

HOUSE BILL NO. 548

INTRODUCED BY F. MANDEVILLE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN DIVISIONS OF LAND USED TO PROVIDE
5 SECURITY FOR MORTGAGES, LIENS, OR TRUST INDENTURES CREATED PRIOR TO OCTOBER 1, 2003,
6 FROM THE REQUIREMENTS OF THE MONTANA SUBDIVISION AND PLATTING ACT IF THE OWNER
7 RECEIVED CERTAIN CONSENT TO CONVEY OR IN FACT CONVEYED A PARCEL CREATED BY THE
8 DIVISION OF LAND OR IN FACT CONVEYED THE REMAINDER PARCEL; AMENDING SECTION 76-3-201,
9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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13 **Section 1.** Section 76-3-201, MCA, is amended to read:

14 **"76-3-201. Exemption for certain divisions of land -- fees for examination of division.** (1) Unless
15 the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter may
16 not apply to any division of land that:

17 (a) is created by order of any court of record in this state or by operation of law or that, in the absence
18 of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to
19 the law of eminent domain, Title 70, chapter 30;

20 (b) subject to subsection (3), is created to provide security for mortgages, liens, or trust indentures for
21 the purpose of construction, improvements to the land being divided, or refinancing purposes;

22 (c) creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real
23 property;

24 (d) creates cemetery lots;

25 (e) is created by the reservation of a life estate;

26 (f) is created by lease or rental for farming and agricultural purposes;

27 (g) is in a location over which the state does not have jurisdiction; or

28 (h) is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential,
29 commercial, or industrial use is subject to the requirements of this chapter.

30 (2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify the

1 governing body of the pending division and allow the governing body to present written comment on the division.

2 (3) An exemption under subsection (1)(b) applies:

3 (a) to a division of land of any size;

4 (b) if the land that is divided is not conveyed to any entity other than the financial or lending institution
5 to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien,
6 or trust indenture. A transfer of the divided land, by the owner of the property at the time that the land was divided,
7 to any party other than those identified in this subsection (3)(b) subjects the division of land to the requirements
8 of this chapter.

9 (c) to a parcel that is created to provide security as provided in subsection (1)(b). The remainder of the
10 tract of land is subject to the provisions of this chapter if applicable.

11 (4) A parcel that was created by a division of land prior to October 1, 2003, that was considered exempt
12 by the local governing body or the reviewing agent or agency under subsection (1)(b) is not subject to the
13 requirements of this chapter if:

14 (a) the landowner received formal, written consent from the local governing body or the reviewing agent
15 or agency to convey either the parcel created by the division of land or the remainder parcel; or

16 (b) either the parcel of land created by the division of land or the remainder parcel was conveyed by the
17 landowner to another party without foreclosure.

18 ~~(4)~~(5) The governing body may examine a division of land to determine whether or not the requirements
19 of this chapter apply to the division and may establish reasonable fees, not to exceed \$200, for the examination."

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21 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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23 NEW SECTION. Section 3. Retroactive applicability. [This act] applies retroactively, within the
24 meaning of 1-2-109, to all parcels created by a division of land prior to October 1, 2003, that were considered
25 exempt by the local governing body or the reviewing agent or agency under 76-3-201(1)(b).

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