

**MONTANA ASSOCIATION OF PLANNERS****Legislative Committee  
2013 Legislative Session**

**Summary comments regarding: SB 324**, AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-103, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

**Senate Local Government Committee: February 20, 2013**

The Montana Association of Planners appreciates the effort on the part of Sen. Rosendale to deal with the subdivisions for rent or lease issue (we call them SLRs). SLRS had an entirely new twist following the release of the AG's Opinion No. 5, Volume 54 in January, 2012 and many communities have found the situation difficult to address.

We oppose this bill, however for the following reasons:

- This bill would place a significant burden on local governments to implement more regulations in a section of law that has not yet been identified. Although SB 324 eliminates subdivisions for lease or rent from the Montana Subdivision and Platting Act, the new regulations would be in many ways quite similar to existing regulations under the Act, but puts new and additional restrictions on local governments' ability to adopt the most effective regulations to address SLRs in a manner that their communities might prefer.
- Just so the Committee fully understands MAP's interest here, our members are the planning, and sometimes sanitation staff. Our members work for local governments and it is our members' jobs to carry out the land use processes and procedures adopted by the local elected officials of the state of Montana in compliance with State Law
- SB 324 exempts five (5) or fewer buildings for lease or rent from the new regulations. Five or fewer buildings for lease or rent would need only sanitation review. These buildings could be apartment buildings with hundreds of units. But there would be no

local review by the planning board or board of county commissioners for 5 or fewer buildings regardless of their size, their intended use, or their impact on roads, law enforcement, fire, EMT, or other county services and facilities. Local governments should determine the number of buildings to be exempted.

- New Section 4 of this bill requires local governments to adopt more regulations “for the administration and enforcement of the creation of six or more buildings for lease or rent on a single tract.” The bill goes on to list all of the things that must be included in these new regulations – many of which are already in the Montana Subdivision and Platting Act, 76-3-504. Then, in addition to publishing a public notice---which is fine and expected---the local government must post a notice in five public places for 30 days prior to the hearing to adopt the regulations. This is a significant burden on local governments, and to adopt regulations that the local government already has----in its subdivision code.
- MAP opposes new Section 5, which imposes a supermajority requirement on local governments if they see a need to enact regulations beyond what New Section 4 allows. We believe that local governments should be allowed the flexibility to set regulations without the need for a super-majority, as is now the case for local land use laws.
- New Section 6 sets out the review procedure for six or more structures for rent or lease on one tract of record. And once again, this is very similar to the procedure in the Montana Subdivision and Platting Act. It does not, however, provide any mechanism whatsoever for public notice or public review and comment. The public should be provided this opportunity and it should be included in any new provision to review subdivisions for rent or lease. Due process is very well established and vital in current subdivision review process in Title 76 – including many forms of notification and legal notices, public hearings, public meetings, etc.
- Once again, we DO appreciate the effort to address SLRs in the wake of the AG’s opinion that nullified the exemption in 76-3-204. However, there are much simpler, more transparent, and FAR more efficient (because they don’t create loopholes like this bill does) ways of dealing with SLRs, and, they give the local governments the option to deal with SLRs in a manner that is best for their communities. A bill is now in the House, HB 531, that does just that, and unlike this bill, it uses the review processes and procedures that almost every community in the state already has on the books. MAP continues to support efforts to clarify the existing law while continuing to allow local review through MSPA rather than set up new review processes or regulatory mechanisms outside (or inside) of MSPA. Thank you.