 Park	Rent/Sec Dep.	1500.00		2600.00		
1/1/16	365	Sarah Steward/514 16th	Rent	500.00		3100.00		
1/10/16	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.00		
1/12/16	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.00		
		Montana Utilities/12 Park	Invoice #6992		57.16	2667.84		



#### Company Ledger - Operating Account

Account: Your Prop Mgmt – Operating Account Address: 123 S. Hill Mountain, MT 55555

This account is used for all expenses related to your company.

Date	Check #	Description	Debit	Credit	Balance
1/15/16	1004	January Management Fees		150.00	150.00

# Record Keeping •) <u>Payment to the owner of the rental unit managed by</u> <u>Your Property Management Co</u>. On January 15, 2016, Your Property Management Co. disbursed check #1005 for \$150.00 to Sam Wilson, owner, per written management agreement held by Your Property Management Co.

#### Owner Ledger

Owner: Sam Wilson

Properties: 564 Sands

Per the management agreement with Sam Wilson a 10% management fee will be charged based off of rents received. This fee is payable on the 15th of the month. Rent is \$500.00 per month with a security deposit equal to one months rent. Property management company is authorized to pay the mortgage for said rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January owner's income/564 Sands		500.00	500.00
1/10/16	1001	County Bank/564 Sands mortgage	300.00		200.00
1/15/16	1004	Your Prop Mgmt Co. Jan Mgmt Fee	50.00		150.00
1/15/16	1005	Sam Wilson Owner Income	150.00		0.00

		Genera	I Ledge	er		
Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555		Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance
1/1/16	254	David Mills/12 Park	Rent/Sec Dep.	1500.00		2600.00
1/1/16	365	Sarah Steward/514 16th	Rent	500.00		3100.00
1/10/16	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.00
1/12/16	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.00
1/12/16	1003	Montana Utilities/12 Park	Invoice #6992		57.16	2667.84
1/15/16	1004	Your Prop Mgmt. Co.	Jan Mgmt Fees		150.00	2517.84
1/15/16	1005	Sam Wilson/564 Sands	Owner Income		150.00	2367.84



#### Owner Ledger

Properties: 514 16th

#### Owner: Judy Clark

The property management agreement with Judy Clark authorizes a 10% fee payable on the 15th of the month. The rent on the property is \$500.00 per month with no security deposit. It authorizes the property manager to pay expenses related to the rental property and Ms. Clark has requested you to deduct \$150.00 out of her 1st months owner income to hold in reserve for these expenses. Any interest paid on the trust account will be payable to the property manager in consideration for services performed.

Date	Check #	Description	Debit	Credit	Balance
1/1/16	JE	January Owner's income/514 16th		500.00	500.00
1/12/16	1002	Sewer Viewer Invoice # 534	75.00		425.00
1/15/16	1004	Your Prop. Mgmt. Co. Jan Mgmt Fee	50.00		375.00
1/15/16	1006	Judy Clark Owner Income	225.00		150.00

		Genera	I Ledg	er		
Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555		Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance
1/1/16	365	Sarah Steward/514 16th	Rent	500.00		3100.00
1/10/16	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.00
1/12/16	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.00
1/12/16	1003	Montana Utilities/12 Park	Invoice #6992		57.16	2667.84
1/15/16	1004	Your Prop Mgmt. Co.	Jan Mgmt Fees		150.00	2517.84
1/15/16	1005	Sam Wilson/564 Sands	Owner Income		150.00	2367.84
1/15/16	1006	Judy Clark/514 16th	Owner Income		225.00	2142.84



## Record Keeping

K) Payment to the owner of the rental unit managed by Your Property Management Co. On January 15, 2016, Your Property Management Co. disbursed check #1007 for \$392.84 to Steve Nelson, owner, per written management agreement held by Your property Management Co.



#### **Owner Ledger**

Properties: 12 Park

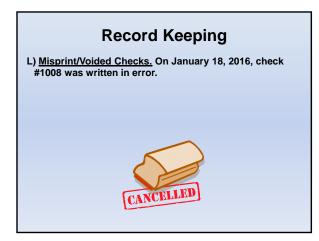
Owner: Steve Nelson

The property management agreement with Steve Nelson authorizes a 10% fee payable on the 15th of the month. The rent is \$500.00 with a security deposit equal to two months rent. It also authorizes the property management company to pay any expenses related to the rental property. Any interest paid on the trust account will be payable to the property management company in consideration for services rendered.

Date	Check #	Description	Debit	Credit	Balance
1/10/15	JE	January owner's income/12 Park		500.00	500.00
1/12/15	1003	Montana Utilities Invoice # 6992	57.16		442.84
1/15/15	1004	Your Prop Mgmt Co. Jan Mgmt Fee	50.00		392.84
1/15/15	1007	Steve Nelson Owner Income	392.84		0.00

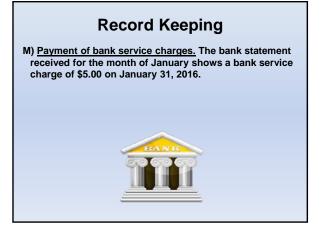
General Ledger							
Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555			Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance	
1/10/15	1001	County Banks/564 Sands	Jan. Mortgage		300.00	2800.00	
1/12/15	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.00	
1/12/15	1003	Montana Utilities/12 Park	Invoice #6992		57.16	2667.84	
1/15/15	1004	Your Prop Mgmt. Co.	Jan Mgmt Fees		150.00	2517.84	
1/15/15	1005	Sam Wilson/564 Sands	Owner Income		150.00	2367.84	
1/15/15	1006	Judy Clark/514 16th	Owner Income		225.00	2142.84	
1/15/15	1007	Steve Nelson/12 Park	Owner income		392.84	1750.00	





Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555			Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance	
1/12/16	1002	Sewer Viewer/514 16th	Invoice #534		75.00	2725.00	
1/12/16	1003	Montana Utilities/12 Park	Invoice #6992		57.16	2667.84	
1/15/16	1004	Your Prop Mgmt. Co.	Jan Mgmt Fees		150.00	2517.84	
1/15/16	1005	Sam Wilson/564 Sands	Owner Income		150.00	2367.84	
1/15/16	1006	Judy Clark/514 16th	Owner Income		225.00	2142.84	
1/15/16	1007	Steve Nelson/12 Park	Owner income		392.84	1750.00	





		Genera	l Ledge	ər			
Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555			Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance	
1/12/16	1003	Montana Utilities/12 Park	Invoice #6992		57.16	2667.84	
1/15/16	1004	Your Prop Mgmt. Co.	Jan Mgmt Fees		150.00	2517.84	
1/15/16	1005	Sam Wilson/564 Sands	Owner Income		150.00	2367.84	
1/15/16	1006	Judy Clark/514 16th	Owner Income		225.00	2142.84	
1/15/16	1007	Steve Nelson/12 Park	Owner income		392.84	1750.00	
1/18/16	1008	Misprint/Void	Misprint/Void			1750.00	
1/31/16		County Bank	Service Charge		5.00	1745.00	



	Personal Funds Ledger								
	Tenant: Personal Funds Page Owner: Your Property Management Co Address: 123 S. Hill Mountain, MT 55555								
•	Personal fu	nds kept in t	he "Trust Account".	Up to \$1,0	000.00 per co	de.			
	Date	Check #	Description	Debit	Credit	Balance			
	1/1/16	CASH	Your Prop Mgmt Co.		100.00	100.00			
	1/31/16		County Bank Service Charge	5.00		95.00			



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Genera			Ledge	er		
Agency: Your Prop. Mgmt. Co. Address: 123 S. Hill Mountain, MT 55555		Property Manager: Lee Rogers Telephone: (406) 123-4567 Trust Account No.: 02562313				
Date	Check #	Payee/Property	Description	Debit	Credit	Balance
1/15/16	1004	Your Prop Mgmt. Co.	Jan Mgmt Fees		150.00	2517.84
1/15/16	1005	Sam Wilson/564 Sands	Owner Income		150.00	2367.84
1/15/16	1006	Judy Clark/514 16th	Owner Income		225.00	2142.84
1/15/16	1007	Steve Nelson/12 Park	Owner income		392.84	1750.00
1/18/16	1008	Misprint/Void	Misprint/Void			1750.00
1/31/16		County Bank	Service Charge		5.00	1745.00
1/31/16		Your Prop. Mgmt Co	Interest Earned	.63		1745.63



Tenant: Personal Funds Page Address: 123 S. Hill Mountain, MT 55555			Owner: Your Property Management Co		
Personal f	unds kept in	the "Trust Account".	Up to \$1,0	000.00 per co	ode.
Date	Check #	Description	Debit	Credit	Balance
1/1/16	CASH	Your Prop Mgmt Co.		100.00	100.00
1/31/16		County Bank Service Charge	5.00		95.00
1/31/16		County Bank Interest Earned		.63	95.63





#### Company Ledger - Operating Account

Account: Your Prop Mgmt – Operating Account Address: 123 S. Hill Mountain, MT 55555

This account is used for all expenses related to your company.

