

1 SENATE BILL NO. 499
2 INTRODUCED BY T. MCGILLVRAY, K. BOGNER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO ADVERSE POSSESSION OF
5 LAND, FIXTURES, AND OTHER IMPROVEMENTS ON LAND OWNED BY FOREIGN FOR-PROFIT
6 CORPORATIONS BY A MONTANA RESIDENT; EXEMPTING REAL PROPERTY OWNED BY A TRIBAL
7 MEMBER, A TRIBE, OR TRIBAL LAND WITHIN THE BOUNDARIES OF A RESERVATION; PROVIDING
8 REQUIREMENTS; PROVIDING A DEFINITION; AMENDING SECTION 70-18-101, MCA; AND PROVIDING
9 AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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11 WHEREAS, native Montanans have invested their labor and financial resources developing the local
12 infrastructure by making improvements on fixtures and permanent residences on real property in rural Montana;
13 and

14 WHEREAS, housing opportunities are limited in rural Montana; and

15 WHEREAS, outside corporate interests seek to displace local control over housing developed and paid
16 for locally; and

17 WHEREAS, Montana has a vested interest in preserving its local tax base; and

18 WHEREAS, Montana has a public interest in deterring exploitation of its citizens by foreign corporations
19 and other interests.

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

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23 NEW SECTION. Section 1. Immovable fixture attached -- accession by owner. (1) A-Subject to
24 70-19-412, a Montana resident may adversely possess not more than one-half acre of the land and ~~immovable~~
25 ~~fixtures or other~~ the residential improvements the Montana resident has made and possessed on the land on
26 ~~land that the resident has improved and possessed~~ when:

27 (a) the Montana resident has paid property taxes to the state through contributions or on the
28 ~~immovable fixtures or other residential~~ improvements ~~to the land~~ without proving the resident's possession was

1 nonpermissive; ~~and~~

2 (b) the owner of the land is a foreign for-profit corporation registered to do business in the state
3 and the corporation has permitted ~~the development and use of the land by~~ the Montana resident to make and
4 occupy the residential improvements; and

5 (c) the Montana resident seeking to acquire title to the land and residential improvements through
6 adverse possession under this section has continually occupied the residential improvements as the resident's
7 primary personal residence for the 5 years prior to the commencement of the action for adverse possession.

8 (2) In an action by the Montana resident seeking to acquire title to the land and immovable fixtures
9 and other improvements through adverse possession, the foreign owner of the land may not claim that the
10 foreign owner permitted the development and use of the land as a defense.

11 (3) When the relation of landlord and tenant has existed between the foreign owner of the land and
12 the Montana resident seeking to acquire title to the land and residential improvements through adverse
13 possession under this section, the foreign owner of the land may raise the provisions of 70-19-412 as a
14 defense, and the applicable provisions of any lease between the foreign owner and the Montana resident
15 control any decision relating to a transfer of ownership.

16 ~~(3)(4)~~ This section does not apply to real property owned by a tribal member, a tribe, or tribal land
17 within the boundaries of a reservation.

18 (5) For the purposes of this section, the term "residential improvements" means a residential
19 structure and other immovable fixtures or improvements that a Montana resident has made to land and has
20 occupied as the Montana resident's primary personal residence.

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22 **Section 2.** Section 70-18-101, MCA, is amended to read:

23 **"70-18-101. Fixture attached by other -- accession by owner.** ~~When~~ Except as provided in [section
24 1], when a person affixes the person's property to the land of another without an agreement permitting the
25 person to remove it, the thing affixed, except as provided in 70-18-102 and in the Uniform Commercial Code,
26 belongs to the owner of the land unless the owner of the land chooses to require the person to remove it."

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28 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an