

SENATE BILL NO. 25

INTRODUCED BY R. WEBB

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CONDOMINIUM AND TOWNHOME LAWS;
5 PROVIDING REQUIREMENTS FOR CONVERSION OF A CONDOMINIUM TO A TOWNHOME OR
6 TOWNHOUSE; REQUIRING THAT NOTICE OF THE CONVERSION AND AN OPPORTUNITY TO OBJECT TO
7 THE CONVERSION BE GIVEN TO MORTGAGE HOLDERS OF CONDOMINIUM UNITS TO BE CONVERTED
8 TO TOWNHOMES OR TOWNHOUSES; PROVIDING THAT AN AMENDED DECLARATION MUST BE
9 ACCEPTED FOR RECORDING IF IT MEETS CERTAIN REQUIREMENTS; PROVIDING THAT THE
10 CONVERSION OF A CONDOMINIUM TO A TOWNHOME OR TOWNHOUSE IS EFFECTIVE UPON THE
11 RECORDING OF THE AMENDED DECLARATION; CLARIFYING THE DEFINITION OF "TOWNHOME" OR
12 "TOWNHOUSE"; REQUIRING A CONDOMINIUM DECLARATION TO STATE THE PERCENTAGE OF
13 OWNERS ALLOWED TO AMEND THE DECLARATION IF LESS THAN 100%; AMENDING SECTIONS
14 70-23-102 AND 70-23-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
15 APPLICABILITY DATE."

16

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

18

19 NEW SECTION. **Section 1. Conversion of condominium to townhome.** (1) A condominium may be
20 converted to a townhome or townhouse if the percentage of unit owners required for approval of amendments
21 pursuant to the condominium's most recently recorded declaration consent in writing to the conversion and an
22 amended declaration containing a legal description of the land beneath each unit to be converted to a townhome
23 is recorded.

24 (2) Within 10 days following the date of written consent pursuant to subsection (1), a representative of
25 the unit owners who consented to the conversion shall deliver by certified mail, return receipt requested, to each
26 lender holding a mortgage against a unit subject to the conversion or to the applicable loan servicing company
27 a written notification of the proposed conversion with an opportunity to respond. If a lender or loan servicing
28 company does not, within 45 days after the date of the mailing of the written notification, send by certified mail
29 to the representative who prepared the notification a written notice of objection to the conversion and a written
30 explanation of the lender's or loan servicing company's requirements for acceptance of the conversion, the lender

1 is considered to have consented to the conversion, and the unit owners' representative may record the amended
2 declaration.

3 (3) The amended declaration must be executed in accordance with 70-23-301.

4 (4) An amended declaration must be accepted for recording by the clerk and recorder if the amended
5 declaration contains a description of the units pursuant to subsection (1) and meets the requirements of
6 70-23-301, 70-23-305, and this section.

7 (5) The conversion of a condominium to a townhome or townhouse is effective upon recording of the
8 amended declaration. The amended declaration must be accompanied by an exhibit containing certification by
9 the unit owners that they have consented in writing to the conversion as provided in subsection (1).

10

11 **Section 2.** Section 70-23-102, MCA, is amended to read:

12 **"70-23-102. Definitions.** In this chapter, unless the context requires otherwise, the following definitions
13 apply:

14 (1) "Association of unit owners" means all the unit owners acting as a group in accordance with the
15 declaration and bylaws.

16 (2) "Building" means a multiple-unit building or buildings comprising a part of the property.

17 (3) "Common elements" means the general common elements and the limited common elements.

18 (4) "Common expenses" means:

19 (a) expenses of administration, maintenance, repair, or replacement of the common elements;

20 (b) expenses agreed upon as common by all the unit owners; and

21 (c) expenses declared common by 70-23-610 and 70-23-612 or by the declaration or the bylaws of the
22 particular condominium.

23 (5) "Condominium" means the ownership of single units with common elements located on property
24 submitted to the provisions of this chapter. The term does not include a townhome or townhouse.