J/15/16         Jouany         January         150.00         150.00           1/31/16         4010         Qwest phone bill         50.00         100.00
1/21/16 4010 Oweet phone bill 50.00 100.00
1/31/10 4010 Qwest phone bill 50.00 100.0

#### **Trust Account Reconciliation**

**Reconcile Your Bank Statement** 

- Make all necessary entries in the property manager's personal fund ledger – fees and interest.
- Ending bank statement.
- Add deposits.
- Subtract all checks written or outstanding checks.



- The total should be the same as the trust account.
- Reconciled bank statement = Register = Sum of ledgers.

#### **Trust Account Reconciliation**

Personal Funds Ledger Owner Ledger-J. Clark Tenant Ledger-D. Mills Tenant Ledger-M. Jones Cash Ledger \$95.63 \$150.00 \$1,000.00 \$500.00 \$1,745.63

NOTE: You must retain records for no less than <u>eight (8)</u> <u>years</u> from the date the management agreement <u>terminates</u>.



#### **Preparing For A BRR Audit**

#### Trust Account & Documents

The following records need to be available for an audit of the trust account(s):

- •Monthly Bank Statements •Bank Deposit Slips
- •Checks
- •General Ledger/Check Register
- •Owner/Tenant Ledgers
- •Personal Funds Ledger
- •Invoices/Receipts
- •Condition Reports



#### **Preparing For A BRR Audit**

Trust Account & Documents Continued...

•List of Security Deposit Deductions (Given to Tenant) •Lead Based Paint Disclosure (If Applicable) •Signed Management Agreements •Signed Lease/Rental Agreements •Mold Disclosure



#### **Preparing For A BRR Audit**

#### Electronic Records

If you use a computer program, ensure that it can provide the Board requirements as set forth; "All required trust account records may be maintained electronically but must be maintained in a manner to permit auditing"

#### Maintenance of Records



Complete files of properties managed (property management agreement, rental agreement, and all transactions concerning the property in which the property manager was involved) <u>for not less than 8 years</u> from the date the property management agreement terminates.

#### **Preparing For A BRR Audit**

Please note that the required documents for an audit are not inclusive of all required documents to a property management related transaction.

Failure to abide by some of the following laws and rules is considered unprofessional conduct:

- •Residential Tenants' Security Deposits Laws
- •The Landlord Tenant Laws
- •Landlord/Tenant Residential & Commercial Laws
- •Montana Residential Mobile Home Lot Rental Act
- •Fair Housing Amendments Act of 1988
- •State Human Rights Statutes
- •Americans With Disabilities Act



# Montana Fair Housing with Pam Bean





#### **Disclaimer**

Montana Fair Housing does not have an attorney on staff. I am not an attorney.

Anything shared today is not a legal opinion. For a legal opinion, please contact private legal counsel.

Montana Fair Housing

Montana Fair Housing:

November 2017

mber 2017

- ➢ Private, Non-Profit
- ➤Serving State of Montana
- Education and Outreach
- ➢Dispute Resolution
- ➢Investigation and Enforcement

Montana Fair Housing

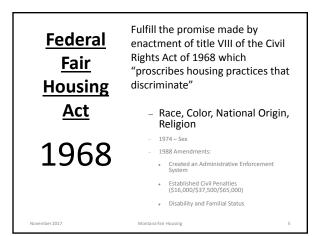
#### 1866 Civil Rights Act

#### There Are No Exemptions

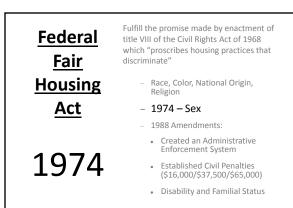
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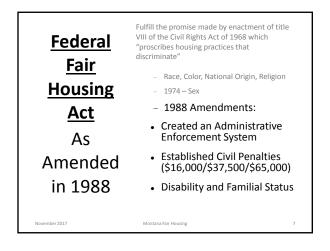
Be it enacted . . . , all persons . . . hereby declared to be citizens of the United States; . . . of every race and color, . . . shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, . . .



Montana Fair Housing



Montana Fair Housing



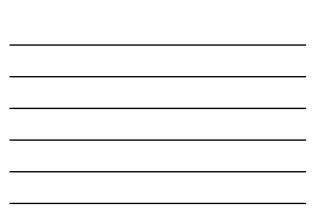
Montana Human	It is an unlawful discriminatory practice because of:	
Rights Act	Race Color National Origin Religion Sex	
49-2-305 Enacted 1974	Sex Familial Status Disability Marital Status Age Creed	
November 2017	Montana Fair Housing 8	

Montana	It is an unlawful discriminatory practice because of:
Human Rights Act	Race Color National Origin Religion Sex
49-2-305 Enacted 1974	Familial Status Disability Marital Status Age
	Creed

Montana Fair Housing

9

November 2017





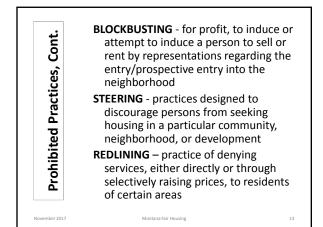
Venues:

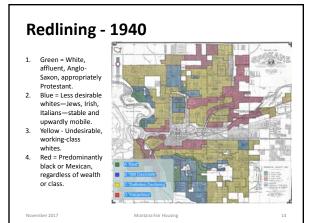
1. HUD – 365 days from last discriminatory act 2. HRB – 180 days - MT lost substantial equivalency in 1997 3. Court – Two Years Administrative Complaints: HUD – 100 days to complete investigation HRB – 120 days to complete investigation Concurrent conciliation efforts mandated If no conciliation, finding and charge issued HUD - ALJ or Election; ALJ may assess civil penalties HRB – Hearings Officer; Appeal to Commission; District Court November 2017 Montana Fair Housing

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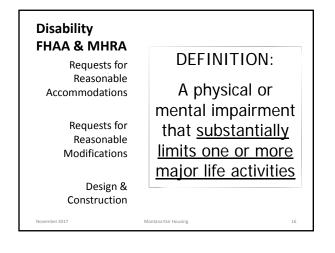
#### **Additional Important Topics:**

mber 2017

The Keating Memo Sexual Harassment Domestic Violence Nuisance Orders/Crime Free Housing Advertising •Achtenberg Memo •Section 109 •Section 110 Affirmatively Furthering Fair Housing

Montana Fair Housing

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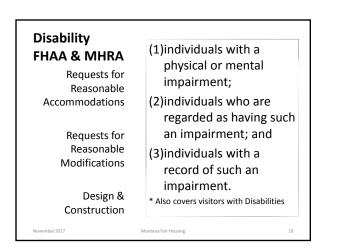




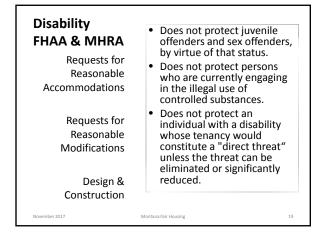
#### Disability Substantially Limits: **FHAA & MHRA** Limitation is Requests for "significant" or "to a Reasonable Accommodations large degree." **Requests** for Major Life Activity: Reasonable Activities of central Modifications importance to daily life. Design & Construction

Montana Fair Housing

November 2017





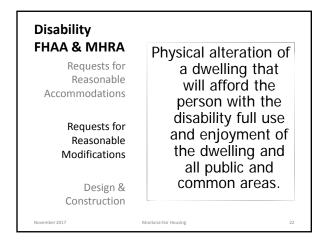




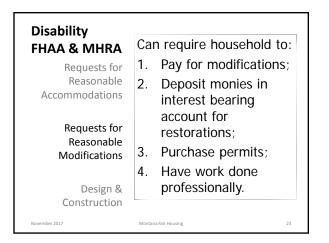


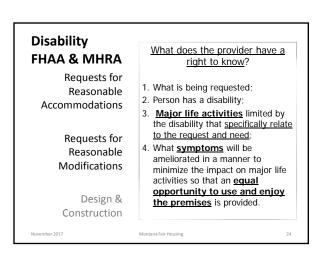


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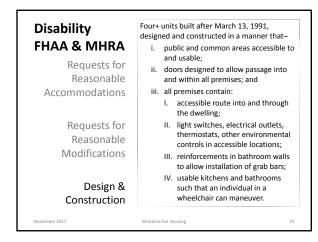








