

1 HOUSE BILL NO. 499

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

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CONVEYANCE EXEMPTIONS FROM SUBDIVISION
5 REGULATIONS; AMENDING SECTION 76-3-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."6
7 WHEREAS, on January 13, 2012, the Montana Attorney General issued an opinion, 54 A.G. Op. 5,
8 stating that section 76-3-204, MCA, which exempts certain actions from the requirements of the Montana
9 Subdivision and Platting Act, "does not apply to the construction or conveyance of more than one building,
10 structure or improvement on a single tract of record"; and11 WHEREAS, rather than 3 counties that were previously interpreting section 76-3-204, MCA, in a manner
12 similar to the Attorney General's opinion, this opinion now applies to all 56 counties in Montana; and13 WHEREAS, thousands of these structures were built, with countless ongoing uses throughout Montana,
14 that are now defined as "subdivisions" after the Attorney General's opinion; and15 WHEREAS, retroactively declaring these buildings are "subdivisions" is harmful and expensive to their
16 owners and to businesses engaged in their use; and17 WHEREAS, retroactive requirements to undergo subdivision review as "subdivisions for lease or rent"
18 may result in valuable businesses being forced to close, which is not in the best interests of Montana; and19 WHEREAS, previous attempts by the Legislature to comprehensively address reform of language in Title
20 76 relating to subdivision for lease or rent failed to result in legislation signed into law, and comprehensive reform
21 might not be enacted during the 2013 session; and22 WHEREAS, the minimum reform that must be adopted during the current session is to exempt existing
23 structures and uses from the burden of being classified retroactively as "subdivisions" and having to undergo
24 subdivision review; and25 WHEREAS, the 2011 Legislature signaled its intent to reform Title 76, chapter 3, with respect to
26 "subdivisions created by rent or lease" by passing House Joint Resolution No. 39, Laws of 2011, to study the
27 issue during the interim, and one of the consensus conclusions reported to the Interim Committee on Education
28 and Local Government after consultation with stakeholders under the Community Technical Assistance Program
29 at the Department of Commerce was that a grandfather provision should be included in any legislation.
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1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

4 **"76-3-204. Exemption Exemptions for conveyances of one or more parts of a structure structures**
 5 **or improvement improvements.** (1) The ~~sale~~; rent, lease, or other conveyance of one or more parts of a single
 6 building, structure, or other improvement, whether existing or proposed, on a single tract of record is not a division
 7 of land, as that term is defined in this chapter, and is not subject to the requirements of this chapter.

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

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

14 ~~(3) A SALE, RENT, LEASE, OR OTHER conveyance of any building, structure, or other improvement exempted~~
 15 ~~under this section from the Montana Subdivision and Platting Act is subject to:~~

16 ~~—— (a) 76-4-130 if the conveyance causes facilities previously approved under Title 76, chapter 4, part 1,~~
 17 ~~to deviate from a condition of approval; or~~

18 ~~—— (b) 76-4-121 unless the conveyance is exempt from review under 76-4-111 or rules of the department~~
 19 ~~of environmental quality."~~

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

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