

HOUSE BILL NO. 494

INTRODUCED BY E. ARNTZEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING PUBLIC INVOLVEMENT IN THE CREATION,  
5 OPERATION, AND MODIFICATION OF URBAN RENEWAL AREAS; REQUIRING PUBLIC HEARINGS ON  
6 URBAN RENEWAL ACTIVITIES; PROVIDING THAT WRITTEN PROTESTS BY A MAJORITY OF PROPERTY  
7 OWNERS OR BY OWNERS OF A MAJORITY OF THE PROPERTY WITHIN A PROPOSED URBAN RENEWAL  
8 AREA STOP THE CREATION OF THE AREA FOR 1 YEAR; ESTABLISHING A BOARD OF COMMISSIONERS  
9 TO ADMINISTER EACH URBAN RENEWAL AREA; PROVIDING THAT THE BOARD MUST HAVE APPOINTED  
10 COMMISSIONERS; REQUIRING APPROVAL OF THE BOARD OF COMMISSIONERS FOR CERTAIN URBAN  
11 RENEWAL ACTIONS; AMENDING SECTIONS 7-15-4206, 7-15-4214, 7-15-4215, 7-15-4216, 7-15-4217,  
12 7-15-4221, 7-15-4234, 7-15-4235, 7-15-4254, AND 7-15-4258, MCA; AND PROVIDING AN EFFECTIVE DATE  
13 AND AN APPLICABILITY DATE."

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

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17 **Section 1.** Section 7-15-4206, MCA, is amended to read:

18 **"7-15-4206. Definitions.** The following terms, wherever used or referred to in part 43 or this part, have  
19 the following meanings unless a different meaning is clearly indicated by the context:

20 (1) "Agency" or "urban renewal agency" means a public agency created by 7-15-4232.

21 (2) "Blighted area" means an area that is conducive to ill health, transmission of disease, infant mortality,  
22 juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its environs,  
23 that retards the provision of housing accommodations, or that constitutes an economic or social liability or is  
24 detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and  
25 use, by reason of:

26 (a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction,  
27 material, and arrangement of buildings or improvements, whether residential or nonresidential;

28 (b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined  
29 by competent appraisers on the basis of an examination of the building standards of the municipality;

30 (c) inappropriate or mixed uses of land or buildings;

- 1 (d) high density of population and overcrowding;
- 2 (e) defective or inadequate street layout;
- 3 (f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- 4 (g) excessive land coverage;
- 5 (h) unsanitary or unsafe conditions;
- 6 (i) deterioration of site;
- 7 (j) diversity of ownership;
- 8 (k) tax or special assessment delinquency exceeding the fair value of the land;
- 9 (l) defective or unusual conditions of title;
- 10 (m) improper subdivision or obsolete platting;
- 11 (n) the existence of conditions that endanger life or property by fire or other causes; or
- 12 (o) any combination of the factors listed in this subsection (2).
- 13 (3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to be
- 14 issued pursuant to part 43 or this part.
- 15 (4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official records
- 16 of the municipality.
- 17 (5) "Federal government" means the United States of America or any agency or instrumentality,
- 18 corporate or otherwise, of the United States of America.
- 19 (6) "Local governing body" means the council or other legislative body charged with governing the
- 20 municipality.
- 21 (7) "Mayor" means the chief executive of a city or town.
- 22 (8) "Municipality" means any incorporated city or town in the state.
- 23 (9) "Neighborhood development program" means the yearly activities or undertakings of a municipality
- 24 in an urban renewal area or areas if the municipality elects to undertake activities on an annual increment basis.
- 25 (10) "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying to the
- 26 municipality property used in connection with an urban renewal project or any assignee or assignees of the
- 27 lessor's interest or any part of the interest and the federal government when it is a party to any contract with the
- 28 municipality.
- 29 (11) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock
- 30 association, or school district and includes any trustee, receiver, assignee, or other person acting in a similar

1 representative capacity.

2 (12) "Public body" means the state or any municipality, township, board, commission, district, or other  
3 subdivision or public body of the state.

4 (13) "Public officer" means any officer who is in charge of any department or branch of the government  
5 of the municipality relating to health, fire, building regulations, or other activities concerning dwellings in the  
6 municipality.

7 (14) "Public use" means:

8 (a) a public use enumerated in 70-30-102; or

9 (b) a project financed by the method provided for in 7-15-4288.

10 (15) "Real property" means all lands, including improvements and fixtures on the land, all property of any  
11 nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and use, legal  
12 or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or otherwise.