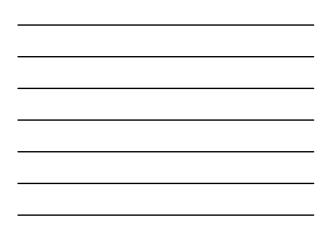




Disability Section 504 All federally funded programs must comply – Sites receiving federal funds are covered	No qualified individual with a disability shall be excluded from participation in, denied the benefits of, or be subjected to discrimination Identify 504 Coordinator Owner of building pays costs Non-housing facilities Program policies, rules, forms 5% / 2% rule	
November 2017	Montana Fair Housing	26

	Title I - Employment
Disability	Title II – Public Services
Americans	Title III - Public Accommodations
With Disabilities Act	Title IV – Telecommunications
1990	Title V – Miscellaneous Provisions

L









#### **Exemptions**

Tribally Owned and Operated Housing

- Religious Organizations and Private Clubs
- Single Family Homes

Multi-Family Units

Sleeping Rooms

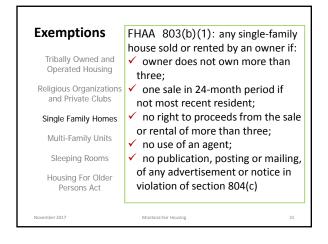
Housing For Older Persons Act

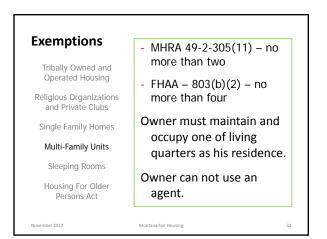
mber 2017

#### MHRA 49-2-305(11):

Montana Fair Housing

Prohibitions against discrimination because of <u>age</u> <u>and familial status</u> do not extend to living quarters for no more than two families living independently of each other, if the owner maintains and occupies one





#### Exemptions

Tribally Owned and Operated Housing

Religious Organizations and Private Clubs

Single Family Homes

Multi-Family Units

Sleeping Rooms

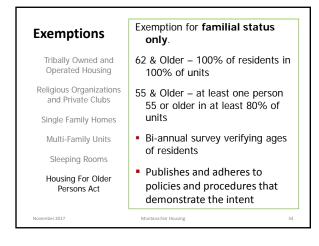
Housing For Older Persons Act

nber 2017

MHRA 49-2-305(2) Rental of sleeping rooms in single-family unit in which owner resides provided owner rents no more than three sleeping rooms.

Montana Fair Housing

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# For more information or to file a complaint of housing discrimination

#### Dept. of Housing and Urban Development 1-800-877-7353

MT Human Rights Bureau 1-800-542-0807

#### Montana Fair Housing

501 East Front Street, Suite 504 • Butte, MT 59701 Voice: (406) 782-2573 / (800) 929-2611 MT Relay System: 711 / FAX: (406) 782-2781

Montana Fair Housing

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November 2017

# Day Four – Property Management Practices

# Property Management Practices



# Property Management Practices



#### Dear Dr. Laura

- I am a crack dealer in Beaumont, TX who has recently been diagnosed as HIV positive. My parents live in Fort Worth. One of my sisters lives in Plugerville and is married to a transvestite.
- I have two brothers, one is currently serving a life sentence with no parole at Huntsville for the murder of a teenage boy in 1994. My other brother is currently in jail awaiting charges of sexual misconduct with his three children.
- My father and mother have recently been arrested for growing and selling marijuana. They are financially dependent on my two sisters, who are prostitutes in Dallas.

- I have recently become engaged to marry a former prostitute who lives in Longview. She is a part-time "working girl."
- All things considered, my problem is this: I love my fiancé and look forward to bringing her into the family. I certainly want to be totally open and honest with her. Should I tell her about my cousin who is a Property Manager?



#### Property Management Practices

#### **PM Finance and Mathematical Applications**

Day to Day Operations, Reserves, Security Deposits Evaluation of Operating Funds Cash Flow Chart Gross Possible Income - Vacancy and Collection Issues + Miscellaneous Income

= Effective Gross Income - Operating Expense = Net Operating Income (NOI)

– Debt Service – Income Tax

= After – Tax Cash Flow

#### Property Management Finance Practices

Property Valuation

$$V = I \div R$$

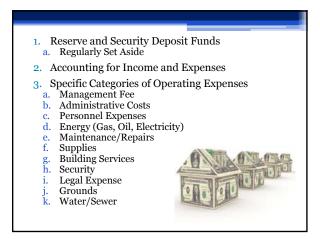
Value = Income (Net Operating Income) Rate % (Capitalization Rate)

Example:

\$15,000

10%

Value = \$150,000





#### 9. Auto

#### What are Surety & Fidelity Bonds?

- · Surety and fidelity bonds are a form of insurance issued by licensed insurance companies, used in commercial transactions to:
- Manage risk
- Protect against damage or loss
- Sometimes required by law before commercial parties may engage with each other.
- May be obtained as needed when there is risk or concern about the performance of an employee or contracting party.

#### Surety Bond

- What is a surety bond?
  - legal document created between two parties:
  - Principal person performing the job Obligee person for whom the job is being performed Guarantees the completion of a contract.

  - Requires the principal, to pay a set amount to be held by the bond company to guarantee the principal's performance.
  - If the principal does not perform according to the stated outcome, the surety bond requires a payment to the obligee for damages, time wasted or other problems associated with an incomplete performance.
  - May include a description of what work must be performed, the date on which the project must be completed and an amount to be paid if the obligation is not met.

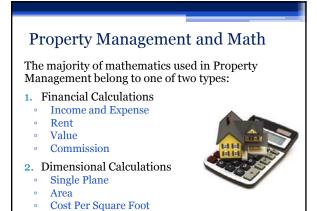
#### **Fidelity Bond**

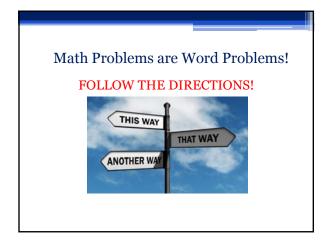
- A type of surety bond designed to protect a business owner or hiring party from damage or mismanagement by an employee.
- Typically created to manage long-term relationships and not individual projects.
- Used to enforce proper dealings and honesty by employees and prevent damage and theft that might occur.
- For union employees, the bond might require the union to pay any cost resulting from the dishonesty of -- or damage committed by -- the employee.

#### 4. Reporting Income and Expense

The property manager must maintain records and issue reports on the property as a whole and each unit in it.

- a. Rent Roll
- b. Summary of Operations
- c. Narrative Report
- 5. Budgeting
  - Three Common Budgets:
  - a. Operating Budget
  - b. Capital Budget
  - c. Long Range
- 6. Mathematical Applications





#### Let's Try One ...

- 1. Think of a number from 1 to 10.
- 2. Multiply that number by 9.
- 3. If the number is a 2-digit number, add the digits together.
- 4. Now subtract 5
- 5. Determine which letter in the alphabet corresponds to the number you ended up with. *(Example: 1=A, 2=B, 3=C and so on)*
- 6. Think of a country that starts with that letter.
- 7. Remember the last letter of the name of that country.
- 8. Think of the name of an animal that starts with that letter.
- 9. Remember the last letter in the name of that animal.
- 10. Think of the name of a fruit that starts with that letter.



#### Math Quiz Sample Questions

1. What is the annual rent paid on a unit with a rental agreement that calls for 3% of gross sales or \$600/mo, whichever is greater?

Gross income for 2016 was \$200,000

2. What is the monthly management fee on a space 100' x 30' at \$5 per square foot, if the commission is 10%?

3. The rent on a six-plex is \$800 per unit. What is the Effective Gross Income (EGI) if you have two vacancies?

4. Net Operating Incom	e (NOI)
Find NOI, EGI, Operatin the property:	g Expense, and Cash Flow for
(Figures are monthly)	
• All 50 units at \$600 ea	ch
• 5% Vacancy	
<ul> <li>Maintenance Costs</li> </ul>	\$1,500
<ul> <li>Utilities</li> </ul>	\$500
<ul> <li>Management Fee</li> </ul>	6%
Debt Service	\$8,860
<ul> <li>Property Tax</li> </ul>	\$1,320
State Tax	\$1,150

#### Income/Expense Profit & Loss = Receipts and Disbursements Gross Possible Rental Income Vacancy Effective Gross Income Operating Expenses • Maintenance • Utilities • Management Fee • Property Tax Total Expense Net Operating Income (NOI) Debt Service Cash Flow

5. What is the EGI on a building with 100 apartments renting at \$600 per unit? At present, there are 25 units vacant.

6. You have 100 units at 100% occupancy that rent for \$350 per month. The owner decides to raise the rent 10% the next month and 5 tenants move out, so there is a 95% occupancy rate. What is the Effective Gross Income the next month?

