

1 HOUSE BILL NO. 187
2 INTRODUCED BY A. BUCKLEY, J. GILLETTE, S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THAT CHILD CARE IS A RESIDENTIAL USE OF
5 PROPERTY AND A RESIDENTIAL PURPOSE IF IT IS CLEARLY AND EXPRESSLY PROVIDED FOR IN A
6 COVENANT; PROVIDING DIRECTIONS FOR THE IMPLEMENTATION OF ESTABLISHING CHILD CARE AS
7 A RESIDENTIAL USE OF PROPERTY AND A RESIDENTIAL PURPOSE; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE, ~~A RETROACTIVE APPLICABILITY DATE, AND AN APPLICABILITY DATE.~~"

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

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12 NEW SECTION. Section 1. Home-based Home-based child care. ~~Unless the clear and express~~
13 ~~terms of a covenant provide otherwise, providing~~ The language of a covenant must provide in clear and
14 express terms that child care is a residential use of property and is a residential purpose in order for a child-
15 care service to be deemed a residential use of property and a residential purpose.

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

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20 NEW SECTION. Section 3. Severability. ~~If a part of [this act] is invalid, all valid parts that are~~
21 ~~severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,~~
22 ~~the part remains in effect in all valid applications that are severable from the invalid applications.~~

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24 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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26 NEW SECTION. Section 5. Retroactive applicability. ~~[This act] applies retroactively, within the~~
27 ~~meaning of 1-2-109, to covenants on residential property in existence before [the effective date of this act] that~~
28 ~~do not clearly and expressly address child care.~~

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2 ~~NEW SECTION. Section 6. — Applicability. [This act] applies to covenants on residential property in~~
3 ~~existence on or after [the effective date of this act] that do not clearly and expressly address child care.~~

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5 **NEW SECTION. Section 4. Implementation.** (1) Each homeowners' association in existence in
6 Montana on [the effective date of this act] shall take a vote within 6 months of [the effective date of this act] to
7 affirmatively adopt or reject language in a covenant that child care is a residential use of property and is a
8 residential purpose.

9 (2) The secretary of state is directed to make a good faith effort to inform each homeowners'
10 association or association of unit owners of the requirement of subsection (1).

11 (3) The results of the vote required under subsection (1) may not be construed to be the adoption
12 of a more onerous restriction on the types of use of a member's real property under the provisions of 70-17-
13 901.

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