

1 SENATE BILL NO. 296

2 INTRODUCED BY S. HINEBAUCH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CIVIL LIABILITY IN REAL PROPERTY; PROVIDING
5 FOR COVENANTS THAT LIMIT LIABILITY OF A PARTY TO A GRANT OF AN ESTATE IN REAL
6 PROPERTY; AMENDING SECTION 28-2-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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10 **NEW SECTION. Section 1. Agreements limiting liability of party in transaction granting estate**
11 **in real property -- definitions.** (1) When creating an agreement involving a grant of an estate in real property,
12 the parties to the transaction may include a provision that expressly limits the liability of one or more parties for
13 damage negligently caused by that party to one or more of the other parties involved in the transaction.

14 (2) An agreement limiting the liability of one or more parties as described in subsection (1) must run
15 with the land, benefiting and burdening heirs, assigns, and transferees, if the provision creating the limitation of
16 liability or the document or documents governing the transaction as a whole indicate an intent by the parties
17 that the grant of estate runs with the land.

18 (3) Except for liability for a person's own fraud or willful injury to the person or property of another, an
19 agreement limiting the liability of one or more parties as described in subsection (1) is not prohibited by or
20 subject to the provisions of 28-2-702.

21 (4) An agreement limiting the liability of one or more parties as described in subsection (1) does not
22 exempt a person from following any criminal or civil code and does not limit or shield a party's potential criminal
23 or civil penalties for the violation of any rule or law.

24 (5) As used in this section, the following definitions apply:

25 (a) "Damage" includes but is not limited to damage to real property or an interest in real property,
26 personal property, equipment, and lost revenue or associate expenses.

27 (b) "Grant of an estate" means any partial grant in real property, including easements, leases,
28 licenses, sale of a portion of a property, or any other conveyance of a partial property interest.

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2 **Section 2.** Section 28-2-702, MCA, is amended to read:

3 **"28-2-702. Contracts that violate policy of law -- exemption from responsibility -- exception.**

4 Except as provided in 27-1-753 and [section 1], ~~all contracts that have for their~~ a contract that has for its object,
5 directly or indirectly, to exempt anyone from responsibility for the person's own fraud, for willful injury to the
6 person or property of another, or for violation of law, whether willful or negligent, ~~are~~ is against the policy of the
7 law."

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9 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
10 integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

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

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