7. What is the annual rent on a building where the monthly rent is \$0.25 per square foot? The size of the rentable space is 4,500 square feet. 8. You are managing a 100 unit apartment complex and your cost to manage these units is \$20,000. What would your fee per unit have to be to maintain a 10% profit?

Cost Per Unit

#### \$20,000 ÷ 100 = \$200 per unit

Fee Per Unit

#### How To Prove Your Calculations

#### 10% Increase

Operating Cost Per Unit = \$200 10% Increase = \$200 x 10% = \$20 Cost + Increase = \$220 10% of \$220 = \$22 Operating Cost Per Unit = \$220 - \$22 = \$198

#### 10% Profit

Operating Cost = \$200,000 10% Profit = \$200 ÷ 90% (100% - 10%) = \$222.22 10% of \$222.22 = \$22.22 Operating Cost Per Unit = \$222.22 - \$22.22 = \$200 9. In the previous problem, what commission should you charge to maintain this per unit cost if the Gross Possible Income (GPI) is \$200,000 with a 10% vacancy rate?

EGI

Management Fee

#### Management Plan

When an investor contracts with a PM, the goals for the property become the goals of the PM.

**Client Expectations** 

- Detailed Reporting
- Thorough Long Range Planning
- Financial Accounting
- Analysis of Property Performance
- Frequent Communication
- Rapid Response Time
- High Net Operating Income

#### Overview of Management Plan:

A logical, deductive, and intensive analysis of all factors related to a property.

Analysis of the current physical, fiscal, and operational conditions.



#### Components of a Management Plan

- A. Regional and Neighborhood Analysis
- B. Owner's Goals
- C. Property Analysis
- 1. Information about the general characteristics of the region
- 2. Data Trends

#### 1. Neighborhood Analysis

- a. Immediate Surroundings
- b. Physical Inspection
- c. Boundaries Natural and Constructed Barriers



## 2. Property Analysis – A careful inspection of the building and type of housing.

- a. Apartment Building
- b. Government Assisted Housing
- c. Single Family House
- d. Condo
- e. Cooperative
- f. Mobile Home
- g. Senior Housing
- h. Planned Unit Development (PUD)
- i. Commercial
- j. Retail

# 3. Market Analysis – The comparison process of the demand for space in the subject property compared to competitive buildings.

- a. Specific comparable properties and a comparison of their features.
- b. Competing buildings within the neighborhood and region.
- c. Current condition of the property.
- d. Considerations that must be taken into account:
- 1. Number and Type of Unit
- 2. Age and Character
- 3. Similar Features
- 4. Average Current Rent
- 5. Occupancy Rental rate and occupancy levels in recent years.

# The Comparison Grid for Market Analysis

A categorization of the features of the competitive properties with respect to the subject property.

- 1. Purpose
- 2. If the feature in the subject property is better than in a comparable property, the rent for the comparable property is adjusted upward (+). If the feature in the subject property is worse, the rent for the comparable property is adjusted downward (-).
- 3. Setting Rents Rents and Vacancies

4. Absorption Rate – The ability of the rental market to absorb or rent all of the residential units available in a given amount of time.

#### Example:

If 100 homes are rented every month and there are 1,200 homes available for rent, it will take 12 months to rent all the homes currently available. If there are 2,400 homes available, the absorption rate will be 24 months for all the homes to rent. This does not take into account the number of houses which will eventually come on the market.

#### Absorption Rate

The amount of space leased compared to the amount of space available for lease over a given period, including demolition and new space.

Absorption Rate =

Total Number of Vacant Units at year start

- + New Construction
- Demolished Units
- Total Number of Vacant Units at year end

Trends are observed by using the absorption rate.

#### Absorption Rate Example

Total Number of Vacant Units at year start 500

- + New Construction
- + 75
- Demolished Units
- 5
- Total Number of Vacant Units at year end

- 350

Absorption Rate = 220

#### Absorption Rate Example

Total Number of Vacant Units at year start 500

- + New Construction
- + 75
- Demolished Units
- 5
- Total Number of Vacant Units at year end
- 650

Absorption Rate = - 80

- 5. Analysis of Alternatives Range of Possible Changes
- 6. Operational Changes
- 7. Structural Changes The economic life of a property can be lengthened through rehabilitation and modernization
- 8. Changes in Use
- 9. Cost Benefit Analysis
  - a. Payback Period
- b. Increase in Property Value

#### Cost Benefit Analysis Example

Heating System Replacement Cost 58 Units at \$1,200 per unit = \$69,600

Rent Increase = \$35 per unit per month x 12 = \$420 per year x 58 = \$24,360 per year in additional rent

#### **Payback Period**

Cost of one system = 1,200/ 20 rent increase = 2.9 years

#### Increase Property Value

4 year loan with 5% interest = \$1,612 per month

Income = 35 per unit x 58 units = 2,030 per month

#### \$2,030 (increased rental income)

- \$1,612 (loan payment)
- = \$418 Net Operating Income per month x 12
- = \$5,016 per year

#### NOI ÷ Capitalization Rate = Value

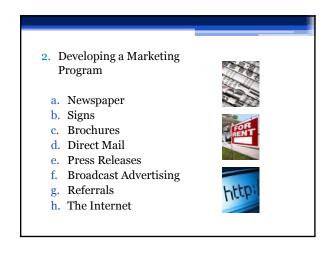
 $5,016 \div 10\% = 50,160$  value increase After payback period =  $24,360 \div$  Cap Rate 10% = 243,600 value increase

10. Management Plan Conclusion – Executive Summary

#### Marketing the Property

- 1. Understanding the Market
  - a. Marketing real estate is different
  - b. Factors limiting potential tenants
  - c. Primary effort of the property manager





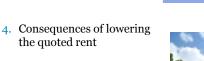
#### 3. Marketing Incentives

Effective Rent

#### Example:

If the quoted rent on an apartment is \$600 per month with a 12 month lease, the total amount of annual effective rent would be \$7,200. However, if an incentive of one month free rent is necessary to lease the space, what will the effective rent be?

## $7,200 - 600 = 6,600 \div 12 = 550$ per month effective rent



- 5. Marketing Effectiveness
  - Effectiveness of each marketing effort
  - Traffic Report Conversion Rate
  - Sales Techniques
  - Sales reciniques
  - Agent must know features



• Rental rates always depend on several factors:

- Competition
- Ability to Market Property
- Government
- Tenant's Ability to Pay



#### Management Office and Maintenance

#### 1. Determine Office Staffing

- a. Number of Properties Managed
- b. Types of Properties Managed
- c. Size and Tenancy of Properties Managed
- d. Level of Service Required
- e. Number of Clients (Owners)
- f. Location of Properties
- g. On-Site Staff at Properties

#### 2. Information for Employees

- a. Company Description and History
- b. Company Policies and Procedures
- c. Employment Rules
- d. Employment Benefits
- e. Department and Company Organization
- f. Job Description



# 3. Collections – The crux of effective property management is collecting rent and other amounts due from tenants.

#### 4. Rental Collection Policy

- a. Rent is paid in advance
- b. Rent should be prorated
- c. Two key reasons for not tolerating any delay in rent payments:
  - 1. Largest expense
  - 2. Delay decreases the chances Partial payment

# 5. Delinquency – Delinquency, collection, and eviction rights and procedures are always controlled by statute.

- Tenants should have a clear understanding
- Owner's legal rights
- Vacant units are less costly



- 6. Eviction Eviction is the ejection of a tenant from the leased premises by the landlord or property manager. The period of time allowed and the form and content of the notice are prescribed by state and local law.
  - The rental agreement assures that the notice is being served impartially.
  - Three types of eviction:
  - 1. Eviction for Nonpayment
  - 2. Eviction for Cause
  - 3. Eviction for No Cause

#### 7. Security Deposits

- a. Paid in Advance
- b. Amount
- c. Last Month's Rent
- d. Security Deposit Must be Returned

#### 8. Objectives of Maintenance

- Tenant Satisfaction
- Optimal Function of Property
- Lower Operating Cost
- Higher Tenant Retention
- Maximize Property Value

#### 9. Hazardous Materials in Building

- a. Asbestos
- b. Radon Gas
- c. Polychlorinated Biphenyls PCB
- d. Formaldehyde Gas
- e. Lead Based Paint
- $f. \quad Chlorofluorocarbons-CFC$
- g. Leaking Underground Storage Tanks





#### Drug Use

- The biggest concern for landlords today is the manufacture of drugs in a rental unit.
- Methamphetamine, or Meth, labs are the most prevalent.
- What is Meth?
- Meth is produced in clandestine laboratories and can easily be manufactured using common household chemicals and over the counter cold remedies.

