

1 SENATE BILL NO. 105

2 INTRODUCED BY S. FITZPATRICK

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING RENT CONTROL OF PRIVATE PROPERTY; AND
5 AMENDING SECTION 7-1-111, MCA."

6

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

8

9 ~~NEW SECTION. Section 1. Prohibition on rent control of private property. (1) A local government~~
10 ~~unit may not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the~~
11 ~~amount of rent charged for private residential or commercial property.~~

12 ~~(2) This section does not impair the right of any local government unit to:~~

13 ~~(a) manage and control residential property in which the local government unit has a property~~
14 ~~interest or in which the local government unit has an interest through a housing authority;~~

15 ~~(b) enact ordinances or resolutions that would have the effect of controlling the amount of rent~~
16 ~~charged for private residential properties that are:~~

17 ~~(i) donated or sold at a reduced price by the local government unit in accordance with 7-8-2301,~~
18 ~~7-8-2402, 7-8-2522, 7-8-4201, or 7-15-4262; or~~

19 ~~(ii) assisted through the federal community development block grant program or the federal home~~
20 ~~investment partnerships program as required for participation in those programs; or~~

21 ~~(c) implement, partner with, or participate in a program that utilizes incentives under 15-6-221 or~~
22 ~~Title 90, chapter 6, part 1, or a similar incentive-based program for which funds or other benefits have been~~
23 ~~allocated from the federal government, the state, or a political subdivision that makes the construction of~~
24 ~~affordable housing more economical and in which the funds or benefits are provided for the express purpose of~~
25 ~~providing reduced rents to low income or moderate income tenants. Participation by a private individual, firm,~~
26 ~~corporation, partnership, or association in the program must be voluntary and uncoerced.~~

27

Amendment - 1st Reading-white - Requested by: Steve Fitzpatrick - (S) Business, Labor, and Economic Affairs

68th Legislature

Drafter: Erin Sullivan, 406-444-3594

SB0105.001.001

1 **Section 1.** Section 7-1-111, MCA, is amended to read:

2 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
3 exercising the following:

4 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
5 exercise of an independent self-government power;

6 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject
7 to those provisions, it may exercise any power of a public employer with regard to its employees;

8 (3) any power that applies to or affects the public school system, except that a local unit may
9 impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and
10 shall exercise any power that it is required by law to exercise regarding the public school system;

11 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of
12 public convenience and necessity pursuant to Title 69, chapter 12;

13 (5) any power that establishes a rate or price otherwise determined by a state agency;

14 (6) any power that applies to or affects any determination of the department of environmental
15 quality with regard to any mining plan, permit, or contract;

16 (7) any power that applies to or affects any determination by the department of environmental
17 quality with regard to a certificate of compliance;

18 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
19 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6
20 months' imprisonment, or both, except as specifically authorized by statute;

21 (9) any power that applies to or affects the right to keep or bear arms;

22 (10) any power that applies to or affects a public employee's pension or retirement rights as
23 established by state law, except that a local government may establish additional pension or retirement
24 systems;

25 (11) any power that applies to or affects the standards of professional or occupational competence
26 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

27 (12) except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to

Amendment - 1st Reading-white - Requested by: Steve Fitzpatrick - (S) Business, Labor, and Economic Affairs

68th Legislature

Drafter: Erin Sullivan, 406-444-3594

SB0105.001.001

1 or affects Title 75, chapter 7, part 1, or Title 87;

2 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is
3 intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title
4 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require
5 landlords to comply with ordinances or provisions that are applicable to all other businesses or residences
6 within the local government's jurisdiction.

7 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

8 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
9 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government
10 may enter into a cooperative agreement with the department of agriculture concerning the use and application
11 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
12 government from adopting or implementing zoning regulations or fire codes governing the physical location or
13 siting of fertilizer manufacturing, storage, and sales facilities.

14 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production,
15 processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or
16 vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local
17 government from adopting or implementing zoning regulations or building codes governing the physical location
18 or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or
19 distribution facilities.

20 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
21 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
22 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
23 communications commission of the United States;

24 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio
25 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a
26 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,
27 "technician" or higher class, issued by the federal communications commission of the United States;

Amendment - 1st Reading-white - Requested by: Steve Fitzpatrick - (S) Business, Labor, and Economic Affairs

68th Legislature

Drafter: Erin Sullivan, 406-444-3594

SB0105.001.001

1 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
2 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
3 highway that is under the jurisdiction of an entity other than the local government unit;

4 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in
5 relation to a wildfire;

6 (21) any power as prohibited in 7-1-121(2) affecting, applying to, or regulating the use, disposition,
7 sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in 7-1-121(5);

8 (22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in
9 accordance with 7-1-116;

10 (23) any power to require an employer, other than the local government unit itself, to provide an
11 employee or class of employees with a wage or employment benefit that is not required by state or federal law;

12 (24) any power to enact an ordinance prohibited in 7-5-103 or a resolution prohibited in 7-5-121 and
13 any power to bring a retributive action against a private business owner as prohibited in 7-5-103(2)(d)(iv) and 7-
14 5-121(2)(c)(iv); ~~or~~

15 (25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in
16 16-11-313(1); ~~or~~

17 (26) any power to control the amount of rent charged for private residential or commercial property
18 as provided in [section 1]. Private residential property does not include property in which the local government
19 unit has a property interest or in which the local government unit has an interest through a housing authority."

20
21 NEW SECTION. Section 3.—Codification instruction. [Section 1] is intended to be codified as an
22 integral part of Title 70, chapter 26, part 1, and the provisions of Title 70, chapter 26, part 1, apply to [section 1].

23 - END -