

Montana Legal Services Association



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To: Members of Economic Affairs Interim Committee
From: Amy Hall *AH*
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Subj: Follow-up to MLSA's comments made at the March 10 committee meeting

Montana Legal Services Association provides this follow-up to its comments regarding property manager licensing, made at the Committee's March 10 meeting. At the end of that meeting, Senator Boldman asked MLSA to provide further comments on three issues:

- 1) Analysis of the exemptions statute (Mont. Code Ann. § 37-56-104), and what changes MLSA suggests;
- 2) Suggestions for how to add more enforceability to the property management protocol, to provide more enforcement remedies for tenants; and
- 3) An analysis of rental application fees and other fees that property managers charge tenants, and how the new statute passed in 2025, § 37-56-109, which regulates application fees, is affecting tenants.

Analysis of the Exemptions Statute

By enacting Title 37, Ch. 56, the Montana legislature has expressed the policy that property managers be accountable to the State for their actions. This Montana policy makes good sense because there are 138,417 renter households in Montana [<https://nlihc.org/oor/state/mt>], and many of those rentals are managed by persons other than the property owner. It is critical that property managers obtain appropriate levels of training and education to ensure that they are prepared to meet the challenges of their demanding roles, and that property managers be accountable for their actions on the job.

MLSA's position concerning property management is that as a general rule, the person who serves as the landlord's primary point-of-contact for the renter (as to applications, leases, repairs, etc.) should be licensed as a property manager. Section 37-56-104 provides so many exemptions – including the owner's spouse, child, descendent of a child, nephew, aunt, the partner in a partnership – that the exemptions swallow up the rule of who must be licensed as a property manager.

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In this interim study, as the Committee reviews the exemptions statute with a critical eye, MLSA suggests particular focus on the following subsections of § 37-56-104:

(a) an owner of a business entity that owns the property;

* MLSA concern: Many rental properties are owned by business entities, such as corporations or partnerships. Subsection (a) exempts them from licensing, and exempts an owner who resides out of state and may have no knowledge of Montana law.

(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).

* MLSA concern: same as above

(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;

* MLSA concerns about (c) and (d): If these relatives are in charge of the day-to-day operations of the rental, they should be subject to the State's education and licensing requirements.

(f) a person acting as attorney-in-fact under a power of attorney;

* MLSA concern: Subsection (a) does not provide any constraints for who can be named as attorney-in-fact by a property owner.. The owner could appoint a person who has questionable morals or past criminal charges involving theft, fraud or violence, which would raise significant red flags for renters, knowing that this property manager has full access and keys to their rented homes.

(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;

* MLSA concerns about (j) and (k): If the owner is paying someone to manage the rental property, that person should be subject to the education and licensing requirements, whether they receive reduced rent or salary, and whether they have other employment-related duties besides the property management.

(l) a person managing an establishment licensed under Title 50, chapter 51; or

* MLSA concern: Title 50, ch. 51 applies to hotels, motels, and rooming houses. It is common for those establishments to rent rooms to renters on a long-term basis (for more than 30 days). If they choose to provide long-term rentals, they should be subject to the same education and licensing requirements as property managers.

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

* MLSA concern: Subsection (m) is worded broadly, and could cover all persons employed by property management companies, since “person” is often defined to include business entities (see Rule 4(a), Mont. Civ. Pro.). Further, it makes no sense for the State to exempt someone employed on a salaried basis and not exempt someone employed on an hourly basis.

Suggestions for How to Provide More Enforcement Power to Renters

A renter should have more options for remedies when their manager violates the licensing rules, other than just complaining to Dept. of Labor and Industry. A renter should be able to raise a claim against a landlord and/or property manager for not complying with the property manager licensing statutes. Currently, the renter’s only remedy for a property manager not being licensed is to file a complaint through DLI. That complaint process takes time, and meanwhile, the renter could be evicted by the individual who’s acting in violation of the property management statutes. Even if the renter files a complaint and DLI ends up finding that the property manager violated the law, the remedy is State disciplinary action against the individual who violated the statute; the renter is not a party to that administrative complaint proceeding, and usually will not receive any recovery even if the individual acting as manager is found to be in the wrong.

MLSA suggests that the Committee consider proposing statutory amendments that would allow a renter to be a party to the DLI proceeding, and would allow DLI to require an individual who violates the statute to pay compensation to the renter. Also, MLSA suggests allowing a renter to file a claim in court against an individual acting as a property manager and/or against the property owner, for the individual’s violation of Montana law.

Fees Charged by Property Managers to Renters

Currently, Montana’s landlord-tenant statutes do not put any limits on the kinds of fees that a landlord can charge a renter, or on the amount of those fees. At the committee hearing in March, Margaret Morgan gave compelling public comment and provided a list of fees charged by one property management company to renters. Those kinds of fees are not uncommon in Montana rentals, and the landlords treat nonpayment of those fees the same as nonpayment of rent. Thus, a renter may have paid their rent in full every month, but could face eviction for not paying the \$199 “move-in admin fee,” for example. (That fee is one of the fees listed in the property manager’s list provided by Ms. Morgan.)

The new statute which took effect October 1, 2025, Section 37-56-109, requires the refund of application fees to persons who apply for rentals but are not selected. This new statute significantly benefits rental applicants because they often pay \$25 to \$75 for each adult in their

household as application fees, to every landlord to whom they apply for a rental. Those amounts add up quickly. It's not uncommon for a renter-applicant household to shell out over \$700 in application fees when looking for a place to rent. MLSA has posted FAQs about the new statute -- <https://www.montanalawhelp.org/resource/landlord-fees-faq>. So far, no renter applicants have contacted MLSA related to this new statute, so MLSA has no information about the practical effects of § 37-56-109.

Thank you for the opportunity to provide these comments. MLSA appreciates the work done by this Committee on this important topic, which directly impacts thousands of Montanans.