#### Caution

Meth labs are extremely dangerous. Many of the chemicals found in these labs are corrosive or flammable. The vapors that are evolved from the chemical reactions attack mucous membranes, skin, eyes, and the respiratory tract. Some of the chemicals will react to water and cause a fire or explosion.



#### Identifying a Drug House

- Major Alterations Bars on windows and doors.
- Lots of short term traffic People coming and going quickly.
- Possible "Lookout" Someone who will sit for hours outside the house every day, usually with a cell phone.
- Bypassed the electric meter.

#### Things to Watch For

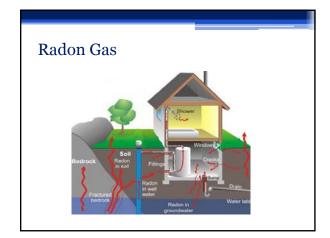
- · A large amount of cold tablet containers.
- Coffee filters containing a white, pasty substance.
- Bottles labeled sulfuric or hydrochloric acid.
- · Large quantities of lithium batteries.
- Occupants going outside to smoke.
- Strong smell of urine, ammonia, or acetone.
- Large quantities of Coleman fuel, paint thinner, acetone, starting fluid, Red Devil lye, and drain cleaners.



#### About Toxic Mold

- Molds can be found almost everywhere. Mold can grow on virtually any substance (wood, paper, carpet, concrete) providing moisture is present.
- Potential health effects and symptoms include allergies, asthma, and other respiratory problems.
- There is no practical way to eliminate all mold and mold spores in an indoor environment.
- The best way to control indoor mold growth is to control moisture in the house.

- If mold is present in your rental units, you must clean up the mold and eliminate the sources of moisture.
- Fix the source of the water problem or leak.
- Reduce mold growth by venting bathrooms, dryers, and other moisture generating sources.
- Reduce indoor humidity to 30-60% using air conditioners, dehumidifiers, and increasing ventilation.
- In areas where there is a perpetual moisture problem like basements, do not install carpeting.



#### About Radon Gas

- Radon is a cancer causing, radioactive gas.
- Radon comes from the natural decay of uranium that is found in all soils.
- Property Managers/Landlords are not required to test for radon.
- A tenant may test for radon on their own and results of any testing must be disclosed to future tenants.

# Lead Based Paint

#### About Lead Based Paint

- Owner shall meet all disclosure, certification, and acknowledgement of lead based paint disclosure to the Property Manager.
- Property Managers should provide each new tenant occupying a rental unit built prior to January 1, 1978 an Owner Disclosure Statement.
- Property Managers shall not be liable for the failure to disclose to tenant the presence of lead based paint known by Owner but not disclosed to Property Manager.
- The fine for failing to disclose the presence of lead based paint in a property has increased to \$25,000.



## "Don't take things personally and have confidence in your decisions."



If you felt this class was beneficial, please refer me! Your input and reviews are always welcome!





# Property Management Glossary of Terms

- Abandonment The act of voluntarily surrendering or relinquishing possession of real property without vesting this interest in any other person.
- ADA The Americans with Disability Act
- Agent An individual who is legally empowered to act on behalf of another.
- Assignment Transfer of a tenant's remaining rental right in a property to a third party.

- Blockbusting The practice of persuading homeowners to sell quickly and usually at a loss by appealing to the fear that minority groups will move into the neighborhood, resulting in declining property values.
- Business Cycle A wavelike movement of increasing and decreasing economic prosperity consisting of four phases: expansion, recession, contraction, and revival.
- Default Nonperformance of a duty; failure to meet an obligation when due.

- Deferred Maintenance Physical depreciation or loss in value of a building resulting from postponed maintenance to the building
- Escalation Clause A lease clause providing that the rental rate will increase or decrease according to a selected index of economic conditions such as the consumer price index
- Estate For Years A leasehold estate that continues for a specified period of time
- Eviction Notice A landlord's legal notice to a tenant explaining the tenant's default under the terms of the lease and informing him or her of a pending eviction suit
- FFH Federal Fair Housing
- Gross Effective Income Gross income from a property minus vacancy and other types of rent loss, also called gross adjusted income
- Gross Lease A common residential lease under which the tenant pays a fixed rental and the landlord pays all operating expenses for the property.

- Leasehold Estate A tenant's right to occupy real estate for a specified period of time in exchange for some form of compensation
- Lessee A person who rents or leases property; the tenant
- Lessor One who owns leased or rented property; the landlord
- Management Agreement A contract between the owner of income producing property and the individual or firm who will manage that property
- Management Plan The financial and operational strategy for the ongoing management of a property. It is based on market analysis, property analysis, and the owner's goals. It consists of an operating budget, a five-year forecast and sometimes a comparative income and expense analysis.



- Net Lease A common industrial lease form requiring the tenant to pay rent plus certain costs incurred in the operation of the property. Generally, straight net leases require the tenant to pay rent, utilities, real estate taxes and assessments. Net-net leases require the tenant to pay rent, utilities, real estate taxes, assessments and insurance premiums. Net-net-net or triple-net leases may require the tenants to pay all of the above expenses plus agreed-on terms of maintenance and repair.
- Percentage Fee A property management fee expressed as a percentage of the gross collectable income from a property
- Percentage Lease A common retail lease requiring the tenant to pay a percentage of its gross income as rental consideration
- Principal An individual who designates another as his or her agent.

- Real Estate Cycle A specific cycle that occurs in the real estate segment of the general business economy. Phases of the cycle are influenced by but are not identical to those of the business cycle.
- Redlining To refuse home mortgages or insurance to areas or neighborhoods deemed poor financial risk.
- Steering The illegal practice of channeling home seekers interested in equivalent properties to particular areas, either to maintain the homogeneity of an area or to change the character of an area in order to create a speculative situation.
- Subletting Partial transfer of a tenant's right in a rental property to a third party
- Tenancy An estate that gives the tenant the right of possession for an indefinite period, until the state is terminated by either party





# **Helpful Handouts & Materials**





# **Required Forms Guide\* for Property Managers**

\* This guide is NOT a substitute for reading the regulations and understanding all the requirements as they apply to your license! Required documents for Audits are subject to change due to law and rule revisions. Please view the "Rule Notices" posted periodically on the Board's website (<u>www.realestate.mt.gov</u>), located under the "Regulations" tab.

# If you have questions, comments, or concerns: Please contact the Board Office at dlibsdrre@mt.gov or (406) 841-2321.

#### **ADMINISTRATIVE RULES AND STATUTES:**

Administrative Rules of Montana (ARM) – <u>www.mtrules.org/gateway/chapterhome.asp?chapter=24%2E210</u> Montana Code Annotated (MCA) – <u>http://leg.mt.gov/bills/mca\_toc/index.htm</u>

#### **TRUST ACCOUNT DOCUMENTATION:**

Property Managers, Brokers, and Salespersons practicing property management are required to have a trust account, designated by the words "trust account", wherein all deposits, rent payments, or other trust funds received by the property manager on behalf of any other person shall be deposited. Property Management trust account records must be maintained and able to be presented in a manner compliant with ARM 24.210.805 and <u>each</u> trust account must have its own set of records.

**IMPORTANT NOTE:** If a licensee chooses to work with a property management company and use the company's trust account, **the licensee is choosing to share and take responsibility for the trust account**.

Offices or firms having more than one licensed property manager may utilize a single property management trust account; however, maintenance of the trust account is the responsibility of the licensed property manager and licensed property managers are responsible for all funds accepted by them or their property management staff –ARM 24.210.805(1) and (7)

The following trust account records are required to be retained and available for auditing:

- Monthly Bank Statements ARM 24.210.805(10)(b)
- Monthly Reconciliation Reports ARM 24.210.805(13)
- Proofs of Deposit ARM 24.210.805(10)(a)
- Checks (if applicable) ARM 24.210.805(10)(c)
- General Ledger/Check Register ARM 24.210.805(10)(d)
- Personal Funds Ledger (if applicable) ARM 24.210.805(4)
- Owner Ledgers ARM 24.210.805(12)
- Tenant Ledgers ARM 24.210.805(11)

Steve Bullock, Governor BUSINESS STANDARDS DIVISION – Board of Realty Regulation

Pam Bucy, Commissioner



An example general ledger, personal funds ledger, and owner and tenant ledgers can be found on the Board's website (<u>www.realestate.mt.gov</u>), under the "Trust Acct." tab.

