

1 SENATE BILL NO. 285

2 INTRODUCED BY C. GLIMM

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO SUBDIVISION  
5 SANITATION REVIEW; LIMITING THE REGULATION OF INDIVIDUAL SEWAGE FACILITIES TO THOSE  
6 THAT ARE HIGHER IN ELEVATION OR LESS THAN 500 FEET AWAY FROM STATE SURFACE WATERS;  
7 REVISING SUBDIVISION EXEMPTIONS; ~~AND AMENDING SECTIONS 75-5-301, 75-5-317, 76-3-622, 76-4-~~  
8 ~~102, 76-4-104, 76-4-108, AND 76-4-115, AND 76-4-125~~ AND 76-4-125, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 SECTION 1. SECTION 75-5-301, MCA, IS AMENDED TO READ:

14 **"75-5-301. Classification and standards for state waters.** Consistent with the provisions of 80-15-  
15 201 and this chapter, the department shall:

16 (1) establish the classification of all state waters in accordance with their present and future most  
17 beneficial uses, creating an appropriate classification for streams that, due to sporadic flow, do not support an  
18 aquatic ecosystem that includes salmonid or nonsalmonid fish;

19 (2) formulate and adopt standards of water quality, considering the economics of waste treatment  
20 and prevention. When rules are adopted regarding temporary standards, they must conform with the  
21 requirements of 75-5-312. Standards must meet the following requirements:

22 (a) for carcinogens, the water quality standard for protection of human health must be the value  
23 associated with an excess lifetime cancer risk level, assuming continuous lifetime exposure, not to exceed  $1 \times$   
24  $10^{-3}$  in the case of arsenic and  $1 \times 10^{-5}$  for other carcinogens. However, if a standard established at a risk level  
25 of  $1 \times 10^{-3}$  for arsenic or  $1 \times 10^{-5}$  for other carcinogens violates the maximum contaminant level obtained from  
26 40 CFR, part 141, then the maximum contaminant level must be adopted as the standard for that carcinogen.

27 (b) standards for the protection of aquatic life do not apply to ground water.

1 approval:

2 (a) — as part of a subdivision pursuant to this part; or

3 (b) — by a local reviewing authority."

4

5 **Section 6.** Section 76-4-125, MCA, is amended to read:

6 **"76-4-125. Land divisions excluded from review.** (1) A subdivision excluded from the provisions of  
7 chapter 3 must be submitted for review according to the provisions of this part, except that the following  
8 divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to  
9 review:

10 (a) the ~~exclusion-exclusions~~ cited in 76-3-201 and 76-3-207(1)(f);

11 (b) divisions made for the purpose of acquiring additional land to become part of an approved  
12 parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired  
13 parcel and that the division does not fall within a previously platted or approved subdivision;

14 (c) divisions made for purposes other than the construction of water supply or sewage or solid  
15 waste disposal facilities as the department specifies by rule;

16 (d) as certified pursuant to 76-4-127:

17 (i) new divisions subject to review under the Montana Subdivision and Platting Act;

18 (ii) divisions or previously divided parcels recorded with sanitary restrictions; or

19 (iii) divisions or previously divided parcels of land that are exempt from the Montana Subdivision  
20 and Platting Act review under 76-3-203 or 76-3-207(1)(a), (1)(b), (1)(d), (1)(e), or (1)(f);

21 (e) subject to the provisions of subsection (2), a remainder of an original tract created by  
22 segregating a parcel from the tract for purposes of transfer if:

23 (i) the remainder is served by a public or multiple-user sewage system approved before January  
24 1, 1997, pursuant to local regulations or this chapter; or

25 (ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge  
26 source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved  
27 pursuant to local regulations or this chapter; and

**Amendment - 2nd Reading/2nd House-tan - Requested by: Steve Gunderson - (H) Committee of the Whole**

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Drafter: Joe Kolman, 406-444-3747

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1 (f) the sale of cabin or home sites as provided for and subject to the limitations in 77-2-318(2).

2 (2) Consistent with the applicable provisions of 50-2-116, a local health officer may require that,  
3 prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be  
4 segregated from the remainder referenced in subsection (1)(e)(ii), the remainder include acreage or features  
5 sufficient to accommodate a replacement drainfield.

6 (3) A previously divided parcel that meets the eligibility criteria for an existing exemption from this  
7 part may use the exemption in lieu of obtaining a certificate of subdivision approval if the appropriate document,  
8 exemption certificate, certificate of survey, or subdivision plat filed with the county clerk and recorder cites the  
9 applicable exemption in its entirety.

10 (4) At the request of the owner, the original certificate of subdivision approval shall be reissued for  
11 a parcel previously approved under this part if:

12 (a) the parcel was subsequently divided without review and approval under this part; and

13 (b) the unapproved parcels are aggregated to return to the original divided parcel as originally  
14 approved."

15  
16 NEW SECTION. SECTION 7. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

17 - END -