



Montana Property Management Pre-Licensing Course
Approved by Montana State Department of Labor and Industry
/Montana Property Management Program
Presented by Sabrina Murphy

****March 2026 Edition****

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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.

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

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INDEX

Exam Information	2
MCA - License Law	3
ARM Standardizes Rules For Boards and Program	17
Residential Landlord Tenant Act of 1977.	26
Fair Housing / ADA	57
Americans with Disabilities Act – 1990	69
Residential Tenants' Security Deposit Act.	73
Landlord & Tenant Residential and Commercial Ch. 26	78
Montana Residential Mobile Home Lot Rental Act.	80
Trust Accounting Laws - 24.209.601	112
Property Management Math	119
Property Management Glossary	127
Study Guide	131

Exam Information

The exam that is taken after the completion of this course is composed of approximately 75 multiple choice questions. The approximate breakdown:

ADA	2	3%
Business	11	15%
Contracts	4	5%
Fair Housing	7	10%
Landlord Tenant Law	20	28%
Lead Based Paint	2	3%
Leasing Principles	4	6%
Calculations	8	12%
State Licensing Law	8	12%
Trust Accounts	4	6%

- **80%** pass rate is considered successful completion of the exam.
- You have 2 hours. You can use a calculator. Math is at an 8th grade level.
- Examination Fee \$140.00. Schedule an appointment by calling **1-800-733-9267** or schedule online at <https://test-takers.psiexams.com/>

MCA - License Law

37-1-130.	Definitions. As used in this part, the following definitions apply:	4
37-1-141.	License renewal--lapse-- expiration -- termination.	4
37-1-401.	(Temporary) Uniform regulation for licensing programs without boards -- definitions.	6
37-1-402.	Unprofessional conduct -- complaint -- investigation -- immunity.	6
37-1-403.	Notice -- request for hearing.	6
37-1-404.	Hearing -- adjudicative procedures.	7
37-1-405.	Findings of fact -- order -- report.	7
37-1-406.	Sanctions -- stay -- costs -- stipulations.	7
37-1-407.	Appeal.	8
37-1-408.	Reinstatement.	9
37-1-409.	Enforcement of fine.	9
37-1-410.	Unprofessional conduct.	9
37-1-411.	Practice without license -- investigation of complaint -- injunction -- penalties.	11
37-1-412.	Violation of injunction -- penalty.	11
37-1-413.	Department authority.	11
37-1-420.	Continuing education -- certification -- other qualifications for continued licensure -- audit.	12
37-51-321	Unprofessional conduct -- sanction of license.	12
37-56-101.	Definitions.	12
37-56-102.	Department powers and duties -- rulemaking.	13
37-56-103.	License required to manage property.	14
37-56-104.	Exemptions from requirement of property manager license.	14
37-56-105.	Qualification of property manager applicants -- examination -- issuance of license.	15
37-56-106.	Penalty for failure to comply with trust account requirements.	15
37-56-107.	Property manager's office -- notice of change of address.	16
37-56-108.	Transactions with non licensed persons unlawful -- action for compensation limited to licensees.	16

37-1-130. Definitions. As used in this part, the following definitions apply:

- (1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.
- (2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.
- (3) "Board fee" means:
 - (a) a fee established by the board to cover program area costs as provided in 37-1-134; and
 - (b) any other legislatively prescribed fees specific to boards and department programs.
- (4) "Department" means the department of labor and industry established in 2-15-1701.
- (5) "Department program" means a program administered by the department pursuant to this title and not affiliated with a board.
- (6) "Expired license" means a license that is not reactivated within the period of 46 days to 2 years after the renewal date for the license.
- (7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.
- (8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation, regardless of the specific term used for the permission, including permit, certificate, recognition, or registration.
- (9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing.

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 as provided by **37-1-306** or **37-1-420**, 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.

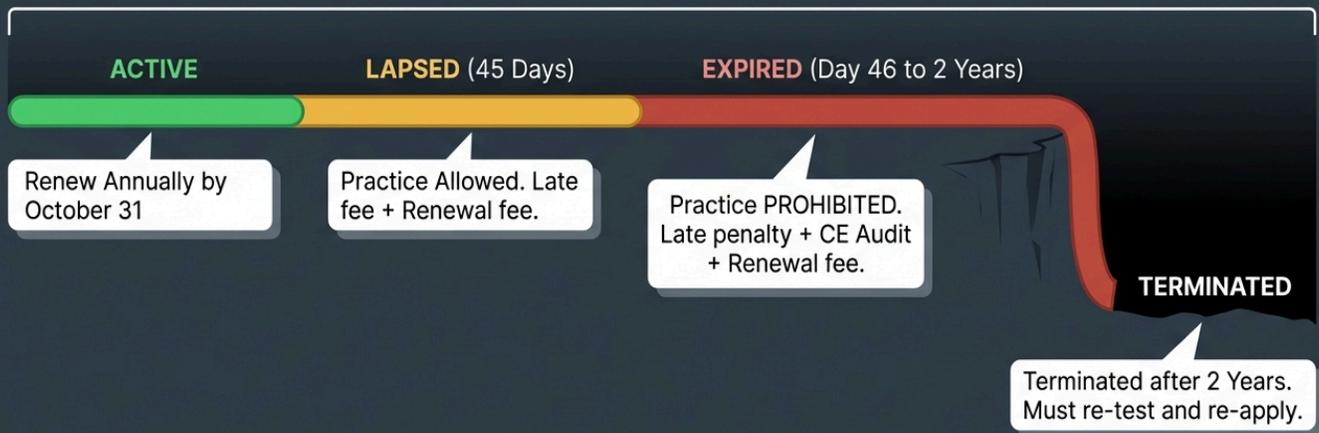
- (8) Unless otherwise provided by statute or rule, an occupational or professional license that is not renewed within 2 years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained.
- (9) The department or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

37-1-141 Review

- **A licensee may reactivate a lapsed license within 45 days after the renewal date.**
- **A licensee may reactivate an expired license within 2 years after the renewal date.**
- **To reactivate, a licensee shall: Submit a completed renewal form, Pay the late fee, Pay the renewal fee and submit CE accrued.**
- **A licensee who practices with a lapsed license is not considered to be practicing without a license.**
- **A licensee who practices after a license has expired is considered to be practicing without a license.**
- **A license that is not renewed within 2 years automatically terminates. The terminated license may not be reactivated. A new license must be obtained.**
- **The department 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.**

The License Timeline: Renewal & Revocation

License Life-cycle



37-1-401. (Temporary) Uniform regulation for licensing programs without boards -- definitions.

- (1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.
- (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:
 - (a) whether a person has violated a provision of law justifying discipline against the person;
 - (b) the status of compliance with a stipulation or order of the department;
 - (c) whether a license should be granted, denied, or conditionally issued; or
 - (d) whether the department should seek an injunction.
- (4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:
 - (a) Title 37 and Title 50,
- (5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:
 - (a) Title 37 and Title 50 **STOP**

37-1-401 Review

- ***"License" is permission to practice a profession occupation governed by the state.***
 - ***"Complaint" means a written allegation filed with the department.***
-

37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity.

- (1) 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 violated a requirement of this part, the department may investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation. However, if the written complaint or information that a licensee or license applicant may have violated a requirement of this part is based on the licensee or license applicant's exercise of rights protected under the free exercise clause or the free speech clause of the Montana constitution or the United States constitution, then the investigation of the licensee or license applicant must cease immediately and the complaint must be dismissed.
- (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.

37-1-403. Notice -- request for hearing.

- (1) If the department determines that reasonable cause exists supporting the allegation made in a complaint and the provisions of 37-1-321 do not apply, the department legal staff shall prepare a notice and serve the alleged violator. The notice may be served by certified mail to the current address on file with the department or by other means authorized by the Montana Rules of Civil Procedure.
- (2) A licensee or license applicant shall give the department 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 must be 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 department may enter a decision on the basis of the facts available to it.

37-1-404. Hearing -- adjudicative procedures.

The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies, the Montana Rules of Civil Procedure, and the Montana Rules of Evidence govern a hearing under this part. The department has all the powers and duties granted by Title 2, chapter 4 **STOP**

37-1-402, 403, & 404 Review

- ***If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have violated a requirement of this part, the department may investigate.***
 - ***Notify the department of any change of address within 30 days during the hearing period.***
 - ***A request for a hearing must be in writing and must be received in the offices of the department within 20 days after the licensee's receipt of the notice.***
-

37-1-405. Findings of fact -- order -- report.

- (1) If the department finds by a preponderance of the evidence, following a hearing or on default, that a violation of this part has occurred, the department shall prepare and serve findings of fact, conclusions of law, 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 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 37-1-403, 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.

37-1-406. 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 (4), the department 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;
 - (i) denial of a license application;
 - (j) refund of costs and fees billed to and collected from a consumer.
- (2) Any fine collected by the department as a result of disciplinary actions must be deposited in the state general fund.
- (3) A sanction may be totally or partly stayed by the department. To determine which sanctions are appropriate, the department shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the department consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.
- (4) 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.
- (5) A licensee shall surrender a suspended or revoked license to the department within 24 hours after receiving notification of the suspension or revocation by mailing the license or delivering it personally to the department. **STOP**

37-1-405 & 406 Review

- ***If the department finds that a violation has occurred, shall prepare and serve such an order. If no violation is found, the department shall serve an order of dismissal.***
 - ***The department shall within a reasonable amount of time report to the public the issuance of a summary suspension.***
 - ***Upon a decision applicant has violated this part the department may issue an order: Revocation, suspension, restrict, monitor, censure, payment of a fine, denial of a license application. Fine not to exceed \$1,000 for each violation.***
-

37-1-407. Appeal.

- (1) A person who is disciplined by the department under 37-1-402 through 37-1-406 or denied a license may appeal the decision to district court as provided in Title 2, chapter 4.
- (2) A person who disputes the department's deficiency determination made pursuant to 37-1-321 may appeal the decision to the commissioner of labor and industry. Consideration of the dispute is

not an adversarial or a contested case hearing. The commissioner's decision may be appealed as provided in subsection (1).

37-1-408. Reinstatement.

A licensee whose license has been suspended or revoked under this part may petition the department for reinstatement after an interval set by the department in the order. The department may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in 37-1-312. The department may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

37-1-409. Enforcement of fine.

- (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the department may enforce the order for payment in the district court of the first judicial district.
- (2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment. **STOP**

37-1-407, 408, 409 Review

- ***A licensee whose license has been suspended or revoked under this part may petition the department for reinstatement.***
 - ***If payment of a fine is included in an order and timely payment is not made the department may enforce the order for payment in court.***
-

37-1-410. Unprofessional conduct.

- (1) The following is unprofessional conduct for a licensee or license applicant in a profession or occupation governed by this part:
 - (a) being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;
 - (b) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;
 - (c) committing fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;
 - (d) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;
 - (e) making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;
 - (f) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to

circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

- (g) receiving a denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal or under judicial review or has been satisfied;
 - (h) failing to comply with a term, condition, or limitation of a license by final order of the department;
 - (i) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;
 - (j) misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;
 - (k) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;
 - (l) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license;
 - (m) using alcohol, an illegal drug, or a dangerous drug, as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties; or
 - (n) exhibiting conduct that does not meet generally accepted standards of practice. A certified copy of a judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring within the scope of practice and the course of the practice is considered conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.
- (2) Notwithstanding the provisions of this section or any other provision of this title governing unprofessional conduct of a licensee or a license applicant under this title, it is not unprofessional conduct for a licensee or a license applicant under this title to engage in the exercise of rights protected under the free exercise clause or the free speech clause of the Montana constitution or the United States Constitution. **STOP**

37-1-410 Review

- ***Unprofessional conduct for a licensee or applicant:***
 - ***Committing fraud, misrepresentation, deception.***
 - ***Signing a document that contains a false or misleading statement.***
 - ***Making a misleading, deceptive, false, or fraudulent advertisement.***
 - ***Offering to a federal, state, or local government employee.***
 - ***Failing to comply with a term of the department.***
 - ***Interfering with an investigation.***

- ***Assisting in the unlicensed practice.***
 - ***Using alcohol in the performance of licensed professional duties.***
 - ***Failing to meet generally accepted professional standards.***
-

37-1-411. Practice without license -- investigation of complaint -- injunction -- penalties.

- (1) The department may investigate a complaint or other information received concerning practice by an unlicensed person of a profession or occupation governed by this part.
- (2) The department may file an action to enjoin a person from practicing, without a license, a profession or occupation governed by this part.

37-1-412. Violation of injunction -- penalty.

- (1) A person who has been enjoined and who violates an injunction issued pursuant to a proceeding under this part may be held in contempt of court and shall pay a civil penalty, as determined by the court, of not more than \$5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.
- (2) A person subject to an injunction for practicing without a license may also be subject to criminal prosecution. In a complaint for an injunction or in an affidavit, information, or indictment alleging that a person has engaged in unlicensed practice, it is sufficient to charge that the person engaged in the unlicensed practice of a licensed profession or occupation on a certain day in a certain county without averring further or more particular facts concerning the violation.
- (3) Unless otherwise provided by statute, a person practicing a licensed profession or occupation in this state without complying with the licensing provisions of this title is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of this chapter constitutes a separate offense.

37-1-413. Department authority.

For each licensing program regulated by the department under this part, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice. **STOP**

37-1-411, 412, 413 Review

- ***The department may investigate a complaint or other information received concerning practice by an unlicensed person.***
- ***A person subject to an injunction for practicing without a license may be held in contempt of court and shall pay a civil penalty, as determined by the court, of not more than \$5,000. They may also be subject to criminal prosecution.***
- ***A person is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both.***

37-1-420. Continuing education -- certification -- other qualifications for continued licensure -- audit.

- (1) The department on behalf of a program without a board may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education
- (2) As a precondition of license renewal the department may not audit or require proof of continuing education or certification of a program that requires continuing education or state, regional, or national certification. However, a licensee who reactivates a license after the license has expired, as provided in 37-1-141, is subject to a mandatory continuing education audit.
- (3) After the lapsed date provided for in 37-1-141, the department may conduct a random audit of up to 50% of all licensees who have renewed their licenses to determine compliance with a program's continuing education requirements.
- (4) The department may audit licensees for compliance with state, regional, or national certification or other department requirements.
- (5) The department shall provide a licensee not in compliance with continuing education or certification requirements with an opportunity to cure the noncompliance as provided in 37-1-321.

37-51-321 Unprofessional conduct -- sanction of license.

- (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: or failing to meet the requirements of 37-56-105 through 37-56-107 or the rules adopted by the board governing property management while managing properties for owners; **STOP**

37-1-420 & 37-51-321 Review

- ***The department on behalf of a program without a board may require licensees to participate in flexible, cost-efficient, effective, and geographically accessible continuing education.***
 - ***As a precondition of license renewal the department may not audit or require proof of continuing education or certification of a program that requires continuing education or state, regional, or national certification. However, a licensee who reactivates a license after the license has expired, is subject to a mandatory CE audit.***
 - ***The department shall provide a licensee not in compliance with continuing education or certification requirements with an opportunity to cure the noncompliance as provided in 37-1-321.***
-

37-56-101. Definitions.

As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (2) "Property manager" means an individual who engages in the business of leasing, renting, subleasing, or other transfer of possession of real estate located in this state without transfer of the title to the property. The term includes but is not limited to an individual who:
 - (a) engages in negotiations for the lease or sublease of any real estate or of the improvements

- on any real estate;
 - (b) promotes the lease, rental, exchange, or other disposition of real estate;
 - (c) assists in creating or completing real estate lease contracts;
 - (d) procures tenants;
 - (e) aids or offers to aid, for a fee, any person in locating or obtaining any real estate for lease;
 - (f) makes the advertising of real property for lease available by public display to potential tenants;
 - (g) shows rental or lease properties to potential tenants;
 - (h) acts as a liaison between the owners of real estate and a tenant or potential tenant;
 - (i) generally oversees the inspection, maintenance, and upkeep of leased real estate;
 - (j) collects rents or attempts to collect rents;
 - (k) pays or receives a fee, commission, or other compensation for referral of the name of a prospective lessor or lessee; or
 - (l) advertises or represents to the public that the individual is engaged in any of the activities referred to in this subsection (2).
- (3) "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or non freehold and whether the real estate is situated in this state or elsewhere.
- (4) "Trust account" means an account for real estate trust funds maintained at a depository institution from which withdrawals or transfers can be made without delay, subject to any notice period that the depository institution is required to observe by law. **STOP**

37-56-101 Review

- ***"Department" means the department of labor and industry***
 - ***"Property manager" means an individual who engages in the business of leasing, renting, subleasing, or other transfer of possession of real estate located in this state without transfer of the title to the property. Promotes, assists, procures, aids, advertises, shows, and oversees properties.***
 - ***"Trust account" means an account for property management trust funds maintained at a depository institution from which withdrawals or transfers can be made.***
-

37-56-102. Department powers and duties -- rulemaking.

- (1) The department shall:
- (a) license and renew the licenses of qualified applicants; and
 - (b) adopt rules related to:
 - (i) eligibility requirements and competency standards;
 - (ii) license fees; and
 - (iii) defining unprofessional conduct that is not included in 37-1-410.
- (2) The department may:
- (a) adopt rules necessary to implement the provisions of this part; and
 - (b) establish licensure requirements and procedures as appropriate.

37-56-103. License required to manage property.

A person may not practice as a property manager unless actively licensed under Title 37, chapter 1, and this part.

37-56-104. Exemptions from requirement of property manager license.

(1) The property manager licensing provisions of this part do not apply to:

- (a) an owner of a business entity that owns the property;
- (b) an owner of a business entity that manages the property for an owner that is exempt under subsection (1)(a). However, all owners of the business entity that owns the property and all owners of the business entity that manages the property must be relatives as provided in subsection (1)(c) or (1)(d).
- (c) the spouse of the property owner;
- (d) the child, descendant of a child, sibling, parent, niece, nephew, aunt, or uncle of either the property owner or the spouse of the property owner;
- (e) a person who leases no more than four residential real estate units;
- (f) a person acting as attorney-in-fact under a power of attorney;
- (g) an attorney at law in the performance of duties as an attorney;
- (h) a person acting pursuant to a court order or a trustee;
- (i) an officer of the state or a political subdivision in the conduct of official duties;
- (j) a person who receives reduced rent or salary, unless that person holds signatory authority on the trust account;
- (k) 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
- (l) a person employed on a salaried basis by only one person.

(2) A broker or salesperson licensed under Title 37, chapter 51, may act as a property manager. A salesperson may not act as a property manager without a supervising broker

(3) For the purposes of subsections (1)(a) and (1)(b), "owner" means a person who is a:

- (a) sole proprietor;
- (b) managing member of a limited liability company;
- (c) shareholder of a corporation; or
- (d) partner in a partnership. **STOP**

37-56-102 - 104 Review

- ***The department shall:***
 - ***License and renew the licenses of qualified applicants.***
 - ***Adopt rules.***
 - ***Define unprofessional conduct that is not included in 37-1-410.***
- ***The property manager licensing provisions of this part do not apply to:***
 - ***An owner of a business entity that owns the property.***
 - ***The spouse of the property owner.***
 - ***The child, descendant of a child, sibling, parent, niece, nephew, aunt, or uncle of either the property owner or the spouse of the property owner.***
 - ***A person who leases 4 or less residential real estate units.***
 - ***A person acting as attorney-in-fact under a power of attorney or An attorney***

at law in the performance of duties as an attorney.

- ***A broker or salesperson licensed may act as a property manager. A salesperson may not act as a property manager without a supervising broker.***
-

37-56-105. Qualification of property manager applicants -- examination -- issuance of license.

- (1) An applicant for a property manager license must:
 - (a) be at least 18 years of age;
 - (b) have graduated from an accredited high school or completed an equivalent education as determined by the department;
 - (c) apply for licensure to the department;
 - (d) have successfully completed a course of education approved by the department; and
 - (e) have passed an examination prescribed by the department
- (2) The course of education must include the subjects of real estate leasing principles, real estate leasing law, and related topics.

37-56-106. Penalty for failure to comply with trust account requirements.

- (1) An employee of the department may issue a citation to a property manager responsible for maintenance of a trust account for failure to comply with trust account maintenance requirements as provided by rule under 37-1-319(4).
- (2) The citation must include:
 - (a) the time and date on which the citation is issued;
 - (b) the name, title, mailing address, and signature of the person issuing the citation
 - (c) reference to the statute or rule violated;
 - (d) the name, title, and mailing address of the person to whom the citation is being sent, along with information explaining the procedure for the person receiving the citation to follow to pay the fine or dispute the violation; and
 - (e) the amount of the applicable fine.
- (3) The applicable civil fine for failure to comply with trust account maintenance requirements is \$1,000 for each cited violation.
- (4) The person who issues the citation is authorized to collect the fine and deposit the proceeds in the state special revenue account to the credit of the board.
- (5) The person who is issued a citation may pay the fine or file a written dispute of the violation with the department within 5 business days of the date of issuance.
- (6) A person who refuses to sign and accept a citation but who does not file a written dispute of the violation is demonstrating unprofessional conduct. **STOP**

37-56-105 & 106 Review

- ***An applicant for a property manager license must:***
 - ***Be 18 years of age.***
 - ***Graduated from high school or equivalent.***
 - ***Apply for a license with the department.***
 - ***Completed Pre-Licensing course.***
 - ***Pass State Exam.***

- ***An employee of the department may issue a citation to a property manager responsible for maintenance of a trust account for failure to comply with trust account maintenance requirements as provided by rule under 37-1-319(4).***
 - ***The applicable civil fine for failure to comply with trust account maintenance requirements is \$1,000 for each cited violation. The person who is issued the citation may pay the fine or file a written dispute of the violation within 5 business days of the date of issuance.***
-

37-56-107. Property manager's office -- notice of change of address.

A property manager shall maintain a designated physical office. The designated address of the property manager must be indicated on the property manager's license. The property manager shall notify the department of a new address within 10 days.

