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LC 0963/01

lenate BILL NO. 239 1 INTRODUCED BY

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 5 11-3860 AND 11-3362, R.C.M. 1947, TO ALLOW A SIMPLIFIED 6 PROCEDURE FOR SUBDIVISIONS WITHIN MASTER PLAN AREAS."

BE IT ENACTED BY THE LEGISLATURE JF THE STATE OF MONTANA:
9 Section 1. Section 11-3860, R.C.M. 1947, is amend≥d to
10 read as follows:

11 "11-3860. Statement of purpose. It is the purpose of 12 this act to promote the public health, safety, and general 13 welfare by regulating the subdivision of land; to prevent 14 overcrowding of land; to lessen congestion in the streets 15 and highways; to provide for adequate light, air, water 16 supply, sewage disposal, parks and recreation areas, ingress 17 and sqress, and other public requirements; to require 18 development in harmony with the natural environment; to 19 require that whenever necessary, the appropriate approval of any-subdivision subdivisions be contingent upon a written 20 21 finding of public interest by the governing body; and to 22 require uniform monumentation of land subdivisions and 23 transferring interests in real property by reference to plat 24 or certificate of survey."

25 Section 2. Section 11-3862; R.C.M. 1947; is amended to

l read as follows:

2 #11-3862. Surveys required -- exceptions -- standards 3 for monumentation. (1) All divisions of land for sale other 4 than a subdivision after the effective date of this act into 5 parcels which cannot be described as 1/32 or larger aliquot 6 parts of a United States government section or a United 7 States government lot must be surveyed by or under the 8 supervision of a registered land surveyor.

9 (2) Every subdivision of land after June 30, 1973. 10 shall be surveyed and platted in conformance with this act 11 by or under the supervision of a registered land surveyor. Subdivision plats shall be prepared and filed in accordance 12 13 with this act and regulations adopted pursuant thereto. All 14 division of sections into aliquot parts and retracement of 15 lines must conform to United States bureau of land 15 management instructions, and all public land survey corners 17 shall be filed in accordance with Corner Recordation Act of 18 Montana (sections 67-2001 through 67-2019). Engineering 19 plans, specifications, and reports required in connection 20 with public improvements and other elements of the 21 subdivision required by the governing body shall be prepared 22 and filed by a registered engineer or a registered land 23 surveyor as their respective licensing laws allow in 24 accordance with this act and regulations adopted pursuant 25 thereco.

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INTRODUCED BILL

1 (3) The county clerk and recorder of any county shall 2 not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is 3 required to be surveyed by this act unless the required 4 5 certificate of survey or subdivision plat has been filed with the clerk and recorder and the instrument of transfer 5 7 describes the parcel or tract by reference to the filed 8 certificate or plat.

9 (4) Instruments of transfer of land which is acquired 10 for state highways may refer by parcel and project number to 11 state highway plans which have been recorded in compliance 12 with section 32-2413, and are exempted from the surveying 13 and platting requirements of this act; provided, however, 14 that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be 15 16 accompanied by and refer to appropriate certificates of 17 survey and plats when presented for recording.

18 (5) The provisions of this act shall not apply to the 19 division of state-owned land unless the division creates a 20 second or subsequent parcel from a single tract for sale, 21 rent or lease for residential purposes after July 1, 1974. 22 (6) Unless the method of disposition is adopted for 23 the purpose of evading this act, the following divisions of 24 land are not subdivisions under this act but are subject to 25 the surveying requirements of this section for divisions of

-3-

1 land not amounting to subdivisions. (a) Divisions made for the purpose of relocating 2 common boundary lines between adjoining properties. 3 4 (b) Divisions made for the purpose of a gift or sale to any member of the landowner's immediate family. 5 (c) Divisions made by sale or agreement to buy and 6 7 sell where the parties to the transaction enter a covenant running with the land and revocable only by mutual consent 9 of the governing body and the property owner that the 9 10 divided land will be used exclusively for agricultural purposes. Any change in use of the land for anything other 11 than agricultural purposes subjects the division to the 12 13 provisions of this chapter. (d) A single division of a parcel when the transaction 14 15 is an occasional sale. (7) Subdivisions created by rent or lease are exempt 16 from the surveying and filing requirements of this act but 17 must be submitted for review and approved by the governing 18 19 body before portions thereof may be rented or leased. 20 (a) Subdivisions totally within a master planning area 21 adopted pursuant to 11-3801 through 11-3856 are exempt from 22 the following requirements of this act: 23 (a) the requirement of an environmental assessment: (b) the requirement of submission of a preliminary 24

