

HOUSE BILL NO. 619

INTRODUCED BY A. GRIFFITH, P. ELVERUM, M. DUNWELL, S. GIST, G. OBLANDER, L. BREWSTER, T.
FRANCE, G. NIKOLAKAKOS, J. TREBAS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE UNIFORM COMMON INTEREST
OWNERSHIP ACT; ALLOWING FOR THE CREATION OF COMMON INTEREST COMMUNITIES,
COOPERATIVES, AND PLANNED COMMUNITIES; PROVIDING FOR THE ADOPTION OF GOVERNING
INSTRUMENTS, INCLUDING BYLAWS AND COVENANTS; PROVIDING FOR THE CLASSIFICATION OF
REAL ESTATE OR PERSONAL PROPERTY; PROVIDING FOR A PROCESS OF PROPERTY ACQUISITION
BY EMINENT DOMAIN; PROVIDING FOR THE ALLOCATION OF COMMON ELEMENTS; ALLOWING FOR
THE MERGER, CONSOLIDATION, AND TERMINATION OF COMMON INTEREST COMMUNITIES;
ALLOWING FOR THE EXERCISE OF DEVELOPMENT RIGHTS, THE ALTERATION OF UNITS, THE
RELOCATION OF UNIT BOUNDARIES, AND THE SUBDIVISION OF UNITS; PROVIDING FOR THE
ORGANIZATION OF UNIT OWNERS ASSOCIATIONS; PROVIDING POWERS AND DUTIES OF UNIT
OWNERS ASSOCIATIONS; ESTABLISHING FINANCIAL AND OTHER ASSOCIATION RECORD CREATION
AND RETENTION RULES; PROVIDING PROTECTIONS FOR PURCHASERS; PROVIDING PROCESSES
FOR THE SALE OF UNITS, THE RELEASE OF LIENS, AND THE CONVERSION OF BUILDINGS;
PROVIDING FOR APPLICABILITY AND TRANSITION PROCESSES FOR EXISTING UNIT OWNERSHIP
ORGANIZATIONS AND ASSOCIATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-8-111, 15-
8-511, 35-2-525, 70-17-212, 70-17-901, 70-20-501, 76-2-305, 76-3-203, 76-4-111, 76-4-127, AND 76-25-402,
MCA; AND REPEALING SECTIONS 70-23-101, 70-23-102, 70-23-103, 70-23-301, 70-23-302, 70-23-303, 70-
23-304, 70-23-305, 70-23-306, 70-23-307, 70-23-308, 70-23-309, 70-23-401, 70-23-402, 70-23-403, 70-23-
404, 70-23-405, 70-23-501, 70-23-502, 70-23-503, 70-23-504, 70-23-505, 70-23-506, 70-23-507, 70-23-601,
70-23-602, 70-23-603, 70-23-604, 70-23-605, 70-23-606, 70-23-607, 70-23-608, 70-23-609, 70-23-610, 70-23-
611, 70-23-612, 70-23-613, 70-23-801, 70-23-802, 70-23-803, 70-23-804, 70-23-805, 70-23-806, 70-23-901,
70-23-902, 70-23-1101, 70-23-1102, 70-23-1103, 70-23-1104, AND 70-23-1105, MCA."

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

declaration of the pre-existing common interest community.

NEW SECTION. Section 43. Addition of unspecified real estate. In a planned community, if the right is originally reserved in the declaration, the declarant, in addition to any other development right, may amend the declaration at any time during as many years as are specified in the declaration for adding additional real estate to the planned community without describing the location of that real estate in the original declaration. However, the amount of real estate added to the planned community pursuant to this section may not exceed 10% of the real estate described in [section 26(1)(c)], and the declarant may not in any event increase the number of units in the planned community beyond the number stated in the original declaration pursuant to [section 26(1)(e)].

NEW SECTION. Section 44. Master planned communities. (1) The declaration for a common interest community may state that it is a master planned community if the declarant has reserved the development right to create at least ~~500~~ 250 units that may be used for residential purposes, and at the time of the reservation that declarant owns or controls more than 500 acres on which the units may be built.

(2) If the requirements of subsection (1) are satisfied, the declaration for the master planned community need not state a maximum number of units and need not contain any of the information required by [section 26(1)(c) through (1)(m)] until the declaration is amended under subsection (3).

(3) When each unit in a master planned community is conveyed to a purchaser, the declaration must contain:

(a) a sufficient legal description of the unit and all portions of the master planned community in which any other units have been conveyed to a purchaser; and

(b) all the information required by [section 26(1)(c) through (1)(m)] with respect to that real estate.

(4) The only real estate in a master planned community subject to [sections 1 through 95] are units that have been declared or which are being offered for sale and any other real estate described pursuant to subsection (3). Other real estate that is or may become part of the master planned community is only subject to other law and to any other restrictions and limitations that appear of record.

(5) If the public offering statement conspicuously identifies the fact that the community is a master

1 planned community, the disclosure requirements contained in [sections 72 through 91] apply only with respect
2 to units that have been declared or are being offered for sale in connection with the public offering statement
3 and to the real estate described pursuant to subsection (3).

4 (6) Limitations in [sections 1 through 95] on the addition of unspecified real estate do not apply to a
5 master planned community.

6 (7) The period of declarant control of the association for a master planned community terminates in
7 accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded
8 instrument and after giving notice in a record to all the unit owners, voluntarily surrenders all rights to control the
9 activities of the association.

10
11 **NEW SECTION. Section 45. Termination following catastrophe.** If substantially all the units in a
12 common interest community have been destroyed or are uninhabitable and the available methods for giving
13 notice under [section 67] of a meeting of unit owners to consider termination under [section 39] will not likely
14 result in receipt of the notice, the executive board or any other interested person may commence an action in
15 district court seeking to terminate the common interest community. During the pendency of the action, the court
16 may issue whatever orders it considers appropriate, including appointment of a receiver. After a hearing, the
17 court may terminate the common interest community or reduce its size and may issue any other order the court
18 considers to be in the best interest of the unit owners and persons holding an interest in the common interest
19 community.

20
21 **NEW SECTION. Section 46. Adverse possession, prescriptive easement.** A unit owner or person
22 claiming through a unit owner may not acquire title by adverse possession to, or an easement by prescription
23 in, a common element in derogation of the title of another unit owner or the association.

24
25 **NEW SECTION. Section 47. Organization of unit owners association.** A unit owners association
26 must be organized no later than the date the first unit in the common interest community is conveyed. The
27 membership of the association at all times consists exclusively of all unit owners or, following termination of the
28 common interest community, of all former unit owners entitled to distributions of proceeds under [section 39] or