37-56-108. Transactions with non licensed 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) A person seeking to collect compensation for the lease of real estate shall demonstrate licensure or exemption from licensure. **STOP**

37-56-107 & 108 Review

- ***A property manager shall maintain a designated 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.***
 - ***The designated address of the property manager must be indicated on the property manager's license.***
 - ***It is unlawful for a licensed property manager to employ or compensate, directly or indirectly, a person who is not a licensed property manager.***
 - ***A person seeking to collect compensation for the lease of real estate shall demonstrate licensure or exemption from licensure.***
-

ARM Standardizes Rules For Boards and Program

24.101.402	Definitions	17
24.101.403	Fees	19
24.101.404	Posting Disciplinary Orders on Licensee Lookup Database	19
24.101.406	Applicants with Criminal Convictions	20
24.101.408	Renewed, Lapsed, Expired, or Terminated Licenses	21
24.101.413	Renewal Dates And Requirements	22
24.209.401	Fee Schedule	23
24.209.501	Application Timeline	23
24.209.2201	Pre Licensing Course Requirements	23
24.209.2205	Continuing Education	24
24.209.2301	Unprofessional Conduct	24

24.101.402 Definitions

As used in conjunction with Title 37, MCA, the following definitions apply:

- (1) "Active status" means a license status that affords a licensee the rights and privileges to practice while complying with requirements as set by the licensing board or program.
- (2) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134, MCA.
- (3) "Department" means the Department of Labor and Industry.
- (4) "Disciplinary action" means the procedure by which unprofessional conduct is addressed by the board or program pursuant to the contested case hearing provisions of the Montana Administrative Procedure Act (MAPA).
- (5) "Division" means the Business Standards Division of the Department of Labor & Industry.
- (6) "Expired license" means a license not renewed within 45 days to two years after the renewal date. An expired license may be reactivated within these two years.
- (7) "Inactive status" means a license status that does not authorize the licensee to practice, nor engage in activities requiring a license at any time during the period of inactive status. An inactive status license must be renewed as prescribed by the licensing board or program.
- (8) "Lapsed license" means a license not renewed by the license renewal date. A lapsed license may be reactivated within 45 days following the license renewal date.
- (9) "Late penalty fee" means the fee that a licensee must pay when renewing a license after the renewal date.
 - (a) The department may assess late penalty fees for each renewal period in which a license is not renewed.
 - (b) Late penalty fees need not be commensurate with costs.
- (10) "License verification" means the documentation provided to another licensing entity that may include information supplied for original licensure or license history information.

- (11) "New original license" means a license issued to an individual whose previous original license terminated and was not reinstated. To receive a new original license, all current requirements for obtaining an original license must be met.
- (12) "Nonroutine application" means an application that staff has determined requires board review, because it involves:
 - (a) evidence of unprofessional conduct as defined by law or rule;
 - (b) materials that require evaluation by the professional members of the board to determine compliance with qualifications for licensure;
 - (c) missing documentation due to natural disaster, national emergency, or other good cause supported by reliable information;
 - (d) a matter specifically defined by board or program rule or law as nonroutine; or
 - (e) an issue staff deems necessary for the board to review.
- (13) "Original license" means the initial license issued to a licensee by the department after successfully fulfilling all licensure requirements for the first time.
- (14) "Probationary license" means a license that affords a licensee the rights and privileges to practice while complying with terms and conditions of a final order in a disciplinary action.
- (15) "Reactivated license" means a lapsed or expired license that is renewed between the renewal date and two years following the renewal date by meeting all renewal requirements.
- (16) "Reactivation" means activating a lapsed or expired license.
- (17) "Renewal date" means the date by which an existing license must be renewed per ARM 24.101.413. Renewal information must be submitted on or before the renewal date to renew a license without assessment of a late penalty fee.
- (18) "Routine application" means an application that staff has determined does not require board review because:
 - (a) the application does not meet the definition of nonroutine; or
 - (b) all issues qualifying the application as nonroutine have already been decided by the board, e.g. in a prior application, and no additional relevant information is presented that suggests the need to reconsider that decision.
- (19) "Suspended license" means a license following a final disciplinary action against the licensee that no longer affords a licensee the rights and privileges to practice for a period of time specified in a final order. This term does not include an administratively suspended license per 37-1-321, MCA.
- (20) "Terminated license" means a license not renewed or reactivated within two years of the renewal date. A terminated license may not be reactivated. **STOP**

24.101.402 Review

-
- ***"Active status" means a license status that affords a licensee the rights and privileges to practice.***
 - ***"Administrative fee" means a fee established by the department to cover the cost of administrative services.***
 - ***"Department" means the Department of Labor and Industry.***
 - ***"Disciplinary action" means the procedure by which unprofessional conduct is addressed.***
 - ***"Expired license" means a license not renewed within 45 days to two years after***

the renewal date. An expired license may be reactivated within these two years.

- ***"Lapsed license"*** means a license not renewed by the license renewal date. A lapsed license may be reactivated within 45 days following the license renewal date.
 - ***"Late penalty fee"*** means the fee that a licensee must pay when renewing a license after the renewal date. The department may assess late penalty fees for each renewal period in which a license is not renewed.
 - ***"New original license"*** means a license issued to an individual whose previous original license terminated and was not reinstated. To receive a new original license, all current requirements for obtaining an original license must be met.
 - ***"Reactivated license"*** means a lapsed or expired license that is renewed between the renewal date and two years following the renewal date by meeting all renewal requirements.
 - ***"Renewal date"*** means the date by which an existing license must be renewed.
 - ***"Suspended license"*** means a license following a final disciplinary action against the licensee that no longer affords a licensee the rights and privileges to practice for a period of time specified in a final order.
 - ***"Terminated license"*** means a license not renewed or reactivated within two years of the renewal date. A terminated license may not be reactivated.
-

24.101.403 Fees

- (1) Administrative fees, in addition to fees charged by a board or program, are as follows:
 - (e) reinstate administratively suspended license 120
 - (i) renewal fee for a license suspended through a final disciplinary action is 50 percent of the regular renewal fee; and
 - (j) renewal fee for a probationary license is the same as the renewal fee.
- (2) The late penalty fee is 100 percent of the license renewal fee, is in addition to the renewal fee, and must be paid for each renewal period in which the license was not renewed on or before the renewal date in ARM 24.101.413.
 - (a) When a renewal fee is abated, 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.

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.
- (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 lookup. **STOP**

24.101 403-404 Review

- **Reinstate administratively suspended license - \$120**
 - **Renewal fee for a license suspended through a final disciplinary action is 50% of the regular renewal fee.**
 - **Renewal fee for a probationary license is the same as the renewal fee.**
 - **Late penalty fee is 100% of the license renewal fee, is in addition to the renewal fee, and must be paid for each renewal period in which the license was not renewed on or before the renewal date.**
 - **When a renewal fee is abated, the late penalty fee that must be paid is 100% of the renewal fee that would have been charged had the renewal fee not been abated.**
 - **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.**
-

24.101.406 Applicants with Criminal Convictions

- (1) The following criteria shall apply to determine whether an applicant's criminal conviction is related to the public health, welfare, and safety as it applies to the occupation:
 - (a) whether the occupation would offer the opportunity for the commission of the offense or similar offense;
 - (b) the vulnerability of the population served by the occupation to become victims of the offense or similar offense;
 - (c) the facts and circumstances of the conduct surrounding the offense; or
 - (d) other reasonable demonstration of relatedness.
- (2) The following criteria shall apply to determine if the applicant, even while serving supervised release, is insufficiently rehabilitated to warrant the public trust:
 - (a) commission of multiple offenses;
 - (b) revocation or correctional intervention of the applicant's probation, parole, or conditional release;
 - (c) unsatisfied court-ordered conditions;
 - (d) lack of candor, misrepresentation, or omission in disclosing the offense or circumstances of the offense;
 - (e) statements that demonstrate lack of remorse or accountability for the conduct;
 - (f) unless good cause exists, failure to maintain education, training, or employment on at least a part-time basis; or
 - (g) other credible evidence of insufficient rehabilitation.
- (3) The board shall, unless the conviction is exempt from board review as provided by this rule, determine whether enough time has passed since the applicant's conviction, release from incarceration, or discharge of sentence to evaluate rehabilitation given the nature and circumstances of the offense.
- (4) An applicant will not be required to report:
 - (a) arrests that did not result in the above outcomes;

- (b) convictions (juvenile adjudications) received when under 18, unless convicted as an adult;
or
 - (c) misdemeanor driving violations, including driving under the influence, if sentenced more than five years before the application date.
- (5) Unless board rule provides otherwise, authorized staff may determine there is no evidence of lack of rehabilitation and issue a license to an otherwise qualified applicant who meets the following criteria:
- (a) Nonviolent misdemeanor convictions if the conviction date is more than two years before the application date, unless the applicant is still in custody due to the conviction.
 - (b) Nonviolent felony convictions if the conviction date is more than five years before the application date, unless the applicant is still in custody due to the conviction.
- (6) Unless board rule provides otherwise, all violent misdemeanor or felony convictions and any nonviolent misdemeanor and nonviolent felony convictions not included in (5) must be reviewed by the board as nonroutine applications.
- (7) Notwithstanding the screening criteria in (5a) and (b), staff may require board review of applicants who engaged in egregious conduct implicating risks to public safety. **STOP**

24.101.406 Review

- ***An applicant will not be required to report:***
 - ***Arrests that did not result in listed outcomes.***
 - ***Convictions (juvenile adjudications) received when under 18, unless convicted as an adult; or***
 - ***Misdemeanor driving violations, including driving under the influence, if sentenced more than five years before the application date.***
-

24.101.408 Renewed, Lapsed, Expired, or Terminated Licenses

- (1) All licenses must be renewed on or before the renewal date as listed in, and in accordance with ARM 24.101.413 . Late renewals must be accompanied by the fees as specified in ARM 24.101.403 and any other information required as if the renewal were submitted prior to the renewal date.
- (a) A suspended license must be renewed in accordance with ARM 24.101.413 or the license will proceed to expire or terminate.
- (2) If the license has not been renewed, the license shall be considered a lapsed, expired, or terminated license.
- (a) A lapsed license may be reactivated within 45 days of the renewal date by submitting the required, completed renewal information and paying the required fees.
 - (b) Licenses not renewed within 45 days from the renewal date automatically expire. An expired license may be reactivated within two years of the renewal date by submitting the required, completed renewal information and paying the required fees.
 - (c) Licenses not renewed within two years from the renewal date automatically terminate. A terminated license may not be reactivated. A new original license must be obtained by completing the current requirements for a new application, including successfully passing

the licensing examination if applicable.

- (3) A licensee whose license has lapsed or expired, may not apply for a new license. A licensee must renew the license if it has lapsed or expired. All renewal requirements must be met and fees paid in order for a lapsed or expired license to be renewed. A new original license will be issued to a licensee whose license has terminated, provided all licensing requirements are met.
- (4) A licensee who practices while a license is lapsed is not considered to be practicing without a license.
- (5) A licensee who practices after a license has expired is considered to be practicing without a license and is subject to discipline provided by statute or rule.
- (6) A former licensee who practices after a license is terminated is considered to be practicing without a license and is subject to cease and desist or a district court restraining order.

24.101.413 Renewal Dates And Requirements

- (1) Specific procedures and grace periods for renewal are set by department or board rule, or statute applicable to a particular profession, or 37-1-141, MCA. Such procedures shall take account of, and be based upon, the renewal dates in this rule. An existing license ends on the renewal date specified for each profession and occupation listed and must be renewed on or before this date.
- (2) If a timely and sufficient application is submitted on or prior to such date, the applicant's continued practice is governed under 2-4-631, MCA. In order for an application to be timely and sufficient it must be:
 - (a) completed with truthful information;
 - (b) accompanied by other required information or documentation as applicable;
 - (c) accompanied by the appropriate fee; and
 - (d) submitted so that it bears a U.S. Postal Service postmark prior to or on the renewal date for the applicable profession; or
 - (e) submitted by using the online renewal service available on the department's website. Although the department strives to keep its website accessible at all times, licensees should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing the online renewal service do not excuse late renewals;
 - (i) online renewal transactions must be fully completed prior to midnight Mountain time on the renewal date.
- (3) If the requirements of this rule are not met, a late penalty fee as specified in ARM 24.101.403 will be required in order to renew.
- (4) The provisions of ARM 24.101.408 and 24.101.414 are applicable to all license renewals.
- (6) The following are renewal dates for the professions and occupations listed:

Property Manager	Annually	October 31
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STOP

24.101.408 & 413 Review

- **All licenses expire annually on October 31 unless renewed.**
 - **If not renewed by the expiration date, the license is considered lapsed. A lapsed license may be reactivated within 45 days of the renewal date by submitting the completed renewal application and paying all required fees.**
 - **After 45 days, the license becomes expired. An expired license may be reactivated within two years of the renewal date by meeting all renewal requirements and paying all fees.**
 - **After two years, the license is terminated. Terminated licenses cannot be reactivated; a new application, including meeting all current requirements and passing any required examination, must be completed.**
 - **A licensee with a lapsed or expired license may not apply for a new license. The only option is to renew by completing all requirements and paying fees within the applicable timeframes.**
-

24.209.401 Fee Schedule

- (1) Original application \$50
- (2) Renewal \$50
- (3) Pre Licensing course application \$150
- (4) All fees are nonrefundable.
- (5) Examination fees are paid directly to the testing service.

24.209.501 Application Timeline

- (1) Applicants must:
 - (a) complete a 30-hour approved property management pre licensing course within 24 months preceding application;
 - (b) pass the licensure examination; and
 - (c) apply for licensure within 12 months of the examination date. Failure to do so will invalidate exam results. **STOP**

24.209.401 & 501 Review

- **Applications : \$50**
 - **Renewals : \$50**
 - **Exam Fee paid directly to PSI Exams**
 - **Must complete 30 hours of an approved course before the exam.**
 - **You have 2 years after the course to get your license.**
 - **You have 12 months after passing the exam to apply for a license.**
 - **Applicants and licensees of qualifying boards and programs will be charged an additional \$5 fee**
 - **The fees will be used to establish a contingent litigation fund. The fund will help offset compliance costs for licensees of impacted boards**
-

24.209.2201 Pre Licensing Course Requirements

- (1) Course approval is valid for three years and may be revoked for cause.
- (2) To receive approval, courses must include the following topics:
 - (a) trust accounts;
 - (b) accounting procedures;
 - (c) landlord tenant law (Title 70, chapters 24 and 25, MCA);
 - (d) federal and state fair housing laws;
 - (e) Americans with Disabilities Act;
 - (f) state licensing law and rules;
 - (g) contract law;
 - (h) leasing principles;
 - (i) agency; and
 - (j) definitions and terms commonly used in the industry
- (3) Additionally, online courses must have current Association of Real Estate License Law Officials (ARELLO) certification. Approval is invalidated if ARELLO certification is discontinued for any reason.

24.209.2205 Continuing Education

- (1) Renewing licensees must complete a minimum of 12 hours of property management CE (continuing education) annually. Licensees must select quality programs that:
 - (a) contribute to professional knowledge and competence;
 - (b) contain significant intellectual or practical content; and
 - (c) are germane to the property management profession.
- (2) New licensees are only required to complete four hours of property management trust account CE by their first renewal date. If no course occurs by the first renewal date, the licensee must complete the course when it is next offered.
- (3) Licensees must maintain adequate CE documentation and make the documentation available upon request.
- (4) Licensees found noncompliant with CE requirements may be subject to administrative suspension.

STOP

24.209.2201 through 2205 Review

- ***CE courses must be re-approved every 3 years.***
 - ***CE courses must cover all topics in relation to PM Business and Laws.***
 - ***Instructors must also be approved & have ARELLO certification.***
 - ***New licensees must take 4 hours of Trust Accounting CE before 1st renewal date, unless none are offered.***
 - ***You must take 12 hours of CE each year after that.***
 - ***You must keep records of all CE, and noncompliance is subject to suspension.***
-

24.209.2301 Unprofessional Conduct

(1) In addition to the provisions of 37-1-410, MCA, it is unprofessional conduct for property managers to:

- (a) violate a federal, state, or local law or rule relating to the conduct of the profession;
- (b) engage the services of any person or entity on behalf of a principal, third-party, or other person, without:
 - (i) informing and obtaining consent from the person obligated to pay for the services; and
 - (ii) disclosing any family relationship, financial relationship, and/or financial interest that the licensee or the licensee's business may have in the person or entity being engaged;
- (c) manage property owned by another person or entity without a written property management agreement in place, signed by the owner;
- (d) accept, give, or charge an undisclosed commission, rebate, or profit on expenditures made for a principal;
- (e) fail to adequately supervise employees;
- (f) fail to cooperate with or respond to a department request;
- (g) practice while one's license has expired or terminated. Receiving payments for the sale of the licensee's property management business without a valid license is not considered practicing as a property manager; and
- (h) commit any act of sexual abuse, misconduct, or exploitation whether or not it is related to the licensee's practice. **STOP**

24.209.2301 Review

- ***Unprofessional conduct is:***
 - ***Violating laws or rules.***
 - ***Engaging in business without informing consent.***
 - ***Disclosing confidential information.***
 - ***Accepting or charging undisclosed commission.***
 - ***Failing to supervise employees.***
 - ***Failing to cooperate with the Department.***
 - ***Using a PM license when expired or terminated.***
 - ***Committing any sexual misconduct, business related or not.***
 - ***Perform any property management services before a signed written management agreement is in place with the owner.***
-

Residential Landlord Tenant Act of 1977.

Chapter 24

70-24-101.	Short title.....	27
70-24-102.	Purposes -- liberal construction to promote.....	27
70-24-103.	General definitions.....	27
70-24-104.	Exclusions from application of chapter.....	30
70-24-105.	Supplementary principles of law applicable.....	30
70-24-107.	Territorial application.....	31
70-24-108.	What constitutes notice.....	31
70-24-109.	Obligation of good faith.....	31
70-24-110.	Landlords and tenants -- no firearm prohibition allowed.....	31
70-24-114.	Emotional support animals -- documentation.....	32
70-24-201.	Rental agreement -- terms and conditions.....	34
70-24-202.	Prohibited provisions in rental agreements.....	35
70-24-203.	Agreement not to permit receipt of rent free of obligation.....	35
70-24-204.	Effect of unsigned or undelivered rental agreement.....	35
70-24-205.	Extension of written rental agreements.....	36
70-24-301.	Duty to disclose name of person responsible.....	36
70-24-302.	Landlord to deliver possession of dwelling unit.....	36
70-24-303.	(Temporary) Landlord to maintain premises -- agreement that tenant perform duties --limitation of landlord's liability for failure of smoke detector or carbon monoxide detector.....	37
70-24-304.	Transfer of premises or termination of management -- relief from liability.....	38
70-24-305.	Transfer of premises by tenant.....	38
70-24-311.	Landlord authorized to adopt rules.....	39
70-24-312.	Access to premises by landlord.....	39
70-24-321.	Tenant to maintain dwelling unit.....	40
45-6-106.	Criminal mischief damage to rental property.....	41
70-24-322.	Tenant to occupy as dwelling unit only -- extended absence.....	42
70-24-401.	Administration of remedies -- enforcement.....	42
70-24-402.	Settlement of disputed claim or right.....	42
70-24-403.	Prohibited provision in rental agreement-unenforceability- damages.....	42
70-24-404.	Unconscionability -- court discretion to refuse enforcement.....	43
70-24-405.	Failure of landlord to deliver possession -- tenant's remedies.....	43
70-24-406.	Failure of landlord to maintain premises -- tenant's remedies.....	43
70-24-407.	Damages for minor violations by landlord.....	45

70-24-408.	Purposeful or negligent failure to provide essential services -- tenant's remedies.....	45
70-24-409.	Fire or casualty damage -- rights of tenant.....	45
70-24-410.	Unlawful or unreasonable entry by landlord -- tenant's remedies.....	46
70-24-411.	Unlawful ouster, exclusion, or diminution of service -- tenant's remedies.....	46
70-24-421.	Action for nonpayment of rent -- tenant's counterclaim.....	47
70-24-422.	Noncompliance of tenant generally -- landlord's right of termination -- damages --injunction.....	47
70-24-423.	Waiver of landlord's right to terminate for breach.....	49
70-24-424.	Refusal of access -- landlord's remedies.....	49
70-24-425.	Failure of tenant to maintain dwelling -- landlord's right to enter and repair.....	49
70-24-426.	Remedies for absence or abandonment.....	50
70-24-427.	Landlord's remedies after termination -- action for possession.....	50
70-24-428.	Landlord's recovery of possession limited.....	51
70-24-429.	Holdover remedies -- consent to continued occupancy -- tenant's response to service inaction for possession.....	51
70-24-430.	Disposition of personal property abandoned by tenant after termination.....	52
70-24-431.	Retaliatory conduct by landlord prohibited.....	54
70-24-441.	Termination by landlord or tenant.....	55
70-24-442.	Attorney fees -- costs.....	56

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;
 - (b) encourage landlords and tenants to maintain and improve the quality of housing; and
 - (c) create an exclusive regulatory standard throughout the state and its political subdivisions regarding landlord and tenant law.

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) "Abandon" means to give up possession of the premises unless the landlord does not accept abandonment or surrender as provided in **70-24-426 (Remedies for absence or abandonment)** or unless the rental agreement has been terminated as provided by law.
- (2) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in

which rights are determined, including an action for possession.

- (3) "Actual and reasonable cost" means the actual amount of expenses and labor incurred or expended and the reasonable amount of expenses and labor estimated to be incurred or expended.
- (4) "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.
- (5) "Court" means the appropriate district court, small claims court, justice's court, or city court.
- (6) "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.
- (7) "Good faith" means honesty in fact in the conduct of the transaction concerned.
- (8) "Guest" means a person staying with a tenant for a temporary period of time as defined in the rental agreement or, if not defined in the rental agreement, for a period of time no more than 7 days unless the tenant has received the landlord's written consent to a longer period of time.
- (9) "Landlord" means:
 - (a) the owner of the dwelling unit or the building of which it is a part;
 - (b) a person who has written authorization from the owner to act as the owner's agent or assignee for purposes related to the premises or the rental agreement;
 - (c) a person who has written authorization from the owner to act as a manager of the premises for the purposes of the tenancy or the rental agreement; or
 - (d) a lessor who has written authorization from the owner of the premises to sublease the premises.
- (10) "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.
- (11) "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.
- (12) "Person" includes an individual or organization.
- (13) "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.
- (14) "Rent" means all payments to be made to the landlord, including rent, late fees, or other charges as agreed on in the rental agreement, except money paid as a security deposit.
- (15) "Rental agreement" means all agreements, written or oral, and valid rules adopted under **70-24-311(Landlord authorized to adopt rules)** embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.
- (16) "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.