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plat:

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### LC 0963/01

| ı  | (c)_the_requirement_of_a_public_hearing:_and                      |
|----|---|
| 2  | (d)_the_requirement_that_the_subdivision_be_in_the                |
| 3  | public_interest.  |
| 4  | <del>(8)191</del> Unless the method of disposition is adopted for |
| 5  | the purpose of evading this act, the requirements of this         |
| 6  | act small not apply to any division of land:                      |
| 7  | (a) which is created by order of any court of record              |
| 8  | in this state or by operation of law, or which, in cha            |
| 9  | absence of agreement between the parties to the sale, could       |
| 10 | be created by an order of any court in this state pursuant        |
| 11 | to the law of eminent domain (sections 93-9901 through            |
| 12 | 93-9926);   |
| 13 | (b) which is created by a lien, mortgage, or trust                |
| 14 | indenture;  |
| 15 | (c) which creates an interest in oil, gasy minerals,              |
| 16 | or water which is now or hereafter severed from the surface       |
| 17 | ownership of real property;                                       |
| 13 | (d) which creates cametery lots;                                  |
| 19 | (e) which is created by the reservation of a life                 |
| 20 | estate;   |
| 21 | (f) which is created by lease or rental for farming               |
| 22 | and agricultural purposes.  |
| 23 | (9)(10) The sale, rent, lease, or other conveyance of             |
| 24 | one or more parts of a building, structure, or other              |
| 25 | improvement situated on one or more parcels of land is not a      |

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- division of land, as that term is defined in this act, and
   is not subject to the requirements of this act.
- 3 (10)(11) The department of community affairs shall, in
- 4 conformance with the Montana Administrative Procedure Act
- 5 (sections 82-4201 through 82-4225), prescribe uniform
- 5 standards for monumentation and for the form, accuracy, and
- 7 descriptive content of records of survey.
- 8 ttt<u>t1121</u> It shall be the responsibility of the
- 9 governing body to require the replacement of all monuments
- 10 removed in the course of construction."

## -End-

# STATE OF MONTANA

# FISCAL NOTE

Form BD-15

In compliance with a written request received <u>February 9</u>, 19, <u>77</u>, there is hereby submitted a Fiscal Note for <u>Senate Bill 224</u> pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

# DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 224 amends the "Montana Subdivision and Platting Act" to allow a more simplified procedure for establishing subdivisions within a jurisdictional area governed by a master plan established by a city-county planning board pursuant to Sections 11-3801 through 11-3856, R.C.M. 1947.

FISCAL IMPACT - LOCAL:

No fiscal impact is anticipated as a result of the enactment of the proposed legislation.

20

BUDGET DIRECTOR Office of Budget and Program Planning Date:

### 45th Legislature

SB 0224/02

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| App | roved | by  | Comm.    |
|-----|-------|-----|----------|
| on  | Local | Gor | vernment |

| 1  | SENATE BILL NO. 224  |
|----|--|
| 2  | INTRODUCED BY STORY, DEVINE, MANLEY, DOVER,                                    |
| 3  | PETERSON, BOYLAN, LOWE, LOCKREM, GALT, HEALY                                   |
| 4  |  |
| 5  | A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS                          |
| 6  | 11-3860 AND 11-3862, R.C.M. 1947, TO ALLOW A SIMPLIFIED                        |
| 7  | PROCEDURE FOR SUBDIVISIONS WITHIN MASTER PLAN AREAS."                          |
| 8  |  |
| 9  | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:                      |
| 10 | Section 1. Section 11-3860, R.C.M. 1947, is amended to                         |
| 11 | read as follows:   |
| 12 | "11-3860. Statement of purpose. It is the purpose of                           |
| 13 | this act to promote the public health, safety, and general                     |
| 14 | welfare by regulating the subdivision of land; to prevent                      |
| 15 | overcrowding of. land; to lessen congestion in the streets                     |
| 16 | and highways; to provide for adequate light, air, water                        |
| 17 | supply, sewage disposal, parks and recreation areas, ingress                   |
| 18 | and egress, and other public requirements; to require                          |
| 19 | development in harmony with the natural cenvironment; to                       |
| 20 | require that <u>whenever necessary; the appropriate</u> approval               |
| 21 | of <del>any-subdivision <u>subdivisions</u> be contingent upon a written</del> |
| 22 | finding of public interest by the governing body; and to                       |
| 23 | require uniform monumentation of land subdivisions and                         |
| 24 | transferring interests in real property by reference to plat                   |
| 25 | or certlficate of survey."   |

