



AN ACT CLARIFYING THE DEFINITION OF COMMUNITY LAND TRUSTS THAT OWN LAND TO PRESERVE AFFORDABLE HOUSING; AND AMENDING SECTION 70-23-102, MCA.

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

Section 1. Section 70-23-102, MCA, is amended to read:

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

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

(2) "Borrower" means a mortgagor, grantor as defined in 71-1-303, or other debtor.

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

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

(5) "Common expenses" means:

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

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

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

(6) "Community land trust" means a nonprofit organization ~~exempt from taxation~~ under section 501(c)(3) of the Internal Revenue Code that holds title to land beneath individually owned ~~housing~~ units, including but not limited to single-family homes, townhomes, condominiums, and multi-unit rental properties for the purpose of preserving affordable housing.

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

~~community land trust, or a housing unit located on land belonging to a community land trust.~~

(8) "Conversion" means a change in the character of residential real property from one or more parcels of land with attached condominium units to one or more parcels of land with attached townhome or townhouse units without a change to the undivided interest of the unit owners.

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

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

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

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

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

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

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

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

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

(11) "Lienholder" means a person holding a security interest, including a mortgagee, beneficiary of a trust indenture, or other creditor who holds a mortgage, trust indenture, or other instrument that encumbers real property.

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

(13) "Majority" or "majority of the unit owners", unless otherwise provided in the declaration, means the

owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided ownership.

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

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

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

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

(18) "Townhome" or "townhouse" means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

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

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

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

- END -

I hereby certify that the within bill,
HB 304, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 304

INTRODUCED BY F. GARNER, D. FERN

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