- (17) "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.
- (18) "Tenant" means:
- (a) a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others; or
 - (b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement.
- (19) "Unauthorized person or trespasser" means a person who:
- (a) enters or remains after being asked to leave by the landlord and does not receive written permission by the landlord to remain on the premises;
 - (b) is in violation of **45-6-201**(Issuance of arrest warrant);
 - (c) is in violation of **45-6-203**(Criminal trespass); or
 - (d) is in violation of **70-27-102**(Forcible entry). **STOP**

70-24-103 Review

- ***"Abandon" means to give up possession of the premises.***
- ***"Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined.***
- ***"Actual and reasonable cost" means the actual amount of expenses.***
- ***"Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action.***
- ***"Dwelling unit" means a structure or the part of a structure that is used as a home,***
- ***"Guest" means a person staying with a tenant for a temporary period of time.***
- ***"Landlord" means:***
 - ***The owner of the dwelling unit or the building of which it is a part.***
 - ***A person who has written authorization from the owner to act as the owner's agent or assignee for purposes related to the premises or the rental agreement.***
 - ***A person who has written authorization from the owner to act as a manager of the premises for the purposes of the tenancy or the rental agreement; or***
 - ***A lessor who has written authorization from the owner of the premises to sublease the premises.***
- ***"Owner" means one or more persons, jointly or severally, in whom is vested all or part of:***
 - ***The legal title to property.***
- ***"Premises" means a dwelling unit and the structure of which it is a part.***
- ***"Rent" means all payments to be made.***
- ***"Tenant" means:***
 - ***(a) A person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others; or***

- *A person who, with the written approval of the landlord*
 - ***"Unauthorized person or trespasser" means***
 - ***Enters or remains after being asked to leave***
 - ***Is in violation of 45-6-201 (enter or remain unlawfully);***
 - ***Is in violation of 45-6-203 (criminal trespass to property); or***
 - ***Is in violation of 70-27-102 (guilty of a forcible entry)***
-

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. **STOP**

70-24-104 & 105 Review

- ***Exclusions of this Chapter:***
 - ***Residence at a public or private institution.***
 - ***Occupancy under a contract of sale.***
 - ***Occupancy by a member of a fraternal or social organization.***
 - ***Transient occupancy in a hotel or motel.***
 - ***Occupancy by an owner of a condominium.***
 - ***Occupancy under a rental agreement primarily for commercial or agricultural purposes.***
 - ***Occupancy by an employee of a landlord.***
 - ***Occupancy outside a municipality for hunting, fishing, or agricultural privileges.***

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. **STOP**

70-24-108 Review

- ***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.***
 - ***Notice is:***
 - ***Actual knowledge.***
 - ***Delivered at the place of business.***
 - ***It is transmitted to an electronic mail address***
 - ***Complete on read receipt***
 - ***Delivered in hand or mailed with a certificate of mailing or by certified mail***
 - ***Notice is considered 3 days after the date of mailing.***
-

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.

70-24-113. Removal of unauthorized person or trespasser.

- (1) An unauthorized person or trespasser has no legal right to occupy, enter, or trespass on a premises. A person who cannot produce authorization allowing the person to occupy a premises is an unauthorized person or trespasser for the purpose of this section and may be removed from the premises immediately by law enforcement.
- (2) For the purposes of this section, authorization includes:
 - (a) a written rental agreement entitling the person to occupy the premises;
 - (b) written or verbal authorization from the landlord; or
 - (c) written or verbal authorization from a tenant if the person is a guest of the tenant.
- (3) For the purposes of this section, verbal authorization is valid only if it is verified by the individual or entity entitled to give it under subsection (2)(b) or (2)(c). **STOP**

70-24-109, 110 & 113 Review

- ***A landlord may not prevent a tenant or a guest of a tenant from possessing on the premises***
 - ***The Firearm must be legal for the tenant to possess.***
 - ***A landlord may prohibit the discharge of a firearm on the premises except in self-defense.***
 - ***An unauthorized person has no legal right to enter or occupy.***
 - ***Authorization means signing into a lease agreement or verbal authorization from the landlord.***
-

70-24-114. Emotional support animals -- documentation

- (1) A tenant with a disability or a disability-related need for an emotional support animal may request and be approved by a landlord to keep an emotional support animal as a reasonable accommodation in housing.
- (2) Unless otherwise prohibited by federal law, rule, or regulation, a landlord may:
 - (a) deny a reasonable accommodation request for an emotional support animal if the animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property that cannot be reduced or eliminated by another reasonable accommodation;
 - (b) if a tenant's disability-related need for an emotional support animal is not readily apparent, request supporting information that reasonably supports the tenant's need for the particular emotional support animal being requested. Supporting information may include:
 - (i) information from a health care practitioner who has personal knowledge of the tenant's disability and is acting within the scope of the practitioner's practice that identifies the particular assistance or therapeutic emotional support provided by the specific animal. Information submitted under this subsection (2)(b)(i) must include the effective date, license number, and type of professional license held by the health care practitioner; and
 - (ii) information from any other source that the landlord determines to be reliable in

accordance with the federal Fair Housing Act and Title 49, chapter 2; and

- (c) require proof of compliance with state and local licensure and vaccination requirements for each emotional support animal.
- (3) If a tenant requests to keep more than one emotional support animal, information for each emotional support animal must be provided pursuant to subsection (2).
- (4) A landlord:
- (a) may not request information under this section that discloses a diagnosis or severity of a tenant's disability or any medical records relating to the disability, but a tenant may voluntarily disclose such information or medical records to the landlord at the tenant's discretion; and
 - (b) shall issue a written determination after receiving supplemental information required in subsection (2) and notice the determination pursuant to 70-24-108.
- (5) An emotional support animal registration of any kind, including but not limited to an identification card, patch, certificate, or similar registration obtained electronically or in person, is not, by itself, sufficient information to reliably establish that a tenant has a disability-related need for an emotional support animal.
- (6) A tenant with a disability-related need for an emotional support animal is liable for any damage done to the premises or to another person on the premises by the tenant's emotional support animal.
- (7) A health care practitioner may be subject to disciplinary action from the healthcare practitioner's licensing board for a violation of this section.
- (8) This section does not apply to a service animal as defined in 49-4-203.
- (9) Nothing in this section may be construed to restrict existing federal law and state law related to a person's right to a reasonable accommodation and equal access to housing, including but not limited to the federal Fair Housing Act, the federal Americans with Disabilities Act of 1990, or Title 49, chapter 2.
- (10) As used in this section, the following definitions apply:
- (a) "Emotional support animal" means an animal that provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified. The term does not include service animals as defined in 49-4-203.
 - (b) "Health care practitioner" means a mental health professional as defined in 53-21-102 who:
 - (i) has established a client-provider relationship with a tenant at least 30 days prior to providing supporting information requested from a landlord regarding the tenant's need for an emotional support animal;
 - (ii) completes a clinical evaluation of a tenant regarding the need for an emotional support animal; and
 - (iii) is acting within the scope of practice of the person's license or certificate. **STOP**

70-24-114 Review

- **Prohibited under 70-24-114 (2):**
 - **Deny reasonable accommodation request for support animal.**
 - **May not request info that discloses diagnosis or medical records of disability.**
 - **Allowed:**
 - **Request documentation stated the need for the animal**
 - **Info from a source that is reliable and in accordance with FFHA**
 - **Require proof of vaccination records**
 - **An emotional support animal registration of any kind:**
 - **Card, patch, certificate, or similar registration is not by itself sufficient information to reliably establish that a tenant has a disability-related need for an ESA.**
 - **Tenant is still liable for any damages caused by the ESA animal.**
 - **"Emotional support animal" means an animal that provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified.**
-

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;
 - (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; and
 - (f) if either party terminates the rental agreement without cause prior to the expiration date of the lease term, the aggrieved party is entitled to monetary damages up to 1 month's rent or an amount that is agreed on in the rental agreement, which may not exceed 1 month's rent. Landlords shall follow **70-24-426 (Remedies for absence)** and are entitled to rent from defaulting tenants up to the date a new tenancy starts or the date the rental agreement term expires.
- (3) Rent is payable without demand or notice at the time and place agreed upon by the parties or provided for by subsection (2). **STOP**

70-24-201 Review

- ***A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule or law.***
 - ***Rent is payable at the landlord's address or to where specified by the rental agreement.***
 - ***Rent is apportionable from day to day.***
 - ***If either party terminates the rental agreement without cause prior to the expiration date of the lease term, the aggrieved party is entitled to monetary damages up to 1 month's rent or an amount that is agreed on in the rental agreement, which may not exceed 1 month's rent.***
-

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.

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.** (***Landlord to maintain premises***)

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 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 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 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. **STOP**

70-24-202, 203 & 204 Review

- ***You CANNOT agree to waive or forego rights.***
 - ***Requiring 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 such agreement***
 - ***Leases cannot require payment of attorney's fees but may state a party may have to pay them if ordered.***
 - ***Unsigned by one of the parties, rental agreements are only effective for 1 year.***
-

70-24-205. Extension of written rental agreements

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. **STOP**

70-24-205, 301, & 302 Review

- ***If default extension is not established in the lease, and neither party gives a 30-day written notice to the other to terminate, the tenancy continues on a***

month-to-month basis.

- **Landlord shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of the responsible party.**
 - **At commencement of the rental agreement, the landlord shall deliver possession of the premises.**
 - **Accepting rent or deposit is considered to give consent to possession.**
-

70-24-303. (Temporary) Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector or carbon monoxide detector.

- (1) Subject to **27-1-1603**, (*Premises owner's duty of care*) 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) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition, except when it is the tenant's responsibility to maintain the dwelling unit pursuant to **70-24-321**(*Tenant to maintain dwelling unit*);
 - (c) shall keep all common areas of the premises in a clean and safe condition;
 - (d) 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;
 - (e) 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;
 - (f) 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
 - (g) 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 (1)(g), an approved carbon monoxide detector, as defined in **70-20-113**(*Notice of presence of smoke and carbon monoxide detectors*), 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)(g), 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 perform the landlord's duties specified in subsections (1)(e) and (1)(f) 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 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)(g).

*(Terminates January 1, 2031) Subject to 27-1-1603 **STOP***

70-24-303 Review

- **Landlord must:**
 - **Make repairs and do whatever is necessary to have fit and habitable conditions.**
 - **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.**
 - **Provide appropriate receptacles for garbage.**
 - **Shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1.**
 - **Shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector.**
 - **A landlord and tenant may agree that the tenant is to perform specified repairs & maintenance tasks.**
 - **The landlord is not liable for damages caused as a result of the failure of the carbon monoxide detector or smoke detector.**
-

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.

70-24-311. 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. **STOP**

70-24-304, 305 & 311 Review

- ***A manager is relieved of liability after written notice to the tenant of the termination of management.***
 - ***A landlord may adopt a rule if:***
 - ***It is reasonable.***
 - ***It applies to all occupants in a fair manner.***
 - ***It is sufficiently explicit.***
 - ***It is not for the purpose of evading obligations.***
 - ***The tenant has notice of it at the time that the tenant enters into the rental agreement or when it is adopted.***
 - ***Must be in writing.***
 - ***Not valid until 30 day's written notice. M to M***
 - ***Not valid until 7 day's written notice, Week to Week***
-

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) 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.
(b) For the purposes of this subsection (3), in addition to the provisions of **70-24-108 (What constitutes notice)**, a tenant has notice of the intent to enter if the landlord conspicuously posts the landlord's intent to enter on the main entry door of the dwelling unit.
- (4) A landlord has no other right of access except:
 - (a) pursuant to court order;
 - (b) as permitted by **70-24-425 (Failure of tenant to maintain)** 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. 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.

STOP

70-24-312 Review

- ***A tenant may not unreasonably withhold consent to the landlord to enter.***
 - ***Landlord may enter the dwelling unit without consent of the tenant in the case of an emergency.***
 - ***A landlord may not abuse the right of access.***
 - ***The landlord shall give the tenant at least 24 hours' notice of the intent to enter and may enter only at reasonable times.***
 - ***Tenant has notice if the landlord conspicuously posts to enter on the main entry door of the dwelling unit.***
 - ***Landlord may enter when the tenant has abandoned or surrendered.***
 - ***A tenant may not remove a lock or replace or add a lock not supplied.***
 - ***If removed or replaced, the landlord must be provided with a way to enter.***
-

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,

- air-conditioning, 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
 - (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(drug) 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 (Tenant to maintain)** or **70-33-321 (Tenant to maintain lot)**.
- (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. STOP**

70-24-321 & 45-6-106 Review

- **A tenant shall comply with all obligations:**
 - **Keep the premises reasonably clean and safe.**
 - **Dispose from the dwelling unit all garbage.**
 - **Keep all plumbing fixtures clean.**

- ***Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances.***
 - ***Use the parts of the premises, including the living room, bedroom, kitchen, bathroom, and dining room, in a reasonable manner.***
 - ***A tenant may not destroy, deface, damage, impair, or remove any part.***
 - ***Tenants may not engage or knowingly allow reasonable potential damage or destroying or reasonable potential that neighboring tenants may be injured.***
 - ***A tenant commits criminal 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.***
 - ***Shall be fined not to exceed \$1,000 or be imprisoned not to exceed 6 months.***
-

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. The aggrieved party may include a reasonable charge for the party's labor.
- (2) A right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect. Nothing in this chapter prohibits the assignment of a right or the claim of a right by either landlord or tenant. The landlord's or tenant's defenses and obligations may not be affected by an assignment.
- (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. **STOP**

70-24-322 through 402 Review

- ***Tenants must notify the landlord in writing of absence of 7 days or more.***
 - ***Landlord may enter the premises no sooner than the 7 days of absence. The aggrieved party may recover appropriate damages.***
 - ***The aggrieved party has a duty to mitigate damages.***
 - ***If disputed in good faith, it 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) Except as provided in subsection (2), 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 may refuse to enforce the agreement or enforce the remainder of the agreement without the unconscionable provision to avoid an unconscionable result;
 - (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) A finding pursuant to subsection (1) may not be made based on a responsibility outlined in a rental agreement that:
 - (a) a tenant maintain a dwelling unit in accordance with 70-24-321; or
 - (b) a landlord maintain the premises in accordance with 70-24-303.
- (3) 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. **STOP**

70-24-403 & 404 Review

- ***If the rental agreement purposefully is used with prohibited provisions, the other party may recover, in addition to the other party's actual damages, an amount up to 3 months' periodic rent.***
 - ***The court may refuse to enforce the agreement or enforce the remainder of the agreement without the unconscionable provision.***
 - ***If unconscionability is put into issue by parties or by the court, shall be afforded a reasonable opportunity to aid the court in making the determination.***
-

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. **STOP**

70-24-405 & 406 Review

- ***If the landlord fails to deliver possession of the dwelling unit to the tenant, rent abates until possession is delivered. Tenant may:***
 - ***Terminate the rental agreement upon at least 5 days' written notice.***
 - ***Maintain an action for possession of the dwelling unit against the landlord.***
 - ***Aggrieved party may recover from that person an amount not more than 3 months' periodic rent if not done in good faith.***
- ***If a noncompliance affecting health & safety, the tenant may:***
 - ***Deliver a written notice to the landlord specifying the acts and omissions***

constituting the breach of the rental agreement and 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 non compliance results in a case of emergency and the landlord fails to remedy the situation within 3 working days after written notice, the tenant may terminate the agreement.***
 - ***Exceptions:***
 - ***Landlord adequately remedies the written notice.***
 - ***Notice was given recurs within 6 months, the tenant may terminate the rental agreement upon at least 14 days' written notice.***
 - ***Tenants may not terminate for a condition caused by the tenant.***
 - ***Make repairs that do not cost more than 1 month's rent and deduct the cost from the rent after written notice was provided.***
 - ***The tenant may recover actual damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement.***
-

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;
 - (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. **STOP**

70-24-407, 408 & 409 Review

- ***If the landlord fails to comply with the rental agreement, the reasonable cost of compliance is less than the 1 month's rent, the tenant may recover damages.***
 - ***If 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 and tenant may:***
 - ***Procure reasonable amounts of essential supplies.***
 - ***Recover damages based upon the diminution.***
 - ***Procure reasonable substitute housing and excused from paying rent for the period of the breach.***
 - ***Conditions caused by the act or omission of the tenant, these rights do not arise.***
 - ***If the dwelling unit or premises are damaged or destroyed by fire, the tenant may:***
 - ***Immediately vacate the premises and notify the landlord in writing within 14 days of the tenant's intention to terminate the rental agreement.***
 - ***If continued occupancy is lawful, the tenant's liability for rent is reduced in proportion to the diminution.***
 - ***Does not apply when the fire and casualty damage was caused by the purposeful or negligent act of the tenant.***
-

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.

70-24-421. 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. **STOP**

70-24-410, 411, 421 Review

- ***If the landlord makes an unlawful entry, the tenant may either obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement.***
 - ***If a landlord unlawfully removes or excludes the tenant or purposefully diminishes services (water, heat, electricity), the tenant may recover possession or terminate the rental agreement and;***
 - ***Recover an amount not more than 3 months' periodic rent or treble damages, whichever is greater.***
 - ***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.***
-

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, that the rental agreement will terminate, and that the tenant shall vacate the premises on 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 and the tenant shall vacate the premises as provided in the notice, subject to the following:

- (a) If the noncompliance is remediable by repairs, the payment of damages, or written approval of the landlord and the tenant 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), (1)(c), or (1)(f), 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.
 - (f) If the noncompliance is from verbal abuse of the landlord by a tenant, the landlord may terminate the rental agreement on giving 3 days' written notice. If the tenant adequately remedies the noncompliance, the rental agreement does not terminate.
- (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, and the tenant shall vacate the premises if the landlord terminates 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), and the tenant shall vacate the premises if the landlord terminates the rental agreement.
 - (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), and the tenant shall vacate the premises if the landlord terminates the rental agreement.
 - (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 30-day notice for termination of tenancy as provided in 70-24-441. **STOP**

70-24-422 Review

- ***If the noncompliance is remediable by repairs, the rental agreement does not terminate.***
- ***Unauthorized pet, or person the notice period is 3 days.***
- ***The same act 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.***
- ***Verbal abuse - 3 days' written notice.***
- ***If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice, the landlord may terminate.***

- ***If the tenant destroys, defaces, damages, impairs, or removes, notice is 3 days' written notice and tenant shall vacate.***
 - ***If the tenant creates a reasonable potential that the premises may be damaged or destroyed, 3 days' written notice to terminate.***
 - ***If the tenant's noncompliance is purposeful, the landlord may recover 3x damages.***
 - ***Treble damages may not be recovered for the tenant's early termination of the tenancy.***
 - ***The landlord is not bound by this section in the event that the landlord elects to use the 30-day notice for termination of tenancy.***
-

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, including rent due.

70-24-424. Refusal of access -- landlord's remedies

- (1) If the tenant refuses to allow lawful access, the landlord may issue a 24-hour notice to correct or obtain immediate injunctive relief to compel access. In either case, the landlord may recover actual damages. If the 24-hour notice to correct is not remedied, the landlord may issue a 3-day notice to terminate the rental agreement.
- (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 issue a 24-hour notice to correct or obtain immediate injunctive relief. If the 24-hour notice to correct is not remedied, the landlord may issue a 3-day notice to 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 (Tenant to maintain) 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 cost, or 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. **STOP**

70-24-423, 424, & 425 Review

- ***The acceptance of partial payment of rent due does not constitute a waiver of any right.***
- ***If the tenant refuses to allow lawful access, the landlord may issue a 24-hour notice to correct or obtain immediate injunctive relief.***

- ***If the 24-hour notice to correct is not remedied, a 3-day notice to terminate the rental agreement is issued.***
 - ***Same with keys, if not provided, 24-hour notice to correct is not remedied, a 3-day notice to terminate the rental agreement is issued.***
 - ***If there is noncompliance by the tenant affecting health and safety, and they fail to comply and a 14 day notice is given, the landlord may enter the unit for the work to be done and all costs may be submitted to add to rent.***
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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 in 70-24-322 (***Tenant to occupy***), 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. **STOP**

70-24-426 Review

- ***If the rental agreement requires notice of an anticipated absence in excess of 7 days and the tenant fails to give notice, the landlord may recover actual damages.***
 - ***During a tenant's absence in excess of 7 days, the landlord may enter the dwelling unit at times reasonably necessary.***
 - ***If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental.***
If the landlord re-rents the unit before the original rental term expires, the rental agreement terminates as of the new tenancy start date.
 - ***If the landlord fails to make reasonable efforts to re-rent or accepts the abandonment as a surrender, the rental agreement terminates as of the date the landlord has notice of the abandonment (for month-to-month or week-to-week, the term is a month or week).***
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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, rent, and actual damages for any breach of the rental agreement.
- (2) (a) Except as provided in subsection (2)(b), an action filed pursuant to subsection (1) in a court must be heard within 10 business 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 10 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 action must be heard within 5 business days after the case is transmitted to the district court.

(b) A hearing for damages for any breach of the rental agreement must be held within 45 days after the claim of possession and rent has been adjudicated.

(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. If a landlord's claim for possession is granted, the court shall issue a writ of possession and a writ of assistance immediately. The writ of assistance must be executed by the sheriff:

(a) within 5 business days of the sheriff receiving the writ of assistance, excluding of the date of receipt by the sheriff; or

(b) at a time no more than 5 business days after the sheriff receives the writ of assistance or as otherwise agreed to by the landlord and the sheriff.

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. **STOP**

70-24-427 & 428 Review

- ***If the rental agreement is terminated, the landlord has a claim for possession, rent, and actual damages for any breach of the rental agreement.***
- ***In an action for possession, the case must be heard within 10 business days after the tenant's appearance or the answer.***
 - ***If action is appealed to district court, the hearing must be held within 10 business days after the case is transmitted.***
- ***If terminated due to 70-24-321(3) gangs and drugs, action must be heard within 5 business days after appearance or answer.***
 - ***If terminated due to 70-24-321(3) gangs and drugs and is appealed in district court, the action must be heard within 5 business days.***
- ***Hearing for damages for any breach of the rental agreement must be held within 45 days after the claim of possession is issued.***
- ***In a landlord's action for possession, the court shall rule on the action within 5 days after the hearing.***
- ***If a claim for possession is granted, writ of assist is issued immediately and must be executed by the sheriff within 5 business days of the sheriff receiving the writ of assistance.***
- ***A landlord may not recover or take possession of the dwelling unit, or intentionally reduce services to the tenant, except in cases of abandonment, surrender, or as permitted in this chapter.***

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.
- (2) If the term is longer than month-to-month and the landlord terminates the rental agreement with cause and 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.
- (3) If the term of the rental is month-to-month and the landlord terminates the rental agreement without cause and issues a lawful 30-day notice and the tenant remains in the rental unit after the termination date, then the holdover is purposeful and the landlord may recover an amount not more than 3 months' periodic rent or treble damages, whichever is greater.
- (4) In an action for possession or unlawful holdover, the provisions of the Montana Justice and City Court Rules of Civil Procedure, Title 25, chapter 23, apply, except that the time for filing an answer under Rule 4C(2)(b) is 5 business days after service of summons and complaint, exclusive of the date of service.
- (5) If the landlord consents to the tenant's continued occupancy, 70-24-201(2)(e) applies. **STOP**

70-24-429 Review

- ***If the tenant remains in possession without the landlord's consent after expiration, the landlord may bring an action for possession.***
 - ***If the term is longer than month-to-month and the landlord terminates the rental agreement with cause and 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.***
 - ***If the term of the rental is month-to-month and the landlord terminates the rental agreement without cause and issues a lawful 30-day notice and the tenant remains in the rental unit after the termination date, then the holdover is purposeful and the landlord may recover an amount not more than 3 months' periodic rent or treble damages, whichever is greater.***
 - ***In an action for possession or unlawful holdover, the provisions of the Montana Justice and City Court Rules of Civil Procedure, Title 25, chapter 23, apply, except that the time for filing an answer, by the tenant, under Rule 4C(2)(b) is 5 business days after service of summons and complaint, exclusive of the date of service.***
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70-24-430. Disposition of personal property abandoned by tenant after termination.

