

1 SENATE BILL NO. 269

2 INTRODUCED BY B. HOVEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO MOBILE HOME
5 PARKS; REQUIRING THE NOTICE OF SALE OF A MOBILE HOME PARK; ALLOWING A MOBILE HOME
6 OWNER RESIDENT ASSOCIATION THE ABILITY TO PURCHASE A MOBILE HOME PARK FOR SALE;
7 REVISING THE ALLOWED CAPITAL GAINS TAX EXEMPTIONS FOR THE SALE OF A MOBILE HOME
8 PARK TO A RESIDENT ASSOCIATION; PROVIDING DEFINITIONS; PROVIDING RULEMAKING
9 AUTHORITY; AND AMENDING SECTIONS 15-31-163 AND 70-33-103, MCA."

10

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

12

13 NEW SECTION. **Section 1. Option to purchase mobile home park -- rulemaking authority. (1)**

14 Before the sale of a mobile home park by a mobile home park owner, the mobile home park owner shall provide
15 written notice to the board and to all mobile home owners residing in the mobile home park. The board may
16 share the written notice with nonprofit organizations operating in the state on request.

17 (2) The notification required in subsection (1) must:

18 (a) be delivered at least 90 days in advance of a proposed sale of the mobile home park;

19 (b) provide the mobile home owners' rights as provided in this section;

20 (c) include a description of the property to be sold; and

21 (d) include the price, terms, and conditions of an offer that the mobile home park owner will accept for
22 the sale of the mobile home park.

23 (3) A resident association may make an offer and submit a proposed purchase and sale agreement to
24 the mobile home park owner within 90 days of receiving a notice as required in subsection (1). A mobile home
25 park owner who receives an offer pursuant to this subsection (3) shall negotiate in good faith with the resident
26 association or its assignees.

27 (4) The resident association has the right of first refusal regarding the sale of the mobile home park.

28 (5) To preserve the property for mobile home park use, the resident association may assign the right

1 of opportunity to purchase to an entity of a local, state, or tribal government, a housing authority, or a nonprofit
2 organization.

3 (6) If the resident association is unable to execute a purchase pursuant to this section, the mobile
4 home park owner may sell to a different individual or entity except as provided in subsection (7).

5 (7) A mobile home park owner may not offer or accept a lower purchase price than the amount
6 offered by and negotiated with the resident association pursuant to subsection (3) from a different individual or
7 entity unless the same purchase price and offer to renegotiate is provided to the resident association.

8 (8) This section does not apply to the sale or transfer of the mobile home park to a family member, an
9 heir, or an estate. If a mobile home park is transferred to an estate, the provisions of this section apply to any
10 future sale of the mobile home park by the estate.

11 (9) Pursuant to 15-31-163, any capital gains income realized by a mobile home park owner who sells
12 a mobile home park to a resident association is exempt from taxation under the provisions of Title 15, chapters
13 30 and 31.

14 (10) The board has the authority to make rules to provide a sample notice as required in subsection (1)
15 for mobile home park owner use and any other rule necessary to implement this section.

16

17 **Section 2.** Section 15-31-163, MCA, is amended to read:

18 **"15-31-163. Capital gain exclusion from sale of mobile home park.** (1) ~~The following amount of~~
19 ~~the gain recognized~~ Any capital gains income realized from the sale or exchange of a mobile home park as
20 defined in 70-33-103 is excluded from adjusted gross income or gross income under chapter 30 or 31:

21 ~~(a) 100% of the recognized gain for a mobile home park with 50 or fewer lots; or~~

22 ~~(b) 50% of the recognized gain for a mobile home park with more than 50 lots.~~

23 (2) To qualify for the exclusion under this section, the sale must be made to:

24 (a) a tenants' association or a mobile home park residents' association;

25 (b) a nonprofit organization under section 501(c)(3) of the Internal Revenue Code that purchases a
26 mobile home park on behalf of tenants' association or mobile home park residents' association;

27 (c) a county housing authority created under Title 7, chapter 15, part 21; or

28 (d) a municipal housing authority created under Title 7, chapter 15, parts 44 and 45.

