

## 1 SENATE BILL NO. 152

2 INTRODUCED BY F. MANDEVILLE

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING EXEMPT DIVISIONS CREATED AFTER 1973 FROM  
 5 CONSIDERATION WHEN DETERMINING WHETHER THE SUBDIVISION OF A TRACT OF RECORD  
 6 CONSTITUTES A MINOR SUBDIVISION; AND AMENDING SECTION 76-3-609, MCA."

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

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 10 **Section 1.** Section 76-3-609, MCA, is amended to read:

11 **"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of**  
 12 **application -- governing body to adopt regulations.** (1) Minor subdivisions must be reviewed as provided in  
 13 this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

14 (2) If the tract of record proposed to be subdivided has not been subdivided or created by a  
 15 subdivision under this chapter ~~or has not resulted from a tract of record that has had more than five parcels~~  
 16 ~~created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, OR HAS NOT RESULTED FROM A~~  
 17 ~~TRACT OF RECORD THAT HAS HAD MORE THAN FIVE PARCELS CREATED FROM THAT TRACT OF RECORD UNDER 76-2-201~~  
 18 76-3-201 OR 76-3-207 SINCE OCTOBER 1, 2003, then the proposed subdivision is a first minor subdivision from a  
 19 tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

20 (a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally  
 21 approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by  
 22 the reviewing agent or agency that the application contains required elements and sufficient information for  
 23 review. The determination and notification to the subdivider must be made in the same manner as is provided in  
 24 76-3-604(1) through (3).

25 (b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of  
 26 the review period, not to exceed 1 year.

27 (c) Except as provided in subsection (2)(d)(ii), an application must include a summary of the  
 28 probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

1 (d) The following requirements do not apply to the first minor subdivision from a tract of record as  
2 provided in subsection (2):

3 (i) the requirement to prepare an environmental assessment; and

4 (ii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor  
5 subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address  
6 the criteria in 76-3-608(3)(a).

7 (e) The governing body or its authorized agent or agency may not hold a public hearing or a  
8 subsequent public hearing under 76-3-615 for a first minor subdivision from a tract of record as described in  
9 subsection (2).

10 (f) The governing body may adopt regulations that establish requirements for the expedited review  
11 of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed  
12 under the regulations:

13 (i) except as provided in subsection (2)(d), the provisions of 76-3-608(3); and

14 (ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

15 (3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is  
16 not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor  
17 subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-  
18 614, and 76-3-620.

19 (4) The governing body may adopt subdivision regulations that establish requirements for review of  
20 subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision,  
21 as provided in subsection (2) and this chapter.

22 (5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter  
23 may occur only under those regulations in effect at the time that a subdivision application is determined to  
24 contain sufficient information for review as provided in subsection (2).

25 (b) If regulations change during the period that the application is reviewed for required elements  
26 and sufficient information, the determination of whether the application contains the required elements and  
27 sufficient information must be based on the new regulations."

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