- (a) If a tenancy terminates by court order, the personal property is considered abandoned and the landlord may immediately dispose of the personal property as allowed by law.
- (b) If a tenancy terminates in any manner other than 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.

(c) 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.

(d) 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.

(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 by a landlord who stores the property, and actual storage costs are allowed by 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. 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 upon termination of the lease or rental agreement. **STOP**

70-24-430 Review

- ***If a tenancy terminates by court order, the personal property is considered abandoned and the landlord may immediately dispose of property.***
 - ***If a tenancy terminates in any manner other than by court order and the landlord has clear and convincing evidence that the tenant has abandoned all personal property and 48 hours has elapsed, the landlord may dispose of trash and hazardous, perishable and valueless property.***
 - ***If labeled "rent to own" or "leased" or likewise identified may be discarded only with confirmation from the lessor.***
 - ***"Hazardous" means an item that is potentially or actually flammable.***
 - ***"Perishable" means any item requiring refrigeration.***
 - ***"Valueless" means any item that has an insubstantial resale value.***
 - ***Personal pictures, jewelry or other irreplaceable items are not included.***
 - ***The landlord shall inventory and store all abandoned personal property and shall exercise reasonable care.***
 - ***Make a reasonable attempt to notify the tenant in writing.***
 - ***Not less than 10 days after mailing the notice, the property will be disposed of by:***
 - ***Selling all or part of the property at a public or private sale or destroying the property if the value is so low that the cost of storage exceeds the value.***
 - ***If the tenant responds within 10 days notice, they then have 7 days to remove the property. If they fail to do so, it is abandoned property.***
 - ***Landlords may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale.***
 - ***Ensure that the terms of this section are included in plain and understandable language as a 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). **STOP**

70-24-431 Review

- **Landlord may not retaliate by increasing rent, by decreasing services, or by bringing or threatening to bring an action for possession if the tenant has:**
 - **Complaint of a violation affecting health and safety.**
 - **Complained to the landlord in writing of violations of their duties**
 - **Has organized or joined a tenant's union.**
 - **If a tenant files a complaint within 6 months before an alleged retaliatory act, the law presumes the landlord's conduct was retaliatory, unless the complaint was made after notice of a rent increase or reduction of services, and the landlord may rebut the presumption with evidence.**
 - **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.**
 - **Subsections (1), (2), and (3) do not prevent a landlord from bringing an action for possession if:**
 - **Violation of the building or housing code was caused by the tenant.**
 - **Tenant is in default in rent.**
-

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. **STOP**

70-24-441 & 442 Review

- ***Week - Week tenancy. Notice is 7 days***
 - ***Month- month tenancy. Notice is 30 days***
 - ***Rent is apportioned day to day***
 - ***Attorney fees may be awarded to the prevailing party***
-

Fair Housing / ADA

Fair Housing - "Fair Housing" means making decisions about a household's eligibility for housing or related services based only on their qualifications, without considering or referencing protected characteristics (classes).

In practice, this means that a property manager must evaluate an applicant or tenant based on neutral factors such as:

- Income and ability to pay rent
- Rental history
- Creditworthiness
- Compliance with application and lease requirements

And never based on:

- Race
- Color
- Religion
- National Origin
- Sex
- Disability
- Familial Status

Section 804 of the Fair Housing Act makes it unlawful to discriminate in the sale or rental of housing. The law prohibits the following practices:

- Refusing to sell, rent, negotiate, or otherwise making housing unavailable or denying housing.
- Discriminating in the terms, conditions, services, or facilities of a dwelling.
- Making, printing, or publishing (or causing to be made) any notice, statement, or advertisement that indicates a preference, limitation, or discrimination.
 - This includes verbal statements.
- Indicating a dwelling is not available when it is, in fact, available.
- For profit, inducing or attempting to induce a person to sell or rent a dwelling by representing that people of a certain race, color, religion, sex, disability, familial status, or national origin are entering the neighborhood (blockbusting).
- Discriminating against a person because of disability.

These seven protected classes are covered under the federal **Fair Housing Act**. States may provide additional protections, but at minimum, property managers are always bound by federal law.

Protected Classes – 1968

The Fair Housing Act of 1968 is a landmark federal law that prohibits discrimination in housing. It was passed as Title VIII of the Civil Rights Act of 1968 and signed into law on April 11, 1968. The Act makes it unlawful to refuse housing, set different terms, or steer applicants based on certain characteristics.

At the time of its passage in 1968, the Fair Housing Act established protection for the following four original protected classes:

- **Race**
- **Color**
- **Religion**
- **National Origin**

These protections applied to the sale, rental, and financing of housing, and were intended to combat systemic discrimination and segregation that had historically denied equal housing opportunities to many groups.

Protected Classes - 1974

In 1974, Congress amended the Fair Housing Act to expand protections beyond the original four categories established in 1968 (race, color, religion, and national origin).

The Housing and Community Development Act of 1974 added:

- **Sex**

This amendment made it illegal to discriminate in housing based on whether a person is male or female. Property managers, landlords, and lenders could no longer treat applicants differently because of their sex.

Sexual Harassment in Housing

Under the Fair Housing Act, sexual harassment is considered a form of sex discrimination. Property managers and landlords are prohibited from engaging in:

- **Quid Pro Quo Harassment** – Demanding sexual favors in exchange for housing benefits, such as reduced rent, approval of an application, or repairs.
- **Hostile Environment Harassment** – Creating an intimidating or offensive housing environment through unwanted sexual comments, conduct, or pressure.

Domestic Violence Survivors

While the 1974 amendment itself did not explicitly name domestic violence survivors as a protected class, federal law and later protections have extended coverage:

- The Violence Against Women Act (VAWA) provides protections for survivors of domestic violence, dating violence, sexual assault, and stalking, particularly in federally subsidized housing.
 - Denying or evicting someone because they are a survivor of domestic violence may also be treated as **sex discrimination** under the Fair Housing Act, since these issues disproportionately affect women.
-

Protected Classes - 1988

In 1988, Congress passed the Fair Housing Amendments Act, which significantly expanded protections under the original Fair Housing Act of 1968. The 1988 Fair Housing Amendments gave the Fair Housing Act more enforcement power and broader protections. HUD was granted greater authority to investigate and enforce claims of housing discrimination, and individuals gained stronger remedies in court. The amendments added two new protected classes:

- **Disability**
- **Familial Status**

Disability

It is illegal to discriminate in housing against a person because of a physical or mental disability. This includes:

- Refusing to rent, sell, or negotiate housing based on disability.
- Imposing different rules, conditions, or terms for tenants with disabilities.
- Denying reasonable modifications or accommodations that are necessary for equal use and enjoyment of the property (e.g., grab bars, ramps, service animals).

Property Manager's Role:

- Be aware of the duty to provide reasonable accommodations and modifications.
- Never ask intrusive questions about the nature or severity of a disability.
- Understand that assistance animals are not "pets" and cannot be restricted by pet policies.

Familial Status

It is illegal to discriminate against families with children under the age of 18, pregnant women, or people securing custody of children. This means:

- A landlord cannot refuse to rent to families with children.
- Rules or policies that restrict children (e.g., "no kids allowed," "adults only building") are generally unlawful.
- Occupancy standards must be reasonable and not used as a way to exclude families.

Property Manager's Role:

- Provide housing equally to families with children.
 - Avoid setting policies that target families, such as curfews or restricted access to amenities for minors.
 - Know the narrow exemptions (such as "housing for older persons" communities).
-

Blockbusting

Blockbusting is an unethical and illegal practice in real estate and property management. It occurs when real estate agents, brokers, or property managers encourage property owners to sell their homes by suggesting that the racial, ethnic, or socioeconomic composition of the neighborhood is changing, and that this change will decrease property values.

For example, a real estate professional might tell a homeowner that families of a different race are moving into the area and urge them to sell quickly before property values drop. The professional then profits by purchasing the property at a lower price and reselling it at a higher price.

Under the federal Fair Housing Act, blockbusting is strictly prohibited. It is considered a form of housing discrimination because it relies on racial prejudice and perpetuates segregation in communities.

As a property manager, it is crucial to understand that:

- Blockbusting is illegal under the Fair Housing Act.
- Property managers must treat all tenants, applicants, and owners equally regardless of race, color, religion, sex, disability, familial status, or national origin.
- Engaging in or supporting blockbusting can result in severe penalties, including fines, loss of license, and legal action.

Steering

Steering is an illegal practice in real estate and property management. It occurs when a property manager, leasing agent, or real estate professional directs a prospective tenant or buyer toward or away from certain properties, neighborhoods, or buildings based on their race, color, religion, sex, disability, familial status, national origin, or any other protected class under the Fair Housing Act.

For example, an agent may suggest that a family with children look only at ground-floor apartments "because they'll be happier there," or tell a tenant of a particular ethnicity that "most people like you prefer this neighborhood." Even if such comments seem casual or well-intentioned, they constitute unlawful steering.

Under the federal Fair Housing Act, steering is strictly prohibited. It is considered a form of housing discrimination because it limits housing choices, perpetuates segregation, and denies equal access to housing opportunities.

As a property manager, it is crucial to understand that:

- Steering is illegal under the Fair Housing Act.
- Property managers must show all available units that meet an applicant's needs and qualifications.
- Making assumptions about where a tenant "belongs" or "would be comfortable" is a violation of fair housing law.
- Engaging in or supporting steering can result in severe penalties, including fines, license suspension or revocation, and legal action.

Redlining

Redlining is an illegal and discriminatory practice in real estate and lending. It occurs when financial institutions, insurance companies, or housing providers deny services, increase costs, or place restrictions on certain neighborhoods based on the racial or ethnic composition of the area.

The term “redlining” comes from the practice of lenders literally drawing red lines on maps to mark neighborhoods they considered “high-risk” due to the presence of minority populations. Residents in these areas were often denied loans, insurance, or affordable housing opportunities, regardless of their individual qualifications.

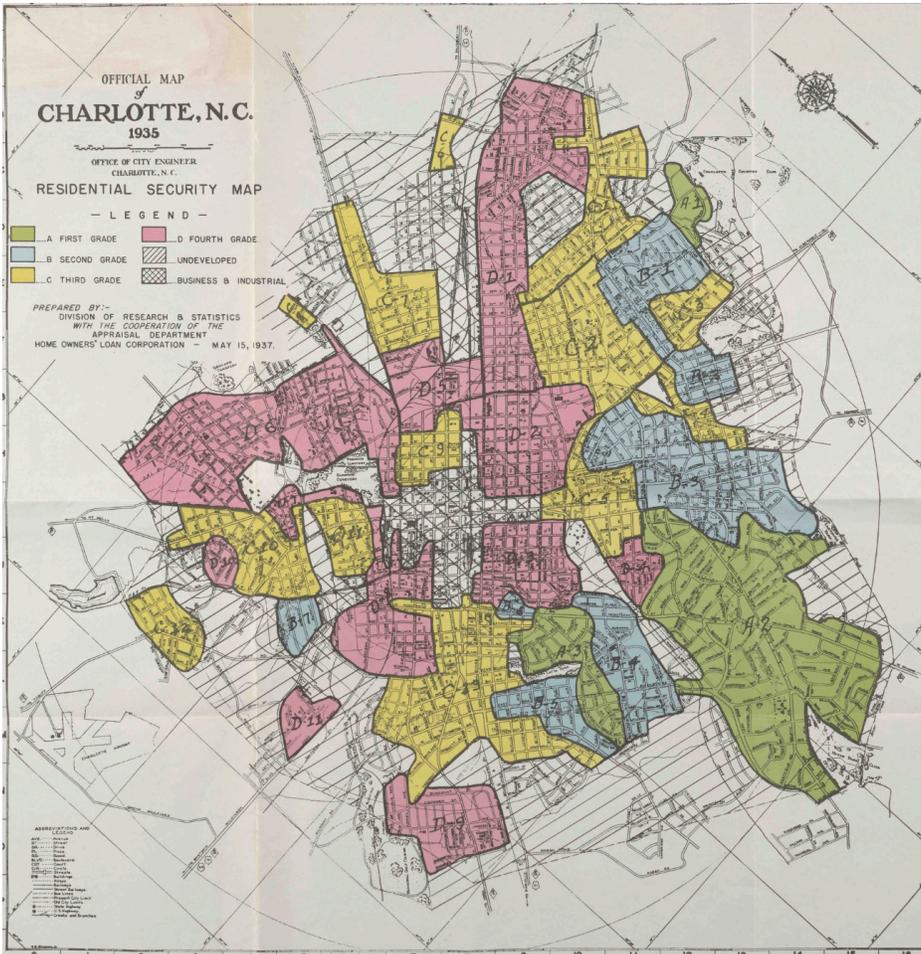
Under the federal Fair Housing Act and the Equal Credit Opportunity Act, redlining is strictly prohibited. It is considered housing discrimination because it limits access to credit, reduces investment in minority communities, and perpetuates segregation.

As a property manager, it is crucial to understand that:

- Redlining is illegal under the Fair Housing Act and other federal laws.
- Property managers must never discourage applicants or owners from seeking housing or financing based on the neighborhood’s demographics.
- Refusing to manage or market properties in certain areas because of their racial or ethnic makeup is considered discriminatory.
- Engaging in or supporting redlining practices can result in serious penalties, including fines, lawsuits, loss of license, and federal enforcement actions.

1935.
Redlining of neighborhoods in
City/County of Charlotte, N.C

Minorities were excluded from
home loan funds. They were
considered poor economic
risks



MT Human Rights Act - 1974 The Montana Human Rights Act (MHRA) was enacted in 1974 to protect individuals in Montana from discrimination in employment, housing, public accommodations, financing, education, and government services. In housing, it works alongside the federal Fair Housing Act, but it also expands protections for Montana residents.

Protected Classes Under the MHRA

In addition to the federal protected classes (race, color, religion, national origin, sex, disability, and familial status), Montana law also prohibits housing discrimination based on:

- **Age**
- **Marital Status**
- **Creed** (belief system)

Prohibited Conduct

Under the MHRA, it is unlawful for a landlord, property manager, or housing provider to:

- Refuse to sell, rent, lease, or make housing unavailable because of a protected class.
- Discriminate in terms, conditions, or privileges of rental or sale.
- Provide different services or facilities.
- Make, print, or publish any notice, advertisement, or statement expressing preference, limitation, or discrimination.
- Retaliate against someone for filing a complaint of discrimination.

Enforcement

- The Montana Human Rights Bureau investigates complaints of housing discrimination.
- Complaints must generally be filed within 180 days of the alleged violation.
- Remedies may include fines, damages, injunctive relief, or orders to provide housing.

Advertising (CFR 109 and 110)

The Code of Federal Regulations (CFR) Parts 109 and 110 provide guidance on advertising under the Fair Housing Act. These sections clarify how advertising must comply with fair housing law and what practices are considered discriminatory.

Key Rules for Advertising

- Advertisements for the sale or rental of housing cannot indicate any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- This rule applies to all forms of advertising, including:
 - Print (newspapers, magazines, flyers)
 - Broadcast (radio, television)
 - Online listings and websites
 - Social media posts
 - **Verbal statements** made in the course of marketing a property
 - Even subtle words or images that imply a preference are prohibited (e.g., “perfect for singles,” “Christian neighborhood,” or showing only one type of family in photos).

Examples of Violations

- “No kids allowed” or “Adults only.”
- “Christian home” or “Near synagogue — perfect for Jewish family.”
- “English-speaking only.”
- Showing only one race, gender, or family type in all marketing materials.

Guidance for Property Managers

- Use inclusive language (e.g., “2-bedroom apartment available” instead of “perfect for young couple”).
- Focus on the features of the property, not the type of person you think should live there.
- Review all advertisements carefully to make sure they comply with fair housing law.
- Remember that both words and images can be considered discriminatory.

1866 Civil Rights Act

The Civil Rights Act of 1866 was the first federal law in the United States to address equal rights in housing. It was passed after the Civil War to enforce the newly adopted 13th Amendment, which abolished slavery.

Key Provisions

- States that all citizens of the United States have the same rights as white citizens to inherit, purchase, lease, sell, hold, and convey real and personal property.
- Applies to all forms of housing discrimination based on race or color, without exception.
- Unlike the Fair Housing Act, this law has **no exemptions** — meaning it applies to all property owners, regardless of the size of the property or whether it is a private rental.

Enforcement

- The Act can be enforced through federal courts.
- Victims of racial discrimination in housing can bring civil lawsuits directly under the 1866 Act.
- Remedies include damages, injunctions, and enforcement of equal rights to housing.

1924 – Indian Citizenship Act

The Indian Citizenship Act of 1924, also known as the Snyder Act, granted full U.S. citizenship to all Native Americans born within the territorial limits of the United States. Before this law, many Native Americans were denied citizenship unless they met specific conditions, such as military service or land allotment.

Key Provisions

- Declared that all non-citizen Native Americans born within the United States are U.S. citizens.
- Citizenship was granted automatically without requiring individuals to give up tribal citizenship or culture.
- Extended voting rights and access to constitutional protections, although many states continued to restrict Native American voting through discriminatory laws until later court rulings.

Impact on Housing and Civil Rights

- As U.S. citizens, Native Americans were entitled to property rights and protections under federal law.
- However, discriminatory practices, state restrictions, and federal policies like allotment and termination continued to affect Native American housing and land ownership for decades.
- The Act was an important step in extending civil rights but did not eliminate systemic barriers to housing equality for Native Americans.

Disability Protections in Housing

Applicable Laws

- **Section 504 of the Rehabilitation Act of 1973** – Prohibits discrimination in **federally funded housing programs**.
- **Federal Fair Housing Act (1988 Amendment)** – Prohibits housing discrimination based on disability and requires reasonable accommodations and modifications.
- **Montana Human Rights Act** – Extends state-level protection against disability discrimination.
- **Americans with Disabilities Act (ADA)** – Prohibits disability discrimination in **public and common-use areas** of housing and in businesses open to the public.

Definition of Disability

A physical or mental impairment that substantially limits one or more major life activities.

- **Substantially Limits:** The limitation must be “significant” or “to a large degree.”
- **Major Life Activity:** Activities central to daily life, such as walking, breathing, seeing, hearing, working, or caring for oneself.

Who is Covered

- Individuals with a physical or mental impairment.
- Individuals with a record of such an impairment.
- Individuals regarded as having an impairment.

Who is Not Covered

- Juvenile or sex offenders (status alone is not a protected disability).
- Persons currently using illegally controlled substances.
- Individuals whose tenancy would constitute a direct threat to the health or safety of others, unless the threat can be eliminated or significantly reduced.

Examples of Disability Discrimination

- Denial of services because of mental or physical disability.
- Denial of requests for reasonable modifications.
- Denial of requests for reasonable accommodations.
- Failure to comply with design and construction requirements for covered multifamily housing.

Requests for Reasonable Modifications

A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy.

Key Points

- Requests can be made verbally or in writing.
- Use of specific forms or language cannot be required.
- Requests can be made on behalf of the person with a disability.
- Visitors with disabilities may also submit requests (residents are responsible for compliance).
- Housing providers **cannot** require waiver of HIPAA protections.

Housing Provider's Right to Know

- What is specifically being requested.
- That the requester has a disability (if not already known or obvious).
- The **nexus** (connection) between the disability and the request.
- Providers may not ask for diagnosis or treatment details.
- All information received must be kept confidential.

Establishing the Nexus

- Identify the major life activity limited by the disability.
- Show how the requested modification/accommodation reduces symptoms or barriers.
- Demonstrate how the request provides an equal opportunity to use and enjoy the premises.

Examples of Reasonable Modification

- Install grab bars in the bathroom (near toilet or tub/shower).
- Add a small wheelchair-accessible ramp at an entrance.
- Lower closet rods or kitchen counters for accessibility.
- Install visual fire alarms or flashing doorbells for tenants who are deaf or hard of hearing.
- Widen doorways to allow wheelchair access.

Denial of Requests

Requests can only be denied if:

- The requester does not have a disability.
- There is no disability-related need for the request.
- The request would create an undue financial or administrative burden.
- The request would fundamentally alter housing operations.

What a Housing Provider Can Require

Households may be required to:

- Pay for the modifications.
- Deposit monies in an interest-bearing account for restoration of modifications that would interfere with use of the unit by someone without a disability (not exterior modifications).

- Purchase necessary permits.
- Ensure work is done professionally.

Section 504 Exception

If the property receives federal funding (covered under Section 504 of the Rehabilitation Act of 1973):

- Households cannot be required to pay for modifications or restore the unit.
- The housing provider is responsible for covering modification costs and retrofits.

Request for Reasonable Accommodation

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that is necessary to give a person with a disability an equal opportunity to use and enjoy a dwelling, including public and common use areas.

Key Points

- Requests can be made verbally or in writing.
- Housing providers cannot require specific forms or language.
- Requests can be made by the resident, someone acting on their behalf, or even a visitor with a disability.
- Housing providers cannot charge fees, deposits, or additional rent for granting an accommodation.
- Requests must be connected to the individual's disability ("nexus") but providers cannot demand medical diagnosis or treatment details.
- Providers and residents should engage in an interactive discussion to clarify needs and options.

Examples of Reasonable Accommodations

- Assigning a reserved accessible parking space.
- Allowing an assistance animal despite "no pets" policies.
- Permitting rent to be paid on a different schedule due to disability-related income timing.
- Providing a sign language interpreter for office communication.
- Allowing a live-in aide who does not financially qualify on their own.

