

Amendment - 1st Reading/2nd House-blue - Requested by: Katie Zolnikov - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0358.002.001

1 HOUSE BILL NO. 358
2 INTRODUCED BY K. ZOLNIKOV, S. KERNS, C. KNUDSEN, G. NIKOLAKAKOS, L. SHELDON-GALLOWAY,
3 G. FRAZER, B. LER, S. GALLOWAY, C. HINKLE, G. OBLANDER, W. RUSK
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY MANAGER LICENSE LAWS; EXEMPTING
6 FROM THE PROPERTY MANAGER LICENSE REQUIREMENT OWNERS OF REAL ESTATE, RELATED
7 OWNERS, AND ENTITIES OWNED BY RELATED OWNERS; ELIMINATING THE EXEMPTION FOR
8 PERSONS ACTING AS MANAGERS OF CERTAIN GOVERNMENT-SUBSIDIZED HOUSING; AMENDING
9 SECTION 37-51-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE ~~AND A RETROACTIVE~~
10 ~~APPLICABILITY DATE.~~"
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13

14 **Section 1.** Section 37-51-602, MCA, is amended to read:

15 **"37-51-602. Exemptions from requirement of property manager license.** (1) ~~The~~ IN ADDITION TO
16 THE EXEMPTIONS IN 37-51-103, THE property manager licensing provisions of this chapter do not apply to:

17 (a) AN OWNER OF A BUSINESS ENTITY THAT OWNS THE PROPERTY;

18 (b) AN OWNER OF A BUSINESS ENTITY THAT MANAGES PROPERTY FOR AN OWNER THAT IS EXEMPT UNDER
19 SUBSECTION (1)(A). HOWEVER, ALL OWNERS OF THE BUSINESS ENTITY THAT OWNS THE PROPERTY AND ALL OWNERS OF
20 THE BUSINESS ENTITY THAT MANAGES THE PROPERTY MUST BE RELATIVES AS PROVIDED IN SUBSECTION ~~(1)(D)~~ (1)(C).

21 FOR PURPOSES OF SUBSECTIONS (1)(A) AND (1)(B), AN OWNER IS A PERSON WHO IS A:

22 (i) SOLE PROPRIETOR;

23 (ii) MANAGING MEMBER OF A LIMITED LIABILITY COMPANY;

24 (iii) SHAREHOLDER OF A CORPORATION; OR

25 (iv) PARTNER IN A PARTNERSHIP.

26 ~~(c) An AN owner of the real estate, owners who are relatives as provided in subsection (1)(b)~~
27 ~~(1)(D), or to business entities or partnerships owned by the owners of the real estate who are relatives as~~

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1 ~~provided in subsection (1)(b)-(1)(D):~~

2 ~~(a)(b)(D)(c)~~ a relative of the owner of the real estate, defined as follows:

3 ~~(i) — a son or daughter of the property owner or a descendant of either;~~

4 ~~(ii) — a stepson or stepdaughter of the property owner;~~

5 ~~(iii) — a brother, sister, stepbrother, or stepsister of the property owner;~~

6 ~~(iv) — the father or mother of the property owner or the ancestor of either;~~

7 ~~(v) — a stepfather or stepmother of the property owner;~~

8 ~~(vi) — a son or daughter of a brother or sister of the property owner;~~

9 ~~(vii) — a brother or sister of the father or mother of the property owner;~~

10 ~~(viii) — a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the~~
11 ~~property owner; or~~

12 ~~(ix) — the spouse of the property owner;~~

13 ~~(i) — the spouse of the property owner; or~~

14 ~~(ii) — the child, descendant of a child, sibling, parent, niece, nephew, aunt, or uncle of either the~~
15 ~~property owner or the spouse of the property owner.~~

16 ~~(b)(c)(E)(d)~~ a person who leases no more than four residential real estate units;

17 ~~(e)(d)(F)(e)~~ a person acting as attorney-in-fact under a power of attorney from the owner of real
18 estate who authorizes the final consummation of any contract for the renting or leasing of the real estate. This
19 exemption is meant to exclude a single or irregular transaction and may not be routinely used to escape the
20 necessity of obtaining a license.