13 (16) "Redevelopment" may include:

14 (a) acquisition of a blighted area or portion of the area;

15 (b) demolition and removal of buildings and improvements;

16 (c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other  
17 improvements necessary for carrying out in the area the urban renewal provisions of this part in accordance with  
18 the urban renewal plan; and

19 (d) making the land available for development or redevelopment by private enterprise or public agencies,  
20 including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the  
21 urban renewal plan. If the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public  
22 agencies may not develop the condemned area in a way that is not for a public use.

23 (17) (a) "Rehabilitation" may include the restoration and renewal of a blighted area or portion of the area  
24 in accordance with an urban renewal plan by:

25 (i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or  
26 other improvements;

27 (ii) acquisition of real property and demolition or removal of buildings and improvements on the property  
28 when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic  
29 hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the  
30 spread of blight or deterioration, or to provide land for needed public facilities;

1 (iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other  
2 improvements necessary for carrying out in the area the urban renewal provisions of this part; and

3 (iv) subject to 7-15-4259(4), the disposition of any property acquired in the urban renewal area, including  
4 sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban  
5 renewal plan.

6 (b) Rehabilitation may not include the development of the condemned area in a way that is not for a  
7 public use if the property is condemned pursuant to Title 70, chapter 30.

8 (18) "Urban renewal activity" means the designation of an urban renewal area, the adoption of an urban  
9 renewal plan or project, the alteration of the boundaries of an urban renewal area, or the amendment or  
10 modification of an urban renewal plan or project.

11 ~~(18)~~(19) "Urban renewal area" means a blighted area that the local governing body designates as  
12 appropriate for an urban renewal project or projects.

13 ~~(19)~~(20) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban renewal  
14 project. The plan:

15 (a) must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and

16 (b) must be sufficiently complete to indicate, on a yearly basis or otherwise:

17 (i) any land acquisition, demolition, and removal of structures; redevelopment; improvements; and  
18 rehabilitation that is proposed to be carried out in the urban renewal area;

19 (ii) zoning and planning changes, if any, including changes to the growth policy if one has been adopted  
20 pursuant to Title 76, chapter 1;

21 (iii) land uses, maximum densities, building requirements; and

22 (iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic,  
23 public transportation, public utilities, recreational and community facilities, and other public improvements.

24 ~~(20)~~(21) (a) "Urban renewal project" may include undertakings or activities of a municipality in an urban  
25 renewal area for the elimination and for the prevention of the development or spread of blight and may involve  
26 redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area, or any  
27 combination or part of redevelopment, rehabilitation, or conservation in accordance with an urban renewal plan.

28 (b) An urban renewal project may not include using property that was condemned pursuant to Title 70,  
29 chapter 30, for anything other than a public use."

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1           **Section 2.** Section 7-15-4214, MCA, is amended to read:

2           **"7-15-4214. Hearing on urban renewal plan activity required.** (1) The local governing body shall hold  
3 a public hearing on an urban renewal ~~plan~~ activity prior to adoption as provided in 7-1-4131 after public notice  
4 ~~thereof.~~ Notice of the hearing must be published as provided in 7-1-4127, and mail notice as provided in 7-1-4129  
5 must be given to property owners of the district.

6           (2) ~~Upon~~ If the proposed urban renewal activity is an urban renewal plan, the public hearing may not be  
7 held until after receipt by the governing body of the recommendations of the planning commission required under  
8 7-15-4213, ~~or if no~~ If recommendations are not received within said 60 days, then the governing body may  
9 proceed with the hearing without such the planning commission's recommendations, the local governing body  
10 may proceed with the hearing on the proposed urban renewal project plan."

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12           **Section 3.** Section 7-15-4215, MCA, is amended to read:

13           **"7-15-4215. Notice of hearing on urban renewal plan activity -- protest on creation of urban**  
14 **renewal area.** (1) (a) The notice required by 7-15-4214(1) must be given by publication as provided in 7-1-4127  
15 and by mailing a notice of the hearing, not less than 10 days prior to the date of the hearing, to the persons whose  
16 names appear on the county treasurer's tax ~~roll~~ record as the owners, reputed owners, or purchasers under  
17 contracts for deed of the property, at the address shown on the tax ~~roll~~ record.

18           ~~(2)~~(b) The notice must describe the time, date, place, and purpose of the hearing, generally identify the  
19 proposed or existing urban renewal area affected, and outline the general scope of the urban renewal ~~plan~~ action  
20 under consideration.

21           (2) (a) At any time within 15 days after the date of the hearing on establishing an urban renewal area,  
22 an owner of property within the proposed urban renewal area may make a written protest against the creation  
23 of the urban renewal area.

24           (b) If the period described in subsection (2)(a) includes a holiday enumerated in 1-1-216, other than a  
25 Sunday, the period must be extended for an additional 2 days.

