



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; PROVIDING REQUIREMENTS; PROVIDING A DEFINITION; 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:

**Section 1. Immovable fixture attached -- accession by owner.** (1) Subject to 70-19-412, a Montana resident may adversely possess not more than one-half acre of the land and the residential improvements the Montana resident has made and possessed on the land when:

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

(b) the owner of the land is a foreign for-profit corporation registered to do business in the state and the corporation has permitted the Montana resident to make and occupy the residential improvements; and

(c) the Montana resident seeking to acquire title to the land and residential improvements through adverse possession under this section has continually occupied the residential improvements as the resident's primary personal residence for the 5 years prior to the commencement of the action for adverse possession.

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

(3) When the relation of landlord and tenant has existed between the foreign owner of the land and the Montana resident seeking to acquire title to the land and residential improvements through adverse possession under this section, the foreign owner of the land may raise the provisions of 70-19-412 as a defense, and the applicable provisions of any lease between the foreign owner and the Montana resident control any decision relating to a transfer of ownership.

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

(5) For the purposes of this section, the term "residential improvements" means a residential structure and other immovable fixtures or improvements that a Montana resident has made to land and has occupied as the Montana resident's primary personal residence.

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

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

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

**Section 4. Effective date.** [This act] is effective on passage and approval.

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

- END -

I hereby certify that the within bill,  
SB 499, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

SENATE BILL NO. 499

INTRODUCED BY T. MCGILLVRAY, K. BOGNER

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