

SENATE BILL NO. 188

INTRODUCED BY C. VINCENT

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT REAL PROPERTY DAMAGE RESTORATIONS COSTS MAY NOT BE GREATER THAN THE FAIR MARKET VALUE OF THE PROPERTY IMMEDIATELY BEFORE A FIRE; DEFINING "FOREST OR RANGE FIRE"; AMENDING SECTION 50-63-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 50-63-104, MCA, is amended to read:

**"50-63-104. Liability for forest or range fires.** (1) In a civil action against any person or legal entity that is not a state government entity or a political subdivision of state government, for a forest or range fire caused by a negligent or unintentional act or omission that is not willful or wanton, the real and personal property damage is limited to:

- (a) the reasonable costs for controlling or extinguishing the forest or range fire;
- (b) economic damages; and
- (c) either:
  - (i) the diminution of fair market value of the real and personal property resulting from the fire; or
  - (ii) the actual and tangible restoration costs associated with restoring the damaged real and personal property to its undamaged state to the extent that those actual and tangible ~~restoration~~ costs are reasonable and practical. The restoration costs OF RESTORING THE UNIMPROVED PROPERTY may not be greater than the fair market value of the property immediately before the fire.

(2) As used in this section:

- (a) "economic damages" means objectively verifiable monetary loss, including but not limited to out-of-pocket expenses, loss of earnings, loss of use of property, and loss of business or employment opportunities;
- (b) "fair market value" means the amount a willing buyer would pay a willing seller in an arm's-length transaction when both parties are fully informed about all of the advantages and disadvantages of the property and neither is acting under any compulsion to buy or sell, as determined by a certified appraiser who is qualified

1 to appraise the property;

2 (c) "forest or range fire" means a fire that burns any unimproved real property located outside of an  
3 incorporated municipality, regardless of whether there are improvements also affected by the fire and regardless  
4 of whether the fire also burns property within an incorporated municipality."

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6 NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured,  
7 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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

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11 NEW SECTION. Section 4. Applicability. [This act] applies to all actions and proceedings initiated after  
12 [the effective date of this act].

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