

SENATE JOINT RESOLUTION NO. 24

INTRODUCED BY TURNAGE, PETERSON, STORY, R. SMITH
BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE SENATE

February 12, 1979	Introduced and referred to Committee on Business and Industry.
February 15, 1979	Committee recommend bill do pass. Report adopted.
February 16, 1979	Printed and placed on members' desks.
February 17, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed.
February 20, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 21, 1979	Introduced and referred to Committee on Business and Industry.
March 2, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* JOINT RESOLUTION NO. *24*
 2 INTRODUCED BY *Turnage* ~~*Passmore*~~ *Stoy R. Smith*
 3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

4
 5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
 6 REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING AN
 7 AMENDMENT TO RULE 40-3.98(6)-S9885 OF THE ADMINISTRATIVE
 8 RULES OF MONTANA TO DELETE THE REQUIREMENT THAT WHEN A
 9 FRANCHISE NAME IS USED, A REAL ESTATE BROKER/FRANCHISEE'S
 10 NAME MUST CONSTITUTE AT LEAST 50% OF THE ENTIRE COMBINED
 11 SURFACE AREA COVERED BY BOTH THE BROKER'S NAME AND THE
 12 FRANCHISE NAME OR LOGOTYPE.

13
 14 WHEREAS, the Board of Real Estate has adopted a rule
 15 regulating real estate franchising; and

16 WHEREAS, the rule includes a requirement that when the
 17 franchise name is used, the real estate broker/franchisee's
 18 name must constitute at least 50% of the entire combined
 19 surface area covered by both the broker's name and the
 20 franchise name or logotype; and

21 WHEREAS, this requirement blatantly exceeds the board's
 22 statutory authority to prevent misleading advertising since
 23 the requirement is in no way reasonably necessary to
 24 effectuate that purpose; and

25 WHEREAS, the requirement is highly questionable under

1 the right of free speech guaranteed by the first Amendment
 2 of the United States Constitution; and
 3 WHEREAS, the requirement results in unreasonable costs
 4 to real estate franchisees and franchisors; and
 5 WHEREAS, the other provisions of the rule, together
 6 with the Real Estate License Act itself, are sufficient to
 7 prevent misleading advertising.

8
 9 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
 10 OF REPRESENTATIVES OF THE STATE OF MONTANA:

11 That the Board of Real Estate is directed to amend ARM
 12 40-3.98(6)-S9885, subsection 5.b, to read:

13 "b. incorporate in the franchise name and logotype,
 14 his own name; however, the broker's name may not be less
 15 than fifty percent (50%) of the surface area of the entire
 16 combined area of both the broker's name and the franchise
 17 name or logotype; and"

-End-

-2- *STR 24*
 INTRODUCED BILL

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 14 his own name; however, the broker's name may not be less
 15 than ~~fifty percent (50%) of the surface area of the entire~~
 16 ~~combined area of both the broker's name and the franchise~~
 17 ~~name or logotype; and"~~

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