

HOUSE BILL NO. 283

INTRODUCED BY S. GALLOWAY, E. BUTTREY, J. READ, B. KEENAN, D. ZOLNIKOV, T. MANZELLA, M. NOLAND, D. LOGE, F. ANDERSON, L. SHELDON-GALLOWAY, J. TREBAS, C. KNUDSEN, B. USHER, S. VINTON, M. HOPKINS, R. KNUDSEN, T. MOORE, B. LER, B. PHALEN, F. NAVE, L. BREWSTER, K. ZOLNIKOV, A. REGIER, L. REKSTEN, J. GILLETTE, C. HINKLE, M. BINKLEY, R. MARSHALL, C. FRIEDEL, S. ESSMANN, M. YAKAWICH, T. BROCKMAN, T. SMITH, G. OBLANDER, N. NICOL, L. DEMING, C. SPRUNGER, T. FALK, J. BERGSTROM, G. KMETZ, P. GREEN, J. ETCHART, W. RUSK, J. SCHILLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING RENTAL LAWS; PROHIBITING LOCAL GOVERNMENTS WITH SELF-GOVERNMENT POWERS FROM DEVIATING FROM THE LANDLORD AND TENANT ACT OF 1977 AND THE MONTANA RESIDENTIAL MOBILE HOME LOT RENTAL ACT; PROVIDING THAT THE PURPOSE OF THE LANDLORD AND TENANT ACT OF 1977 INCLUDES CREATING AN EXCLUSIVE STATEWIDE REGULATORY STANDARD; PROVIDING THAT THE PURPOSE OF THE MONTANA RESIDENTIAL MOBILE HOME LOT RENTAL ACT INCLUDES AN EXCLUSIVE STATEWIDE REGULATORY STANDARD; AMENDING SECTIONS 7-1-111, 70-24-102, AND 70-33-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

- (1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;
- (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;
- (3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and

1 shall exercise any power that it is required by law to exercise regarding the public school system;

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

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

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

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

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

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

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

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

18 (12) except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to
19 or affects Title 75, chapter 7, part 1, or Title 87;

20 (13) (a) any power that applies to or affects landlords, as defined in 70-24-103 and 70-33-103, when
21 that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is
22 provided in Title 70, chapters 24 and 25, and 33; or This subsection is not intended to restrict a local
23 government's ability to require landlords to comply with ordinances or provisions that are applicable to all other
24 businesses or residences within the local government's jurisdiction.

25 (b) any power to deviate from or add to the exclusive application of the provisions of:

26 (i) the Montana Residential Landlord and Tenant Act of 1977, Title 70, chapter 24;

27 (ii) residential tenants' security deposit law in Title 70, chapter 25; or

28 (iii) the Montana Residential Mobile Home Lot Rental Act, Title 70, chapter 33.

1 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

2 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
3 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government
4 may enter into a cooperative agreement with the department of agriculture concerning the use and application
5 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
6 government from adopting or implementing zoning regulations or fire codes governing the physical location or
7 siting of fertilizer manufacturing, storage, and sales facilities.

8 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production,
9 processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or
10 vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local
11 government from adopting or implementing zoning regulations or building codes governing the physical location
12 or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or
13 distribution facilities.

14 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
15 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
16 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
17 communications commission of the United States;

18 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio
19 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a
20 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,
21 "technician" or higher class, issued by the federal communications commission of the United States;

22 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
23 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
24 highway that is under the jurisdiction of an entity other than the local government unit;

25 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in
26 relation to a wildfire;

27 (21) any power as prohibited in 7-1-121(2) affecting, applying to, or regulating the use, disposition,
28 sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in 7-1-121(5);

1 (22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in
2 accordance with 7-1-116;

3 (23) any power to require an employer, other than the local government unit itself, to provide an
4 employee or class of employees with a wage or employment benefit that is not required by state or federal law;

5 (24) any power to enact an ordinance prohibited in 7-5-103 or a resolution prohibited in 7-5-121 and
6 any power to bring a retributive action against a private business owner as prohibited in 7-5-103(2)(d)(iv) and 7-
7 5-121(2)(c)(iv); or

8 (25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in
9 16-11-313(1)."

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11 **Section 2.** Section 70-24-102, MCA, is amended to read:

12 **"70-24-102. Purposes -- liberal construction to promote.** (1) This chapter shall be liberally
13 construed and applied to promote its underlying purposes and policies.

14 (2) Underlying purposes and policies of this chapter are to:

15 (a) simplify, clarify, modernize, and revise the law governing the rental of dwelling units and the
16 rights and obligations of landlords and tenants; ~~and~~

17 (b) encourage landlords and tenants to maintain and improve the quality of housing; and

18 (c) create an exclusive regulatory standard throughout the state and its political subdivisions
19 regarding landlord and tenant law."

20

21 **Section 3.** Section 70-33-102, MCA, is amended to read:

22 **"70-33-102. Purpose -- liberal construction.** (1) This chapter must be liberally construed and
23 applied to promote the underlying purposes and policies of this chapter.

24 (2) The underlying purposes and policies of this chapter are to:

25 (a) simplify and clarify the law governing the rental of land to owners of mobile homes and
26 manufactured homes and the rights and obligations of landlords and tenants concerning lot rentals; ~~and~~

27 (b) encourage landlords and tenants to maintain and improve the quality of housing; and

28 (c) create an exclusive regulatory standard throughout the state and its political subdivisions

1 regarding the rental of land to owners of mobile homes and manufactured homes."

2

3 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

4 - END -