SECOND READING

read as follows: 2 3 #11-3862. Surveys required -- exceptions -- standards 4 for monumentation. (1) All divisions of land for sale other than a subdivision after the effective date of this act into 5 parcels which cannot be described as 1/32 or larger aliguot 6 7 parts of a United States' government section or a United R States government lot must be surveyed by or under the supervision of a registered land surveyor. 9 10 (2) Every subdivision of land after June 30, 1973, 11 shall be surveyed and platted in conformance with this act 12 by or under the supervision of a registered land surveyor.

Section 2. Section 11-3862; R.C.M. 1947; is amended to

13 Subdivision plats shall be prepared and filed in accordance 14 with this act and regulations adopted pursuant therety. All 15 division of sections into aliquot parts and retracement of 16 lines must conform to United States bureau of land management instructions, and all public land survey corners 17 18 shall be filed in accordance with Corner Recordation Act of 19 Montana (sections 67-2001 through 67-2019). Engineering 20 plans, specifications, and reports required in connection 21 with public improvements and other elements of the 22 subdivision required by the governing body shall be prepared 23 and filed by a registered engineer or a registered land 24 surveyor as their respective licensing laws allow in 25 accordance with this act and regulations adopted pursuant

-2-

2 (3) The county clerk and recorder of any county shall 3 not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is -4 5 required to be surveyed by this act unless the required - 6 certificate of survey or subdivision plat has been filed 7 with the clerk and recorder and the instrument of transfer 8 describes the parcel or tract by reference to the filed 9 certificate or plat.

10 (4) Instruments of transfer of land which is acquired 11 for state highways may refer by parcel and project number to 12 state highway plans which have been recorded in compliance with section 32-2413, and are exempted from the surveying 13 and platting requirements of this act; provided, however, 14 15 that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be 16 17 accompanied by and refer to appropriate certificates of 18 survey and plats when presented for recording.

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

(6) Unless the method of disposition is adopted for
the purpose of evading this act, the following divisions of
land are not subdivisions under this act but are subject to

1 the surveying requirements of this section for divisions of

2 land not amounting to subdivisions.

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

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

(c) Divisions made by sale or agreement to buy and 7 sell where the parties to the transaction enter a covenant R 0 running with the land and revocable only by mutual consent of the governing body and the property owner that the 10 divided land will be used exclusively for agricultural 11 purposes. Any change in use of the land for anything other 12 13 than agricultural purposes subjects the division to the provisions of this chapter. 14

15 (d) A single division of a parcel when the transaction
16 is an occasional sale.

17 (7) Subdivisions created by rent or lease are exempt
18 from the surveying and filing requirements of this act but
19 must be submitted for review and approved by the governing
20 body before portions thereof may be rented or leased.
21 (8) Subdivisions totally within a master planning area
22 adopted pursuant to 11-3801 tbrough 11-3856 are exempt—from
23 the-following-requirements-of\_this=acts

24 <u>fat--the-requirement-of-on-environmental-assessmenti</u>

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25 <u>ibi-the-requirement-of-submission-of-spretiminary</u>