When a Request Can Be Denied

A housing provider may deny a request if:

- The requester does not have a disability.
- There is no disability-related need for the request.
- Granting the request would create an undue financial or administrative burden.
- Granting the request would fundamentally alter housing operations.

Housing Providers can not assess fees, deposits, or additional rent monies for accommodations.

Service & Assistance Animals

General Rules

- A housing provider may refuse a reasonable accommodation for an animal only if the specific animal poses a direct threat that cannot be eliminated or reduced.
- Breed restrictions do not apply to service or assistance animals under Fair Housing law.
- Insurance-related restrictions may be considered, but must be carefully evaluated.
- Certification documents are not proof of disability or need.
- Online “registries” or purchased certificates are not valid verification unless the provider issuing it is delivering actual medical/therapeutic care in an ongoing relationship with the individual.
- Verification of disability-related need is required for each animal.
- Residents must secure approval before bringing animals on-site.
- HUD’s Service and Assistance Animal Memo provides guidance for housing providers.

Policy Guidance

- Housing providers are encouraged to have a broad animal policy, rather than a separate “pet policy” and “assistance animal policy.” Labeling assistance animals as “pets” can cause confusion and lead to unlawful fees or restrictions. No deposits, fees, or rent may be charged for service or assistance animals.

Service Animals

- Defined as **dogs or miniature horses**, and in Montana, also **service animals in training**.
- Individually trained to do work or perform tasks.
- The tasks performed must be directly related to the disability.
- No professional trainer or certificate is required.
- **Emotional support, therapy, comfort, or companion animals are not service animals** (because they are not trained to perform specific tasks).

Permissible Verification Questions:

1. Is the dog or miniature horse a service animal required because of a disability? What work or task(s) has the animal been trained to perform?

Assistance Animals (including Emotional Support Animals)

- Provide emotional support, alleviate symptoms, or assist with disability-related needs. Do not require specialized training.
- Verification must establish both:
 - The individual has a disability.
 - The animal provides disability-related assistance or support.
- Online “certificates” alone are not acceptable; verification should come from a licensed healthcare provider with an established relationship with the individual.

MCA 2023 - TITLE 49. HUMAN RIGHTS

CHAPTER 4. RIGHTS OF PERSONS WITH DISABILITIES

49-4-203. Housing Accommodation and Service Animal Definitions

- **Housing accommodation** means any property intended to be used as a home, residence, or sleeping place.
- Excludes a single-family home where the owner rents only one room for compensation.
- **Service animal** means a dog or miniature horse individually trained to assist a person with a disability.
- Emotional support animals are not service animals under Montana law.

49-4-221. Misrepresentation of a Service Animal

- It is unlawful for a person to knowingly misrepresent an animal as a trained service animal.
- If misrepresentation occurs, the person may be asked to remove the animal.
- Local law enforcement may be called to investigate.

49-4-222. Misrepresentation of a Service Animal – Penalty

- Misrepresentation is a **misdemeanor offense**.
- A person found guilty may face fines or penalties as determined by the court.

Assistance Animals (Fair Housing Act vs. Montana Law)

- Under federal law (FHA), assistance animals may include cats, rabbits, birds, pigs, goats, horses, or even more unusual species if there is a verified disability-related need.
- Montana law defines service animals strictly as dogs or miniature horses, but **assistance animals** remain protected under FHA.
- Housing providers must evaluate requests case by case, especially in unique circumstances (e.g., allergies prevent use of a dog, or a monkey trained to perform manual tasks that dogs cannot).

Design & Construction Requirements

The Fair Housing Act requires certain multifamily housing to be designed and constructed so that it is accessible to persons with disabilities.

Accessibility Requirements

These requirements apply to **buildings with 4 or more units**. They cover all **ground-floor units** in buildings without elevators. If the building has an elevator, the requirements apply to **all units served by the elevator**. The standards apply to **buildings built for first occupancy after March 13, 1991**.

Covered buildings must be designed and constructed to ensure:

- Public and common use areas are accessible to and usable by people in wheelchairs.
- Doors are wide enough to allow passage into and within all units.
- All units contain:

- An accessible route into and through the dwelling.
- Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
- Reinforcements in bathroom walls to allow installation of grab bars.
- Usable kitchens and bathrooms designed so that an individual in a wheelchair can maneuver.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights law that provides protections **only for persons with disabilities**. It applies to all programs and facilities that receive federal financial assistance, including housing.

Covered Entity Responsibilities

- Identify a **Section 504 Coordinator** and post their contact information.
- Cover the costs of reasonable modifications; **retrofits cannot be charged to residents**.
- Ensure that **non-housing facilities** connected to the program are accessible.
- Provide policies, rules, and forms in **accessible formats**.
- Meet the **5% / 2% rule**: 5% of units must be accessible to persons with mobility disabilities and 2% to persons with hearing or vision disabilities.
- Address deficiencies through a **504 Plan** that outlines steps and timelines for compliance.

Americans with Disabilities Act – 1990

The **ADA of 1990** is a federal civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life. It complements the Fair Housing Act and Section 504 by extending protections into employment, public services, and public accommodations.

Title I – Employment

- Applies to employers with **15 or more employees**.
- Prohibits discrimination in hiring, firing, advancement, compensation, or other employment terms.
- Note: The **Montana Human Rights Act (MHRA)** does not have the “15 employee” minimum threshold.

Title II – Public Services

- Applies to all **state and federal services**.
- Requires equal access to government programs, activities, and services.

Title III – Public Accommodations

- No individual may be discriminated against in the use and enjoyment of goods, services, facilities, privileges, advantages, or accommodations.
- Applies to businesses open to the public, including **leasing offices, clubhouses, and rental facilities**.
- Requires **website accessibility** for businesses providing goods and services online.

Title IV – Telecommunications

- Requires **telephone and relay services (711)** to ensure communication access for individuals with hearing or speech impairments.

Title V – Miscellaneous Provisions

- Contains additional provisions, including construction guidelines, technical standards, and rules for implementation.

Exemptions

Tribally Owned and Operated Housing

- May limit housing to tribal members.

Religious Organizations and Private Clubs

- May limit or give preference in the sale, rental, or occupancy of non-commercial housing:
 - To persons of the same religion, unless membership is restricted based on race, color, or national origin.
 - To club members if the club is not open to the public, and lodging is incidental to its primary purpose.

Multi-Family Units

- **MHRA 49-2-305(11)**: Exempts owner-occupied dwellings with no more than **two units** (age and familial status only).
- **FHAA 803(b)(2)**: Exempts owner-occupied dwellings with no more than **four units**.
- In both cases, the owner must maintain and occupy one of the living quarters as their residence and **cannot use an agent**.

Single-Family Homes

- **MHRA 49-2-305(2)**: Exempts the rental of sleeping rooms in a single-family home occupied by the owner, provided no more than **three rooms** are rented.
- **FHAA 803(b)(1)**: Exempts single-family houses sold or rented by an owner who:
 - Owns no more than **three houses**.
 - Makes no more than **one sale in 24 months** if not the most recent resident.
 - Has no right to the proceeds from the sale or rental of more than three homes.
 - Does not use an agent or broker.
 - Does not publish or advertise in violation of Section 804(c).

Housing for Older Persons Act (HOPA) – Familial Status Exemption

- Applies to **familial status only**.
- **62 and Older**: 100% of residents must be 62 or older.
- **55 and Older**: At least one person age 55 or older must reside in **at least 80% of units**.
- Requires **bi-annual surveys** to verify resident ages.
- Must publish and adhere to policies and procedures demonstrating intent to operate as “housing for older persons.”

Filing a Complaint

When housing discrimination is suspected, individuals have multiple options to pursue enforcement. Property managers should understand the process so they can respond professionally and ensure compliance.

Filing with HUD (U.S. Department of Housing and Urban Development)

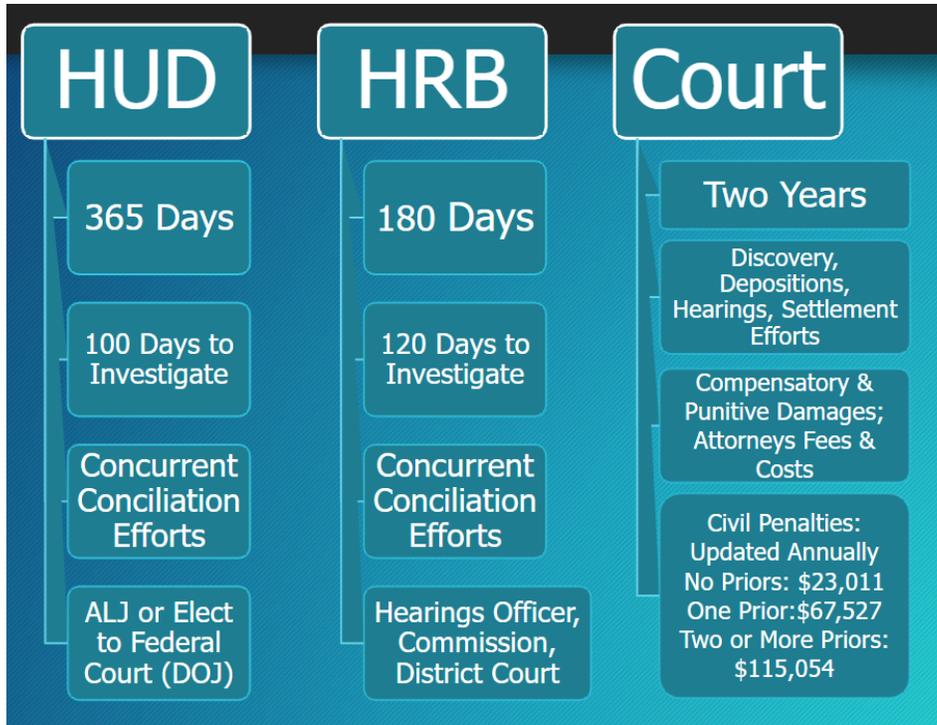
- Complaints must be filed within **1 year (365 days)** of the alleged violation.
- Complaints may be filed online, by mail, or by phone.
- HUD investigates alleged violations of the **Fair Housing Act**.
- HUD must complete its **investigation within 100 days**, unless impracticable.
- HUD may conduct interviews, gather documents, and review evidence.
- If HUD finds cause, the case may proceed:
 - To a hearing before a **HUD Administrative Law Judge (ALJ)**, or
 - Either party may **elect to federal court**, where the **Department of Justice (DOJ)** prosecutes on behalf of the complainant.
- **Civil penalties (as of 2023, adjusted annually):**
 - Up to **\$23,011** for a first violation.
 - Up to **\$57,527** for a second violation within 5 years.
 - Up to **\$115,054** for two or more violations within 7 years.
- Remedies can also include damages to victims, attorney's fees, injunctive relief, and policy changes.

Filing with the Montana Human Rights Bureau (HRB)

- Complaints under the **Montana Human Rights Act** must be filed within **180 days** of the alleged violation.
- The HRB must complete its **investigation within 120 days**, unless an extension is granted.
- Investigations may include interviews, requests for records, and site visits.
- If evidence supports the complaint, the HRB may facilitate mediation, issue findings, or forward the case to the Montana Human Rights Commission for hearing. Remedies may include damages, civil penalties, attorney's fees, and orders to provide housing.

Filing Directly in Court

- Individuals may file a lawsuit in **state or federal court**.
- Under the Fair Housing Act, lawsuits must be filed within **2 years** of the alleged violation.
- Courts can order compensatory damages, punitive damages, attorney's fees, and injunctive relief.
- Civil penalties may mirror HUD's structure and increase depending on severity and history of violations.



Montana Fair Housing
 501 East Front Street, Suite 533
 Butte, MT 59701
 (406) 782-2573 / MT Relay: 711
Website: montanafairhousing.org

Montana Fair Housing is the statewide resource for education, outreach, and enforcement of fair housing laws. Property managers should know how to direct tenants or owners to MFH when fair housing concerns arise.

Residential Tenants' Security Deposit Act.

Chapter 25

70-25-101.	Definitions.	73
70-25-102.	Application of chapter.	73
70-25-103.	Waivers and contrary provisions invalid.	74
70-25-201.	Security deposit -- deductions authorized therefrom.	74
70-25-202.	List of damages and refund -- delivery to departing tenant.	75
70-25-203.	Failure to provide list -- forfeiture of deduction rights.	76
70-25-204.	Wrongful withholding of security deposit -- action.	76
70-25-205.	Failure of departing tenant to furnish new address.	76
70-25-206.	Landlord to furnish statement of condition of premises at beginning of lease.	76

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 subject to Title 70, Ch. 24, or Title 70, chapter 33.

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 **STOP**

70-25-101, 102 & 103 Review

- ***"Cleaning expenses" means the actual and necessary cost of cleaning.***
 - ***"Damage" means any and all tangible loss.***
 - ***"Leasehold premises" means the premises occupied by the tenant.***
 - ***"Security deposit" means value given, in money or its equivalent, to secure the payment.***
 - ***Oral or written agreement that is contrary to Ch. 25, this chapter 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) (***Termination by landlord or tenant***), 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 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, unless the rental agreement is already terminated pursuant to 70-24-427 or 70-33-427 (***Landlord's remedies after termination***) and the landlord has a pending claim for actual damages filed in court. 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, or the landlord may leave a copy of the notice in a conspicuous location in the rental unit and notify the tenant by email, phone, or text, and notice is considered delivered.

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

70-25-201 Review

- ***Landlord may deduct from the security deposit a sum equal to the damage alleged to have been caused by the tenant.***
- ***The premises may be inspected within 1 week prior to termination at request by***

either party.

- ***Cleaning charges may not be imposed for normal wear and tear.***
 - ***The tenant has 24 hours to complete the required cleaning after notice is given at the time of move out.***
 - ***Landlord may not deduct or withhold from the security deposit any amount for purposes other than set forth in this section.***
-

70-25-202. List of damages and refund -- delivery to departing tenant.

(1) Except as provided in subsection (2):

- (a) Each 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 (***Landlord's remedies after termination***). Delivery must be accomplished by mailing the list and refund to the new address provided by the tenant or, if a new address is not provided, to the tenant's last-known address.
- (b) If 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.
- (c) It is not a wrongful withholding of security deposit funds if the landlord mails the funds to the last-known address of a tenant who has departed and the tenant does not receive the funds because the tenant has not given the landlord the tenant's new address, but the landlord remains liable to the tenant for the amount due the tenant.

(2) This section does not apply if a rental agreement is terminated pursuant to 70-24-427 or 70-33-427 (***Landlord's remedies after termination***) and the landlord has a pending claim for actual damages filed in court. **STOP**

70-25-202 Review

- ***Each landlord, within 30 days of termination, shall provide the departing tenant with a written list of any rent due and any damage and cleaning charges.***
 - ***If after inspection there are no damages, the landlord shall return the security deposit within 10 days.***
 - ***It is not a wrongful withholding of security deposit if the landlord mails the funds to the last-known address.***
-

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 (*List of damages*) 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.

STOP

70-25-203, 204 & 205 Review

- ***Landlord who fails to provide a written list of damage, forfeit all rights to withhold any portion of the security deposit.***
 - ***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.***
 - ***Failure by the departing tenant to provide the landlord with a new address in writing, does not bar the tenant from recovering the amount owing.***
-

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, 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. **STOP**

70-25-206 Review

- ***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.***
 - ***Any person who requires a security deposit shall furnish to each tenant a written statement as to the present condition of the premises and includes:***
 - ***Clear and concise statement of the present condition.***
 - ***Statement indicating the fact of prior renting.***
 - ***Signature of the landlord.***
-

Landlord & Tenant Residential and Commercial Ch. 26

70-26-101.	Letting of parts of rooms prohibited.	78
70-26-102.	Transferee of rental property to have same rights as transferor.	78
70-26-103.	Attornment (Subletting) of tenant to stranger void.	78
70-26-104.	Notice of action by third person served on tenant -- duty to inform landlord.	78
70-26-105.	Assignee of lessee -- remedies of lessor against.	78
70-26-106.	Rights of lessee and assignees against lessor and assignees.	79
70-26-107.	Remedy for rent on lease for life.	79
70-26-108.	Rent dependent on life -- recovery.	79
70-26-109.	Change of lease terms by notice.	79
70-26-110.	Lease of city lot for over 75 years void.	79

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 deviser might have had.

70-26-103. Attornment (Subletting) 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.

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 and 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. **STOP**

70-26 Review

- ***If you rent part of a room, you get the whole room, even if others are renting it.***
 - ***A person who receives rental property or rent rights has the same rights as the previous owner to collect rent and enforce lease terms.***
 - ***If a tenant gets a notice of a proceeding to recover the real property, they must tell the landlord right away and give them the notice if it's written. The tenant is responsible for any damages if they don't inform the landlord or give them the written notice.***
 - ***Rent dependent on the life of a person may be recovered after as well as before the person's death.***
 - ***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.***
-

Montana Residential Mobile Home Lot Rental Act.

Chapter 33

70-33-101.	Short title.	81
70-33-102.	Purpose -- liberal construction.	81
70-33-103.	Definitions.	81
70-33-104.	Applicability.	82
70-33-105.	Supplementary principles of law.	82
70-33-106.	Notice.	82
70-33-107.	Obligation of good faith.	83
70-33-108.	Notice of no contact.	83
70-33-109.	Application of security deposit laws.	83
70-33-110.	Emotional support animals -- documentation.	84
70-33-201.	Rental agreements.	85
70-33-202.	Prohibited provisions in rental agreements.	86
70-33-203.	Effect of unsigned or undelivered rental agreement.	86
70-33-301.	Duty to disclose name of person responsible.	86
70-33-302.	Landlord to deliver possession of premises.	87
70-33-303.	Landlord to maintain premises -- agreement that tenant perform duties.	87
70-33-304.	Transfer of premises or termination of management -- relief from liability.	88
70-33-305.	Transfer of premises by tenant.	88
70-33-311.	Landlord authorized to adopt rules.	88
70-33-312.	Access to premises by landlord.	89
70-33-313.	Lot rules.	89
70-33-314.	Resident associations -- meetings.	89
70-33-315.	Road maintenance obligations.	90
70-33-321.	Tenant to maintain lot.	90
70-33-322.	Notice of extended absence.	91
70-33-401.	Administration of remedies -- enforcement -- agreement.	91
70-33-402.	Prohibited provisions -- damages.	91
70-33-403.	Unconscionability (un-KON-shuh-nuh-buhl) -- court discretion.	91
70-33-404.	Landlord's failure to deliver premises -- tenant's remedies.	92
70-33-405.	Landlord's failure to maintain premises -- tenant's remedies.	93
70-33-406.	Landlord's failure to provide essential services -- tenant's remedies.	94

70-33-407. Fire or casualty damage -- rights and obligations of tenant.	95
70-33-422. Noncompliance of tenant generally -- landlord's right of termination -- damages-- injunction.	95
70-33-424 Refusal Of Access -- Landlord's Remedies	96
70-33-426. Remedies for absence or abandonment.	96
70-33-427. Landlord's remedies after termination -- action for possession.	97
70-33-432. Disposition of abandoned mobile home.	98
70-33-433. Grounds for termination of rental agreement.	99

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;
 - (b) encourage landlords and tenants to maintain and improve the quality of housing; and
 - (c) create an exclusive regulatory standard throughout the state and its political subdivisions regarding the rental of land to owners of mobile homes and manufactured homes.

70-33-103. Definitions.

Unless the context clearly requires otherwise, in this chapter, the following definitions apply:

- (1) "Abandon" means to give up possession of the premises unless the landlord does not accept abandonment or surrender as provided in 70-33-426 or unless the rental agreement has been terminated as provided by law.
- (3) "Actual and reasonable cost" means the actual amount of expenses and labor incurred or expended and the reasonable amount of expenses and labor estimated to be incurred or expended.
- (7) "Landlord" means:
 - (a) the owner of:
 - (i) space or land, including a lot, that is rented to a tenant for a mobile home; or
 - (ii) a mobile home park;
 - (b) a person who has written authorization from the owner to act as the owner's agent or assignee for purposes related to the premises or the rental agreement;
 - (c) a manager of the premises who fails to disclose the managerial position; or
 - (d) a lessor who has written authorization from the owner of the premises to sublease the premises.
- (8) "Lot" means the space or land rented and not a mobile home itself.

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

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

(14) "Premises" means a lot and the grounds, areas, and facilities held out for the

(16) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-33-311 (***Landlord authorized to adopt rules***) embodying the terms and conditions concerning the use and occupancy of the premises. **STOP**

70-33-101, 102 & 103 Review

- ***Underlying purposes and policies of this chapter are to:***
 - ***Simplify and clarify the law governing mobile homes.***
 - ***Encourage landlords and tenants to maintain and improve the quality of housing.***
 - ***"Abandon" means to give up possession.***
 - ***"Actual and reasonable cost" means the actual amount of expenses and labor incurred.***
 - ***"Landlord" means:***
 - ***Owner of space/ land, mobile home park.***
 - ***Has written authority to manage lots.***
 - ***"Lot" means the space or land rented and not a mobile home itself.***
 - ***"Mobile home owner" means the owner of a mobile home entitled under a rental agreement to occupy.***
 - ***"Premises" means a lot and the grounds.***
 - ***"Rental agreement" means all agreements, written or oral and valid rules adopted.***
-

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.

(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. **STOP**

70-33-104 through 106 Review

- ***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.***
 - ***Unless overridden by this chapter, general legal principles, including contract law, property law, and rules on health, safety, fraud, and other legal matters, apply.***
 - ***A person is considered notified of a fact if:***
 - ***The person has actual knowledge.***
 - ***For landlords, notice is delivered to the business where the rental agreement was made.***
 - ***For landlords or tenants, notice is personally delivered or sent by certified mail to their designated address or last-known address. Notice by mail is considered served 3 days after mailing.***
 - ***For organizations, notice is effective when it reaches the person handling the transaction or would have with reasonable diligence.***
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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.

70-33-108. Notice of no contact.

(1) Except as provided in 45-5-209, a notice of no contact to a landlord for the benefit of a tenant or to a tenant for the benefit of a landlord may only be authorized pursuant to an order of no contact issued by a court of competent jurisdiction if the person receiving the notice of no contact is acting in accordance with the provisions of Title 70, chapter 24, 25, or 33.

(2) Except as provided by 45-5-209 or this section, or if issued pursuant to an order of protection issued by a court of competent jurisdiction, a notice of no contact to a landlord for the benefit of a tenant or to a tenant for the benefit of a landlord is invalid.

70-33-109. Application of security deposit laws.

