

SENATE BILL NO. 339

INTRODUCED BY J. BRENDEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE RURAL COMMUNITY ECONOMIC  
5 SUSTAINABILITY ACT; ALLOWING A COUNTY TO LIMIT THE PERCENTAGE OF LAND IN A COUNTY THAT  
6 MAY BE ACQUIRED BY NONPROFIT ORGANIZATIONS; PROVIDING A PROCESS FOR ALTERING THE  
7 PERCENTAGE OF LAND IN A COUNTY THAT MAY BE ACQUIRED BY NONPROFIT ORGANIZATIONS;  
8 AUTHORIZING A COUNTY GOVERNING BODY TO APPROVE OR DENY PROPOSED ACQUISITIONS OF  
9 PROPERTY BY NONPROFIT CORPORATIONS; AND PROVIDING AN EFFECTIVE DATE AND AN  
10 APPLICABILITY DATE."

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

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14 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Rural Community  
15 Economic Sustainability Act".

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17 NEW SECTION. **Section 2. Intent, findings, and purpose.** (1) The legislature, mindful of its  
18 constitutional obligations under Article XIII, section 1(2), of the Montana constitution to provide protection and  
19 education for the people of Montana against harmful and unfair practices of foreign or domestic corporations,  
20 individuals, or associations, has enacted the Rural Community Economic Sustainability Act.

21 (2) It is the legislature's intent that the provisions of [sections 1 through 7] provide rural communities the  
22 opportunity for adequate protection and education against practices that harm or threaten their economic  
23 sustainability.

24 (3) The legislature finds that:

25 (a) maintaining and enhancing the economic viability of farm land and ranch land is essential to protecting  
26 the long-term economic sustainability of Montana's rural communities;

27 (b) the purchase of farm land and ranch land by nonprofit organizations that take the land out of  
28 production has a profound and irreversible impact on the long-term economic viability of rural communities as  
29 demonstrated by the detrimental economic impacts of federal conservation reserve program lands; and

30 (c) it is essential to provide rural communities with the necessary authority to protect and educate

1 themselves against harmful and unfair practices that threaten current and future generations of Montanans living  
2 and working on farm land and ranch land and the economic sustainability of rural communities near those lands.

3 (4) It is the intent of the legislature that the provisions of [sections 1 through 7] apply only to those  
4 counties whose county governing bodies choose to adopt the provisions of [sections 1 through 7].

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6 **NEW SECTION. Section 3. Definitions.** For purposes of [sections 1 through 7] the following definitions  
7 apply:

8 (1) (a) "Farm land" or "ranch land" means land cultivated for the production of food, feed, or fiber  
9 commodities, livestock and poultry, bees, dairy, fruits, vegetables, or any horticultural product.

10 (b) The term does not include:

11 (i) land used in the production of timber or forest products; or

12 (ii) land under contract with a processor or distributor of farm products that supplies or provides grain,  
13 harvesting, or other farm services.

14 (2) (a) "Nonprofit organization" means a public benefit corporation, mutual benefit corporation, or  
15 religious corporation that is exempt from taxation under section 26 U.S.C. 501(c)(3) and a foreign corporation as  
16 defined in 35-2-114.

17 (b) The term does not include any organization serving in a fiduciary capacity as the personal  
18 representative or trustee of an estate or trust for an individual.

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20 **NEW SECTION. Section 4. Nonprofit organization ownership of land -- limitations.** (1) (a) A  
21 governing body of a county may limit the total percentage of land in a county that may be acquired by nonprofit  
22 organizations after [the effective date of this act] without the approval of the county governing body, as provided  
23 in [section 6], to not more than 4% of the total amount of land in the county.

24 (b) The percentage of land that a nonprofit organization is limited to acquiring may be changed as  
25 provided in [section 5].

26 (c) If a governing body determines that limiting nonprofit ownership of land is in the best interests of the  
27 citizens of the county, the governing body shall pass a resolution of intention to implement the limitation. The  
28 resolution must include the governing body's reasons for limiting the percentage of land that may be acquired by  
29 nonprofit organizations.

30 (2) Upon passage of a resolution of intention, the governing body shall hold at least one public hearing.

1 Notice of the public hearing must be provided in accordance with the provisions in 7-1-2121.

2 (3) After the public hearing, the governing body may pass a resolution to limit the total percentage of land  
3 in a county that may be acquired by nonprofit organizations.

4 (4) In a county that has adopted a resolution as provided in this section, a nonprofit organization that is  
5 proposing to acquire more than 1 acre of land shall notify the clerk and recorder in the county in which the land  
6 is located of the proposed acquisition. If the clerk and recorder determines that the proposed acquisition would  
7 result in ownership of more than 4% of the total area of land in the county by nonprofit organizations, the  
8 acquisition is subject to the provisions of [section 6].

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10 **NEW SECTION. Section 5. Referendum -- maximum percentage of land subject to change.** (1) The  
11 maximum percentage of land that may be acquired by nonprofit organizations in a county pursuant to [section  
12 4] may be changed upon a majority vote of the qualified electors of that county.

13 (2) Prior to submitting the question to the electors of the county, the county governing body shall hold at  
14 least one public hearing. Notice of the public hearing must be provided in accordance with 7-1-2121.

15 (3) After holding a public hearing, the county governing body may order a referendum on the question  
16 to be submitted to the electors of the county. The referendum must be submitted to the electors in substantially  
17 the following form:

18  FOR changing the maximum percentage of land in the county that may be acquired by nonprofit  
19 organizations from (insert current percentage of acreage) to (insert percentage adopted in the resolution of  
20 intention).

21  AGAINST changing the maximum percentage of land in the county that may be acquired by nonprofit  
22 organizations from (insert current percentage of acreage that can be owned) to (insert percentage adopted in the  
23 resolution of intention).

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25 **NEW SECTION. Section 6. Acquisition of land by nonprofit organizations beyond established**  
26 **percentage -- review procedures.** (1) If the clerk and recorder pursuant to [section 4(4)] determines that a  
27 proposed acquisition of land in a county will exceed the percentage of acreage that may be acquired by nonprofit  
28 organizations in the county, the nonprofit organization shall submit a proposed acquisition plan to a board  
29 composed of up to five members appointed by the county governing body. The formation of the board composed  
30 under this subsection is subject to the provisions of 7-1-201 through 7-1-203. The acquisition plan must include

1 but is not limited to a description of:

- 2 (a) the nonprofit organization;
- 3 (b) the intended use of the land proposed to be acquired; and
- 4 (c) the number of acres proposed to be acquired.

5 (2) Within 45 days of receipt of the proposed acquisition plan, the county governing body shall hold a  
 6 public hearing in which the public is provided an opportunity to be heard regarding the proposed acquisition.  
 7 Notice of the public hearing must be provided in accordance with 7-1-2121.

8 (3) Within 30 days after the public hearing, the members of the board organized pursuant to subsection  
 9 (1) shall provide a recommendation to the county governing body to approve or deny the proposed acquisition.

10 (4) Within 60 days of the public hearing, the county governing body shall make a decision to approve  
 11 or deny the proposed acquisition. A decision to deny a proposed acquisition is final and binding regardless of  
 12 whether the proposed acquisition is a gift.

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 14 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 7] are intended to be codified  
 15 as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 7].

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 17 **NEW SECTION. Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
 18 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
 19 remains in effect in all valid applications that are severable from the invalid applications.

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 21 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2013.

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 23 **NEW SECTION. Section 10. Applicability.** [This act] applies to lands acquired on or after July 1, 2013.

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