21 ~~(d)(e)(G)(f)~~ an attorney at law in the performance of duties as an attorney;

22 ~~(e)(f)(H)(g)~~ a receiver, trustee in bankruptcy, personal representative, person acting in regard to
23 real estate pursuant to a court order, or a trustee under a trust agreement, deed of trust, or will;

24 ~~(f)(g)(I)(h)~~ an officer of the state or any of its political subdivisions in the conduct of official duties;

25 ~~(g) — a person acting as a manager of a housing complex for low-income individuals subsidized either~~
26 ~~directly or indirectly by the state, any agency or political subdivision of the state, or the government or an~~
27 ~~agency of the United States;~~

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1 ~~(h)~~~~(j)~~~~(i)~~ a person who receives compensation from the owner of the real estate in the form of reduced
2 rent or salary, unless that person holds signatory authority on the account in which revenue from the real estate
3 is deposited or disbursed;

4 ~~(i)~~~~(k)~~~~(j)~~ a person employed by the owner of the real estate if that person's property management duties
5 are incidental to the person's other employment-related duties; or

6 ~~(j)~~~~(l)~~~~(k)~~ a person employed on a salaried basis by only one person.

7 (2) A licensed real estate broker on active status or a licensed real estate salesperson on active
8 status and acting under a supervising broker may act as a property manager without meeting any qualifications
9 in addition to those required for licensure as a real estate broker or real estate salesperson and without holding
10 a separate property manager's license."

11
12 COORDINATION SECTION. **Section 2. Coordination instruction.** If both Senate Bill No. 455 and
13 [this act] are passed and approved and if Senate Bill No. 455 repeals 37-51-602, then [section 1 of this act]
14 terminates September 30, 2023, and [section 4 of Senate Bill No. 455] must be amended as follows:

15 "NEW SECTION. **Section 4. Exemptions from requirement of property manager license.** (1) The
16 property manager licensing provisions of [sections 1 through 8] do not apply to:

17 (a) an owner of a business entity that owns the property;

18 (b) an owner of a business entity that manages the property for an owner that is exempt under
19 subsection (1)(a). However, all owners of the business entity that owns the property and all owners of the
20 business entity that manages the property must be relatives as provided in subsections (1)(c) or (1)(d).

21 ~~(a)~~~~(c)~~ the spouse of the property owner;

22 ~~(b)~~~~(d)~~ the child, descendant of a child, sibling, parent, niece, nephew, aunt, or uncle of either the
23 property owner or the spouse of the property owner;

24 ~~(e)~~~~(e)~~ a person who leases no more than four residential real estate units;

25 ~~(d)~~~~(f)~~ a person acting as attorney-in-fact under a power of attorney;

26 ~~(e)~~~~(g)~~ an attorney at law in the performance of duties as an attorney;

27 ~~(f)~~~~(h)~~ a person acting pursuant to a court order or a trustee;

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- 1 ~~(g)(i)~~ an officer of the state or a political subdivision in the conduct of official duties;
- 2 ~~(h)~~ a person acting as a manager of a housing complex for low-income individuals subsidized by
- 3 any government agency or political subdivision of the United States;
- 4 ~~(i)(j)~~ a person who receives reduced rent or salary, unless that person holds signatory authority on
- 5 the trust account;
- 6 ~~(j)(k)~~ a person employed by the owner of the real estate if that person's property management duties
- 7 are incidental to the person's other employment-related duties; or
- 8 ~~(k)(l)~~ a person employed on a salaried basis by only one person.
- 9 (2) A broker or salesperson licensed under Title 37, chapter 51, may act as a property manager. A
- 10 salesperson may not act as a property manager without a supervising broker.

- 11 (3) For the purposes of subsections (1)(a) and (1)(b), "owner" means a person who is a:
- 12 (a) sole proprietor;
- 13 (b) managing member of a limited liability company;
- 14 (c) shareholder of a corporation; or
- 15 (d) partner in a partnership."

16

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

18

19 NEW SECTION. Section 3. RETROACTIVE APPLICABILITY. [THIS ACT] APPLIES RETROACTIVELY, WITHIN

20 THE MEANING OF 1-2-109, TO PROPERTY MANAGER LICENSING ON OR AFTER JANUARY 1, 2023.

21 - END -