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| 1  | <u>platt</u>  |     |   |
|----|---|-----|---|
| 2  | <u>iclthe_requirement_of-a-public-hearingi_and</u>                  | 1   | (f) which is created by lease or rental for farming               |
| 3  | <u>idithe-requirement-that-thesubdivisionbeinthe</u>                | 2 - | and agricultural purposes.  |
| 4  | public-interests WHEREIN ZOMING REGULATIONS PURSUANT TO             | 3   | (97(10) The sale, rent, lease, or other conveyance of             |
| 5  | 11-2701_THROUGH_11-2709_OR_16-4701_AND_A_CAPITAL_IMPROVEMENT        | 4   | one or more parts of a building, structure, or other              |
| 6  | PROGRAM PURSUANT TO 11-3831 HAVE BEEN ADOPTED ARE DESIGNED          | 5   | improvement situated on one or more parcels of land is not a      |
| 7  | <u>IO BE IN THE PUBLIC INTEREST AND EXEMPT FROM THE REQUIREMENT</u> | 6   | division of land, as that term is defined in this act, and        |
| 8  | OF AN ENVIRONMENTAL ASSESSMENT.                                     | 7 % | is not subject to the requirements of this act.                   |
| 9  | <del>(0)[9]</del> Unless the method of disposition is adopted for   | 8   | <pre>fl0f(11) The department of community affairs shall, in</pre> |
| 10 | the purpose of evading this act, the requirements of this           | 9   | conformance with the Montana Administrative Procedure Act         |
| 11 | act shall not apply to any division of land:                        | 10  | (sections 82-4201 through 82-4225), prescribe uniform             |
| 12 | {a} which is created by order of any court of record                | 11  | standards for monumentation and for the form, accuracy, and       |
| 13 | in this state or by operation of law, or which, in the              | 12  | descriptive content of records of survey.                         |
| 14 | absence of agreement between the parties to the sale, could         | 13  | <pre>(11)[12] It shall be the responsibility of the</pre>         |
| 15 | be created by an order of any court in this state pursuant          | 14  | governing body to require the replacement of all monuments        |
| 16 | to the law of eminent domain (sections 93-9901 through              | 15  | removed in the course of construction."                           |
| 17 | 93-9926);   |     | -End-   |
| 18 | (b) which is created by a lien, mortgage, or trust                  |     |   |
| 19 | indenture;  |     |   |
| 20 | (c) which creates an interest in oil+ gas+ minerals,                |     |   |
| 21 | or water which is now or hereafter severed from the surface         |     |   |
| 22 | ownership of real property;   |     |   |
| 23 | (d) which creates cemetery lots;                                    |     |   |
| 24 | {e} which is created by the reservation of a life                   |     |   |
| 25 | estate;   |     |   |
|    |   |     |   |

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SENATE BILL NO. 224 L INTRODUCED BY STORY, DEVINE, MANLEY, DOVER, 2 PETERSON, BOYLAN, LONE'S LOCKREN, GALT, HEALY 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 5 11-3860 AND 11-3862. R.C.M. 1947. TO ALLOW A SIMPLIFIED 6 7 PROCEDURE FOR SUBDIVISIONS WITHIN MASTER PLAN AREAS." 8 9 RE IT FMACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 11-3860. R.C.M. 1947, is amended to read as follows: 11 12 "11-3860. Statement of purpose. It is the purpose of this act to promote the public health, safety, and general 13 welfare by regulating the subdivision of land; to prevent 14 15 overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water 16 17 supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require 18 development in harmony with the natural environment; to 19 require that whenever necessary, the andropriate approval 20 of any-subdivision subdivisions be contingent upon a written 21 finding of public interest by the governing body; and to 22 require uniform monumentation of land subdivisions and 23 transferring interests in real property by reference to plat 24 or certificate of survey." 25

THIRD READING

Section 2. Section 11-3862; R.C.M. 1947; is amended to read as follows:

3 "11-3862. Surveys:required -- exceptions -- standards 4 for monumentation. (1) All divisions of land for sale: other 5 than a subdivision after the effective date of this act into 6 parcels which cannot be described as 1/32 or larger allquot 7 parts of a United States government: section or a United 8 States government: lot must be surveyed by or under the 9 supervision of a redistered land surveyer.

10 (2) Every subdivision of Pand after June 30, 1973, : 11 shall be surveyed and platted in conformance with this act 12 by or under the supervision of a registered land surveyor. Subdivision plats shall be prepared and filed in accordance 13 with this act and regulations adopted pursuant thereto. All 14 15 division of sections into aliquot parts and retracement of 16 lines must conform to United States bureau of land 17 management instructions, and all public land survey corners 18 shall be filed in accordance with Corner Recordation Act of 19 Montana (sections 67-2001 through 67-2019). Engineering 20 plans, specifications, and reports required in connection 21 with public improvements and other elements of the subdivision required by the governing body shall be prepared 22 23 and filed by a registered engineer or a registered land 24 surveyor as their respective licensing laws: allow in 25 accordance with this act and regulations adopted pursuant

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1 thereto.

(3) The county clerk and recorder of any county shall 2 not record any instrument which purports to transfer title 3 to or possession of a parcel or tract of land which is 4 required to be surveyed by this act unless the required 5 certificate of survey or subdivision plat has been filed 6 with the clerk and recorder and the instrument of transfer 7 8 describes the parcel or tract by reference to the filed 9 certificate or plat.

10 (4) Instruments of transfer of land which is acquired 11 for state highways may refer by parcel and project number to 12 state highway plans which have been recorded in compliance 13 with section 32-2413, and are exempted from the surveying 14 and platting requirements of this act; provided, however, 15 that if such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be 16 17 accompanied by and refer to appropriate certificates of 18 survey and plats when presented for recording.

