

SENATE BILL NO. 421

INTRODUCED BY E. BOLDMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RESIDENTIAL RENTAL APPLICATION FEES; WAIVING CHARGES FOR OR REQUIRING THE REFUND OF PORTIONS OF RESIDENTIAL RENTAL APPLICATION FEES; ALLOWING CERTAIN COSTS TO BE DEDUCTED; PROVIDING FOR A CIVIL ACTION IF AN APPLICATION FEE IS WRONGFULLY WITHHELD; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Application fees -- credit checks -- reimbursement -- deduction of costs. (1) A landlord or manager of a residential premises that requires an application fee prior to the rental of the residential premises shall reimburse the application fee to the applicant within 20 days if the applicant does not become a party to a signed rental agreement for the residential premises or on the date that the applicant does not become a party to a rental agreement that has the same effect as if it had been signed pursuant to 70-24-204. The landlord or manager of the residential premises may deduct out-of-pocket costs from the refund as provided in subsection (3). Alternatively, the landlord or manager may accept a credit check, criminal background check, or any application information as provided by the applicant within the prior 6 months, as provided in subsection (2), and waive the application fee.

(2) Credit checks or criminal background checks performed by a landlord or manager must be provided to the applicant within 7 days and remain valid for 6 months. Credit checks or criminal background checks performed by a landlord or manager must identify the date of the credit check or criminal background check and the name of the landlord or manager. The fee for credit checks or criminal background checks may not exceed the cost to the landlord or manager of the credit check or criminal background check. Valid credit checks or criminal background checks must be accepted by all landlords or managers and may not be deducted as costs by more than one landlord or manager of a residence.

(3) If the application fee includes costs pertaining to specific services, the applicant must be given

1 written notice of the portions of the total application fee allocated to each cost at the time the application fee is
2 collected. If the applicant does not become a party to a rental agreement as provided in subsection (1), the
3 landlord or manager may retain only the costs specified in the written notice for services actually performed and
4 shall refund the balance as provided in subsection (1). The landlord or manager may not retain the cost of a
5 service that was not performed, even if the cost was specified in the written notice that was provided to the
6 applicant.

7 (4) A person who wrongfully withholds an application fee or any portion of an application fee is
8 liable in damages to the applicant in a civil action for an amount equal to the sum determined to have been
9 wrongfully withheld or deducted. Attorney fees may be awarded to the prevailing party at the discretion of the
10 court. The burden of proof of services rendered by the landlord or manager pertaining to the application is on
11 the landlord or manager.

12 (5) For the purposes of this section, the following definitions apply:

13 (a) "Application fee" means the total amount an applicant shall pay to be considered for renting the
14 residential premises.

15 (b) (i) "Cost" means the out-of-pocket expense to a landlord or manager, not to exceed \$25, for a
16 specific service in relation to the application performed prior to approval or disapproval of a tenant, including but
17 not limited to a credit check or criminal background check.

18 (ii) The term does not include a fee for the landlord's or manager's time or effort for arranging or
19 performing the service.

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21 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
22 integral part of Title 70, chapter 24, part 1, and the provisions of Title 70, chapter 24, part 1, apply to [section 1].

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24 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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26 **NEW SECTION. Section 4. Applicability.** [This act] applies to application fees collected by a
27 landlord or manager after [the effective date of this act]

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