

SENATE BILL NO. 499

INTRODUCED BY T. MCGILLVRAY, K. BOGNER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

WHEREAS, housing opportunities are limited in rural Montana; and

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

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

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

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

NEW SECTION. **Section 1. Immovable fixture attached -- accession by owner.** (1) A Montana resident may adversely possess the land and immovable fixtures or other improvements on land that the resident has improved and possessed when:

(a) the Montana resident has paid property taxes to the state through contributions or on the immovable fixtures or other improvements to the land without proving the resident's possession was nonpermissive; and

1 (b) the owner of the land is a foreign for-profit corporation registered to do business in the state
2 and the corporation has permitted the development and use of the land by the Montana resident.

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

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

8

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

10 **"70-18-101. Fixture attached by other -- accession by owner.** ~~When~~ Except as provided in [section
11 1], when a person affixes the person's property to the land of another without an agreement permitting the
12 person to remove it, the thing affixed, except as provided in 70-18-102 and in the Uniform Commercial Code,
13 belongs to the owner of the land unless the owner of the land chooses to require the person to remove it."

14

15 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
16 integral part of Title 70, chapter 19, and the provisions of Title 70, chapter 19, apply to [section 1].

17

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

19

20 NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the
21 meaning of 1-2-109, to actions or causes of actions that occurred prior to [the effective date of this act].

22

- END -