25 (6) "Declaration" means the instrument by which the property is submitted to the provisions of this
26 chapter.

27 (7) "General common elements", unless otherwise provided in a declaration or by consent of all the unit
28 owners, means:

29 (a) the land on which the building is located, except any portion of the land included in a unit or made
30 a limited common element by the declaration;

1 (b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs,
2 fire escapes, entrances, and exits of the building;

3 (c) the basements, yards, gardens, parking areas, and outside storage spaces, private pathways,
4 sidewalks, and private roads;

5 (d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration,
6 air conditioning, waste disposal, and incinerating;

7 (e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and
8 installations existing for common use;

9 (f) the premises for the lodging of janitors or caretakers of the property; and

10 (g) all other elements of the building necessary or convenient to its existence, maintenance, and safety
11 or normally in common use.

12 (8) "Limited common elements" means those common elements designated in the declaration or by
13 agreement of all the unit owners as reserved for the use of a certain unit or number of units to the exclusion of
14 the other units.

15 (9) "Majority" or "majority of the unit owners", unless otherwise provided in the declaration, means the
16 owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements
17 as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever
18 a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided
19 ownership.

20 (10) "Manager" means the manager, board of managers, or other person in charge of the administration
21 of or managing the property.

22 (11) "Project" means a real estate condominium project whereby a condominium of two or more units
23 located on property submitted to the provisions of this chapter ~~are~~ is offered or proposed to be offered for sale.

24 (12) "Property" means the land, all buildings, improvements, and structures on the land, and all
25 easements, rights, and appurtenances belonging to the land that are submitted to the provisions of this chapter.

26 (13) "Recording officer" means the county officer charged with the duty of filing and recording deeds and
27 mortgages or other instruments or documents affecting the title to real property.

28 (14) "Townhome" or "townhouse" means property that is owned subject to an arrangement under which
29 persons own their own units and hold separate title to the land beneath their units, but under which they may
30 jointly own the common areas and facilities. The land beneath a unit may include the land beneath patios and

1 decks attached to the unit and may include any private yard area within the unit footprint as depicted on any site
 2 plan attached to and recorded with the declaration.

3 (15) "Unit" means a part of the property including one or more rooms occupying one or more floors or
 4 a part or parts of the property intended for any type of independent use and with a direct exit to a public street
 5 or highway or to a common area or area leading to a public street or highway.

6 (16) "Unit designation" means the number, letter, or combination of numbers and letters designating a
 7 unit in the declaration.

8 (17) "Unit owner" means the person owning a unit in fee simple absolute individually or as co-owner in
 9 any real estate tenancy relationship recognized under the laws of this state. However, for all purposes, including
 10 the exercise of voting rights, provided by lease filed with the presiding officer of the association of unit owners,
 11 a lessee of a unit must be considered a unit owner."

12

13 **Section 3.** Section 70-23-301, MCA, is amended to read:

14 **"70-23-301. Contents of declaration.** A declaration must contain:

15 (1) a description of the land, whether leased or in fee simple, on which the building is located or is to be
 16 located;

17 (2) the name by which the property will be known and a general description of the building, including the
 18 number of stories and basements, the number of units, and the principal materials of which it is constructed;

19 (3) the unit designation, location, approximate area of each unit, and any other data necessary for proper
 20 identification;

21 (4) a description of the general common elements and the percentage of the interest of each unit owner
 22 in the common elements;

23 (5) a description of the limited common elements, if any, stating to which units their use is reserved and
 24 in what percentage;

25 (6) a statement of the use for which the building and each of the units is intended;

26 (7) the name of a person to receive service of process in the cases provided in 70-23-901 and the
 27 residence or place of business of the person which must be within the county in which the property is located;

28 (8) an exhibit containing certification from the applicable local government that the condominiums,
 29 townhomes, or townhouses are either exempt from review under 76-3-203 or have been approved following
 30 review under Title 76, chapter 3, parts 5 and 6; and

