

1 H BILL NO. 614  
 2 INTRODUCED BY Andriana Bamer

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA  
 5 SUBDIVISION AND PLATTING ACT BY ELIMINATING THE POSITION OF  
 6 EXAMINING LAND SURVEYOR AND ELIMINATING REVIEW OF FINAL  
 7 PLATS BY THE EXAMINING LAND SURVEYOR; AMENDING SECTIONS  
 8 11-3861 AND 11-3867, R.C.M. 1947."

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

11 Section 1. Section 11-3861, R.C.M. 1947, is amended to  
 12 read as follows:

13 "11-3861. Definitions. As used in this act, unless the  
 14 context or subject matter clearly requires otherwise, the  
 15 following words or phrases shall have the following  
 16 meanings:

17 (1) "Certificate of survey" means a drawing of a field  
 18 survey prepared by a registered surveyor for the purpose of  
 19 disclosing facts pertaining to boundary locations.

20 (2) "Dedication" means the deliberate appropriation of  
 21 land by an owner for any general and public use, reserving  
 22 to himself no rights which are incompatible with the full  
 23 exercise and enjoyment of the public use to which the  
 24 property has been devoted.

25 (2.1) "Division of land" means the segregation of one

1 or more parcels of land from a larger tract held in single  
 2 or undivided ownership by transferring, or contracting, to  
 3 transfer, title to or possession of a portion of the tract  
 4 or properly filing a certificate of survey or subdivision  
 5 plat establishing the identity of the segregated parcels  
 6 pursuant to this act. Provided that where required by this  
 7 act the land upon which an improvement is situated has been  
 8 subdivided in compliance with this act, the sale, rent,  
 9 lease or other conveyance of one or more parts of a  
 10 building, structure, or other improvement situated on one or  
 11 more parcels of land is not a division of land and is not  
 12 subject to the terms of this act.

13 ~~(3) "Examining land surveyor" means a registered land~~  
 14 ~~surveyor-duty-appointed-by-the-governing-body-to-review~~  
 15 ~~surveys-and-plats-submitted-for-filing~~

16 ~~(4)~~(3) "Governing body" means a board of county  
 17 commissioners or the governing authority of any city or town  
 18 organized pursuant to law.

19 ~~(4)~~(4) "Irregularly shaped tract of land" means a  
 20 parcel of land other than an aliquot part of the United  
 21 States government survey section or a United States  
 22 government lot the boundaries or areas of which cannot be  
 23 determined without a survey or trigonometric calculation.

24 (5) "Planned unit development" means a land  
 25 development project consisting of residential clusters,

1 industrial parks, shopping centers, or office building  
 2 parks, or any combination thereof which comprises a planned  
 3 mixture of land uses built in a prearranged relationship to  
 4 each other and having open space and community facilities in  
 5 common ownership or use.

6 (6) "Plat" means a graphical representation of a  
 7 subdivision showing the division of land into lots, parcels,  
 8 blocks, streets, and alleys, and other divisions and  
 9 dedications.

10 (7) "Preliminary plat" means a neat and scaled drawing  
 11 of a proposed subdivision showing the layout of streets,  
 12 alleys, lots, blocks, and other elements of a subdivision  
 13 which furnish a basis for review by a governing body.

14 (8) "Final plat" means the final drawing of the  
 15 subdivision and dedication required by this act to be  
 16 prepared for filing for record with the county clerk and  
 17 recorder and containing all elements and requirements set  
 18 forth in this act and in regulations adopted pursuant  
 19 thereto.

20 (9) "Registered land surveyor" means a person licensed  
 21 in conformance with the Montana Professional Engineers'  
 22 Registration Act (sections 66-2301 through 66-2347) to  
 23 practice surveying in the state of Montana.

24 (10) "Registered professional engineer" means a person  
 25 licensed in conformance with the Montana Professional

1 Engineers' Registration Act (sections 66-2301 through  
 2 66-2347) to practice engineering in the state of Montana.

3 (11) "Subdivider" means any person who causes land to  
 4 be subdivided or who proposes a subdivision of land.

5 (12) "Subdivision" means a division of land, or land so  
 6 divided, which creates one or more parcels, containing less  
 7 than twenty (20) acres, exclusive of public roadways, in  
 8 order that the title to or possession of the parcels may be  
 9 sold, rented, leased, or otherwise conveyed, and shall  
 10 include any resubdivision; and shall further include any  
 11 condominium or area, regardless of its size, which provides  
 12 or will provide multiple space for recreational camping  
 13 vehicles, or mobile homes. A subdivision shall comprise only  
 14 those parcels less than twenty (20) acres which have been  
 15 segregated from the original tract, and the plat thereof  
 16 shall show all such parcels whether contiguous or not.  
 17 Provided, however, condominiums constructed on land divided  
 18 in compliance with this chapter are exempt from the  
 19 provisions of this chapter.

20 (13) "Occasional sale" means one sale of a division of  
 21 land within any twelve (12) month period."

22 Section 2. Section 11-3867, R.C.M. 1947, is amended to  
 23 read as follows:

24 "11-3867. Filing of subdivision plat with county  
 25 recorder -- review of final subdivision plats and

1 certificates of survey by examining-land-surveyor governing  
 2 body. ~~{1}--The--governing--body--may--require--that--final~~  
 3 ~~subdivision-plats-and-certificates-of-survey-be-reviewed-for~~  
 4 ~~errors-and--omissions--in--calculation--or--drafting--by--an~~  
 5 ~~examining--land--surveyor--before--recording-with-the-county~~  
 6 ~~clerk-and-recorder. When-the-survey-data-shown-on--the--plat~~  
 7 ~~or-certificate-of-survey-meet-the-conditions-set-forth-by-or~~  
 8 ~~pursuant--to--this-act, the-examining-land-surveyor-shall-so~~  
 9 ~~certify-in-a-printed-or-stamped-certificate-on-the--plat--or~~  
 10 ~~certificate--of--survey. Such-certificate-shall-be-signed-by~~  
 11 ~~him.~~

12 ~~No--land--surveyor--shall--act--as--an--examining--land~~  
 13 ~~surveyor--in--regard--to--a--plat--or--certificate--of--survey--in~~  
 14 ~~which-he-has-a-financial-or-personal-interest.~~

15 {2}{1} The governing body shall examine every final  
 16 subdivision plat and shall approve it when, and only when,  
 17 it conforms to the conditions of approval set forth on the  
 18 preliminary plat and to the terms of this act and  
 19 regulations adopted pursuant thereto. The clerk and recorder  
 20 of the county shall refuse to accept any plat for record  
 21 that fails to have such approval in proper form.

22 {3}{2} Every final subdivision plat must be filed for  
 23 record with the county clerk and recorder before title to  
 24 the subdivided land can be sold or transferred in any manner  
 25 or offered for sale or transfer. if illegal transfers or

1 offers of any manner are made, the county attorney shall  
 2 commence action to enjoin further sales, transfers, or  
 3 offers of sale or transfer and compel compliance with all  
 4 provisions of this act. The cost of such action shall be  
 5 imposed against the person transferring or offering to  
 6 transfer the property."

-End-