

SENATE BILL NO. 263

INTRODUCED BY J. ELLSWORTH

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SUBDIVISION LAWS; ALLOWING EXEMPTIONS FOR CERTAIN TYPES OF DIVISIONS WITHIN A PLATTED SUBDIVISION; AND AMENDING SECTIONS 76-3-207, 76-4-127, AND 76-3-301, MCA."

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

Section 1. Section 76-3-207, MCA, is amended to read:

"76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division. (1) Except as provided in subsection ~~(2)~~ (3), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

- (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, the relocation of common boundaries;
- (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.
- (f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are

1 established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply
2 to those areas.

3 (2)(a) A division within a platted subdivision is exempt from additional subdivision reviews and is subject
4 to applicable zoning regulations adopted under Title 76, chapter 2, unless the method of disposition is adopted
5 for the purpose of evading this chapter, if the division:

6 (i) is within a subdivision that has been approved by a local governing body;

7 (ii) creates parcels of a size allowed within the subdivision; and

8 (iii) is gifted or sold to a member of the landowner's immediate family.

9 (b) An amended plat must be filed with the county clerk and recorder after a division provided in
10 subsection (2)(a) occurs.

11 ~~(2)(3)~~ Notwithstanding the provisions of subsection (1):

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

16 (b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural
17 purposes subjects the division to review under parts 5 and 6 of this chapter.

18 ~~(3)(4)~~ (a) Subject to subsection ~~(3)(b)~~ (4)(b), a division of land may not be made under this section unless
19 the county treasurer has certified that all real property taxes and special assessments assessed and levied on
20 the land to be divided have been paid.

21 (b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the
22 division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the
23 taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property
24 shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before
25 the division of land is made.

26 (ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection ~~(3)(b)~~
27 (4)(b) as a partial payment of the total tax that is due.

28 ~~(4)(5)~~ The governing body may examine a division or aggregation of land to determine whether or not
29 the requirements of this chapter apply to the division or aggregation and may establish reasonable fees, not to
30 exceed \$200, for the examination."

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2 **Section 2.** Section 76-4-127, MCA, is amended to read:
3 **"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal**
4 **facilities will be provided.** (1) Except as provided in subsection (3), to qualify for the exemption from review set
5 out in [76-4-125(1)(d)], the governing body, as defined in 76-3-103, shall, prior to final plat approval under the
6 Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has
7 been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be
8 provided for the subdivision.

9 (2) The notice of certification must include the following:
10 (a) the name and address of the applicant;
11 (b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat
12 when a preliminary plat is not necessary or, if subsection (3) applies, a copy of the certificate of survey map or
13 amended plat map or a declaration and floor plan, including the layout of each unit proposed to be recorded,
14 under Title 70, chapter 23, part 3;
15 (c) the number of proposed parcels in the subdivision or division under subsection (3);
16 (d) a copy of any applicable zoning ordinances in effect;
17 (e) how construction of the sewage disposal and water supply systems or extensions will be financed;
18 (f) certification that the subdivision or division under subsection (3) is within an area covered by a growth
19 policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in
20 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing
21 authority;
22 (g) the relative location of the subdivision or division under subsection (3) to the city or town;
23 (h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid
24 waste are available or, unless subsection (3) applies, will be provided within the time provided in 76-3-507. If
25 subsection (3) applies, the requirements of 76-3-507 do not apply.
26 (i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from
27 the facility owners that adequate facilities are available; and
28 (j) certification that the governing body has reviewed and approved plans to ensure adequate storm
29 water drainage.
30 (3) A division of land that is exempt from the Montana Subdivision and Platting Act review under

1 76-3-203 or 76-3-207(1)(a), (1)(b), (1)(d), (1)(e), ~~or (1)(f)~~, or (2) qualifies for an exemption under [76-4-125(1)(d)]
2 if the governing body, as defined in 76-3-103, sends a notice of certification under subsection (2) to the reviewing
3 authority stating that adequate storm water drainage and adequate municipal facilities will be provided for the
4 division. (Bracketed references to 76-4-125(1)(d) in subsections (1) and (3) terminate September 30, 2019, and
5 revert to 76-4-125(2)(d) effective October 1, 2019--sec. 13, Ch. 344, L. 2017.)"

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7 **Section 3.** Section 76-3-301, MCA, is amended to read:

8 **"76-3-301. General restriction on transfer of title to subdivided lands.** (1) Except as provided in
9 76-3-303, every final subdivision plat must be filed for record with the county clerk and recorder before title to the
10 subdivided land can be sold or transferred in any manner. The clerk and recorder of the county shall refuse to
11 accept any plat for record that fails to have the approval of 76-3-611(1) in proper form unless the plat is located
12 in an area over which the state does not have jurisdiction.

13 (2) The clerk and recorder shall notify the governing body or its designated agent of any land division
14 described in 76-3-207(1) or (2).

15 (3) If transfers not in accordance with this chapter are made, the county attorney shall commence action
16 to enjoin further sales or transfers and compel compliance with all provisions of this chapter. The cost of the
17 action must be imposed against the party not prevailing."

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