



AN ACT CLARIFYING CONVEYANCE EXEMPTIONS FROM SUBDIVISION REGULATIONS; AMENDING SECTION 76-3-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, on January 13, 2012, the Montana Attorney General issued an opinion, 54 A.G. Op. 5, stating that section 76-3-204, MCA, which exempts certain actions from the requirements of the Montana Subdivision and Platting Act, "does not apply to the construction or conveyance of more than one building, structure or improvement on a single tract of record"; and

WHEREAS, rather than 3 counties that were previously interpreting section 76-3-204, MCA, in a manner similar to the Attorney General's opinion, this opinion now applies to all 56 counties in Montana; and

WHEREAS, thousands of these structures were built, with countless ongoing uses throughout Montana, that are now defined as "subdivisions" after the Attorney General's opinion; and

WHEREAS, retroactively declaring these buildings are "subdivisions" is harmful and expensive to their owners and to businesses engaged in their use; and

WHEREAS, retroactive requirements to undergo subdivision review as "subdivisions for lease or rent" may result in valuable businesses being forced to close, which is not in the best interests of Montana; and

WHEREAS, previous attempts by the Legislature to comprehensively address reform of language in Title 76 relating to subdivision for lease or rent failed to result in legislation signed into law, and comprehensive reform might not be enacted during the 2013 session; and

WHEREAS, the minimum reform that must be adopted during the current session is to exempt existing structures and uses from the burden of being classified retroactively as "subdivisions" and having to undergo subdivision review; and

WHEREAS, the 2011 Legislature signaled its intent to reform Title 76, chapter 3, with respect to "subdivisions created by rent or lease" by passing House Joint Resolution No. 39, Laws of 2011, to study the issue during the interim, and one of the consensus conclusions reported to the Interim Committee on Education and Local Government after consultation with stakeholders under the Community Technical Assistance Program at the Department of Commerce was that a grandfather provision should be included in any legislation.

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

**Section 1.** Section 76-3-204, MCA, is amended to read:

**"76-3-204. Exemption Exemptions for conveyances of one or more parts of a structure structures or improvement improvements.** (1) The ~~sale~~, rent, lease, or other conveyance of one or more parts of a single building, structure, or other improvement, whether existing or proposed, on a single tract of record is not a division of land, as that term is defined in this chapter, and is not subject to the requirements of this chapter.

(2) (a) If an owner of property had begun or was engaged in renting, leasing, or otherwise conveying one or more parts of more than one building, structure, or other improvement that existed or was under construction on or before [the effective date of this act] on a single tract of record, then the rental, lease, or conveyance is not a division of land and is not subject to the requirements of this chapter.

(b) For the purposes of subsection (2)(a), "otherwise conveying" does not include any conveyance that transfers title or the right to permanent possession or permanent use."

**Section 2. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 0499, originated in the House.

---

Chief Clerk of the House

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

HOUSE BILL NO. 499

INTRODUCED BY HILL, ARNTZEN, EDMUNDS, GURSKY, HANSEN, KNUDSEN, LARSEN, ROSENDALE

AN ACT CLARIFYING CONVEYANCE EXEMPTIONS FROM SUBDIVISION REGULATIONS; AMENDING SECTION 76-3-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.