

1 SENATE BILL NO. 268
2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SHORT-TERM RENTAL LAWS;
5 ESTABLISHING THAT A SHORT-TERM RENTAL IS A RESIDENTIAL USE OF PROPERTY; ESTABLISHING
6 THAT SHORT-TERM RENTALS ARE PERMISSIBLE UNLESS PROHIBITED THROUGHOUT A ZONING
7 DISTRICT; PROVIDING A GRANDFATHER CLAUSE FOR CERTAIN SHORT-TERM RENTALS; AMENDING
8 SECTIONS 7-1-111, 70-24-104, ~~76-2-205~~ 76-2-203, AND 76-2-303, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND AN APPLICABILITY DATE."

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

12
13 NEW SECTION. Section 1. Short-term rentals. (1) Unless the clear and express terms of a
14 covenant provide otherwise, a short-term rental is a residential use of property.

15 (2) As used in this section, "short-term rental" has the meaning provided in 15-68-101.
16

17 NEW SECTION. Section 2. Short-term rentals. (1) Unless the clear and express terms of a
18 homeowners' association's bylaws or other governing instrument provide otherwise, a short-term rental is a
19 residential use of property.

20 (2) As used in this section, "short-term rental" has the meaning provided in 15-68-101.
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22 NEW SECTION. Section 3. Short-term rentals. (1) A short-term rental is a residential use of
23 property.

24 (2) (a) Unless expressly prohibited in the entirety of a jurisdictional area or a zoning district, if the
25 jurisdictional area is divided into zoning districts, short-term rentals are permissible in areas zoned for
26 residential use.

27 (b) An express prohibition on short-term rentals may not preclude the short-term rental of all or part
28 of:

1 (i) ~~_____~~ a property owner's primary residence and; ~~or~~

2 (ii) ~~_____~~ a property adjacent to the property owner's primary residence.

3 ~~(i)~~ (i) A SINGLE, SEPARATE RESIDENCE ON THE SAME PARCEL AS A PROPERTY OWNER'S PRIMARY

4 RESIDENCE; OR

5 ~~(ii)~~ (ii) A SINGLE RESIDENCE ON A SEPARATE PROPERTY FROM THE PROPERTY OWNER'S PRIMARY RESIDENCE

6 THAT SHARES A BOUNDARY WITH THE PROPERTY DESCRIBED IN SUBSECTION ~~(2)(B)(i)(2)(b)~~, INCLUSIVE OF PROPERTIES

7 THAT ARE SEPARATED BY A PUBLIC RIGHT-OF-WAY BUT WOULD OTHERWISE SHARE A BOUNDARY.

8 (3) As used in this section;

9 (A) "PRIMARY RESIDENCE" MEANS A DWELLING IN WHICH THE PROPERTY OWNER CAN DEMONSTRATE THE

10 OWNER'S OCCUPANCY AT LEAST 7 MONTHS OF THE YEAR; AND

11 (B) "short-term rental" has the meaning provided in 15-68-101.

13 NEW SECTION. Section 4. Short-term rentals. (1) A short-term rental is a residential use of
14 property.

15 (2) (a) Unless expressly prohibited in the entirety of a municipality or a zoning district, if the
16 municipality is divided into zoning districts, short-term rentals are permissible in areas zoned for residential use.

17 (b) An express prohibition on short-term rentals may not preclude the short-term rental of all or part
18 of:

19 (i) a property owner's primary residence and; ~~or~~

20 (ii) ~~_____~~ a property adjacent to the property owner's primary residence

21 ~~(i)~~ (i) A SINGLE, SEPARATE RESIDENCE ON THE SAME PARCEL AS A PROPERTY OWNER'S PRIMARY

22 RESIDENCE; OR

23 ~~(ii)~~ (ii) A SINGLE RESIDENCE ON A SEPARATE PROPERTY FROM THE PROPERTY OWNER'S PRIMARY RESIDENCE

24 THAT SHARES A BOUNDARY WITH THE PROPERTY described IN SUBSECTION ~~(2)(B)(i)(2)(b)~~, INCLUSIVE OF PROPERTIES

25 THAT ARE SEPARATED BY a PUBLIC RIGHTS-OF-WAY/right-of-way BUT ARE OTHERWISE ADJACENT.

26 (3) As used in this section;

27 (A) "PRIMARY RESIDENCE" MEANS A DWELLING IN WHICH THE PROPERTY OWNER CAN DEMONSTRATE THE

28 OWNER'S OCCUPANCY AT LEAST 7 MONTHS OF THE YEAR; AND

1 (B) "short-term rental" has the meaning provided in 15-68-101.

2

3 **Section 5.** Section 7-1-111, MCA, is amended to read:

4 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
5 exercising the following:

6 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
7 exercise of an independent self-government power;

8 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject
9 to those provisions, it may exercise any power of a public employer with regard to its employees;

10 (3) any power that applies to or affects the public school system, except that a local unit may
11 impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and
12 shall exercise any power that it is required by law to exercise regarding the public school system;

13 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of
14 public convenience and necessity pursuant to Title 69, chapter 12;

15 (5) any power that establishes a rate or price otherwise determined by a state agency;

16 (6) any power that applies to or affects any determination of the department of environmental
17 quality with regard to any mining plan, permit, or contract;

18 (7) any power that applies to or affects any determination by the department of environmental
19 quality with regard to a certificate of compliance;

20 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
21 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6
22 months' imprisonment, or both, except as specifically authorized by statute;

23 (9) any power that applies to or affects the right to keep or bear arms;

24 (10) any power that applies to or affects a public employee's pension or retirement rights as
25 established by state law, except that a local government may establish additional pension or retirement
26 systems;

27 (11) any power that applies to or affects the standards of professional or occupational competence
28 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

1 (2) (a) A regulation, restriction, or boundary may not become effective until after a public hearing in
2 relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to
3 be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an
4 official paper or a paper of general circulation in the municipality.

5 (b) Notice of a regulation, restriction, or boundary that would prohibit short-term rentals must
6 demonstrate how the prohibition furthers the criteria and guidelines provided in 76-2-304.

7 (3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in
8 conjunction with a hearing on the zoning of the proposed annexation if the proposed municipal zoning
9 regulations for the annexed property:

10 (i) authorize land uses comparable to the land uses authorized by county zoning;

11 (ii) authorize land uses that are consistent with land uses approved by the board of county
12 commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2; or

13 (iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to
14 Title 76, chapter 1, for the annexed property.

15 (b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding
16 zoning notice and public hearing for a proposed annexation."
17

18 **NEW SECTION. Section 9. Grandfather clause.** A short-term rental that was in existence on [the
19 effective date of this act] is not subject to [sections 3 and 4] or any additional regulation that was not in
20 existence as of [the effective date of this act].
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22 **NEW SECTION. Section 10. Codification instruction.** (1) [Section 1] is intended to be codified as
23 an integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to [section
24 1].

25 (2) [Section 2] is intended to be codified as an integral part of Title 70, chapter 17, part 9, and the
26 provisions of Title 70, chapter 17, part 9, apply to [section 2].

27 (3) [Section 3] is intended to be codified as an integral part of Title 76, chapter 2, part 2, and the
28 provisions of Title 76, chapter 2, part 2, apply to [section 3].