The provisions of this chapter are cohesive with the provisions of Title 70, chapter 25, and the two chapters must be read in conjunction when considering, with regards to the Montana Residential Mobile Home Lot Rental Act, the rights and duties of landlords and tenants, and the availability of remedies and judicial relief to landlords and tenants. **STOP**

70-33-107 through 109 Review

- ***All duties and actions required under this chapter must be carried out in good faith.***
 - ***A notice of no contact between a landlord and tenant is valid only if authorized by a court order. Otherwise, it is invalid unless specified by certain legal provisions.***
 - ***The provisions of this chapter are cohesive with the provisions of Title 70, chapter 25, and the two chapters must be read in conjunction when considering, with regards to the Montana Residential Mobile Home Lot Rental Act.***
-

70-33-110. Emotional support animals -- documentation.

- (1) A tenant with a disability or a disability-related need for an emotional support animal may request and be approved by a landlord to keep an emotional support animal as a reasonable accommodation in housing.
- (2) Unless otherwise prohibited by federal law, rule, or regulation, a landlord may:
 - (a) deny a reasonable accommodation request for an emotional support animal if the animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property that cannot be reduced or eliminated by another reasonable accommodation;
 - (b) if a tenant's disability-related need for an emotional support animal is not readily apparent, request supporting information that reasonably supports the tenant's need for the particular emotional support animal being requested. Supporting information may include:
 - (i) information from a health care practitioner who has personal knowledge of the tenant's disability and is acting within the scope of the practitioner's practice that identifies the particular assistance or therapeutic emotional support provided by the specific animal. Information submitted under this subsection (2)(b)(i) must include the effective date, license number, and type of professional license held by the health care practitioner; and
 - (ii) information from any other source that the landlord determines to be reliable in accordance with the federal Fair Housing Act and Title 49, chapter 2; and
 - (c) require proof of compliance with state and local licensure and vaccination requirements for each emotional support animal.
- (3) If a tenant requests to keep more than one emotional support animal, information for each emotional support animal must be provided pursuant to subsection (2).
- (4) A landlord:
 - (a) may not request information under this section that discloses a diagnosis or severity of a tenant's disability or any medical records relating to the disability, but a tenant may voluntarily disclose such information or medical records to the landlord at the tenant's discretion; and
 - (b) shall issue a written determination after receiving supplemental information required in subsection (2) and notice the determination pursuant to 70-33-106.

(5) An emotional support animal registration of any kind, including but not limited to an identification card, patch, certificate, or similar registration obtained electronically or in person, is not, by itself, sufficient information to reliably establish that a tenant has a disability-related need for an emotional support animal.

(6) A tenant with a disability-related need for an emotional support animal is liable for any damage done to the premises or to another person on the premises by the tenant's emotional support animal.

(7) A health care practitioner may be subject to disciplinary action from the health care practitioner's licensing board for a violation of this section.

(8) This section does not apply to a service animal as defined in 49-4-203.

(9) Nothing in this section may be construed to restrict existing federal law and state law related to a person's right to a reasonable accommodation and equal access to housing, including but not limited to the federal Fair Housing Act, the federal Americans with Disabilities Act, or Title 49, chapter 2.

(10) As used in this section, the following definitions apply:

(a) "Emotional support animal" means an animal that provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified. The term does not include service animals as defined in 49-4-203.

(b) "Health care practitioner" means a mental health professional as defined in 53-21-102 who:

(i) has established a client-provider relationship with a tenant at least 30 days prior to providing supporting information requested from a landlord regarding the tenant's need for an emotional support animal;

(ii) completes a clinical evaluation of a tenant regarding the need for an emotional support animal; and

(iii) is acting within the scope of practice of the person's license or certificate. **STOP**

70-33-110 Review

- **Allowed:**
 - **Deny a reasonable accommodation request if the animal poses a direct threat to the safety or health of others.**
 - **Request documentation stated the need for the animal**
 - **Info from a source that is reliable and in accordance with FFHA**
 - **Require proof of vaccination records**
- **An emotional support animal registration of any kind:**
 - **Card, patch, certificate, or similar registration is NOT by itself sufficient information to reliably establish that a tenant has a disability-related need for an ESA.**
- **Tenant is still liable for any damages caused by the ESA animal.**
- **"Emotional support animal" means an animal that provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified.**

70-33-201. Rental agreements.

(f) if either party terminates the rental agreement without cause prior to the expiration date of the lease term, the aggrieved party is entitled to monetary damages up to 1 month's rent or an amount

that is agreed on in the rental agreement, which may not exceed 1 month's rent. Landlords shall follow 70-33-426(2) and are entitled to rent from defaulting tenants up to the date a new tenancy starts or the date the rental agreement term expires.

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 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 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. **STOP**

70-33-201 through 203 Review

- ***If either party terminates the rental agreement without cause, the aggrieved party is entitled to monetary damages up to 1 month's rent, it may not exceed 1 month's rent.***
 - ***If the landlord does not sign and deliver a written rental agreement that has already been signed by the tenant, acceptance of rent gives the rental agreement the same effect as if it had been signed.***
 - ***If the tenant does not sign the rental agreement that has been signed by the landlord, acceptance of possession of the premises and payment of rent gives the rental agreement the same effect as if it had been signed.***
 - ***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.

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

- (1) A landlord shall:
 - (a) comply with the requirements of applicable building, housing, and health department codes materially affecting health and safety at the time of original construction;
 - (b) make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition except when it is the tenant's responsibility to maintain the dwelling unit pursuant to 70-33-321;
- (c) keep all common areas of the premises in a clean and safe condition; **STOP**

70-33-301 through 303 Review

- ***Before or at the start of tenancy, the landlord or authorized agent must provide the tenant with written contact information for the person authorized to manage the property.***
- ***The landlord is required to deliver full possession of the premises to the tenant at the start of the rental term, in compliance with the rental agreement and habitability standards.***
- ***If someone is wrongfully occupying the property, the landlord has the legal right to pursue an action for possession.***
- ***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.***

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. **STOP**

70-33-304 through 305 Review

- ***If a landlord accepts rent or a deposit from someone intending to move in, it establishes a legal landlord-tenant relationship and grants consent for that person to occupy the property.***
 - ***When a landlord sells the property or a manager's duties end, they are relieved of future liability only after providing written notice to the tenant; the original landlord still remains responsible for prepaid rent and security deposits.***
 - ***Mobile home owners renting a lot have the exclusive right to sell their home without landlord interference, but the buyer must secure a new rental agreement to remain on the lot—the sale alone does not grant tenancy.***
-

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) 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.

(b) For the purposes of this subsection (3), in addition to the provisions of 70-33-106, a tenant has notice of the intent to enter if the landlord conspicuously posts the landlord's intent to enter on the main entry door of the dwelling unit.

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. **STOP**

70-33-311 through 315 Review

- ***A tenant may not unreasonably withhold consent to the landlord or the landlord's agent to enter the lot.***
 - ***Landlords can establish rules for tenant conduct, but they must be fair, reasonable, and communicated in writing to all tenants, including new ones.***
 - ***Landlords can establish rules for lot rental and common area use, but these rules must be reasonable and apply uniformly. Common facilities must be accessible at reasonable hours, with recreational facility hours posted.***
 - ***Resident associations can hold meetings and elect officers if the majority of the members are present. Landlords and their staff can't be members unless invited. The landlord can't stop invited guests from attending.***
 - ***Mobile home park landlords shall maintain common roads within the mobile home park in a safe condition, including arranging for snow plowing is reasonable to keep the roads passable.***
-

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, air-conditioning, 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;
- (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.

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.

STOP

70-33-321 & 322 Review

- **Tenant shall:**
 - **Comply with all obligations imposed upon tenants.**
 - **Keep that part of the premises that the tenant occupies and uses as reasonably clean and safe.**
 - **Conduct oneself and require other persons in a manner that will not disturb the tenant's neighbors' peaceful enjoyment .**
 - **A tenant may not destroy, deface, damage, impair, or remove any part of the premises.**
 - **Tenants are to inform the landlord if they plan to be away for more than 7 days.**
-

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. The aggrieved party may include a reasonable charge for the party's labor.
- (2) A right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect. Nothing in this chapter prohibits the assignment of a right or the claim of a right by either landlord or tenant. The landlord's or tenant's defenses and obligations may not be affected by an assignment.
- (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 (un-KON-shuh-nuh-buhl) -- court discretion.

- (1) Except as provided in subsection (2), 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) A finding pursuant to subsection (1) may not be made based on a responsibility outlined in a rental agreement that:
- (a) a tenant maintain a lot in accordance with 70-33-321; or
 - (b) a landlord maintain the premises in accordance with 70-33-303.
- (3) 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. **STOP**

70-33-401 through 403 Review

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- ***The aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages. The aggrieved party may include reasonable costs for parties labor.***
 - ***Including a prohibited provision in a rental agreement makes it unenforceable.***
 - ***If one party knowingly includes such provisions, the other party can recover damages and up to three months' rent.***
 - ***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.***
 - ***A finding in which a party waives or agrees to forego a claim or right may not be made based on a responsibility outlined in a rental agreement that.***
 - ***A tenant maintain a lot in accordance with 70-33-321***
 - ***A landlord maintains the premises in accordance with 70-33-303.***
-

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. **STOP**

70-33-404 through 405 Review

- ***If the landlord doesn't provide possession on the agreed date, rent abates until possession is delivered***
 - ***Tenant may terminate the rental agreement with at least 5 days' written notice and the landlord must return all prepaid rent and security deposit.***
 - ***Tenant may demand performance of the rental agreement instead of terminating.***
- ***If failure to deliver possession is purposeful and in bad faith, tenant may recover up to 3 months' rent or treble damages.***
- ***If the landlord fails to maintain the premises affecting health and safety, tenant may give written notice allowing 14 days to remedy, then terminate with 30 days' notice if unresolved.***
 - ***In emergencies, if landlord fails to act within 3 working days, tenant may terminate immediately.***
 - ***If the same problem recurs within 6 months, tenant may terminate with 14 days' notice.***
 - ***Tenant cannot terminate for issues caused by themselves, family, or guests.***
 - ***Tenant may make repairs costing up to 1 month's rent and deduct from rent if landlord fails to act, or hire qualified persons in emergencies.***
 - ***Tenant may claim damages if repair cost is less than 1 month's rent.***
 - ***Tenant may seek actual damages and injunctive relief for landlord noncompliance.***
- ***If the rental agreement is terminated, landlord must return all recoverable security deposits.***

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. **STOP**

70-33-406 Review

- ***If the landlord fails to provide essential services, tenant must notify landlord and allow reasonable time to correct***
 - ***Tenant may arrange for services and deduct reasonable costs from rent***
 - ***Tenant may claim damages based on diminished rental value.***
 - ***Tenant may arrange substitute housing during noncompliance and withhold rent for that period.***
 - ***Tenant cannot pursue remedies under this section and the maintenance section for the same issue***
 - ***Tenant has no rights if the failure was caused by tenant, family, or guests.***
-

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.

70-33-422. 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). If the landlord terminates the rental agreement, the tenant shall vacate the premises on termination of the agreement.
- (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). If the landlord terminates the rental agreement, the tenant shall vacate the premises on termination of the agreement.

- (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. **STOP**

70-33-407 & 422 Review

- ***If the lot or premises are damaged or destroyed by fire, 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.***
 - ***If the tenant complies with the correct notice period, the rental agreement terminates the date the tenant vacates the lot.***
 - ***If the rental agreement is terminated pursuant to subsection (1) landlord shall return any prepaid rent and all security recoverable.***
 - ***If the tenant's mobile home is damaged or destroyed by fire, it is the mobile homeowners responsibility to remove the mobile home from the lot within 30 days.***
 - ***Terms and conditions of the rental agreement remain in effect until the mobile home is removed.***
 - ***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.***
 - ***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.***
-

70-33-424 Refusal Of Access -- Landlord's Remedies

- (1) If the tenant refuses to allow lawful access, the landlord may issue a 24-hour notice to correct or obtain immediate injunctive relief to compel access. In either case, the landlord may recover actual damages. If the 24-hour notice to correct is not remedied, the landlord may issue a 3-day notice to terminate the rental agreement.
- (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 issue a 24-hour notice to correct or obtain immediate injunctive relief. If the 24-hour notice to correct is not remedied, the landlord may issue a 3-day notice to terminate the rental agreement.

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, rent, and actual damages for any breach of the rental agreement.
- (2) (a) Except as provided in subsection (2)(c), an action filed pursuant to subsection (1) in a court must be heard within 10 business 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 10 business 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 district court.
- © A hearing for damages for any breach of the rental agreement must be held within 45 days after the claim of possessions and rent has been adjudicated.
- (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. If a landlord's claim for possession is granted, the court shall issue a writ of possession immediately. **STOP**

70-33-424, 426 and 427 Review

- ***If a tenant fails to give required notice of an absence over 7 days, the landlord may recover actual damages and enter the lot when reasonably necessary.***
- ***If a tenant abandons the lot, the landlord must make reasonable efforts to re-rent at a fair rental, and the rental agreement terminates upon re-rental or notice of abandonment.***
- ***If a tenant denies lawful access, the landlord may issue a 24-hour notice to correct or seek immediate court order to compel access and recover damages.***
- ***If access isn't granted after the 24-hour notice, a 3-day notice to terminate the rental agreement may be issued.***
- ***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.***
- ***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.

- ***Upon termination, the landlord can claim possession, rent, and damages for breach.***
 - ***Possession cases must be heard within 10 business days of tenant response; cases involving criminal actions must be heard within 5 business days.***
 - ***Appeals to district court must be heard within 10 business days (5 days for criminal-related cases).***
 - ***Damage hearings must occur within 45 days after possession and rent claims are resolved.***
 - ***The court must rule within 5 days after hearings.***
-

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 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.

STOP

70-33-432 Review

- ***If the landlord reasonably believes a tenant abandoned a mobile home and 5 days have passed since the event, the landlord may remove or store the mobile home.***
- ***The landlord must notify local law enforcement, check if the home is encumbered, and send certified mail notice to the owner and interested parties.***
- ***The notice must state the mobile home will be disposed of at least 15 days after mailing if not claimed.***
- ***If the owner responds within 15 days but does not remove the home within 20 days of their response, the mobile home is presumed abandoned.***

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 6-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 6-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 7 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;
 - (l) 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. **STOP**

70-33-433 Review

- ***Noncompliance by the tenant, the landlord may deliver a written notice, specifying the acts or omissions constituting the noncompliance and stating that the rental agreement will terminate upon the date specified in the notice***
 - ***Nonpayment of rent, notice period is 7 days.***
 - ***Violation of a rule not affecting health and safety. The notice period is 14 days.***
 - ***Violation of a rule that creates an immediate threat to the health and safety, notice period is 24 hours.***
 - ***Nonpayment of rent violations, three (3) or more violations within a 12-month period of the same rule, notice period for the final violation is 30 days.***
 - ***Violation of rules that creates an immediate threat to health and safety, whether or not notice was given and the violation was remedied, notice period is 14 days.***
 - ***Two or more violations of tenant failure to maintain lot, non-payment of rent or creates immediate threat within a 6-month period, for which the notice period for the final violation is 14 days.***
 - ***Disorderly conduct that results in disruption, the notice period is 7 days.***
 - ***Any other non-compliance or violation not covered previously, notice period is 14 days.***
 - ***Conviction of a mobile home owner or a tenant of a Federal or State law affecting the health, safety or welfare of the other tenants or landlords, notice period is 14 days.***
 - ***Changes in the use of the land, the notice period is 180 days.***
 - ***Any legitimate business reason not covered elsewhere, minimum of 90 days' written notice of the termination required.***
 - ***Change of use - 15 days written notice that the landlord will be appearing before a local government. After all permits have been approved, 6 months' written notice of termination of tenancy to the change of use.***
 - ***For purposes of calculating the total number of notices given within a 12-month period, one notice for each violation per month may be in calculations***
-

Starting Your Property Management Company

Introduction

- Overview of property management as a business
- Responsibilities of a property manager
- Pros and cons of running a property management company

Business Structure & Licensing

- Choosing a legal structure (LLC, S-Corp, etc.)
- Registering your business
- State licensing requirements (Montana-specific property management licensing)
- Insurance needs (E&O, general liability, workers' compensation)

Developing a Business Plan

- Defining your services (residential, commercial, vacation rentals, HOA management)
- Setting goals and growth strategies
- Market research and competitive analysis
- Pricing your services (flat fees, percentage-based, tiered plans)

Legal & Compliance Considerations

- Understanding Montana Landlord-Tenant Laws
- Creating contracts (management agreements, lease agreements, maintenance contracts)
- Trust accounting and handling security deposits properly
- Fair Housing Laws and ADA compliance

Setting Up Operations

- Choosing property management software (AppFolio, Buildium, etc.)
- Establishing bookkeeping and financial management systems
- Setting up maintenance workflows (in-house vs. vendors)
- Developing policies and procedures for tenant screening, rent collection, and evictions

Marketing & Client Acquisition

- Identifying target clients (individual owners, investors, out-of-state owners)
- Creating a website and online presence
- Leveraging social media and online directories
- Networking with real estate agents and investors
- Developing referral programs

Building a Vendor & Maintenance Network

- Finding reliable contractors (plumbers, electricians, landscapers, etc.)
- Negotiating vendor agreements
- Managing maintenance requests efficiently
- Planning for emergency repairs and after-hours service

Hiring & Training Staff

- Deciding when to hire (assistants, maintenance staff, leasing agents)
- Employee vs. independent contractor considerations
- Training on company policies, legal compliance, and customer service
- Creating a company culture and professional standards

Scaling & Growth Strategies

- Expanding service areas and property types
- Adding additional revenue streams (leasing fees, maintenance markups, consulting)
- Streamlining operations with automation and AI tools
- Partnering with investors and developers

Common Challenges & How to Overcome Them

- Dealing with difficult tenants and owners
- Managing cash flow and financial risks
- Navigating legal disputes and evictions
- Staying up to date on industry trends and regulations

Components of a Property Management Agreement

1. Purpose of the Contract

- Defines the legal relationship between the **property owner (principal)** and the **property manager (agent)**.
- Grants the manager authority to act on the owner's behalf and outlines the scope of duties and responsibilities.

2. Essential Elements of a Management Agreement

A legally sound contract typically includes:

- **Identification of Parties**
Clearly names the owner and the management firm or individual.
- **Property Description**
Includes legal and physical description of the property under management.
- **Term of Agreement**
Specifies start and end dates, renewal options, and termination terms (with or without cause, and notice period).
- **Manager's Authority & Duties**
Defines what the manager is authorized to do, such as:
Collecting rent
 - Contracting for repairs
 - Paying bills
 - Leasing property
 - Serving notices
 - Initiating evictions

- **Owner’s Responsibilities**
Includes maintaining sufficient funds in operating accounts, providing records, and carrying insurance.
- **Compensation**
Details how the manager is paid—flat fee, percentage of gross rents, or a hybrid.
- **Reporting Requirements**
Outlines frequency and types of financial reports required (income/expense statements, bank reconciliations, etc.).
- **Trust Accounting**
Requires compliance with applicable laws for handling security deposits and owner funds (reinforce Montana trust accounting standards under ARM 24.210.805 and 70-25-201, MCA).
- **Indemnification and Liability**
Protects the manager from liability for actions taken in good faith and within the contract’s scope.
- **Termination Clause**
Specifies how the contract can be terminated early and any penalties or required notices.
- **Legal Compliance Clause**
Ensures the manager will operate in accordance with Fair Housing laws, ADA, landlord-tenant laws, and local codes.

Leasing Principals

Applications

1. Purpose of a Lease Application

- Screens prospective tenants to assess creditworthiness, reliability, and suitability.
- Helps protect the owner’s investment and minimize risk of nonpayment or property damage.
- Forms the first step in establishing a landlord-tenant relationship—before lease execution.

2. Common Components of a Lease Application

- Full legal name and contact info.
- Social Security number (or other ID).
- Employment and income verification.
- Rental history with prior landlord references.
- Personal references (optional).
- Consent for background and credit checks.
- Number of occupants and pets.
- Vehicle information.

Best Practice: Use consistent screening criteria for all applicants to avoid Fair Housing violations.

3. Tenant Screening Process

- **Credit Report:** Assesses payment history and current obligations.
- **Criminal Background Check:** Allowed under Montana law but must be applied consistently and fairly.
- **Rental History:** Look for prior evictions, late payments, or damage reports.
- **Income Verification:** Typically requires an income of 2.5x–3x the rent amount.

4. Fair Housing Compliance

- Screening must comply with federal Fair Housing laws (protected classes: race, color, national origin, religion, sex, familial status, disability) and Montana Human Rights Act (adds marital status, creed, age).
- Avoid questions about:
 - Disability or medical history
 - Children or pregnancy
 - Citizenship or immigration status
- MCA § 49-2-305 prohibits discrimination in housing based on protected classes.

5. Application Fees and Holding Deposits

- Application fees are allowed in Montana and should be nonrefundable if stated clearly.
- Holding deposits must be documented, with clear terms:
 - If applicant backs out, deposit may be forfeited.
 - If denied, deposit must be refunded.

6. Approval, Denial, or Conditional Acceptance

- Approval: Proceed to lease signing and move-in process.
 - Denial: Must comply with Fair Credit Reporting Act (FCRA)—provide notice of denial and credit reporting agency contact if a report was used.
 - Conditional Approval: May include higher deposit or co-signer if risk factors are present.
-

Leases

1. Definition of a Lease

- A lease is a binding rental agreement granting a tenant the right to occupy residential property in exchange for rent.
- It outlines the rights and obligations of both landlord and tenant and must comply with the Montana Residential Landlord and Tenant Act (MRLTA) or the Manufactured Home Lot Rental Act (for mobile home parks).

2. Types of Residential Tenancies in Montana

- Tenancy for Term (Estate for Years): Fixed start and end dates; ends automatically unless renewed.
- Month-to-Month Tenancy (Periodic): Renews automatically unless either party gives proper written notice.
- Tenancy at Will: Tenant occupies with or without a formal lease and either party may terminate at any time.
- Tenancy at Sufferance: Applies to holdovers when a tenant remains in possession without permission.
- Land Lease: An agreement to rent our land for a specified period. Common for mobile homes.

3. Requirements of a Valid Lease in Montana

- Names of all parties.
- Legal/physical description of the property.
- Lease term and start date.

- Rent amount, due date, and payment method.
- Security deposit terms.
- Signature of both parties.
- Disclosure of landlord's contact info.

4. Required Disclosures

- Lead-based paint disclosure for homes built before 1978.
- Mold disclosure is best practice.
- Move-in checklist required if collecting a deposit.

