

HOUSE BILL NO. 253

INTRODUCED BY J. BACHMEIER

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL VACANT PROPERTY REGISTRATION ORDINANCE; ALLOWING A MUNICIPALITY TO ADOPT A VACANT PROPERTY REGISTRATION ORDINANCE; ESTABLISHING THE AUTHORITY, REQUIREMENTS, PROPERTY EXEMPTIONS, AND FEE COLLECTION ALLOWED IN A VACANT PROPERTY REGISTRATION ORDINANCE; AND ALLOWING INSPECTIONS OF VACANT PROPERTY."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 11] may be cited as the "Vacant Property Registration Act".

NEW SECTION. **Section 2. Purpose.** (1) The purpose of [sections 1 through 11] is to promote the health, safety, and well-being of Montana residents by granting authority to municipalities to enact vacant property registration ordinances.

(2) Vacant properties pose public safety health risks while reducing property values and the economic viability of the community where they are found. A vacant property registration ordinance allows a municipality to:

- (a) identify and register vacant properties;
- (b) collect fees to compensate for the public costs of vacant properties;
- (c) plan for the rehabilitation of vacant properties; and
- (d) encourage occupancy of vacant properties.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 11], the following definitions apply:

(1) "Evidence of vacancy" means any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a residential building or commercial building is vacant. The term includes but is not limited to:



- 1 (a) overgrown or dead vegetation, including grass, shrubbery, and other landscaping;
- 2 (b) an accumulation of abandoned personal property, trash, or other waste;
- 3 (c) visible deterioration or lack of maintenance of a building or structure on the property;
- 4 (d) graffiti or other defacement of a building or structure on the property; or
- 5 (e) any other condition or circumstance reasonably indicating that the property is not occupied for
- 6 residential purposes or being used for the operation of a lawful business.

7 (2) "Owner" means the person, persons, or entity shown to be the owner or owners of record on file at  
 8 the office of the county clerk and recorder.

9 (3) "Residential property" means property described in 15-6-134.

10 (4) "Unoccupied" refers to property exhibiting evidence of vacancy and to property that is not being used  
 11 for occupancy authorized by the owner.

12 (5) "Vacant" refers to a residential or commercial building exhibiting evidence of vacancy and to property  
 13 that may also:

- 14 (a) be unoccupied;
- 15 (b) be declared unsafe;
- 16 (c) have utilities disconnected;
- 17 (d) have building code violations;
- 18 (e) be illegally occupied other than during a pending dispute between a landlord and a tenant;
- 19 (f) be unoccupied for longer than 90 days and have an existing code violation issued by a municipal,  
 20 county, or state housing, building, or fire official;
- 21 (g) have a mortgage status of abandonment; or
- 22 (h) be abandoned by the owner.

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 24 **NEW SECTION. Section 4. Authorization to adopt ordinance.** (1) A municipality may adopt a vacant  
 25 property registration ordinance that applies to either residential property or commercial property or to both. A  
 26 vacant property registration may not apply to property owned by the federal or state government.

27 (2) A municipality shall enact a vacant property registration ordinance using the municipal ordinance and  
 28 resolution procedure provided in Title 7, chapter 5, part 42.

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 30 **NEW SECTION. Section 5. Requirements of vacant property registration.** (1) A vacant property

1 registration ordinance must create a citywide vacant property registration database and clearly designate a  
2 program administrator.

3 (2) An owner of vacant property subject to a vacant property registration ordinance shall register the  
4 property with the program administrator if the property has been vacant for 90 days or longer. A vacant property  
5 registration ordinance registration form may be in either paper or electronic format and must include the following  
6 information:

7 (a) the name, street address, mailing address, telephone number, and e-mail address, if applicable, of  
8 the property owner or agent authorized by the owner to receive the notices required under [sections 6 through  
9 10] and this section;

10 (b) the street address and parcel identification number of the vacant property;

11 (c) the names and addresses of all known lienholders and all other parties known or believed to have a  
12 claim of an ownership interest in the building; and

13 (d) the specific or approximate date when the property became vacant.

14 (3) An owner may be required to submit a vacant building plan as approved by the program administrator.  
15 A vacant building plan must contain at least one of the following:

16 (a) if the building is to be demolished, a demolition plan indicating the proposed timeframe for demolition  
17 that includes starting within 30 days of acceptance of the proposed demolition plan and completing demolition  
18 within 1 year;

19 (b) if the building is to remain vacant, a plan for ensuring the building is secured in accordance with all  
20 applicable building and fire codes and the procedure that will be used to maintain the property; or

21 (c) if the building is to be returned to occupancy or use, a rehabilitation plan for the building and grounds.