#### **OWNER FILES should include:**

- Signed Management Agreement ARM 24.210.828(3)(r) and (x)
- Management Agreement Addendums (if applicable) ARM 24.210.828(3)(r) and (x)
- Power of Attorney (POA) or other related legal form (if applicable) ARM 24.210.828(3)(r)
- Invoices/Receipts ARM 24.210.805(14)
- Correspondence related to expenditures in excess of agreed upon amounts ARM 24.210.805(14)

#### **TENANT FILES should include:**

- Lease/Rental Agreement –ARM 24.210.828(3)(s)
- Lead Based Paint Disclosure (if applicable) ARM 24.210.641(5)(y) and Section 1018 of Title X (Federal)
- Mold Disclosure (if applicable) 70-16-703, MCA
- Condition Report ARM 24.210.805(14)
- Notice of cleaning (if applicable) 70-25-201, MCA
- List of damages/refund provided to tenant ARM 24.210.828(3)(n), and 70-25-202, MCA

#### LICENSEE'S MANAGING THEIR OWN (OR THEIR COMPANY'S OWN) PROPERTY:

ARM 24.210.828(3)(x) **does not** exempt licensees (acting independently or on behalf of a company) from having a property management agreement with any property owner, including themselves or their own company. By not having a management agreement, with themselves as a property owner, the following violations may be cited:

- ARM 24.210.805(8): a management agreement serves the purpose of allowing a trust account to be used in the same manner as if the licensee's owner funds belong to a third party. Without a management agreement in place, any payment made on behalf of the licensee's property from the trust account is considered personal indebtedness. Without a management agreement in place, appropriate management fees or other distributions cannot be determined.
- ARM 24.210.828(3)(t): a licensee is unable to advertise property without a signed management agreement from the owner of the property.
- ARM 24.210.828(3)(s): without a management agreement in place, a licensee fails to disclose to all customer and clients their contractual relationship.

#### **OTHER INFORMATION:**

**The Board's required documents may not be inclusive of all required documents to a property management transaction.** As a licensee, you are still required to abide by <u>all</u> licensing laws and rules, and state and federal requirements that may affect your property management transactions. Failure to abide by the laws and rules is considered unprofessional conduct as described in ARM 24.210.828 and may result in action being taken against your license.

Additional applicable State and Federal laws and rules include, but are not limited to the following:

- Residential Tenants' Security Deposits Laws Title 70, chapter 25, MCA
- The Residential Landlord Tenant Laws Title 70, chapter 24, MCA
- Landlord and Tenant Residential and Commercial Laws Title 70, chapter 26, MCA
- The Montana Residential Mobile Home Lot Rental Act Title 70, chapter 33, MCA



- The Fair Housing Act <u>https://www.justice.gov/crt/fair-housing-act-1</u>
- Lead-Based Paint Disclosure https://www.epa.gov/lead/real-estate-disclosure
- State Human Rights Statutes Title 49, MCA
- Americans with Disabilities Act (ADA) <u>www.ada.gov</u>
- Megan's Law Disclosure ARM 24.210.828(3)(f) and 37-51-105, MCA
- Montana Fair Housing <u>www.montanafairhousing.org</u>

#### **QUESTIONS & ANSWERS:**

- **Q.** How long am I required to keep all of this documentation?
- **A.** Every property manager shall keep all trust account records and complete files of properties managed (property management agreement, rental agreement, and all transactions concerning the property in which the property manager was involved) for not less than eight years from the date the property management agreement terminates ARM 24.210.805(14).
- **Q.** What if my trust account records are kept electronically?
- A. Records may be maintained in any manner you choose; however, they must be maintained in a manner to permit auditing. If you use an accounting software to maintain your trust account, ensure that your software can provide the records in a format compliant with the Board's requirements. If you are audited and unable to present the records in a manner compliant with ARM 24.210.805, this may negatively impact your audit outcome ARM 24.210.805(15). Examples of a general ledger, personal funds ledger, and owner and tenant ledgers can be found on the Board's website (www.realestate.mt.gov), under the "Trust Acct." tab.
- **Q.** I'm being audited and I'm unable to provide the trust account records in a Board-compliant format. Can't I just give the Auditor access to my accounting software and let the Auditor find the information?
- **A.** No. Accessing your software is a liability for you, the Board, and the Auditor. You are <u>required</u> to know how to operate the software you choose.
- **Q.** Can I use a CD or other investment account/portfolio to hold trust funds?
- A. No. Please refer to the Certificates of Deposit in Trust Accounts position statement at <u>www.realestate.mt.gov</u>, found under the "Board Information" section. A CD is like a long-term savings account the bank intends and expects the money to be retained in the account for a fixed term and there is generally a penalty if the funds are accessed prematurely. Additionally, trust funds must <u>never</u> be placed in a situation where they are at risk of being lost.

Trust funds are intended to be fluid and held in a readily accessible account. In a CD, the funds are not readily accessible, which means *the source of funds does not change*. The only way to bypass the inaccessibility factor is to combine the CD with at least one readily accessible trust account, into a single ledger and treat the accounts as if they are one readily accessible account.

Under ARM 24.210.805(1) and (13), <u>each</u> trust account is required to have its own set of ledgers and <u>each</u> trust account is required to be reconciled monthly (unless there has been no activity). If a property manager is found to be combining their accounts and required ledgers, they may be found in violation of ARM 24.210.805(1), (4), (10)(d), (10)(d)(i) to (iv), (11), (12), and (13).



#### **Q.** Can I use a sweep account to hold trust funds?

**A.** While the Board does not have an official position on sweep accounts, most licensees have not been able to meet the trust account requirements while using sweep accounts.

In sweep account scenarios, two or more bank accounts are used to hold trust funds: usually, one account has a low or zero percent interest rate and the other account has a high interest rate. The lower-rate account typically has a balance limit and when the funds go above or below the limit, funds are swept to and from the high-interest account, where the bulk of the funds are maintained. Sweep accounts are very active and the sweeping/transfer activity is *usually* automated by the bank on a daily basis.

Audits of sweep accounts have found that most licensees were not monitoring the excessive activity and instead combining the accounts into a single ledger, and treating the accounts as if they were a single account (which enabled them to forgo recording all of the transfers between the accounts). When licensees were monitoring and recording the transactions, they were not identifying whose funds (the original source of funds) were being transferred.

Similar to CD scenarios, if a property manager is found to be combining their accounts and required ledgers, they may be found in violation of ARM 24.210.805(1), (10)(d), (10)(d)(i) to (iv), (11), (12), and (13).

#### **Q.** Can I use REALTOR<sup>®</sup> forms?

**A.** You may, if you are a member of the National Association of REALTORS<sup>®</sup>, Montana Association of REALTORS<sup>®</sup>, or other Association of REALTORS<sup>®</sup>.

You may <u>not</u>, if you are <u>not</u> a member of the National Association of REALTORS<sup>®</sup>, Montana Association of REALTORS<sup>®</sup>, or other Association of REALTORS<sup>®</sup>.

The 2017 Legislature revised and the Governor approved of revisions to 37-51-321, MCA, on February 17, 2017 (refer to HB 122). Under these revisions, if any licensee is found to be using these forms without authorization on or after February 17, 2017, under 37-51-321, MCA, a Board-generated complaint may be filed against their license. If you have discontinued your membership and have used these forms in the past, you are encouraged (but not required) to keep documentation showing when you were a member.

- 37-51-321, MCA. Revocation or suspension of license -- initiation of proceedings -- grounds. (1) The following practices, in addition to the provisions of 37-1-316 and as provided in board rule, are considered unprofessional conduct for an applicant or a person licensed under this chapter: (d) use of the term "realtor" by a person not authorized to do so or using another trade name or insignia of membership in a real estate organization of which the licensee is not a member.
- **Q.** Can the Board provide templates of the required forms?
- A. No. Please refer to a legal counselor or other relevant source.
- **Q.** How do I know if the property I'm managing is required to have a Lead Based Paint Disclosure?
- A. Please see Title X, Section 1018 of the USC, regulated by EPA & HUD. You may obtain property information from the Montana State Library's Montana Cadastral Mapping Project. The Project's website address is <a href="http://svc.mt.gov/msl/mtcadastral/">http://svc.mt.gov/msl/mtcadastral/</a>. The availability of this data is for informational purposes only and the data is presented in good faith only. Please view the website for additional disclosures and other related information.

