

HOUSE JOINT RESOLUTION NO. 39

INTRODUCED BY G. MACLAREN

BY REQUEST OF THE HOUSE LOCAL GOVERNMENT STANDING COMMITTEE

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF CERTAIN EXEMPTIONS FROM SUBDIVISION REVIEW.

WHEREAS, The Montana Subdivision and Platting Act provides for the local review of proposed subdivisions; and

WHEREAS, Title 76, chapter 3, part 2, governs circumstances under which divisions of land and certain types of conveyances and land uses are exempt from subdivision review; and

WHEREAS, provisions governing exemptions have been interpreted and applied differently by different local governments; and

WHEREAS, interpretation and application of the statutes governing exemptions have been the subject of litigation; and

WHEREAS, in August 2009, the Montana Attorney General was asked to provide an opinion to clarify the meaning of section 76-3-204, MCA, governing the exemption from subdivision review of the sale, rent, lease, or other conveyance of parts of a building, structure, or other improvement; and

WHEREAS, in March 2010, the Montana Attorney General issued a draft opinion, but a final opinion has yet to be issued; and

WHEREAS, bills introduced during the 62nd Legislature have sought to clarify the statutes governing exemptions for sale, rent, lease, or other conveyance; and

WHEREAS, the statutes governing subdivision exemptions are problematic in different regions of the state for different reasons, and statutory changes that would apply statewide to which all of the concerned parties can agree have proven to be difficult to develop.

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

That the Legislative Council be requested to designate an appropriate interim committee or statutory



1 committee, pursuant to section 5-5-217, MCA, to:

2 (1) review the statutes governing exemptions from subdivision review provided in the Montana  
3 Subdivision and Platting Act, paying particular attention to the exemption for sale, rent, lease, or other  
4 conveyance and to subdivisions created by rent or lease;

5 (2) review the case law and opinions related to statutes governing exemptions;

6 (3) review the legislative history of the exemption statutes to determine their genesis and original intent;

7 (4) collect information on existing local subdivision regulations and how those regulations address  
8 exemptions; and

9 (5) develop findings, recommendations, and, if appropriate, legislation to clarify exemptions from  
10 subdivision review, considering the various conditions and needs that exist in different regions of the state.

11 BE IT FURTHER RESOLVED, that the committee conducting the study solicit participation and input from  
12 representatives of the development industry, planning organizations, environmental organizations, and local  
13 governments, as well as from citizens who have been impacted by local governments' application of statutes and  
14 regulations related to exemptions.

15 BE IT FURTHER RESOLVED, that all aspects of the study be concluded before September 15, 2012.

16 BE IT FURTHER RESOLVED, that the final results of the study, including any findings or  
17 recommendations by the committee, be reported to the 63rd Legislature.

18 - END -