

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

GREG GIANFORTE  
GOVERNOR



KRISTEN JURAS  
LT. GOVERNOR

May 14, 2021

The Honorable Mark Blasdel  
President of the Senate  
State Capitol  
Helena, MT 59601

The Honorable Wylie Galt  
Speaker of the House  
State Capitol  
Helena, MT 59601

Dear President Blasdel and Speaker Galt:

In accordance with the power vested in me as the Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 231 "AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING A FAMILY TRANSFER DIVISION OF LAND; CLARIFYING THAT DIVISIONS OF LAND BY GIFT, SALE, OR AGREEMENT ARE SUBJECT TO REVIEW UNDER TITLE 76, CHAPTERS 5 AND 6; CLARIFYING THAT DIVISIONS OF LAND TRANSFERRED TO THE LANDOWNER'S IMMEDIATE FAMILY ARE SUBJECT TO CERTAIN ZONING REGULATIONS AND MINIMUM LOT SIZES; ALLOWING CERTAIN BOUNDARY RELOCATIONS; PROHIBITING SUBSEQUENT TRANSFERS OF DIVISIONS OF LAND FROM A LANDOWNER'S IMMEDIATE FAMILY FOR 2 YEARS; PROVIDING A PENALTY; AMENDING SECTIONS 76-3-105 AND 76-3-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

SB 231 was originally drafted as a bill "to revise exempt well laws related to family transfer parcels." During the course of its legislative journey, all provisions relating to exempt wells were stripped from the bill. Article V, Section 11 of the Montana Constitution requires that a bill "not be so altered or amended on its passage through the legislature as to change its original purpose."

As it headed to the free conference committee, SB 231 was not objectionable. However, in free conference, amendments to Section 2(2) were proposed and adopted. These amendments were poorly drafted and will result in inconsistent and unpredictable applications amongst counties and unintended harmful consequences to landowners and developers. It will require litigation to interpret the meaning and proper application of the bill as finally adopted.

Furthermore, the amendment to Section 2(2)(b) adds a new subsection allowing the relocation of common boundary lines between adjoining properties within a zoning district *if the adjoining properties are owned by the same person or entity*. It is not clear whether this language is a

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limitation on the current exemption at MCA § 76-3-207(1)(b) or a new, additional exemption allowing a boundary line adjustment outside of platted subdivisions. There was no discussion at the free conference committee regarding the intent of this amendment. Counties and land surveyors are already construing it as a limitation on the existing exemption at MCA § 76-3-207(1)(b), which will make the current exemption unavailable to most landowners. The current exemption is an important exemption for landowners and is commonly used to adjust boundaries between unrelated landowners when an unintended encroachment has occurred. For example, boundary line adjustments are utilized when a driveway is unintentionally poured six inches onto the neighbor's property and the neighbor has agreed to accept compensation and move the boundary so that the encroacher does not have to tear up the driveway. If construed as a limitation on MCA § 76-3-207(1)(b), unrelated neighbors in a subdivision located in a zoning district will no longer have this tool to resolve encroachments and other boundary issues.

For these reasons, I veto SB 231.

Sincerely,



Greg Gianforte  
Governor

cc: Legislative Services Division  
Secretary of State Christi Jacobson