22 (4) A municipality may propose and adopt additional requirements of a vacant property registration  
23 ordinance in order to fulfill the purpose of [sections 1 through 11].

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25 **NEW SECTION. Section 6. Registration fees.** (1) A vacant property registration ordinance may require  
26 payment of a fee up to 180 days after initial registration of the vacant property as provided in [section 5] or up to  
27 360 days after the property becomes vacant, whichever is sooner, and may require the payment of supplemental  
28 registration fees at intervals not more frequently than every 6 months thereafter for as long as the property  
29 remains in the vacant property registration database.

30 (2) The initial registration fee may not be more than \$250 for a residential property and not more than

1 \$1,000 for a commercial property. A supplemental registration fee may not be more than double the previous fee  
2 amount, with a maximum supplemental registration fee of 10 times the initial registration fee amount.

3 (3) Registration fees may be refundable for the year preceding the date on which a property is no longer  
4 vacant.

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6 **NEW SECTION. Section 7. Vacant property registration transfer and removal -- exemptions.** (1)

7 A vacant property registration ordinance must:

8 (a) provide that a subsequent owner or owners of property subject to the ordinance will assume the  
9 obligations of the previous owner or owners; and

10 (b) provide for removal of a property from the vacant property registration database when the property  
11 is no longer vacant.

12 (2) A vacant property registration ordinance may not apply to vacant property that is advertised in good  
13 faith for sale or lease.

14 (3) (a) Vacant property may be exempted from a vacant property registration ordinance if it:

15 (i) is considered to be only a seasonal residence;

16 (ii) has been damaged by fire, weather, or vandalism;

17 (iii) is under construction or renovation;

18 (iv) has an owner who is temporarily absent but has demonstrated intent to return; or

19 (v) is subject to divorce, probate, or estate proceedings.

20 (b) Vacant property that meets the criteria of subsection (3)(a)(ii) or (3)(a)(iii) may be exempted for no  
21 longer than 180 days.

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23 **NEW SECTION. Section 8. Right to notice and appeal.** A vacant property ordinance must provide

24 that an owner of vacant property has the right to notice of, and the right to appeal, adverse decisions of the  
25 municipality or the program administrator. The notice must be sent by certified mail to the registered owner at the  
26 address maintained in the county clerk and recorder's office at least 10 days prior to the adverse decision.

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28 **NEW SECTION. Section 9. Property inspections.** (1) A vacant property registration ordinance may  
29 allow the program administrator or the administrator's designee to inspect the interior and exterior of the vacant  
30 property upon registration and at intervals determined by the program administrator for as long as the property

1 remains in the vacant property registration database.

2 (2) If provided in a vacant property registration ordinance, an owner shall provide access to all interior  
3 and exterior portions of a vacant building to complete a full inspection of the premises. A refusal to permit access  
4 may subject the owner to a civil penalty of not more than \$150 a day for as long as the refusal continues. If an  
5 owner refuses an inspection or is unable to be located, the program administrator may seek a search warrant for  
6 the vacant building from a court of competent jurisdiction.

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8 **NEW SECTION. Section 10. Fines -- lien on applicable property.** (1) A vacant property registration  
9 ordinance may allow a municipality to issue fines for failure to comply with the ordinance's requirements. A  
10 municipality may enforce the collection of vacant property registration fees by civil action in a court of competent  
11 jurisdiction.

12 (2) Unpaid vacant property registration fees and unpaid fines for a violation of a vacant property  
13 registration ordinance become a lien on the applicable property upon the recording of a notice of the lien in the  
14 office of the clerk and recorder of the county in which the applicable property is located.

15 (3) A lien created in subsection (2) is subordinate to all liens on the applicable property recorded prior  
16 to the time the notice of a lien under subsection (2) is recorded.

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18 **NEW SECTION. Section 11. Scope.** The powers conferred by [sections 1 through 10] are in addition  
19 and supplemental to the powers conferred by any other law.

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21 **NEW SECTION. Section 12. Codification instruction.** [Sections 1 through 11] are intended to be  
22 codified as an integral part of Title 7, chapter 15, and the provisions of Title 7, chapter 15, apply to [sections 1  
23 through 11].

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