26           (3) (a) A protest must be in writing, identify the property in the proposed urban renewal area owned by  
27 the protestor, and be signed by all the owners of the property. The protest must be delivered to the municipal  
28 clerk or governing body not later than 5 p.m. of the last day within the protest period. The clerk shall endorse on  
29 the protest document the date and hour of its receipt by the clerk.

30           (b) At the next regular meeting of the governing body after the expiration of the time within which a protest

1 may be made, the governing body shall hear and pass upon all protests that have been made.

2 (c) The governing body may adjourn the hearing from time to time. Protestors may withdraw a protest  
3 at any time before final action on the protest by the governing body.

4 (d) In determining whether sufficient protests have been filed on a proposed urban renewal area to  
5 prevent its approval, property owned by a county or municipality is considered the same as other property in the  
6 proposed district.

7 (4) Further proceedings may not be taken on the creation of the proposed urban renewal area for a  
8 period of 1 year from the protest date established in subsection (2) if the governing body finds that protests were  
9 made by:

10 (a) more than 50% of the number of owners of property in the proposed urban renewal area; or

11 (b) the owners of more than 50% of the area of the property in the proposed urban renewal area.

12 (5) (a) For purposes of this section, "owner" means the persons whose names appear on the county  
13 treasurer's tax record as the owners, reputed owners, or purchasers under contracts for deed of the property. An  
14 owner's mailing address is the address shown on the tax record.

15 (b) The term does not include a tenant of or other holder of a leasehold interest in the property."

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17 **Section 4.** Section 7-15-4216, MCA, is amended to read:

18 **"7-15-4216. Requirements for approval of urban renewal areas, plans, and projects. (1) The local**  
19 **governing body may not approve the designation of an urban renewal area if the designation is protested by a**  
20 **sufficient number of property owners as provided in 7-15-4215(4). The local governing body may not conduct**  
21 **further proceedings on the designation of the area for 1 year after the close of the date for receiving protests as**  
22 **provided in 7-15-4215(4).**

23 ~~(1)(2)~~ The local governing body shall may not approve an urban renewal plan until a comprehensive  
24 municipal plan or parts of such of a municipal plan for an the area which would include an to be included in the  
25 urban renewal area for the municipality have been prepared.

26 ~~(2)(3)~~ A municipality shall may not approve an urban renewal project for an urban renewal area unless  
27 the local governing body has by resolution determined such the area to be a blighted area and designated such  
28 the area as appropriate for an urban renewal project.

29 ~~(3)(4)~~ (a) An urban renewal plan adopted after July 1, 1979, must be approved by ordinance.

30 ~~(4)(b)~~ All urban renewal plans approved by resolution prior to May 8, 1979, are hereby validated valid."

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**Section 5.** Section 7-15-4217, MCA, is amended to read:

**"7-15-4217. Criteria for approval of urban renewal project.** Following the hearing required by 7-15-4214, the local governing body may, by ordinance, approve an urban renewal project if:

(1) the governing body it finds that:

~~(1)(a)~~ there is a workable and feasible plan ~~exists for making available~~ adequate housing for the persons who may be displaced by the project;

~~(2)(b)~~ the urban renewal plan conforms to the comprehensive plan or parts ~~thereof~~ of the comprehensive plan for the municipality as a whole;

~~(3)(c)~~ the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise;

and

~~(4)(d)~~ there is a sound and adequate financial program ~~exists for the financing of said~~ the project; and

(2) the urban renewal project has been approved by the commissioners of the urban renewal area."

**Section 6.** Section 7-15-4221, MCA, is amended to read:

**"7-15-4221. Modification of urban renewal project plan.** (1) ~~An~~ Subject to 7-15-4215, an urban renewal project plan may be modified at any time by the local governing body. Prior to approval by the governing body, a modification must first be approved by the commissioners of the urban renewal area.

(2) If modified after the lease or sale by the municipality of real property in the urban renewal project area, the modification is subject to any rights at law or in equity that a lessee or purchaser or the lessee's or purchaser's successor or successors in interest may be entitled to assert.

~~(2)(3)~~ (a) An urban renewal plan may be modified by ordinance.

~~(3)(b)~~ All urban renewal plans approved or modified by resolution prior to May 8, 1979, are ~~validated~~ valid.

(4) A plan may be modified by:

~~(a)~~ the procedure set forth in 7-15-4212 through 7-15-4219 with respect to adoption of an urban renewal plan;

~~(b)~~ the procedure set forth in the plan."