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

(6) Unless the method of disposition is adopted for
the purpose of evading this act, the following divisions of
land are not subdivisions under this act but are subject to

1 the surveying requirements of this section for divisions of

2 land not amounting to subdivisions.

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

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

7 (c) Divisions made by sale or agreement to buy and sell where the parties to the transaction enter a covenant 8 running with the land and revocable only by mutual consent Q 10 of the governing body and the property owner that the divided land will be used exclusively for agricultural 11 purposes. Any chance in use of the land for anything other 12 than agricultural purposes subjects the division to the 13 provisions of this chapter. 14

15 (d) A single division of a parcel when the transaction
16 is an occasional sale.
17 (7) Subdivisions created by rent or lease are exempt

17 (7) Subdivisions created by rent or lease are exempt
18 from the surveying and filing requirements of this act but
19 must be submitted for review and approved by the governing
20 body before portions thereof may be rented or leased.
21 (8) Subdivisions\_totally\_within\_a\_master\_planning\_area
22 adopted\_pursuant\_to\_ll=3801\_through\_ll=3856\_are=exempt==from
23 the=following=requirements=of=this=acts

24 <u>idi-the-requirement-of-on-environmental-assessmenti</u>

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25 <u>fbt=-the=-requirement--of--submission--of-s-preliminary</u>

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2 fet--the-requirement-of-a-public-hearingt-and 3 fdt--the-requirement-that-the--subdivision--be--in--the 4 Public-interests WHEREIN ZONING REGULATIONS PURSUANT TO 5 11-2701 THROUGH 11-2709 OR 16-4701 AND & CAPITAL IMPROVEMENT 6 PROGRAM PURSUANT TO 11-3831 HAVE BEEN ADOPTED ARE DESIGNED 7 TO BE IN THE PUBLIC INTEREST AND EXEMPT FROM THE REQUIREMENT 8 OF AN ENVIRONMENTAL ASSESSMENT. 9 (19) Unless the method of disposition is adopted for 10 the purpose of evading this act, the requirements of this 11 act shall not apply to any division of land: 12 (a) which is created by order of any court of record 13 in this state or by operation of law, or which, in the 14 absence of agreement between the parties to the sale. could 15 be created by an order of any court in this state pursuant 16 to the law of eminent domain (sections 93-9901 through 17 93-9926); 18 (b) which is created by a lien, mortgage, or trust 19 indenture: 20 (c) which creates an interest in oil, gas, minerals, 21 or water which is now or hereafter severed from the surface 22 ownership of real property; 23 (d) which creates cemetery lots; 24 (e) which is created by the reservation of a life 25 estate;

1 (f) which is created by lease or rental for farming 2 and agricultural purposes.

3 (9)(10) The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land, as that term is defined in this act, and is not subject to the requirements of this act. 8 (10)(11) The department of community affairs shall, in conformance with the Montana Administrative Procedure Act

10 (sections 82-4201 through 82-4225), prescribe uniform 11 standards for monumentation and for the form, accuracy, and 12 descriptive content of records of survey.

13 (11)(12) It shall be the responsibility of the

14 governing body to require the replacement of all monuments

15 removed in the course of construction."

-End-

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or certificate of survey."

SENATE BILL NO. 224 1 INTRODUCED BY STORY, DEVINE, MANLEY, DOVER, 2 PETERSON, BOYLAN, LOWE, LOCKREM, GALT, HEALY 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 5 11-3860 AND 11-3862, R.C.M. 1947, TO ALLOW A SIMPLIFIED 6 PROCEDURE FOR SUBDIVISIONS WITHIN MASTER PLAN AREAS." 7 з BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 Section 1. Section 11-3860, R.C.M. 1947, is amended to 10 11 read as follows: 12 "11-3860. Statement of purpose. It is the purpose of this act to promote the public health, safety, and general 13 welfare by regulating the subdivision of land; to prevent 14 15 overcrowding of land: to lessen concession in the streets and highways; to provide for adequate light, air, water 16 supply, sewage disposal, parks and recreation areas, ingress 17 18 and earess, and other public requirements; to require development in harmony with the natural environment; to 19 require that whenever necessary, the appropriate approval 20 of any-subdivision subdivisions be contingent upon a written 21 22 finding of public interest by the governing body; and to require uniform monumentation of land subdivisions and 23 transferring interests in real property by reference to plat 24

> THIRD READING SECOND PRINTING

Section 2. Section 11-3862; R.C.M. 1947; is amended to
 read as follows:

3 "11-3862. Surveys required -- exceptions -- standards 4 for monumentation. (1) All divisions of land for sale other 5 than a subdivision after the effective date of this act into 6 parcels which cannot be described as 1/32 or larger aliquot 7 parts of a United States government section or a United 8 States government lot must be surveyed by or under the 9 supervision of a registered land surveyor.

