

HOUSE BILL NO. 172

INTRODUCED BY R. FITZGERALD

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CERTAIN RURAL TELEPHONE COOPERATIVE
5 VOTE REQUIREMENTS; PROVIDING VOTING MEMBERSHIP FOR THE DISPOSITION AND ENCUMBRANCE
6 OF RURAL TELEPHONE COOPERATIVE PROPERTY; DEFINING "SUBSTANTIAL PORTION" FOR RURAL
7 TELEPHONE COOPERATIVES; AMENDING SECTION 35-18-317, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

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

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12 **Section 1.** Section 35-18-317, MCA, is amended to read:

13 **"35-18-317. Disposition or encumbrance of property.** (1) (a) Except as provided in subsection (2) and
14 in accordance with 35-18-318, a cooperative may not sell, mortgage, lease, or otherwise dispose of or encumber
15 all or any substantial portion of its property unless the sale, mortgage, lease, or other disposition or encumbrance
16 is:

17 ~~(a)~~(i) authorized at a duly held meeting of cooperative members;
18 ~~(b)~~(ii) except as provided in subsection (1)(b), approved by not less than two-thirds of all the members
19 of the cooperative; and
20 ~~(c)~~(iii) described in the notice of the meeting.

21 (b) A cooperative may not sell, mortgage, lease, or otherwise dispose of or encumber all or any
22 substantial portion of its property unless the sale, mortgage, lease, or other disposition or encumbrance is
23 approved by not less than two-thirds of those members voting on the sale, mortgage, lease, or other disposition
24 or encumbrance at the meeting.

25 (c) For the purposes of this section, as the term applies to a cooperative, "substantial portion" means
26 25% of the cooperative's assets as shown on the balance sheet current at the time of the action.

27 (2) Except as provided in 35-18-318, the board of trustees of a cooperative, without authorization by the
28 cooperative members, may:

29 (a) authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon
30 or the pledging or encumbering of any or all of:

1 (i) the property, assets, rights, privileges, licenses, franchises, and permits of the cooperative, whether
2 acquired or to be acquired and wherever situated; and
3 (ii) the revenue and income from the property, assets, rights, privileges, licenses, franchises, and permits;
4 and
5 (b) determine the terms and conditions necessary to secure any indebtedness of the cooperative to:
6 (i) the United States of America;
7 (ii) any instrumentality or agency of the United States; or
8 (iii) any other financing sources within the United States.
9 (3) Before a meeting is held to vote on authorization of disposition of cooperative property, the board of
10 trustees shall:
11 (a) have the property appraised by three appraisers chosen by the board and not associated with the
12 cooperative or a proposed buyer of cooperative property;
13 (b) notify all cooperative members, at least 90 days in advance, of a meeting to vote on disposition of
14 cooperative property. Detailed proposals for disposition of the property must accompany the notice.
15 (c) at least 30 days before the meeting, notify all other cooperatives situated and operating in the state
16 that the property is available for disposition and include with the notice one copy of each appraisal on the
17 cooperative property; and
18 (d) at least 30 days before the meeting, mail to all members any alternative proposal made by
19 cooperative members if it has been submitted to the board and signed by 50 or more members.
20 (4) The vote on property disposition may take place at an annual meeting if the board notifies the
21 members as provided in this section.
22 (5) This section does not apply to the transfer of cooperative property in a merger or consolidation of
23 cooperatives."

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25 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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