5. Security Deposits

- Return within 30 days.
- Must include itemized deductions.
- Return in 10 days if no deductions.
- No cap on amount, but must be clearly stated and reasonable.

6. Key Lease Clauses under Montana Law

- Rent: Usually due on the 1st; must be clearly defined.
- Late Fees: Must be reasonable and disclosed.
- Entry: 24-hour notice required.
- Occupancy Limits: Enforceable if in the lease.
- Subleasing: Only allowed if permitted by lease.

7. Lease Renewal and Termination

- Month-to-month: 30 days' written notice by either party.
- Fixed-term: Ends automatically unless renewed in writing.
- Early termination allowed for military, domestic violence, or landlord breach.

8. Lease Violations & Remedies

- 14-day notice to cure or vacate.
- 3-day notice for non payment of rent or pets.
- 5-day notice to terminate for repeated lease breaches.

Tenant Relations

1. Why Tenant Relations Matter

- Positive tenant relations reduce turnover, late payments, and disputes.
- Good communication promotes longer tenancies, higher tenant satisfaction, and fewer legal issues.
- Property managers serve as the public face of the owner's investment.

2. Establishing a Professional Relationship

- Begins at first contact—lease-up, showing, and application stage.
- Tenants should be treated fairly, respectfully, and consistently in accordance with Fair Housing laws.

- Consistent policies and written procedures help avoid claims of discrimination.

3. Clear and Ongoing Communication

- All lease terms and expectations must be clearly explained at move-in.
- Use welcome packets, written rules, and orientation checklists to set standards.
- Maintain open channels for maintenance requests, concerns, and updates.
- Provide reasonable notice before entering occupied units and respect privacy.

4. Handling Complaints and Conflict

- Respond promptly and professionally.
- Document all complaints and how they were handled.
- De-escalate when possible—tenant retention is more cost-effective than frequent turnover.
- Follow proper notice procedures when addressing lease violations.

5. Tenant Education and Involvement

- Encourage care for the property through education and reminders (e.g., seasonal newsletters or community bulletins).
- In HOAs or multifamily buildings, foster a sense of community and shared responsibility.

6. Tenant Retention Strategies

- Keep rent increases reasonable and justified.
- Offer lease renewal incentives where appropriate.
- Acknowledge long-term tenants with small gestures (thank-you notes, maintenance perks, etc.).

7. Move-Out Procedures

- Communicate expectations early (e.g., cleaning, keys, forwarding address).
- Use a move-out checklist and complete a documented walkthrough.
- Return security deposits within the required legal timeframe, including itemized deductions.

Commercial Property Management

1. What Is Commercial Property Management?

Involves managing income-producing nonresidential properties like:

- Office buildings
- Retail centers
- Industrial facilities
- Mixed-use developments

2. Key Differences from Residential Management

- Commercial tenants are business entities, not individuals.
- Lease terms are longer (often 3–10+ years).
- Leases are highly negotiable and tailored to each tenant.
- Rent structures often include CAM charges, escalations, and pass-throughs.

3. Types of Commercial Leases

- Gross Lease: Tenant pays rent; landlord covers expenses.
- Net Lease (Single/Double/Triple): Tenant pays rent + some or all operating expenses.
 - Single Net: Base rent plus property taxes.
 - Double Net: Base rent plus property taxes and building insurance.
 - Triple (Absolute) Net: Base rent plus property taxes, building insurance and CAM.
- Percentage Lease: Base rent plus a percentage of sales (common in retail).
- Modified Gross Lease: A hybrid—some expenses are shared.
- Ground Lease: A long term agreement where a landowner (lessor) leases the land to build on or improve the property.

4. Tenant Selection & Risk Management

- Commercial tenant selection focuses on:
 - Financial strength and creditworthiness
 - Business stability and reputation
 - Suitability for the space (retail synergy, zoning compliance)
- Management includes:
 - Insurance requirements
 - CAM reconciliation
 - Lease enforcement protocols

5. Lease Negotiation and Structuring

- More complex than residential leases—custom clauses for:
 - Build-out allowances (TI)
 - Rent escalation (step-up, CPI-based)
 - Exclusivity or non-compete clauses
 - Subleasing or assignment terms
- Property manager may work closely with attorneys and brokers during negotiation.

6. Operations and Maintenance

- Must balance tenant expectations with budget constraints.
- Services often include janitorial, security, landscaping, and HVAC.
- Preventive maintenance is key—mechanical systems are more complex and costly.
- CAM (Common Area Maintenance) budgeting and reconciliation are essential for transparency and cost recovery.

7. Reporting and Owner Communication

- Commercial owners expect professional, detailed financial reporting.
- Monthly reports typically include:
 - Rent roll
 - Variance reports (budget vs actual)
 - CAM tracking
 - Lease expiration/renewal schedule
- Managers are expected to think like asset managers, not just rent collectors.

Parties to Contracts/Agreements

Principal: The principal is the party who authorizes another party (the agent) to act on their behalf. The principal is ultimately responsible for the actions taken by the agent within the scope of their authority.

Agent: The agent is the party who is authorized by the principal to act on their behalf. The agent's actions and decisions within the scope of their authority are legally binding on the principal.

Fiduciary: A fiduciary is a person or entity that has been entrusted with the responsibility to act in the best interests of another party. Fiduciaries have a legal and ethical obligation to act with loyalty and care. Typically, a fiduciary prudently takes care of money or other assets for another person.

Guarantor: The guarantor is a person or entity that agrees to be responsible for the obligations of another party if that party fails to meet their obligations. This often involves agreeing to pay debts or fulfill other contractual duties if the primary obligor defaults.

Lessee: The party who rents or leases a property from another party. The lessee is the tenant who gains the right to use and occupy the property according to the lease agreement.

Lessor: The party who owns and rents out the property to another party. The lessor is the landlord who grants the lessee the right to use and occupy the property in exchange for rent.

Bilateral Agreement: A bilateral agreement is a type of contract where both parties make mutual promises to each other. Each party agrees to perform certain obligations or provide certain benefits to the other party, creating reciprocal commitments.

Meeting of the Minds: A "meeting of the minds" occurs when all parties involved in a contract have a clear and mutual understanding of its terms and conditions, leading to a valid and enforceable agreement. It signifies that everyone agrees on the essential aspects of the contract and their respective obligations.

Element Requirements for a Valid Contract:

- **Offer and Acceptance:** Clear agreement on lease terms between lessor and lessee.
- **Mutual Consent:** Both parties understand and agree to the terms.
- **Consideration:** Exchange of value, typically rent.
- **Legal Capacity:** Parties must be of legal age and mentally competent.

Asset Manager: A professional responsible for maximizing the financial performance and long-term value of a property or a portfolio of properties. Unlike property managers who handle the day-to-day operations, an asset manager takes a strategic, high-level approach focused on investment, profitability, and overall asset growth.

Environmental Issues & Tenant Hazards

1. Why Environmental Issues Matter

- Environmental hazards can pose serious health risks to tenants and legal risks to owners.
- Property managers are responsible for identifying, disclosing, and when necessary, mitigating environmental dangers.
- Failing to act can result in lawsuits, government fines, and long-term damage to the property's reputation.

2. Common Environmental Hazards in Rental Properties

● Lead-Based Paint

- Found in homes built before 1978.
- Dangerous when paint is peeling or disturbed—can cause developmental issues in children.
- Managers must provide tenants with disclosure forms and EPA pamphlets during leasing.

● Asbestos

- Used in older insulation, floor tiles, and siding.
- Harmless when intact but dangerous if disturbed—linked to lung diseases.
- Only licensed professionals should inspect or remove asbestos-containing materials.

● Mold

- Grows in damp, poorly ventilated areas (bathrooms, basements, under sinks).
- Can cause respiratory issues, allergic reactions, and lawsuits if left untreated.
- Tenants should be encouraged to report leaks or humidity issues immediately.

● Radon Gas

- Odorless, colorless gas that seeps into buildings from soil.
- Leading cause of lung cancer in non-smokers.
- Especially common in basements and crawl spaces—testing and mitigation is recommended.

● Water Intrusion

- From roof leaks, foundation cracks, or plumbing failures.
- Can lead to mold, rotting wood, and pest infestation.
- Fast response and proper repairs are key to preventing long-term damage.

3. Manager Responsibilities

- Disclosure: Provide tenants with all legally required environmental disclosures.
- Inspection: Regularly inspect for signs of leaks, moisture, or deterioration.
- Remediation: Hire qualified contractors for cleanup and repairs.
- Education: Instruct tenants to report problems early (e.g., smells, leaks, staining).
- Documentation: Keep records of all inspections, complaints, and repair work.

4. Legal Risk & Liability

- Managers can be held liable for negligence if hazards are ignored.
- Tenants may claim health impacts, habitability issues, or constructive eviction.
- Staying proactive is far cheaper (and safer) than defending a lawsuit later.

EPA RRP Rule for Property Managers

1. Who Must Comply

- Any firm—including property managers—that performs, offers, or claims to perform renovation, repair, or painting services in pre-1978 residential buildings or child-occupied facilities must be a Lead-Safe Certified Firm.
- Choosing certified contractors is not enough—if the property manager’s company oversees, manages, or contracts the work, they must be certified too.

2. Firm Certification & Certified Renovator

1. Certification applies at the company level. Property management companies must apply to the EPA (or an authorized state agency) to become a Lead-Safe Certified Firm.
2. At least one staff member must become a Certified Renovator by completing an EPA-accredited training course.
3. The Certified Renovator must supervise jobs, train non-certified workers, and ensure compliance on-site.

3. Pre-Renovation Requirements

Before starting any covered work:

- Distribute the “Renovate Right” EPA pamphlet to tenants or property owners.
- Obtain and document receipt or delivery of the pamphlet.
- Confirm whether lead-based paint is present, assumed, or tested for before disturbing painted surfaces.

4. Lead-Safe Work Practices

The RRP rule requires:

- Containment: Use plastic barriers to seal off work areas and prevent dust spread.
- Dust Minimization: Use wet sanding, prohibit open-flame burning, and use HEPA-filtered vacuums and tools.
- Cleanup & Verification: Perform a thorough daily cleanup and verify it meets EPA standards before re-occupancy.

5. Record-Keeping

Certified firms must keep job records for at least three years, including:

- Firm and renovator certifications.
- Documentation of pre-renovation pamphlet distribution.
- Details of lead testing (or assumption of lead).
- Descriptions of lead-safe work practices used.
- Cleaning verification forms and photos (if required).

6. Liability & Enforcement

- Property managers can face civil penalties of over \$40,000 per violation, per day.
- If your company coordinates or supervises the work—even if subcontracted—you’re still liable.
- EPA has clarified that property management companies are subject to the rule, not just contractors.

Trust Accounting Laws - 24.209.601

- (1) Property managers who receive any deposits, rent payments, or other monies on behalf of other persons must deposit such funds in a trust account per 37-56-101, MCA, and maintain the account according to this rule.
- (2) Trust accounts must be:
 - (a) liquid;
 - (b) readily accessible;
 - (c) insured in Montana financial institutions;
 - (d) identified as trust accounts; and
 - (e) reconcile each month having activity.
- (3) Trust funds cannot be:
 - (a) maintained in sweep accounts; or
 - (b) invested in certificates of deposit, repurchase agreements, or any other method that places funds at risk.
- (4) Property managers:
 - (a) may separately maintain multiple trust accounts;
 - (b) are responsible for all funds in and maintenance of their trust accounts;
 - (c) may delegate authority for trust account maintenance to another licensed property manager. Both property managers are responsible for failure to comply with trust account requirements; and
 - (d) must deposit monies belonging to others into a trust account within three business days, unless otherwise provided in the lease or rental agreement.
- (5) Trust funds may be maintained in interest-bearing accounts with interest payable to the property manager or any other person. Interest payable to a property manager must be identified as consideration for services performed and are personal funds unless otherwise designated.
- (6) Property managers may deposit and hold in a trust account up to \$1000 of personal funds that include interest accrued to the property manager.
 - (a) Personal funds may be distributed for trust account bank charges, related trust account maintenance expenses, and when due and payable to the property manager.
 - (b) Money due the property manager must be withdrawn within ten business days once due and payable.
- (7) When managing one's own real estate, property managers must deposit security deposits in a trust account. Rents and disbursements are managed as follows:
 - (a) Property managers owning 100 percent of the real estate are not required to place rents in a trust account but may do so.
 - (b) Property managers owning less than 100 percent of the real estate must place all rents in a trust account.
 - (c) If rents are included in a trust account, all disbursements must be described in the property management agreement.
 - (d) Disbursements may not be considered personal indebtedness if used for the maintenance of the property itself.
- (8) Property managers must maintain complete and chronological records of all trust account funds received and disbursed including personal funds per (6). Each record must include a running balance

and clearly identify for all transactions:

- (a) dates;
- (b) parties, payees, and sources of funds; and
- (c) amounts received, disbursed, and deposited.

(9) When a property management agreement is terminated, a rental agreement is still in effect, and the property manager is holding tenant funds, the property manager must:

- (a) notify the tenant, in writing and within five business days of termination that:
 - (i) the agreement is terminated; and
 - (ii) funds and current tenant files will be transferred to the property owner or designee within 30 days of the termination;
- (b) provide the name and contact information of the person receiving the transfer; and
- (c) within 30 days of termination, transfer all funds and current tenant files to the property owner or designee.

(10) Property managers must maintain the following documents for at least eight years from the property management agreement termination even if the property manager sells or ceases to operate the business:

- (a) trust account records;
- (b) complete files of properties managed; and
- (c) all related documents.

(11) Trust account records must be maintained to facilitate auditing. **STOP**

24.209.601 Review

- ***Any monies received as deposits, rent or other person's monies must be deposited into the trust account.***
- ***Your trust account must be insured in Montana, identified as "Trust Account," and cannot be a sweep account.***
- ***The trust account must be liquid, accessible, reconciled monthly and can't be an investment account.***
- ***You can have multiple accounts, but individual ledgers for each owner/ property.***
- ***Must deposit funds within 3 business days.***
- ***Account may be interest bearing, Interest payable to property manager must be identified as consideration for services.***
- ***No more than \$1,000 of personal funds may be in the account.***
- ***Money due to the property manager / landlord, must be withdrawn within 10 business days.***
- ***If the property is 100% personally owned by the PM, security deposits must be deposited into a trust account. Rents are not required to be deposited into a Trust account.***
- ***Property managers must maintain complete and chronological records of all trust account funds received and disbursed including personal funds.***
- ***Each record must include a running balance and clearly identify all transactions.***
- ***Records must be kept for 8 years minimum.***
- ***Termination must be notified to the tenants within 5 business days and everything must be transferred within 30 days (funds, files, etc.).***

1. What Is a Trust Account?

A trust account is a bank account used to hold money that does not belong to the property manager.

This includes:

- Tenant rent
- Tenant security deposits
- Owner funds

2. Why Trust Accounts Matter

Trust accounts exist to:

- Protect tenants and owners
- Prevent misuse of funds
- Ensure legal and ethical property management

In Montana, improper handling of trust funds can result in:

- License discipline
- Fines
- Loss of trust account privileges

3. One Trust Account, Multiple Properties

A property manager may use one trust account for many properties if:

- Each tenant has their own tenant ledger
- Each owner has their own owner ledger
- The total of all ledgers always matches the bank balance

4. Types of Money in a Trust Account

Tenant Money

- Rent
- Security deposits

Must be tracked by **tenant name and property**

Owner Money

- Rent after tenant payments
- Funds held for expenses
- Maintenance reserves

Property Manager Funds

- Small opening balance (Up to 1000.00 allowed)
- Earned management fees (Must be withdrawn within 10 business days)

5. What Is Commingling?

Commingling means mixing trust money with personal or company money improperly.

Examples of Commingling:

- Paying PM company bills with trust funds
- Paying utility bills for one property and using another's properties money to do so.

6. Ledgers Explained

Tenant Ledger

Tracks:

- Rent payment
- Security deposits
- NSF Charges
- Credits

Each tenant must have **their own ledger**.

Owner Ledger

Tracks:

- Rent received from tenants
- Expenses paid for the property
- Management fees charged
- Owner payouts/distributions
- Required reserves/maintenance reserves

Each owner/property must have **its own ledger**.

Personal Funds Ledger (Property Manager)

Tracks:

- Opening account balance
- Bank fees
- Interest earned

7. End-of-Month Reconciliation

Every month, you must be able to show:

- Bank balance
- Total of all tenant ledgers
- Total of all owner ledgers
- Personal funds ledger

All totals must **match exactly**.

My PM Co.		Acct. No 123456				
Date	Check #	Payee	Description	Debit (-)	Credit (+)	Balance
1/1		My PM Co	Open Acct		\$125.00	\$125.00
1/1		Mike Jones	Rent & Deposit		\$1,600.00	\$1,725.00
1/1		David Mills	Rent & Deposit		\$1,500.00	\$3,225.00
1/10	1001	County Bank	Jan. Mortgage	\$300.00		\$2,925.00
1/12	1002	Utility Co.	Invoice 6992	\$57.16		\$2,867.84
1/15	1003	My PM Co	Mgmt Fees	\$130.00		\$2,737.84
1/15	1004	Sam Wilson	Owner Income	\$270.00		\$2,467.84
1/15	1005	Steve Nelson	Owner Income	\$392.84		\$2,075.00
1/18	1006	VOID	VOID	\$0.00		\$2,075.00
1/31		County Bank	Service Charge	\$5.00		\$2,070.00
1/31		County Bank	Interest Earned		\$0.63	\$2,070.63

Owner Ledger //		Tenant is Mike Sam Wilson Reserve \$150				
Date	Check #	Payee	Debit (-)	Credit (+)	Balance	
1/2		Rent Payment		\$800.00	\$800.00	
1/10	1001	County Bank	\$300.00		\$500.00	
1/15	1003	My PM Co.	\$80.00		\$420.00	
1/15	1004	Owner Distributio	\$270.00		\$150.00	

Tenants Ledger		Mike Jones				
Date	Check #	Payee	Debit (-)	Credit (+)	Balance	
1/1		Deposit		\$800.00	\$800.00	
1/1		Rent Due		\$800.00	\$1,600.00	
1/2		Rent to Owners	\$800.00		\$800.00	

Owner Ledger //		Tenant is Steve Steve Nelson Reserve: \$0				
Date	Check #	Payee	Debit (-)	Credit (+)	Balance	
1/1		Rent Payment		\$500.00	\$500.00	
1/12	1002	Utility Co	\$57.16		\$442.84	
1/15	1003	My PM Co.	\$50.00		\$392.84	
1/15	1005	Owner Distributio	\$392.84		\$0.00	

Tenant Ledger		Steve Nelson				
Date	Check #	Payee	Debit (-)	Credit (+)	Balance	
1/1		Deposit		\$1,000.00	\$1,000.00	
1/1		Rent Due		\$500.00	\$1,500.00	
1/1		Rent to Owners	\$500.00		\$1,000.00	

Personal Funds		My PM Co. 123456				
Date	Payee	Debit (-)	Credit (+)	Balance		
1/1	Open Acct		\$125.00	\$125.00		
1/31	County Bank	\$5.00		\$120.00		
1/31	County Bank		\$0.63	\$120.63		

Property Management Accounting

Receivable Terms

Charge - A demand for funds from a tenant (rent).

Receipt - Money that is received onto a property. Commonly, receipts come from residents when they pay off charges (rent), but they can also come from owners or outside entities.

Credit (Receivables) - An item that "pays off" a charge, but does not affect cash on a property.

Payable Terms

Bill - A demand for funds to be paid to a vendor, owner, property manager, or resident. This is a prompt to have money leave the property.

Payment - Money that is spent from a property to pay off a bill.

Credit (Payables) - An item that "pays off" a bill, but does not affect cash on a property.

Journal Entry - A journal entry refers to a record of a financial transaction that is entered into the accounting system of the property management company or property owner. These entries are part of the double-entry bookkeeping process, where every transaction affects at least two accounts—one as a debit and one as a credit. Debits and Credits affect GL accounts depending on the type of account.

Account Type	Increase or Decrease Balance	Debit or Credit Column on Reports
Asset	Increase	Debit
	Decrease	Credit
Cash	Increase	Debit
	Decrease	Credit
Liability	Decrease	Debit
	Increase	Credit
Capital	Decrease	Debit
	Increase	Credit
Income/ Other Income	Decrease	Debit
	Increase	Credit
Expense/ Other Expense	Decrease	Credit
	Increase	Debit

Property Management Math

PRORATED RENT: The amount of rent a tenant is required to pay when they move in or out of a rental property partway through a billing period. It is calculated based on the number of days the tenant actually occupies the unit, rather than paying for a full month or full lease term.

$$(Rental\ Rate / Days\ In\ The\ Month) \times Days\ Of\ Occupancy = Prorated\ Rent$$

EXAMPLE: A tenant will be moving in on March 15th and the monthly rent is \$1600.00 per month. What will the amount due be for prorated rent?

$$1600 \div 31 = 51.61$$
$$51.61 \times 17\ days = 877.37$$

ANSWER: The prorated rent for the tenant moving in on March 15th will be \$877.37.

VACANCY RATE: A vacancy rate is a percentage that indicates the number of unoccupied rental units or spaces in a specific area or property at a given time. It represents the amount of time a property or unit sits empty between tenants or occupancy periods.

$$Number\ Of\ Vacant\ Units \div Total\ Number\ Of\ Units \times 100$$

EXAMPLE: An apartment building has 400 units out of which 220 are occupied. Calculate the Vacancy Rate.

$$400 - 220 = 180$$
$$(180 \div 400) \times 100 = 45$$

ANSWER: The vacancy rate is 45%.

MANAGEMENT FEE: A management fee is the amount paid by a property owner to a property manager or company for handling the day-to-day operations of a rental property. The fee is usually a percentage of the monthly rent or a flat monthly rate.

$$Monthly\ Rent\ Collected \times Management\ Fee\ Percent$$

EXAMPLE: If the monthly rent is \$1,500 and the management fee is 10%

$$1500 \times 0.10 = 150$$

ANSWER: \$150.00 Management fee

GROSS POSSIBLE INCOME (GPI): The total income a property could generate if it were fully occupied and all units were rented at their full market rate, without accounting for any vacancies or losses.

Total Rent Per Unit x Total Number Of Units

EXAMPLE: Rental property has 20 rental units, and each unit can be rented for \$1,000 per month.

$$20 \times 1,000 = 20,000$$

ANSWER: Gross Possible Income (GPI) for the property is **\$20,000** per month.

EFFECTIVE GROSS INCOME (EGI): The total income a property is expected to generate after accounting for vacancies, additional income and collection losses, but before accounting for operating expenses. It reflects the actual income that a property is generating.