10 (2) Every subdivision of land after June 30, 1973. 11 shall be surveyed and platted in conformance with this act 12 by or under the supervision of a registered land surveyor. Subdivision plats shall be prepared and filed in accordance 13 14 with this act and regulations adopted pursuant thereto. All division of sections into aliquot parts and retracement of 15 lines must conform to United States bureau of land 16 17 management instructions, and all public land survey corners 18 shall be filed in accordance with Corner Recordation Act. of 19 Montana (sections 67-2001 through 67-2019). Engineering 20 plans, specifications, and reports required in connection with public improvements and other elements of the 21 22 subdivision required by the governing body shall be prepared 23 and filed by a registered engineer or a registered land surveyor as their respective licensing laws allow in 24 25 accordance with this act and regulations adopted pursuant

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#### 1 thereto.

(3) The county clerk and recorder of any county shall 2 not record any instrument which purports to transfer title 3 to or possession of a parcel or tract of land which is 4 5 required to be surveyed by this act unless the required 6 certificate of survey or subdivision plat has been filed with the clerk and recorder and the instrument of transfer 7 8 describes the parcel or tract by reference to the filed 9 certificate or plat.

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25 <u>(b)--the--requirement--of--submission--of-a-preliminary</u>

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| 1  | <del>plett</del>   | 1  | estate;   |
|----|--|----|---|
| 2  | tet-the-requirement-of-a-public-hearings-and                             | 2  | (f) which is created by lease or rental for farming               |
| 3  | <u>tdlthe-requirement-thet-thesubdivisionbeinthe</u>                     | 3  | and agricultural purposes.  |
| 4  | public_interests WHEREIN ZONING REGULATIONS PURSUANT TO                  | 4  | (9)(10) The sale, rent, lease, or other conveyance of             |
| 5  | 11-2701_IHROUGH_11-2709_DR_16-4703_AND_A_ <del>CAPITAL-IHPROVENENT</del> | 5  | one or more parts of a building, structure, or other              |
| 6  | PROGRAM LONG-RANGE DEVELOPMENT PROGRAM DE PUBLIC HORKS.                  | 6  | improvement situated on one or more parcels of land is not a      |
| 7  | PRUJECTS PURSUANT TO 11-3831 HAVE BEEN ADOPTED ARE DESIGNED              | 7  | division of land, as that term is defined in this act, and        |
| 8  | DEENED TO BE IN THE PUBLIC INTEREST AND EXEMPT FROM THE                  | 8  | is not subject to the requirements of this act.                   |
| 9  | REQUIREMENT OF AN ENVIRONMENTAL ASSESSMENT.                              | 9  | <del>(10)(11)</del> The department of community affairs shall, in |
| 10 | <del>(8)[9]</del> Unless the method of disposition is adopted for        | 10 | conformance with the Montana Administrative Procedure Act         |
| 11 | the purpose of evading this act, the requirements of this                | 11 | (sections 82-4201 through 82-4225); prescribe uniform             |
| 12 | act shall not apply to any division of land:                             | 12 | standards for monumentation and for the form, accuracy, and       |
| 13 | (a) which is created by order of any court of record                     | 13 | descriptive content of records of survey.                         |
| 14 | in this state or by operation of law, or which, in the                   | 14 | <pre>{11/(12) It shall be the responsibility of the</pre>         |
| 15 | absence of agreement between the parties to the sale, could              | 15 | governing body to require the replacement of all monuments        |
| 16 | be created by an order of any court in this state pursuant               | 16 | removed in the course of construction."                           |
| 17 | to the law of eminent domain (sections 93-9901 through                   |    | -End-   |
| 18 | 93-9926);  |    |   |
| 19 | (b) which is created by a lien, mortgage, or trust                       |    |   |
| 20 | indenture;   |    |   |
| 21 | (c) which creates an interest in oil, gas, minerals,                     |    |   |
| 22 | or water which is now or hereafter severed from the surface              |    |   |
| 23 | ownership of real property;  |    |   |
| 24 | (d) which creates cemetery lots;   |    |   |
| 25 | (e) which is created by the reservation of a life                        |    |   |
|    | -5- \$8 <b>2</b> 24  |    | -6- SB 224  |

