

2 INTRODUCED BY _____

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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 AND NOT A
6 COMMERCIAL, BUSINESS, OR OTHER USE; AMENDING A DEFINITION; PROVIDING AN
7 APPROPRIATION; AMENDING SECTIONS 15-68-101 AND 70-24-104, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES."

9

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

11

12 **NEW SECTION. Section 1. Short-term rentals.** (1) Unless the clear and express terms of a
13 covenant provide otherwise, a short-term rental is a residential use of property and is not a commercial,
14 business, or other use.

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

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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 and is not a commercial, business, or other use.

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

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23 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
24 following definitions apply:

25 (1) (a) "Accommodations" means short-term rentals or individual sleeping rooms, suites, camping
26 spaces, or other units offered for overnight lodging periods of less than 30 days to the general public for
27 compensation.

28 (b) Accommodations include units located in property represented to the public as a hotel, motel,

1 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, bed
2 and breakfast facility, vacation home, home, apartment, timeshare, room, or rooms rented by or on behalf of the
3 owner or seller.

4 (c) The term does not include:

5 (i) a health care facility, as defined in 50-5-101;
6 (ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3;
7 (iii) a facility that is used primarily by persons under 18 years of age for camping purposes; or
8 (iv) rooms or spaces offered separately to the general public for nonlodging purposes, including
9 meeting, conference, or banquet spaces.

10 (2) (a) "Base rental charge" means the following:

11 (i) charges for time of use of the rental vehicle and mileage, if applicable;
12 (ii) charges accepted by the renter for insurance;
13 (iii) charges for additional drivers or underage drivers; and
14 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for
15 the rental vehicle.

16 (b) The term does not include:

17 (i) rental vehicle price discounts allowed and taken;
18 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
19 privilege of operating as a concessionaire at an airport terminal building;
20 (iii) motor fuel;

21 (iv) intercity rental vehicle drop charges; or
22 (v) taxes imposed by the federal government or by state or local governments.

23 (3) (a) "Campground" means a place used for public camping where persons may camp, secure
24 tents, or park individual recreational vehicles for camping and sleeping purposes.

25 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park
26 intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive
27 days or more.

28 (4) "Engaging in business" means carrying on or causing to be carried on any activity with the

1 purpose of receiving direct or indirect benefit.

2 (5) (a) "Motor vehicle" means:

3 (i) a light vehicle as defined in 61-1-101;

4 (ii) a motorcycle as defined in 61-1-101;

5 (iii) a motor-driven cycle as defined in 61-1-101;

6 (iv) a quadricycle as defined in 61-1-101;

7 (v) a motorboat or a sailboat as defined in 23-2-502; or

8 (vi) an off-highway vehicle as defined in 23-2-801 that:

9 (A) is rented for a period of not more than 30 days;

10 (B) is rented without a driver, pilot, or operator; and

11 (C) is designed to transport 15 or fewer passengers.

12 (b) Motor vehicle includes:

13 (i) a rental vehicle rented pursuant to a contract for insurance; and

14 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is

15 rented without a driver, and that is used in the transportation of personal property.

16 (c) The term does not include farm vehicles, machinery, or equipment.

17 (6) "Online hosting platform" means any person that provides an online application, software,

18 website, or system through which a seller may advertise, rent, or furnish accommodations or rental vehicles

19 and through which a purchaser may arrange for use of those accommodations or the use or lease of rental

20 vehicles. Online hosting platforms include any online travel company or third-party reservation intermediary that

21 facilitates the sale or use of accommodations or rental vehicles.

22 (7) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability

23 company, limited liability partnership, online hosting platform, or any other legal entity.

24 (8) "Purchaser" means a person to whom a sale of accommodations or a rental vehicle is made or

25 to whom a service is furnished.

26 (9) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of

27 the motor vehicle through an arrangement and for consideration.

28 (10) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,

1 or subrent.

2 (11) [(a)] "Sale" or "selling" means the rental or use of accommodations or rental vehicles for
3 consideration or the performance of a service for consideration.

4 [(b)] The term does not include providing accommodations to victims of domestic violence or human
5 trafficking for grant money received pursuant to 44-4-1505.]

