

HOUSE BILL NO. 298

INTRODUCED BY YOUNKIN, BOHLINGER, GLASER, KEANE, LAWSON, MAHLUM, MCNUTT, NEWMAN,
NOENNIG, PERRY, PETERSON, SCHRUMPF, WANZENRIED, WHEAT, HURWITZ

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A COUNTY OR MUNICIPALITY TO CHARGE A FEE ~~FEES FOR CERTAIN COSTS OF A REVIEW~~ AN EXAMINATION OF ~~CERTAIN DIVISIONS~~ A DIVISION OF LAND TO DETERMINE WHETHER IT IS EXEMPT FROM SUBDIVISION REVIEW; AMENDING SECTIONS 76-3-201 AND 76-3-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

"76-3-201. Exemption for certain divisions of land -- ~~review fees~~ ~~ACTUAL COSTS~~ ~~FEES FOR EXAMINATION OF DIVISION.~~ (1) Unless the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter may not apply to any division of land that:

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

(b) is created to provide security for construction mortgages, liens, or trust indentures;

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

(d) creates cemetery lots;

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

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

(g) is in a location over which the state does not have jurisdiction.

(2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division.

~~(3) The governing body may establish reasonable fees commensurate with costs to be paid by an applicant to defray the costs associated with the review of a division of land provided for in subsection (1)(a) or (1)(f) THIS SECTION COLLECT ACTUAL COSTS FOR THE REVIEW FOR ERRORS AND OMISSIONS IN CALCULATION OR DRAFTING, AS PROVIDED IN 76-3-611 (2)(A) EXAMINE A DIVISION OF LAND TO DETERMINE WHETHER OR NOT THE~~

REQUIREMENTS OF THIS CHAPTER APPLY TO THE DIVISION AND MAY ESTABLISH REASONABLE FEES, NOT TO EXCEED \$200, FOR THE EXAMINATION."

Section 2. Section 76-3-207, MCA, is amended to read:

"76-3-207. Subdivisions exempted from review but subject to survey requirements -- exceptions -- ~~review fees~~ ACTUAL COSTS FEES FOR EXAMINATION OF DIVISION. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

(d) for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots; and

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division of lots that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder;

(b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this chapter.

(3) A division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(4) The governing body may ~~establish reasonable fees~~ COMMENSURATE WITH COSTS to be paid by the applicant to defray the costs associated with the review of a division of land provided for in subsection (1)(a);

~~(1)(b), or (1)(c) THIS SECTION COLLECT ACTUAL COSTS FOR THE REVIEW FOR ERRORS AND OMISSIONS IN CALCULATION OR DRAFTING, AS PROVIDED IN 76-3-611(2)(A) EXAMINE A DIVISION OF LAND TO DETERMINE WHETHER OR NOT THE REQUIREMENTS OF THIS CHAPTER APPLY TO THE DIVISION AND MAY ESTABLISH REASONABLE FEES, NOT TO EXCEED \$200, FOR THE EXAMINATION."~~

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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