HOUSE OF REPRESENTATIVES

April 6, 1977

# HOUSE COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL 224

1. Amend page 4, section 2, line 2. Following: "."

Insert: "Within a platted subdivision filed with the county clerk and recorder any division of lots which results in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder. For five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots are exempted from review as subdivisions. Exempted from local review outside of platted subdivisions are:"

2. Amend page 4, section 2, lines 5 and 6. Following: "(b)" Strike: lines 5 and 6 in their entirety Insert: "Single divisions made for the purpose of transferring title to a member of the grantor's immediate family when the division creates no more than one remaining parcel of less than 20 acres. Only one conveyance of land to each member of the grantor's immediate family is eligible for this exemption within any 5 year period."

3. Amend page 4, section 2, lines 15 and 16. Following: "(d)" Strike: lines 15 and 16 in their entirety Insert: "Single divisions made by a grantor for transfer of title as an occasional sale when the division creates no more than one remaining parcel of less than 20 acres. Where a parcel is created under this exemption or the exemption for transfer of title to a member of the grantor's immediate family, no further division of that parcel created under this exemption may occur for a period of 12 months."

4. Amend page 5, section 2, lines 19 and 20. Following: "(b)" Strike: lines 19 and 20 in their entirety Insert: "which is created to provide security for construction mortgages, liens, or trust indentures."

AS AMENDED BE CONCURRED IN

SENATE BILL NO. 224 1 INTRODUCED BY STORY. DEVINE. MANLEY. DOVER. 2 3 PETERSON, BOYLAN, LOWE, LOCKREN, GALT, HEALY 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 5 6 11-3860 AND 11-3862. R.C.M. 1947. TO ALLOW A SIMPLIFIED 7 PROCEDURE FOR SUBDIVISIONS WITHIN MASTER PLAN AREAS. 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 10 Section 1. Section 11-3860, R.C.H. 1947, is amended to 11 read as follows: 12 "11-3860. Statement of purpose. It is the purpose of 13 this act to promote the public health, safety, and general 14 welfare by regulating the subdivision of land; to prevent 15 overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water 16 17 supply, sewage disposal, parks and recreation areas, ingress 18 and egress, and other public requirements; to require 19 development in harmony with the natural environment; to 20 require that whenever necessary, the appropriate approval of any-subdivision subdivisions be contingent upon a written 21 22 finding of public interest by the governing body; and to 23 require uniform monumentation of land subdivisions and 24 transferring interests in real property by reference to plat 25 or certificate of survey."

REFERENCE BILL

SB 0224/04

Section 2. Section 11-3862; R.C.M. 1947; is amended to
 read as follows:

3 "11-3862. Surveys required -- exceptions -- standards 4 for monumentation. (1) All divisions of land for sale other 5 than a subdivision after the effective date of this act into 6 parcels which cannot be described as 1/32 or larger aliquot 7 parts of a United States government section or a United 8 States government lot must be surveyed by or under the 9 supervision of a registered land surveyor.

10 (2) Every subdivision of land after June 30, 1973, 11 shall be surveyed and platted in conformance with this act 12 by or under the supervision of a registered land surveyor. 13 Subdivision plats shall be prepared and filed in accordance 14 with this act and regulations adopted pursuant thereto. All 15 division of sections into aliquot parts and retracement of lines must conform to United States bureau of land 16 17 management instructions, and all public land survey corners 18 shall be filed in accordance with Corner Recordation Act of 19 Montana (sections 67-2001 through 67-2019). Engineering 20 plans, specifications, and reports required in connection 21 with public improvements and other elements of the 22 subdivision required by the governing body shall be prepared 23 and filed by a registered engineer or a registered land 24 surveyor as their respective licensing laws allow in accordance with this act and regulations adopted pursuant 25

-2-

#### SB 0224/04

#### 1 thereto.

2 (3) The county clerk and recorder of any county shall 3 not record any instrument which purports to transfer title 4 to or possession of a parcel or tract of land which is 5 required to be surveyed by this act unless the required certificate of survey or subdivision plat has been filed 6 with the clerk and recorder and the instrument of transfer 7 describes the parcel or tract by reference to the filed 8 9 certificate or plat.

10 (4) Instruments of transfer of land which is acquired 11 for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance 12 13 with section 32-2413, and are exempted from the surveying and platting requirements of this act; provided, however, 14 15 that if such parcels are not shown on highway plans of 16 record, instruments of transfer of such parcels shall be 17 accompanied by and refer to appropriate certificates of 18 survey and plats when presented for recording.