Rev. 3/2017



- **Q.** I have a license, but 37-51-602, MCA, says I might be exempt from licensure. Why am I still required to comply with licensure <u>provisions</u>?
- A. 37-51-602, MCA and 37-51-103, MCA are two *different types* of exemptions. If you have a license, you are no longer exempt under 37-51-602, MCA, and you are required to comply with all licensure provisions applicable to licensed property managers.
- **Q.** So there are exemptions from licensure provisions?
- A. Yes, certain scenarios allow for exemptions from licensure <u>provisions</u>. Additional information can be found under 37-51-103, MCA. Please note: Board Office staff cannot provide an official determination whether or not a scenario qualifies as an exemption. If you have been randomly selected for an audit and feel you may be exempt from licensure <u>provisions</u>, please contact the Auditor at your earliest convenience as instructed in the letter you received.
- **Q.** Can the Board provide legal advice about forms or other matters?
- **A.** No. You are free to ask questions and we will provide answers to the best of our abilities, but you may be encouraged to seek legal counsel in some instances.
- **Q.** Can the Board distribute and/or provide hardcopies of the Administrative Rules (ARM) and laws?
- A. No. Licensees are responsible for ensuring they are using the most current ARM and Statutes, which can be found online (refer to the ADMINISTRATIVE RULES AND STATUTES and OTHER INFORMATION section of this guide). If you are interested in obtaining official hardcopies of ARM and statutes, please contact the Montana Secretary of State's office and the Montana Legislative Services Division respectively.
- **Q.** I have more questions...
- A. Asking questions will not trigger an audit audits are conducted randomly. Please feel free to contact the Board Office at <u>dlibsdrre@mt.gov</u> or (406) 841-2321 if you have any questions, comments, and/or concerns. If you are currently being audited and have questions, please contact the Auditor at your earliest convenience as instructed in the letter you received.

**U.S. Department of Justice** Civil Rights Division *Disability Rights Section* 





# Service Animals

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

## Overview

This publication provides guidance on the term "service animal" and the service animal provisions in the Department's new regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

## How "Service Animal" Is Defined

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include

guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from the State attorney general's office.

### Where Service Animals Are Allowed

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal's presence may compromise a sterile environment.

### **Service Animals Must Be Under Control**

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

## Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

## **Miniature Horses**

In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

# For more information about the ADA, please visit our website or call our toll-free number.

#### **ADA Website**

#### www.ADA.gov

To receive e-mail notifications when new ADA information is available,

visit the ADA Website's home page and click the link near the top of the middle column.

#### ADA Information Line

800-514-0301 (Voice) and 800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. - 5:30 p.m., Th 12:30 p.m. - 5:30 p.m. (Eastern Time)

to speak with an ADA Specialist. All calls are confidential.

For persons with disabilities, this publication is available in alternate formats.

Duplication of this document is encouraged. July 2011

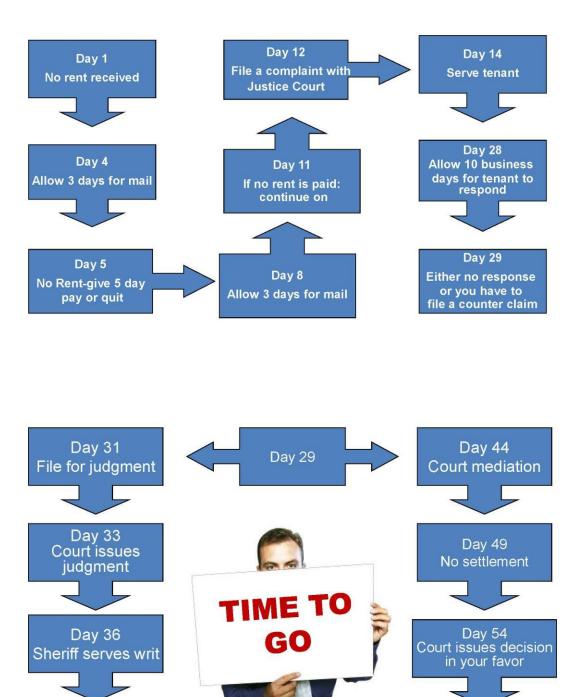


## UNLICENSED ASSISTANTS

As a licensee you are responsible for the actions of your employees who aid or assist you in the course of performing your licensed activity. The Board of Realty Regulation has created a list of activities that cannot be completed by an unlicensed personal assistant. This list is by no means exhaustive and is meant as a guideline only. You must refer to the current statutes and rules for further guidance. Remember – unlicensed assistants cannot complete any task for which a license is required. It may be considered unprofessional conduct for you to assist in unlicensed practice.

- 1. An unlicensed assistant may not access a property in the presence of a potential buyer/tenant unless accompanied by a licensee.
  - a. Exception: An unlicensed assistant may open property for MLS caravans, appraisers, utility and repair persons, and home inspectors. They may also deliver fliers, stage a home for showing, take photos, or inspect vacant homes without the presence of a potential buyer/tenant.
- 2. An unlicensed assistant may not contact a prospective seller/buyer/landlord/tenant for the purpose of soliciting a listing agreement; buyer broker agreement; property management agreement; or rental/lease agreement.
  - a. Exception: An unlicensed assistant may contact prospective clients and extend an invitation to an open house.
- 3. An unlicensed assistant may not attend settlements/closings unless they are in the presence of a licensee.
- 4. An unlicensed assistant may not negotiate contracts, rental agreements, leases, buyer/seller agency agreements, listing agreements, management agreements, title matters, financing, or closing issues.
  - a. Exception: An unlicensed assistant may provide information which is generally available to the public or information which has previously been disclosed in the marketing process.
- 5. An unlicensed assistant may not disclose any confidential information.

# **Eviction Timeline**



Day 38

Possession

Day 59

Possession

	Subject Property	Comparable Prop 1	Comparable Prop 2	Comparable Prop 3
Name/Address				
Type of Unit				
Square Feet				
Rental Rate				
Effective PSF				

	Description	Description	adj.	Description	adj.	Description	adj.
Location							
Age							
Bedroom							
Bath							
Heat							
Condition							
Overall							
Exterior							
Grounds							
Common Areas							
Parking							
Garage							
Carport							
Parking Space							
Outside Storage							
Patio/Deck							
Fenced Yard							
Interior							
Floor/Carpet							
Drapes/Binds							
Dishwasher							
W/D hookups							
Fireplace							
Other							

Total Rent Adj.		
Adj. Rent		
Adj. Rent/Sq ft		



# MONTANA BOARD OF REALTY REGULATION

MONTANA BOARD OF REALTY REGULATION PO Box 200513 Helena, MT 59620-0513 WWW.REALESTATE.MT.GOV

(406) 841-2300 FAX (406) 841-2309 dlibsdrre@mt.gov

Fall 2017 Edition

#### CURRENT BOARD MEMBERS

Ric Smith, Industry Member, Chair Polson, MT Term 5/12/2017 to 5/1/2021 Dan Wagner, Industry Member Billings, MT Term 7/24/2015 to 5/1/2019 Eric Ossorio, Industry Member Big Sky, MT Term 7/24/2015 to 5/1/2019 Cindy Lanier, Industry Member Lakeside, MT Term 7/24/2015 to 5/1/2019 Josh Peck, Public Member Butte, MT Term 7/24/2015 to 5/1/2019 Julie Gardner, Industry Member Missoula, MT Term 5/12/2017 to 5/1/2020 Harry Freebourn, Public Member Butte, MT Term 5/12/2017 to 5/1/2021

#### DEPARTMENT STAFF

Rhonda Morgan – Executive Officer Vacant – Board Counsel Jennifer Stallkamp – Department Counsel Rita Reichert – Compliance Specialist Tiffany Huss – Auditor

#### **BOARD MEETING DATES**

January 18<sup>th</sup> April 19th July 19<sup>th</sup>

#### In this Issue:

- Executive Officer Report
- Proof Trumps Truth
- Upcoming Courses
- Q&A
- How to Change Your Address Online

#### **Executive Officer Report**

#### By Rhonda Morgan, Executive Officer

Renewal time was very busy, as usual. A couple of reminders for the future:

\* The Board does not send out renewal letters or invoices. There is a renewal postcard reminder that is sent; however, we cannot guarantee delivery or that the licensee has provided us with their current address. It is up to the licensee to know that they need to renew, and can do so starting as early as September 1<sup>st</sup>. I recommend putting a calendar reminder for yourself so you are not late and have to pay a late fee.