1 (3) A corporation, an individual, a partnership, an S. corporation, or a disregarded entity qualifies for
 2 the exclusion under this section. If the exclusion allowed under this section is taken by a partnership, an S.
 3 corporation, or a disregarded entity, the exclusion must be attributed to shareholders, partners, or other owners
 4 using the same proportion used to report the partnership's, S. corporation's, or disregarded entity's income or
 5 loss for Montana income tax purposes.

6 (4) For the purpose of this section, "tenants' association" or "mobile home park residents' association"
 7 means a group of six or more tenants who reside in a mobile home park, have organized for the purpose of
 8 eventual purchase of the mobile home park, have established bylaws of the association, and have obtained the
 9 approval by vote of at least 51% of the residents of the mobile home park to purchase the mobile home park.

10 (5) Property subject to an income or corporate tax exclusion under this section is not eligible for a
 11 property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park."
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13 **Section 3.** Section 70-33-103, MCA, is amended to read:

14 **"70-33-103. Definitions.** Unless the context clearly requires otherwise, in this chapter, the following
 15 definitions apply:

16 (1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in
 17 which rights are determined, including an action for possession.

18 ~~(2)~~ "Board" means the board of housing created in 2-15-1814.

19 ~~(2)(3)~~ "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring
 20 immediate action to protect the premises or the tenant. A case of emergency may include the interruption of
 21 essential services, including electricity, gas, running water, and sewer and septic system service, or life-
 22 threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the
 23 tenant or others.

24 ~~(3)(4)~~ "Court" means the appropriate district court, small claims court, justice's court, or city court.

25 ~~(4)(5)~~ "Good faith" means honesty in fact in ~~(5)~~ the conduct of the transaction concerned.

26 ~~(5)(6)~~ "Landlord" means:

27 (a) the owner, lessor, or sublessor of:

28 (i) space or land, including a lot, that is rented to a tenant for a mobile home; or

1 (ii) a mobile home park; or

2 (b) a manager of the premises who fails to disclose the managerial position.

3 ~~(6)(7)~~ "Lot" means the space or land rented and not a mobile home itself.

4 ~~(7)(8)~~ "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured
5 homes as defined in 15-1-101.

6 ~~(8)(9)~~ "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to
7 occupy a lot.

8 ~~(9)(10)~~ "Mobile home park" means a trailer court as defined in 50-52-101.

9 ~~(10)(11)~~ "Organization" includes a corporation, government, governmental subdivision or agency,
10 business trust, estate, trust, partnership, association, two or more persons having a joint or common interest,
11 and any other legal or commercial entity.

12 ~~(11)(12)~~ "Person" includes an individual or organization.

13 ~~(12)(13)~~ "Premises" means a lot and the grounds, areas, and facilities held out for the use of tenants
14 generally or promised for the use of a tenant.

15 ~~(13)(14)~~ "Rent" means all payments to be made to a landlord under a rental agreement.

16 ~~(14)(15)~~ "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-
17 33-311 embodying the terms and conditions concerning the use and occupancy of the premises.

18 (16) "Resident association" means any organization of residents who own and occupy mobile homes
19 in a mobile home park that is organized to address the common interests of the residents, including but not
20 limited to the option to purchase a mobile home park as allowed in [section 1].

21 ~~(15)(17)~~ "Tenant" means:

22 (a) a person entitled under a rental agreement to occupy a lot to the exclusion of others; or

23 (b) a person who, with the written approval of the landlord and pursuant to the rental agreement, has
24 a sublease agreement with the person who is entitled to occupy the dwelling unit under the rental agreement."
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26 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
27 integral part of Title 70, chapter 33, part 3, and the provisions of Title 70, chapter 33, part 3, apply to [section 1].
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