1           **Section 7.** Section 7-15-4234, MCA, is amended to read:

2           **"7-15-4234. Urban renewal agency to be administered by appointed board of commissioners.** (1)  
 3 ~~If the urban~~ Urban renewal agency is authorized to transact business and exercise powers exercised under this  
 4 ~~part, the mayor, by and with the advice and consent of the local governing body~~ must be administered by a board  
 5 of commissioners. The board of commissioners of an urban renewal area consists of five members. The  
 6 municipal governing body, in the manner provided by its form of government or charter, shall appoint a ~~the~~  
 7 members of the board of commissioners of the urban renewal agency consisting of five commissioners ~~area.~~

8           (2) The initial membership ~~shall consist~~ consists of one commissioner appointed for 1 year, one for 2  
 9 years, one for 3 years, and two for 4 years. Each subsequent appointment must be for 4 years. A certificate of  
 10 the appointment or reappointment of a commissioner must be filed with the clerk of the municipality, and the  
 11 certificate is conclusive evidence of the proper appointment of the commissioner.

12           (3) ~~Each~~ A commissioner ~~shall hold~~ holds office until a successor has been appointed and has qualified.

13           (4) A commissioner may not receive compensation for services but is entitled to ~~the~~ necessary expenses,  
 14 including traveling expenses, incurred in the discharge of duties.

15           (5) ~~Any persons~~ All ~~may be appointed as~~ commissioners if they must reside within the ~~municipality~~ urban  
 16 renewal area.

17           (6) A commissioner may be removed for inefficiency, neglect of duty, or misconduct in office."  
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19           **Section 8.** Section 7-15-4235, MCA, is amended to read:

20           **"7-15-4235. Restrictions on agency commissioners holding other public office.** ~~A majority~~ No more  
 21 than two of the commissioners of an urban renewal ~~agency~~ area exercising powers pursuant to this part or part  
 22 ~~43 shall not~~ may hold any other public office under the municipality ~~other than their commissionership or office~~  
 23 ~~with respect to such urban renewal agency, department, or office."~~

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 25           **Section 9.** Section 7-15-4254, MCA, is amended to read:

26           **"7-15-4254. Municipal power in the preparation of various plans.** (1) ~~Every~~ A municipality ~~shall have~~  
 27 ~~power, within the municipality~~ may:

28           (a) ~~to~~ make or have made all plans necessary to the carrying out of the purposes of this part and ~~to~~  
 29 contract with any person, public or private, in making and carrying out ~~such~~ the plans; and

30           (b) ~~to~~ subject to the provisions of this part, adopt or approve, modify, and amend ~~such~~ the plans.

- 1           (2) ~~Such~~ The plans may include, ~~without limitation:~~
- 2           (a) a comprehensive municipal plan or parts ~~thereof~~ of a plan for the locality as a whole;
- 3           (b) urban renewal plans;
- 4           (c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and
- 5 improvements;
- 6           (d) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land
- 7 and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation,
- 8 demolition, or removal of buildings and improvements; and
- 9           (e) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to
- 10 prepare for the undertaking of urban renewal projects."

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- 12           **Section 10.** Section 7-15-4258, MCA, is amended to read:
- 13           **"7-15-4258. Acquisition and administration of real and personal property.** (1) A municipality may:
- 14           (a) acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain pursuant to Title 70,
- 15 chapter 30, or otherwise any real property and personal property that may be necessary for the administration
- 16 of the provisions contained in part 43 and this part, together with any improvements on the real property;
- 17           (b) hold, improve, clear, or prepare for redevelopment property acquired pursuant to subsection (1)(a);
- 18           (c) dispose of real or personal property;
- 19           (d) insure or provide for the insurance of real or personal property or the operations of the municipality
- 20 against any risks or hazards, including the power to pay premiums on any insurance; and
- 21           (e) enter into a development agreement with the owner of real property within an urban renewal area
- 22 and undertake activities, including the acquisition, removal, or demolition of structures, improvements, or personal
- 23 property located on the real property, to prepare the property for redevelopment.
- 24           (2) A development agreement entered into in accordance with subsection (1)(e) must contain provisions
- 25 obligating the owner to redevelop the real property for a specified use consistent with the urban renewal plan and
- 26 offering recourse to the municipality if the redevelopment is not completed as determined by the local governing
- 27 body. The development agreement may not constitute the acquisition of an interest in real property by the
- 28 municipality within the meaning of 7-15-4262 or 7-15-4263.
- 29           (3) Except as provided in 7-15-4204(2), 7-15-4206, and 7-15-4259, statutory provisions with respect to
- 30 the acquisition, clearance, or disposition of property by public bodies may not restrict a municipality in the

1 exercise of functions with respect to an urban renewal project.

2 (4) A municipality may not acquire real property for an urban renewal project or enter into a development  
3 agreement, as provided in subsection (1)(e), unless the local governing body has approved the urban renewal  
4 project plan in accordance with 7-15-4216~~(2)~~(3) and 7-15-4217."

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6 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2009.

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8 NEW SECTION. **Section 12. Applicability.** [This act] applies to urban renewal districts created after  
9 July 1, 2009.

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- END -