

1 *Senitz* BILL NO. 101
2 INTRODUCED BY *Colberg*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING AGRICULTURAL
5 PURPOSES IN THE SUBDIVISION AND PLATTING ACT IN TERMS OF
6 AGRICULTURAL USES UNDER THE GREENBELT ASSESSMENT PROGRAM.
7 AMENDING SECTION 11-3862, R.C.M. 1947."

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

10 Section 1. Section 11-3862, R.C.M. 1947, is amended to
11 read as follows:

12 "11-3862. Surveys required--exceptions--standards for
13 monumentation. (1) All divisions of land for sale other than
14 a subdivision after the effective date of this act into
15 parcels which cannot be described as 1/32 or larger aliquot
16 parts of a United States government section or a United
17 States government lot must be surveyed by or under the
18 supervision of a registered land surveyor.

19 (2) Every subdivision of land after June 30, 1973,
20 shall be surveyed and platted in conformance with this act
21 by or under the supervision of a registered land surveyor.
22 Subdivision plats shall be prepared and filed in accordance
23 with this act and regulations adopted pursuant thereto. All
24 division of sections into aliquot parts and retracement of
25 lines must conform to United States bureau of land

1 management instructions, and all public land survey corners
2 shall be filed in accordance with Corner Recordation Act of
3 Montana (sections 67-2001 through 67-2019). Engineering
4 plans, specifications, and reports required in connection
5 with public improvements and other elements of the
6 subdivision required by the governing body shall be prepared
7 and filed by a registered engineer or a registered land
8 surveyor as their respective licensing laws allow in
9 accordance with this act and regulations adopted pursuant
10 thereto.

11 (3) The county clerk and recorder of any county shall
12 not record any instrument which purports to transfer title
13 to or possession of a parcel or tract of land which is
14 required to be surveyed by this act unless the required
15 certificate of survey or subdivision plat has been filed
16 with the clerk and recorder and the instrument of transfer
17 describes the parcel or tract by reference to the filed
18 certificate or plat.

19 (4) Instruments of transfer of land which is acquired
20 for state highways may refer by parcel and project number to
21 state highway plans which have been recorded in compliance
22 with section 32-2413, and are exempted from the surveying
23 and platting requirements of this act; provided, however,
24 that if such parcels are not shown on highway plans of
25 record, instruments of transfer of such parcels shall be

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1 accompanied by and refer to appropriate certificates of
2 survey and plats when presented for recording.

3 (5) The provisions of this act shall not apply to the
4 division of state-owned land unless the division creates a
5 second or subsequent parcel from a single tract for sale,
6 rent or lease for residential purposes after July 1, 1974.

7 (6) Unless the method of disposition is adopted for the
8 purpose of evading this act, the following divisions of land
9 are not subdivisions under this act but are subject to the
10 surveying requirements of this section for divisions of land
11 not amounting to subdivisions.

12 (a) Divisions made for the purpose of relocating common
13 boundary lines between adjoining properties.

14 (b) Divisions made for the purpose of a gift or sale to
15 any member of the landowner's immediate family.

16 (c) Divisions made by sale or agreement to buy and sell
17 where the parties to the transaction enter a covenant
18 running with the land and revocable only by mutual consent
19 of the governing body and the property owner that the
20 divided land will be used exclusively for agricultural
21 purposes. Agricultural purposes are uses listed as
22 agricultural uses in section 84-437.2. Any change in use of
23 the land for anything other than agricultural purposes
24 subjects the division to the provisions of this chapter.

25 (d) A single division of a parcel when the transaction

1 is an occasional sale.

2 (7) Subdivisions created by rent or lease are exempt
3 from the surveying and filing requirements of this act but
4 must be submitted for review and approved by the governing
5 body before portions thereof may be rented or leased.

6 (8) Unless the method of disposition is adopted for the
7 purpose of evading this act, the requirements of this act
8 shall not apply to any division of land:

9 (a) which is created by order of any court of record in
10 this state or by operation of law, or which, in the absence
11 of agreement between the parties to the sale, could be
12 created by an order of any court in this state pursuant to
13 the law of eminent domain (sections 93-9901 through
14 93-9926);

15 (b) which is created by a lien, mortgage, or trust
16 indenture;

17 (c) which creates an interest in oil, gas, minerals, or
18 water which is now or hereafter severed from the surface
19 ownership of real property;

20 (d) which creates cemetery lots;

21 (e) which is created by the reservation of a life
22 estate;

23 (f) which is created by lease or rental for farming and
24 agricultural purposes.

25 (9) The sale, rent, lease, or other conveyance of one

1 or more parts of a building, structure, or other improvement
2 situated on one or more parcels of land is not a division of
3 land, as that term is defined in this act, and is not
4 subject to the requirements of this act.

5 (10) The department of intergovernmental relations
6 shall, in conformance with the Montana Administrative
7 Procedure Act (sections 82-4201 through 82-4225), prescribe
8 uniform standards for monumentation and for the form,
9 accuracy, and descriptive content of records of survey.

10 (11) It shall be the responsibility of the governing
11 body to require the replacement of all monuments removed in
12 the course of construction."

-End-

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