\* Please do not wait until the last minute. If you want to renew online and have not done so before, your license has to be linked to your account, so make sure your login is working early in the renewal period.

I am very excited about the now available online change of address and contact information. Details are included in this newsletter. Also coming soon will be the official release of the online ability for supervising brokers to end and add salesperson relationships.

#### Current active licenses:

- Broker 2155
- Salesperson 3062
- Property Manager 659

#### New licenses issued to date for FY18:

- Broker 53
- Salesperson 183
- Property Manager 32

#### Administrative Rules Update:

 The Board has another package of proposed Administrative Rules changes. A notice of hearing will be posted within the next few weeks.



# Montana Department of LABOR & INDUSTRY

#### MONTANA BOARD OF REALTY REGULATION

# **Proof Trumps Truth**

By Ric Smith, Chair

It has been a pleasure and an education to serve on the Montana Board of Realty Regulation over the past five years. As the current board chair, I have found myself reflecting on experiences and what I have witnessed and learned while serving.

There have been many times where agents have a complaint filed against them, and unfortunately for that agent, they do not have adequate documentation to support their position. Even if the agent is telling the truth and in the right, if they lack proper documentation, they lose.

I am a real estate Broker, not an attorney, and certainly cannot provide legal advice. With that in mind, as Chair of the Board, I encourage all licensees to document their activities. There are many ways to accomplish documentation. Some include sending an email such as, "As we just discussed, you agreed to a price of \$150,000. I will email you shortly the appropriate paperwork for your signature." Licensees can also keep notes and log activities. Be sure to include dates and times.

While documentation can take some time, it is worth the effort. Proof Trumps Truth.

# **UPCOMING COURSES**

December 21, 2017 4-Hour Trust Accounting Course <u>Missoula Organization of Realtors</u>

February 15, 2018 Property Management Trust Account Course Contact <u>Tiffany Huss</u> to register

> March 13, 2018 Trust Accounts & Security Deposits <u>NMAR</u>

May 10-11, 2018 Rookie Course Contact GAR 406-585-0033

> May 21-22, 2018 Rookie Course <u>NMAR</u>

July 10, 2018 Property Management Trust Account Course Contact <u>Tiffany Huss</u> to register

Scheduled upcoming courses can always be found on our website home page. www.realestate.mt.gov

Q&A

**Q:** How long do I have to keep all of the required transaction and trust account documentation? **A:** Eight years from the latter of the date of receipt or the date of the transaction was completed – ARM 24.210.601(1).

Q: Is an agreement with a buyer required if I am a Dual Agent?

A: Yes, an agreement with a buyer is required any time you are working on behalf of a buyer, including in dual agency transactions. Please refer to the following if you have questions: 28-2-901(1), 37-51-102(8) and (11), 37-51-313(4) and (7), and 37-51-314(3) and (10), MCA.

# **Property Management Glossary of Terms**

Abandonment – The act of voluntarily surrendering or relinquishing possession of real property without vesting this interest in any other person

Absentee Owner – A property owner who does not reside on the property and who often relies on a property manager to manage the investment

ADA – The Americans with Disability Act

Agent – An individual who is legally empowered to act on behalf of another.

**Assessment** – 1.) A monthly fee paid by cooperative and condominium owners to cover maintenance costs for the property. 2.) A special real estate tax levied by the government to finance improvements in the area **Assignment** – Transfer of a tenant's remaining rental right in a property to a third party

Automatic Extension Clause – A lease covenant providing that a lease will be renewed indefinitely until one of the parties gives notice of the intent to terminate at the end of the lease term

Blockbusting – The practice of persuading homeowners to sell quickly and usually at a loss by appealing to the fear that minority groups will move into the neighborhood, resulting in a decline in property values

**Break-Even Point** – Occupancy level at which gross income for a property equals the total fixed and variable operating costs

Business Cycle – A wavelike movement of increasing and decreasing economic prosperity consisting of four phases: expansion, recession, contraction, and revival

**Cancellation Option** – A lease clause granting the tenant the option to cancel at the end of a predetermined term

**Default** – Nonperformance of a duty or failure to meet an obligation when due

**Deferred Maintenance** – Physical depreciation or loss in value of a building resulting from postponed maintenance to the building

**Depreciation** – Loss of value due to physical deterioration, functional obsolescence or economic obsolescence **Direct Management Costs** – Expenses that can be attributed directly to the operation of a management firm or department

**Economic Oversupply** – A market condition in which available rental space is priced beyond the financial capabilities of potential tenants

**Equity** – An owner's interest in a property over and above any liens or financial encumbrances against it **Escalation Clause** – A lease clause providing that the rental rate will increase or decrease according to a selected index of economic conditions, such as the consumer price index

Estate for Years – A leasehold estate that continues for a specified period of time

Estate from Period to Period – A leasehold estate that is automatically renewable for a indefinite period of time

**Eviction Notice** – A landlord's legal notice to a tenant explaining the tenant's default under the terms of the lease and informing him or her of a pending eviction suit

FFH – Federal Fair Housing

**Fidelity Bond** – A type of surety bond designed to protect a business owner or hiring party from damage or mismanagement by an employee

**Fixed Expense** – An expense item in a property's operating budget that does not fluctuate with rental income **Flat Fee** – A property management fee expressed as a dollar amount per year or per month

Gross Effective Income – Gross income from a property minus vacancy and other types of rent loss, also called gross adjusted income

**Gross Lease** – A common residential lease under which the tenant pays a fixed rental and the landlord pays all operating expenses for the property

Income and Expense Report – A monthly financial report showing the income from the property, operating expenses, and the amount remitted to the owner

**Lease Assumption** – A transaction whereby a property owner agrees to take over the balance of payments on a prospective tenant's current lease if he or she rents space in the owner's property

**Leasehold Estate** – A tenant's right to occupy real estate for a specified period of time in exchange for some form of compensation

Lessee – A person who rents or leases property, known as the tenant

Lessor – One who owns leased or rented property, known as the landlord

Management Agreement – A contract between the owner of income-producing property and the individual or firm who will manage that property

Management Plan – The financial and operational strategy for the ongoing management of a property, it is based on market analyses, a property analysis, and the owner's goals, consisting of an operating budget, a five year forecast, and sometimes a comparative analysis

**Net Lease** – A common industrial lease form requiring the tenant to pay rent plus certain costs incurred in the operation of the property. Generally, straight net leases require the tenant to pay rent, utilities, real estate taxes and assessments. Net-net leases require the tenant to pay rent, utilities, real estate taxes, assessments and insurance premiums. Net-net-net or triple net leases may require the tenants to pay all of the above expenses plus agreed-on items of maintenance and repair

**Operating Budget** – A projection of income and expense for the operation of a property over a one year period

**Partial Evictions** – A situation in which the landlord's negligence renders all or part of the premises unusable to the tenant for the purposes intended in the lease

**Percentage Fee** – A property management fee expressed as a percentage of the gross collectible income from a property

**Percentage Lease** – A common retail lease requiring the tenant to pay a percentage of its gross income as rental consideration

**Principal** – An individual who designates another as his or her agent

Profit and Loss Statement – An annual financial report of a property's actual net profit before taxes

**Property Management** – A branch of the real estate profession that seeks to preserve or increase the value of an investment property while generating income for its owners

**Real Estate Cycle** – A specific cycle that occurs in the real estate segment of the general business economy, phases of the cycle are influenced by but are not identical to those of the business cycle

**Real Property** – The earth's surface extending downward to the center and upward into space, including all things permanently attached thereto, by nature or by human hands

**Redlining** – To refuse home mortgages or insurance to areas or neighborhoods deemed poor financial risk

**Steering** – The illegal practice of channeling home seekers interested in equivalent properties to particular areas, either to maintain the homogeneity of an area or to change the character of an area in order to create a speculative situation

**Step-Up Clause** – A lease clause providing for rental rate increases of a definite amount at specific times over the term of the lease

Subletting - Partial transfer of a tenant's right in a rental property to a third party

**Surety Bond** – Legal document created between a principal and obligee guaranteeing the completion of a contract

**Tenancy** – An estate that gives the tenant the right of possession for an indefinite period, until the state is terminated by either party

**Tenancy at Suffrage** - Another name for tenancy at will. The tenant is occupying the property with permission from the owner but without a lease. Often used to describe a tenant who continues to occupy a property after the lease has expired and the owner continues to accept the rent payments.<sup>339</sup>