

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT DIVISIONS OF LAND FROM QUALIFYING
5 AGRICULTURAL PARCELS ARE EXEMPT FROM SUBDIVISION REVIEW; DEFINING "QUALIFYING
6 AGRICULTURAL PARCEL"; AND AMENDING SECTIONS 76-3-103 AND 76-3-207, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 76-3-103, MCA, is amended to read:

11 **"76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires
12 otherwise, the following definitions apply:

13 (1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the
14 purpose of disclosing facts pertaining to boundary locations.

15 (2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is
16 designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for
17 infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain
18 undeveloped.

19 (3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use,
20 reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use
21 to which the property has been devoted.

22 (4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in
23 single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the
24 tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels
25 pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a
26 previous division of land is not a division of land.

27 (5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to
28 review surveys and plats submitted for filing.

29 (6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be
30 prepared for filing for record with the county clerk and recorder and containing all elements and requirements set

1 forth in this chapter and in regulations adopted pursuant to this chapter.

2 (7) "Governing body" means a board of county commissioners or the governing authority of a city or town
3 organized pursuant to law.

4 (8) "Immediate family" means a spouse, children by blood or adoption, and parents.

5 (9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

6 (10) "Planned unit development" means a land development project consisting of residential clusters,
7 industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in
8 a prearranged relationship to each other and having open space and community facilities in common ownership
9 or use.

10 (11) "Plat" means a graphical representation of a subdivision showing the division of land into lots,
11 parcels, blocks, streets, alleys, and other divisions and dedications.

12 (12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout
13 of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing
14 body.

15 (13) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter,
16 the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter
17 13, parts 22 and 23.

18 (14) "Qualifying agricultural parcel" means a tract of land owned by a farmer or rancher whose gross
19 income for farming purposes, as defined in section 2032A(e)(5) of the Internal Revenue Code, 26 U.S.C.
20 2032A(e)(5), is greater than 50% of the farmer's or rancher's gross income for the tax year.

21 ~~(14)~~(15) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision
22 of land.

23 ~~(15)~~(16) "Subdivision" means a division of land or land so divided that it creates one or more parcels
24 containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States
25 government section, exclusive of public roadways, in order that the title to or possession of the parcels may be
26 sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium
27 or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or
28 mobile homes.

29 ~~(16)~~(17) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be
30 identified by legal description, independent of any other parcel of land, using documents on file in the records of

1 the county clerk and recorder's office.

2 (b) Each individual tract of record continues to be an individual parcel of land unless the owner of the
3 parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

4 (i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description
5 that describes the resulting single parcel and in which the owner expressly declares the owner's intention that
6 the tracts be merged; or

7 (ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have
8 been expunged and depicts the boundaries of the larger aggregate parcel.

9 (c) An instrument of conveyance does not merge parcels of land under subsection ~~(16)(b)(i)~~ (17)(b)(i)
10 unless the instrument states, "This instrument is intended to merge individual parcels of land to form the
11 aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the
12 aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."
13

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

15 **"76-3-207. Divisions of land exempted from review but subject to survey requirements and zoning**
16 **regulations -- exceptions -- fees for examination of division.** (1) Except as provided in subsection (2), unless
17 the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are
18 not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land
19 not amounting to subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter
20 2:

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

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

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

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

30 (e) divisions made for the purpose of relocating a common boundary line between a single lot within a