GPI - Vacancy Loss + Other Income

EXAMPLE: A property generates a Gross Possible Income (GPI) of \$240,000 per year, representing the maximum potential income if all units are occupied. However, the property experiences \$15,000 per year in vacancy loss. In addition, it earns \$5,000 annually from other income sources such as parking and laundry. Based on this information, what is the property's Effective Gross Income (EGI)?

$$240,000 - 15,000 + 5,000 = 230,000$$

ANSWER: The **Effective Gross Income (EGI)** is **\$230,000** per year.

NET OPERATING INCOME (NOI): The total profitability of an income-producing property. It represents the income generated by the property after accounting for operating expenses.

EGI - Operating Expenses

EXAMPLE: A property has an Effective Gross Income (EGI) of \$500,000 per year. The total annual operating expenses for the property are \$300,000. Based on this information, what is the property's Net Operating Income (NOI)?

$$500,000 - 300,000 = 200,000$$

ANSWER: The **Net Operating Income (NOI)** would be **\$200,000**.

CASH FLOW: The amount of income left over after all expenses, including debt service (mortgage payments), operating costs, and other relevant expenses, have been paid.

GPI - Vacancy Loss + Other Income - Operating Expenses - Debt Service

EXAMPLE: A rental property has a Gross Possible Income (GPI) of \$150,000 per year, experiences \$6,000 per year in vacancy loss, and generates \$5,000 per year in other income such as parking and laundry. The property also has annual operating expenses of \$50,000 and annual debt service (mortgage payments) of \$35,000. Based on this information, what is the property's Cash Flow?

EGI - $150,000 - 6,000 + 5,000 = 149,000$

NOI - $149,000 - 50,000 = 99,000$

Cash Flow - $99,000 - 35,000 = 64,000$

ANSWER: The cash flow for this rental property, after accounting for GPI, vacancy loss, other income, operating expenses, and debt service, would be **\$64,000 per year**.

CALCULATING PER-UNIT FEE FOR DESIRED PROFIT: To determine what to charge per unit while maintaining a specific profit margin, property managers use a formula that accounts for both total operating costs and the desired percentage of profit. This helps set fees that cover expenses while ensuring profitability.

(Total Cost ÷ Number Of Units) ÷ (1 - Desired Profit Margin)

EXAMPLE: You are managing a 100-unit apartment complex. Your total cost to manage the property is \$20,000. You want to earn a 20% profit.

$20,000 \div 100 =$ **\$200 per unit (cost only)**

$200 \div (1 - 0.20) = 200 \div 0.80 =$ **\$250 per unit**

ANSWER: You would need to charge **\$250 per unit** to maintain a 20% profit margin.

CALCULATING ANNUAL RENT FOR COMMERCIAL SPACE: In commercial leasing, rental rates are typically quoted on a per square foot, per year basis. To determine the total annual or monthly rent, multiply the rate by the square footage of the leased space.

$$\begin{aligned} \text{Annual Rent} &= \text{Price Per Square Foot} \times \text{Total Square Feet} \\ \text{Monthly Rent} &= \text{Annual Rent} \div 12 \end{aligned}$$

EXAMPLE: A tenant is leasing 2,000 square feet of commercial space. The lease rate is \$18.00 per square foot per year.

Annual Rent: $18.00 \times 2,000 \text{ sq ft} = \$36,000$ per year
Monthly Rent: $36,000 \div 12 = \$3,000$ per month

ANSWER: The tenant will pay \$36,000 per year or \$3,000 per month in rent.

CAP RATE (Capitalization Rate): The Cap Rate is a key metric used in real estate investing to evaluate the profitability of an income-producing property. It represents the rate of return on an investment property based on its Net Operating Income (NOI) and current market value or purchase price.

$$\text{NOI} / \text{Property Value}$$

EXAMPLE: If a property generates \$50,000 in Net Operating Income (NOI) annually and is worth \$500,000, the Cap Rate would be:

$$(50,000 \div 500,000) \times 100 = 10\%$$

ANSWER: The property is expected to generate a 10% return on the investor's capital.

PROPERTY VALUATION: The process of determining the current market value of a property. It is crucial for various purposes, such as buying, selling, financing, or investment analysis. Property valuation considers a variety of factors, including the property's location, condition, market trends, income potential, and comparable sales in the area.

$$\text{NOI} / \text{CAP Rate}$$

EXAMPLE: If the NOI is \$100,000 and the cap rate is 5%, what is the property valuation?
 $100,000 / 0.05 = 2,000,000$

ANSWER: The property value would be \$2 million.

Math Sample Questions

1. You manage a 6-plex where each unit rents for \$850 per month. What is the Gross Potential Income (GPI) for the entire property for a 12-month period?

$$\frac{\text{monthly rent}}{\text{monthly rent}} \times \frac{\text{\# of units}}{\text{\# of units}} = \frac{\text{monthly GPI}}{\text{monthly GPI}}$$

$$\frac{\text{total monthly}}{\text{total monthly}} \times \frac{12}{12} = \frac{\text{annual GPI}}{\text{annual GPI}}$$

2. What is the monthly management fee on a residential home that rents for \$2,000.00 per month if the management fee is 10%?

$$\frac{\text{monthly rent}}{\text{monthly rent}} \times \frac{\%}{\%} = \frac{\text{management fee}}{\text{management fee}}$$

3. The rent in a 6-plex is \$800 per unit. What is the monthly Effective Gross Income (EGI) if you have 2 vacancies?

$$\frac{\$/\text{mo}}{\$/\text{mo}} \times \frac{\text{\# of units}}{\text{\# of units}} = \frac{\text{GPI}}{\text{GPI}}$$

$$\frac{\text{GPI}}{\text{GPI}} - \frac{\text{(vacancies x rent)}}{\text{(vacancies x rent)}} = \frac{\text{EGI}}{\text{EGI}}$$

4. What is the prorated rent on a unit if the monthly rent is \$1500.00 per month and the tenant moves in on the 15th of the month. There are 30 days in the month.

$$\frac{\text{monthly rent}}{\text{\# days}} = \text{daily rent}$$

$$\text{daily rent} \times \text{occupancy days} = \text{pro-rated rent}$$

5. What is the annual and monthly rent on a commercial space 60' x 40' at \$7.00 per square foot per year?

$$\text{length} \times \text{width} = \text{square footage}$$

$$\text{sq feet} \times \$ = \text{annual rent}$$

$$\frac{\text{annual rent}}{12} = \text{monthly rent}$$

6. What is the vacancy rate of a single family home that is rented 10 months out of 12 months?

$$\frac{\text{vacant months}}{\text{total months}} = \text{percentage}$$

7. You have 100 units at 100% occupancy. Rent is \$900/mo per unit. The owner decides to raise the rent 10% the next month and 5 tenants decide to move out. There is now a 95% occupancy. What is the monthly Effective Gross Income with the rent raise?

$$\frac{\text{# of units}}{\text{# of units}} \times \frac{\text{mo/ rent}}{\text{mo/ rent}} = \frac{\text{monthly GPI}}{\text{monthly GPI}}$$

$$\frac{\%}{\%} \times \frac{\text{mo/ rent}}{\text{mo/ rent}} = \frac{\text{rent increase}}{\text{rent increase}} \rightarrow \frac{\text{rent increase}}{\text{rent increase}} + \frac{\text{current rent}}{\text{current rent}} = \frac{\text{new rent \$}}{\text{new rent \$}}$$

$$\frac{\text{# of units}}{\text{# of units}} \times \frac{\text{new mo/ rent}}{\text{new mo/ rent}} = \frac{\text{new monthly GPI \$}}{\text{new monthly GPI \$}}$$

$$\frac{\text{new GPI \$}}{\text{new GPI \$}} - \frac{\text{old GPI \$}}{\text{old GPI \$}} = \frac{\text{increase amount \$}}{\text{increase amount \$}}$$

$$\frac{\text{vacant units}}{\text{vacant units}} \times \frac{\text{new rent}}{\text{new rent}} = \frac{\text{vacancy loss}}{\text{vacancy loss}}$$

$$\frac{\text{new GPI}}{\text{new GPI}} - \frac{\text{vacancy loss}}{\text{vacancy loss}} = \frac{\text{new EGI}}{\text{new EGI}}$$

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 **20%** profit?
For 20% Profit:

- Change 20% to its decimal form of 0.2
- Subtract 0.2 from 1, equalling 0.8
- Divide the original cost by 0.8

COST per unit:

$$\frac{\text{managing cost}}{\text{managing cost}} \div \frac{\text{\# of units}}{\text{\# of units}} = \frac{\text{cost per unit}}{\text{cost per unit}}$$

FEE per unit:

$$\frac{\text{cost per unit}}{\text{cost per unit}} \div \frac{\text{profit margin}}{\text{profit margin}} = \frac{\text{fee/ unit}}{\text{fee/ unit}}$$

9. The rent on a single family home is \$600 per month with a 12 month lease. However, if there's an incentive of 1 month free rent, what will the monthly effective rent be?

$$\frac{\text{monthly rent}}{\text{12 months}} \times \frac{\text{12 months}}{\text{12 months}} = \frac{\text{GPI}}{\text{12 months}}$$

$$\frac{\text{GPI}}{\text{12 months}} - \frac{\text{mo/ rent}}{\text{12 months}} = \frac{\text{EGI}}{\text{12 months}}$$

$$\frac{\text{EGI}}{\text{12 months}} \div \frac{\text{12 months}}{\text{12 months}} = \frac{\text{effective rent/ mo}}{\text{12 months}}$$

10. Find the **monthly** NOI, EGI, GPI and Cash Flow. Figures are monthly:

50 Units	@ \$600/ mo
5 Units Vacant	
Maintenance Costs	\$1500
Utilities	\$500
Management Fee	6%
Debt Service	\$8860

CASH FLOW CHART:

Gross Possible Income (GPI)

- Vacancy
- Misc. Income (Laundry)

GPI: _____

- _____
- _____

= Effective Gross Income (EGI)

- Operating Expenses

EGI: _____

- _____

= Net Operating Income (NOI)

- Debt Service

NOI: _____

- _____

= CASH FLOW

CASH FLOW _____

Property Management Glossary

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 – A monthly fee paid by cooperative and condominium owners to cover maintenance costs for the property. 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.

Amenities - Characteristics of a property which increases its value or appears beneficial to prospective tenants.

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.

Bilateral Lease - a contract in which both parties exchange promises to perform. One party's promise serves as consideration for the promise of the other. As a result, each party is an obligor on that party's own promise and an obligee on the other's promise.

Break Clause - Allows either the landlord or tenant to end the tenancy earlier than the fixed term.

Business Cycle – A wavelike movement of increasing and decreasing economic prosperity consists 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.

Cap Rate - used to determine the return on investment for certain investment properties.

CAM Fee - Common Area Maintenance

Covenant of Quiet Possession - a legal term referring to a tenant's right to enjoy their rented property without unreasonable interference from the landlord or anyone claiming through the landlord. This means the tenant can live in the property without disturbances, harassment, or actions that prevent them from using the property as intended.

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.

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.

Expenses - Monies paid out to third parties for expenses, such as property maintenance.

FFHA - Federal Fair Housing Act.

Fidelity Bond – A type of surety bond designed to protect a business owner or hiring party from damage or mismanagement by an employee.

Fiduciary Relationship - a person who holds a legal or ethical relationship of trust with one or more other parties. Typically, a fiduciary prudently takes care of money or other assets for another person.

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.

GPI – Gross Potential Income, the maximum amount of rental income that can be obtained within a time window, assuming all properties are occupied and rental amounts are billed in full.

Gross Lease – A common residential lease under which the tenant pays a fixed rental and the landlord pays all operating expenses for the property.

Ground Lease - As a legal term, ground rent specifically refers to regular payments made by a holder of a leasehold property to the freeholder or a superior leaseholder, as required under a lease.

HUD – Housing and Urban Development

Income and Expense Report – A monthly financial report showing the income from the property, operating expenses, and the amount remitted to the owner.

Interest - A percentage charged by the lender from a borrower for using particular assets.

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.

Lease Elements – Identify the parties, property description, lease terms, rent and pay terms, security deposit, maintenance provisions, entry and access provisions, rules and

regulations, utility and services, termination and renewal, legal provisions, signature and date.

Lessee – A person who rents or leases property, known as the tenant.

Lessor – One who owns leased or rented property, known as the landlord.

Liabilities - What the property owes, such as security deposits to residents or mortgage payments.

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 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.

Net Operating Income - Before-tax figure, which highlights property revenue following the subtraction of operating expenses.

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.

Periodic Tenancy - A tenancy that continues for successive periods until the tenant gives the landlord notification that he wants to end the tenancy.

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 extends 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 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.

Tenancy for Years / Estate – a lease for a fixed period of time. The lease includes a specific ending date and can be for an extended period of time.

Tenancy / Estate by Sufferance – a type of leasehold estate in which a tenant stays in possession of a property after the lease has expired or been legally terminated without the consent of the owner/landlord.

Tenancy / Estate at Will – a property tenure, without a lease or written agreement, that can be terminated at any time by either the tenant or the owner (landlord). It exists without any contract or lease and usually does not specify the length of a tenant's duration or the exchange of payment. **Tenancy / Estate**

from Period to Period (See: Periodic Tenancy) – a tenancy which continues for periods of time, typically year-to-year, month-to-month, or week-to-week, as designated by landlord and tenant in their agreement. The most common periodic tenancy is the month-to-month tenancy.

Study Guide

Notices Provided via Mail

- Notice is considered given **3 days after date of mailing**.

Notice to Enter

- Landlord shall provide the tenant with **24 hours notice to enter** unless impracticable or emergency.

Unsigned Rental Agreement

- If an unsigned rental agreement provides for a term longer than 1 year, it is **effective for only 1 year**.

Default Lease Length When Not Specified

- **Roomer** default lease length is **week-to-week**.
- **Residential tenant** default lease length is **month-to-month**.
- **Commercial** default lease length is **1 year**.

Rental Unit Not Ready For Occupancy

- Tenant may provide the landlord **5 days' written termination notice** to the landlord, and upon termination, the landlord shall return all prepaid rent and security if the property is not ready to move in on the agreed upon date.

Landlord Failing to Maintain the Property

- Maintenance affecting Health / Safety - Landlord has **14 days to correct**
- Emergency Maintenance / Health or Safety - Landlord has **3 working days** to correct
- 2nd time, same issue, in 6 months - Tenant can terminate with **14 days notice**

Non-Compliance Of Lease By Tenant - Residential

Landlord can provide the following minimum notice timeframes:

- Unauthorized Tenant/Guest
 - **3 days** to correct or vacate
- Unauthorized Pet
 - **3 days** to correct or vacate
- Non-Payment of rent

- **3 days** to pay or vacate
- Verbal Abuse of property manager
 - **3 days** to correct or vacate
- Damage, destroy, danger to neighbors
 - **3 days** to vacate
- All other breaches of lease
 - **14 days** notice to correct or vacate
- 2nd time, same issue, in 6 months
 - **5 days** to vacate

Abandoned Property (non court ordered)

- **Wait 48 hours** prior to removing property after posting notice.
- Inventory and store items (except hazardous, perishable or valuable items).
- Notify tenant of date of disposal of items, at least **10 days** from date of mailing.
- If tenant responds in writing to the **10 day notice**, they have **7 days** to pick up items.

Change of Management Company

- Notice to the tenant within **5 days** of termination.
- No longer responsible for management **as soon as notice is provided** to tenant.
- All paperwork (rental agreements, deposits, prorated rents, move in condition reports, etc) shall be transferred to new owner / property manager within **30 days**.

Retaliatory Conduct

- **Retaliatory conduct** by landlord is presumed if landlord raises rent, gives notice to vacate, etc within **6 months** of a complaint by tenant.

Security Deposits Refund

- **30 days if deductions** are made to the security deposit.
- **10 days if no deductions** are made (and the tenant can demonstrate that no utilities are unpaid).

Time to Allow for Cleaning

- Landlord must provide the tenant with a list of cleaning not accomplished and allow **24 hours for the tenant to perform cleaning**.
- Landlord **does not** need to provide this list if the tenant vacates without notice or it is a court ordered action for possession.

Mobile Home Law Notice Periods

Nonpayment of Rent

- **7 days to pay or correct**
- 3 or more times in 12 months, written notice is **30 Days**

Violation of a rule that does not create an immediate threat.

- **14 days to correct**
- **2 or more times in 6 months, written notice to terminate is 30 days**

Violation of Rule that create immediate threat

- **24 Hours** to correct
- **2 times in 6 months, written notice to terminate is 30 days**

Violation for failure to maintain lot

- **14 day notice to correct**
- **2 or more times in a 6 month period, notice period to terminate is 14 days**

Change in use notice period

- **180 Days**

Legitimate business reason change notice period

- **90 Days**

Fire Or Casualty Damage To Home -

- The tenant may immediately vacate the premises and notify the landlord in writing within **14 days** of vacating the premises they intend to terminate the lease. Mobile home owners must remove the home within **30 days** of the damage.

Court Times

Eviction / Action for Possession

- Tenant must **answer** action for possession within **5 days** of being served.
- Court must **hear the case** within **10 business days** after response received from tenant.
- Court must **hear the case** within **5 business days** response received from the tenant for criminal or gang activity.
- If transferred to district court, the hearing must be held in **10 business days** except if terminated for criminal/ gang, the hearing must be held within **5 business days**

Licensing

Continuing Education:

New Property Manager

- 4 Hours trust accounting, if available, taken by 1st renewal date.

Established Property Manager Renewal

- **12 hours required each year** (By Oct. 31st)

Lapsed / Expired / Terminated License Status

- Renewal date is Oct. 31st
- **Lapse** status will last for **45 days**
- "Lapse" will become "Expired" after **45 days**
- **"Expired" will become "Terminated" after 2 years**

Updating Address

- You must **update your office address within 10 days** after the address change.

Trust Accounts

Deposits

- Deposits for residential transactions must be made within **3 business days**.
- Deposits for non-residential transactions must be made within **3 business days, or as otherwise agreed**.

Withdrawing Management Fees

- Money held in the trust account, which is due and payable to the property manager, must be withdrawn within **10 business days** after such money becomes due and payable to the property manager.

Record Retention

- 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 **8 years** from the date the property management agreement terminates.

Fair Housing

"Fair housing" = Making decisions about a household's eligibility for services based on qualifications that don't include reference to protected characteristics.

Fair Housing Laws & Protections

Protected Classes (1968) **ADDED:**

- **Race, Color, Religion, National Origin, Sex, Familial Status, Disability**

Montana Human Rights Act (1974)**ADDED:**

- Age, Marital Status, Creed

Protected Classes (1988) **ADDED:**

Familial Status

- Presence of children under the age of 18 in the household or pregnancy

Disability

- Denial of because of mental or physical disability
- Denial of Requests for Reasonable Modifications
- Denial of Requests for Reasonable Accommodations
- Design & Construction of Multi-family Housing

Prohibited Discriminatory Practices

- Refusing to sell, rent, or negotiate based on protected class
- Discriminatory terms/conditions
- False availability (e.g., "unit not available" when it is)
- Discriminatory advertising
- Blockbusting: inducing sales by suggesting people of a certain group are moving in

Steering: Directing buyers/renters based on protected class

Blockbusting: Inducing panic selling with racialized claims

Redlining: Denial of services like loans based on racial composition of neighborhood

DISABILITY COVERS:

Individuals:

- With physical/mental impairment that limits major life activity
- With a history or perception of such an impairment

Not Covered:

- Current illegal drug users, untrained animals, creates threats to others

Reasonable Accommodations vs. Modifications

- **Accommodation:** Changes to rules/policies (e.g., rent due date, live-in aide)
- **Modification:** Physical changes to dwelling (e.g., grab bars, ramps)
- Requests can be verbal and must be kept confidential

Exemptions from FHA & MHRA

- **Tribal Housing:** May restrict to tribal members
- **Religious/Private Clubs:** Limited exemptions
- **Owner-occupied units:** Various size-based exemptions (1-4 units, no agents)
- **62+ Housing:**
 - All residents in all units must be **62 years of age or older**.
 - This is the most restrictive exemption.
- **55+ Housing:**
 - At least one person age 55 or older must live in at least 80% of the occupied units.
 - This allows for mixed-age households, as long as the 55+ rule is met in 80% of units.

Schedule Review

TYPE:

- Unauthorized Pet
- Unauthorized Person
- Verbal Abuse
- Non-Payment of Rent
- Damage to Property
- Health and Safety Violation
- Gangs, Drugs, Labs
- Other Lease Violations

TIMELINE:

- 3 Day Correct or Quit
- 3 Day Correct or Quit
- 3 Day Correct or Quit
- 3 Day Pay or Quit
- 3 Day Quit
- 3 Day Pay or Quit
- 3 Day Pay or Quit
- 14 Day Correct or Quit

Tips on Taking the Exam

Be physically and mentally prepared

- Get a good night's sleep
- Eat a healthy meal prior to the test
- Take the exam at a time that aligns with your personal rhythm (e.g., avoid early morning if you're not a morning person).
- Wear comfortable clothing, you have two hours to complete the test!

Skip hard questions

- By skipping any questions that will take you a while or that are difficult you can quickly get through questions that are quicker and/or easier while you have fresh knowledge.
- You are allowed to go back and review questions.
 - You can flag them too. Most of the time you will get an answer in a future question!
- This strategy keeps your momentum going and builds confidence.

When answering math questions

- **Re-read the question carefully** to ensure you understand exactly what's being asked. (monthly rent or yearly rent?)
- Watch for **keywords** that indicate units or timeframes (monthly, annually, per square foot, etc.).

- **Don't assume anything** — confirm whether you're solving for total, per unit, before-tax, etc.
- Eliminate **irrelevant information** — test writers often include extra data to test your focus.
- **Use scratch paper or a calculator** to stay organized and remember items for future questions.
- **Know your formulas and terminology** — understanding terms like *net operating income, depreciation, cap rate, etc.*, is critical.

General Testing Strategies

- **Read every question thoroughly**, even if it seems easy — small wording changes can reverse the meaning.
- **Pace yourself** — be mindful of time, and don't spend too long on any single question. (You have to full hours for 70 questions – *almost 2 mins a question*)
- **Stay calm** — deep breaths and a steady mindset will help you think clearly.
- **Trust your preparation** — avoid second-guessing unless you're sure you misread something. Your gut is usually right!

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Thank You For An Amazing Course! Please feel free to reach out if you need anything in your Property Management Career!! Best of Luck on the Exam =)

-Sabrina & Braedyn 