

SENATE BILL NO. 269

INTRODUCED BY B. HOVEN

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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; REQUIRING THE NOTIFICATION OF MOBILE HOME PARK OWNERS; ESTABLISHING A SPECIAL
9 REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION TO A RESIDENT ASSOCIATION;
10 ~~PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS~~
11 ~~SECTION SECTIONS 15-31-163 AND 17-7-502 AND 70-33-103, MCA."~~

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

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

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

19 ~~(2) The notification required in subsection (1) must:~~

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

21 ~~(b) provide the mobile homeowners' rights as provided in this section;~~

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

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

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

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

2 ~~(5) To preserve the property for mobile home park use, the resident association may assign the right~~
 3 ~~of opportunity to purchase to an entity of a local, state, or tribal government, a housing authority, or a nonprofit~~
 4 ~~organization.~~

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

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

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

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

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

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 19 NEW SECTION. SECTION 1. NOTIFICATION OF MOBILE HOME PARK OWNERS. (1) THE DEPARTMENT SHALL
 20 ANNUALLY PROVIDE A LIST OF THE NAMES AND ADDRESSES OF MOBILE HOME PARK OWNERS TO THE BOARD OF HOUSING
 21 PROVIDED FOR IN 2-15-1814 FOR THE PURPOSES OF THIS SECTION.

22 (2) THE BOARD OF HOUSING SHALL ANNUALLY AND AS NECESSARY SEND NOTIFICATIONS TO MOBILE HOME
 23 PARK OWNERS THAT FACILITATES, SUPPORTS, AND INCENTIVIZES MOBILE HOME PARK OWNERS TO UTILIZE THE BENEFITS
 24 AVAILABLE PURSUANT TO 15-31-163 AND OTHER BENEFITS AND REASONS TO SELL A MOBILE HOME PARK TO A TENANTS'
 25 ASSOCIATION, A MOBILE HOME PARK RESIDENTS' ASSOCIATION, OR A NONPROFIT ORGANIZATION.

26 (3) COSTS ASSOCIATED WITH THE MAILING OF NOTICES REQUIRED IN SUBSECTION (2) MAY BE PAID FOR USING
 27 FUNDS AVAILABLE IN THE ACCOUNT PROVIDED FOR IN [SECTION 2].

28 (4) THE PROVISIONS OF 2-6-1017 DO NOT APPLY TO THE REQUIREMENTS OF THIS SECTION.

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NEW SECTION. SECTION 2. ACCOUNT FOR NOTIFICATION OF MOBILE HOME PARK OWNERS. (1) THERE IS A SPECIAL REVENUE ACCOUNT WITHIN THE STATE SPECIAL REVENUE FUND ESTABLISHED IN 17-2-102 FOR THE NOTIFICATION OF MOBILE HOME PARK OWNERS AS REQUIRED IN [SECTION 1].

(2) THERE MUST BE DEPOSITED IN THE ACCOUNT ALL MONETARY CONTRIBUTIONS, GIFTS, AND DONATIONS FOR THE PURPOSES OF PROVIDING THE NOTIFICATION REQUIRED IN [SECTION 1].

(3) MONEY IN THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE BOARD OF HOUSING ESTABLISHED IN 2-15-1814 AND MAY ONLY BE USED FOR THOSE PURPOSES PROVIDED IN THIS SECTION.

Section 3. Section 15-31-163, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

(4) For the purpose of this section, "tenants' association" or "mobile home park residents' association" means a group of six or more tenants who reside in a mobile home park, have organized for the purpose of

1 eventual purchase of the mobile home park, have established bylaws of the association, and have obtained the
 2 approval by vote of at least 51% of the residents of the mobile home park to purchase the mobile home park.

3 (5) Property subject to an income or corporate tax exclusion under this section is not eligible for a
 4 property tax exemption under Title 15, chapter 6, part 2, while the property is used as a mobile home park."

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6 **SECTION 4. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

7 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 8 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
 9 the need for a biennial legislative appropriation or budget amendment.

10 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
 11 both of the following provisions:

12 (a) The law containing the statutory authority must be listed in subsection (3).

13 (b) The law or portion of the law making a statutory appropriation must specifically state that a
 14 statutory appropriation is made as provided in this section.

15 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-
 16 407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312;
 17 10-3-314; 10-3-1304; 10-4-301; [10-4-304;] 15-1-121; 15-1-218; [section 2]; 15-35-108; 15-36-332; 15-37-117;
 18 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212;
 19 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-
 20 604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-
 21 9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-
 22 409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-
 23 5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-
 24 24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-
 25 11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-
 26 11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-
 27 102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

28 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,

1 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
2 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
3 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
4 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
5 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
6 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
7 system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch.
8 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to
9 sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient
10 eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L.
11 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the
12 inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec.
13 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015,
14 the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-
15 1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
16 occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30,
17 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025;
18 pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to
19 sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch.
20 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the
21 inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of
22 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331
23 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-
24 7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July
25 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018
26 and 2019; pursuant to sec. 31(2), Ch. 367, L. 2017, the inclusion of 10-4-301 terminates July 1, 2018, and the
27 inclusion of 10-4-304 is effective July 1, 2018; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-
28 103 terminates June 30, 2027.)"

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2 **Section 3.** Section 70-33-103, MCA, is amended to read:

3 ~~"70-33-103. Definitions. Unless the context clearly requires otherwise, in this chapter, the following~~
4 ~~definitions apply:~~

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

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

8 ~~(2)(3) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring~~
9 ~~immediate action to protect the premises or the tenant. A case of emergency may include the interruption of~~
10 ~~essential services, including electricity, gas, running water, and sewer and septic system service, or life-~~
11 ~~threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the~~
12 ~~tenant or others.~~

13 ~~(3)(4) "Court" means the appropriate district court, small claims court, justice's court, or city court.~~

14 ~~(4)(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.~~

15 ~~(5)(6) "Landlord" means:~~

16 ~~(a) the owner, lessor, or sublessor of:~~

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

18 ~~(ii) a mobile home park; or~~

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

20 ~~(6)(7) "Lot" means the space or land rented and not a mobile home itself.~~

21 ~~(7)(8) "Mobile home" has the same meaning as provided in 15-1-101 and includes manufactured~~
22 ~~homes as defined in 15-1-101.~~

23 ~~(8)(9) "Mobile home owner" means the owner of a mobile home entitled under a rental agreement to~~
24 ~~occupy a lot.~~

25 ~~(9)(10) "Mobile home park" means a trailer court as defined in 50-52-101.~~

26 ~~(10)(11) "Organization" includes a corporation, government, governmental subdivision or agency,~~
27 ~~business trust, estate, trust, partnership, association, two or more persons having a joint or common interest,~~
28 ~~and any other legal or commercial entity.~~