6 (12) (a) "Sales price" applies to the measure subject to the tax under Title 15, chapter 65, and this
7 chapter and means the total amount paid by the purchaser in the form of consideration, including cash, credit,
8 property, and services, for which sales of accommodations, rental vehicles, or services are provided, sold,
9 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
10 following:

11 (i) the seller's cost of the property sold;

12 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to
13 the seller, all taxes imposed on the seller, and any other expense of the seller;

14 (iii) charges by the seller for any services necessary to complete the sale;

15 (iv) delivery charges; or

16 (v) installation charges.

17 (b) The amount received for charges listed in subsections (12)(a)(ii) through (12)(a)(v) are
18 excluded from the sales price if they are separately stated on the invoice, billing, or similar document given to
19 the purchaser and the charge is not subject to subsection (12)(d).

20 (c) The term does not include:

21 (i) charges for meals, transportation, entertainment, or any other similar charges; or

22 (ii) any taxes legally imposed directly on the consumer that are separately stated on the invoice,
23 bill of sale, or similar document given to the purchaser.

24 (d) Unless specifically excluded, sales price includes any separate charge or fee that a purchaser
25 must pay to facilitate the sale or rental of the accommodations or rental vehicle, including a fee or a service,
26 commission, or other charge by an online hosting platform.

27 (13) "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

28 (14) "Seller" means a person that makes sales of accommodations or rental vehicles, including an

1 online hosting platform.

2 (15) (a) "Service" means an activity that is engaged in for another person for consideration and that
3 is distinguished from the sale or lease of accommodations or rental vehicles. Service includes activities
4 performed by an online hosting platform.

5 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of
6 the contracting parties is irrelevant.

7 (16) "Short-term rental" means any individually or collectively owned single-family house, multifamily
8 dwelling unit, or other dwelling unit, or any unit or group of units in a condominium, cooperative, timeshare, or
9 owner-occupied residential home, or portion of a dwelling unit that is offered for a fee for 30 days or less.

10 (17) "Short-term rental marketplace" means a person that provides a platform through which a seller
11 or the authorized agent of the seller offers a short-term rental to an occupant.

12 (18) "Timeshare" means any facility for which multiple parties or individuals own a right to use the
13 facility for lodging purposes, and these parties or individuals do not hold claim to ownership of the physical
14 property. (Bracketed language in subsection (11) terminates June 30, 2027--sec. 10, Ch. 758, L. 2023.)"

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16 **Section 4.** Section 70-24-104, MCA, is amended to read:

17 **"70-24-104. Exclusions from application of chapter.** Unless created to avoid the application of this
18 chapter, the following arrangements are not governed by this chapter:

19 (1) residence at a public or private institution if incidental to detention or the provision of medical,
20 geriatric, educational, counseling, religious, or similar service, including all housing provided by the Montana
21 university system and other postsecondary institutions;

22 (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the
23 occupant is the purchaser or a person who succeeds to the purchaser's interest;

24 (3) occupancy by a member of a fraternal or social organization in the portion of a structure
25 operated for the benefit of the organization;

26 (4) transient occupancy in a hotel or motel;

27 (5) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a
28 cooperative;

1 (6) occupancy under a rental agreement covering premises used by the occupant primarily for
2 commercial or agricultural purposes;

3 (7) occupancy by an employee of a landlord whose right to occupancy is conditional upon
4 employment in and about the premises; and

5 (8) occupancy outside a municipality under a rental agreement that includes hunting, fishing, or
6 agricultural privileges, along with the use of the dwelling unit; and

7 (9) occupancy of a short-term rental as defined in 15-68-101."

9 **NEW SECTION. Section 5. Appropriation.** There is appropriated \$1,000 from the general fund to
10 the department of revenue for the biennium beginning July 1, 2025, for the purpose of updating regulations
11 pertaining to homeowners' associations and associations of unit owners.

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13 **NEW SECTION.** **Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an
14 integral part of Title 70, chapter 17, part 2, and the provisions of Title 70, chapter 17, part 2, apply to [section 1].

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

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18 **NEW SECTION.** **Section 7.** **Effective date.** [This act] is effective on passage and approval.

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20 **NEW SECTION. Section 8. Retroactive applicability.** [Sections 1 and 2] apply retroactively, within
21 the meaning of 1-2-109, to covenants on residential property and homeowners' association bylaws or other
22 governing instruments that do not clearly and expressly address short-term rentals.

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24 **NEW SECTION. Section 9. Applicability.** [Sections 1 and 2] apply to covenants on residential
25 property and homeowners' association bylaws or other governing instruments in existence on or after [the
26 effective date of this act] that do not clearly and expressly address short-term rentals.

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