19 (5) The provisions of this act shall not apply to the
20 division of state-owned land unless the division creates a
21 second or subsequent parcel from a single tract for sale,
22 rent or lease for residential purposes after July 1, 1974.
23 (6) Unless the method of disposition is adopted for
24 the purpose of evading this act, the following divisions of
25 land are not subdivisions under this act but are subject to

| 1  | the surveying requirements of this section for divisions of        |
|----|--|
| 2  | land not amounting to subdivisions.                                |
| 3  | WITHIN A PLATTED SUBDIVISION FILED WITH THE COUNTY                 |
| 4  | <u>CLERK AND RECORDER ANY DIVISION OF LOTS WHICH RESULTS IN AN</u> |
| 5  | INCREASE IN THE NUMBER OF LOTS, OR WHICH REDESIGNS OR              |
| 6  | REARRANGES SIX OR MORE LOIS. MUST BE REVIEWED AND APPROVED         |
| 7  | BY THE GOVERNING BODY AND AN AMENDED PLAT MUST BE FILED WITH       |
| 8  | THE COUNTY CLERK AND RECORDER. FOR FIVE OR FEWER LOTS WITHIN       |
| 9  | A PLATTED SUBDIVISION. RELOCATION OF COMMON_BOUNDARIES_AND         |
| 10 | THE AGGREGATION OF LOTS ARE EXEMPTED FROM REVIEW AS                |
| 11 | SUBDIVISIONS. EXEMPTED FROM LOCAL REVIEW DUTSIDE OF PLATTED        |
| 12 | SUBDIVISIONS ARE:  |
| 13 | (a) Divisions made for the purpose of relocating                   |
| 14 | common boundary lines between adjoining properties.                |
| 15 | (b) <del>Divisions-made-for-the-purpose-of-a-giftorsal</del> e     |
| 16 | toonymemberof-the-landowner*s-immediate-family= <u>SINGLE</u>      |
| 17 | DIVISIONS MADE FOR THE PURPOSE OF TRANSFERRING TITLE TO A          |
| 18 | MEMBER OF THE GRANIOR'S IMMEDIATE FAMILY WHEN THE DIVISION         |
| 19 | CREATES NO MORE THAN ONE REMAINING PARCEL OF LESS THAN 20          |
| 20 | ACRES. ONLY ONE CONVEYANCE OF LAND TO EACH MEMBER OF THE           |
| 21 | GRANTOR'S IMMEDIATE FAMILY IS ELIGIBLE FOR THIS EXEMPTION          |
| 22 | HITHIN ANY 5 YEAR PERIOD.  |
| 23 | (c) Divisions made by sale or agreement to buy and                 |
| 24 | sell where the parties to the transaction enter a covenant         |
|    |  |

running with the land and revocable only by mutual consent

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-3-

25

of the governing body and the property owner that the
 divided land will be used exclusively for agricultural
 purposes. Any change in use of the land for anything other
 than agricultural purposes subjects the division to the
 provisions of this chapter.

6 (d) A-single-division-of-a-parcel-when-the-transaction 7 +3-an-occasional-sale. SINGLE DIVISIONS MADE BY A GRANTOR FOR TRANSFER OF TITLE AS AN OCCASIONAL SALE WHEN THE 8 9 DIVISION CREATES NO MORE THAN ONE REMAINING PARCEL OF LESS 10 THAN 20 ACRES. WHERE A PARCEL IS CREATED UNDER THIS 11 EXEMPTION OR THE EXEMPTION FOR TRANSFER OF TITLE TO A MEMBER 12 OF THE GRANTOR'S IMMEDIATE FAMILY, NO FURTHER DIVISION OF 13 THAT PARCEL CREATED UNDER THIS EXEMPTION MAY OCCUR FOR A 14 PERIOD OF 12 MONTHS. 15 (7) Subdivisions created by rent or lease are exempt from the surveying and filing requirements of this act but 16 17 must be submitted for review and approved by the governing 18 body before portions thereof may be rented or leased. 19 (8) Subdivisions totally within a master planning area 20 adopted pursuant to 11-3601 through 11-3656 are-exempt-from 21 the-following-requirements-of-this-act:

- 22 <u>tat--the-requirement-of-on-environmental-assessment</u>
- 23 <u>fbt--the-requirement-of--submission--of--a--preliminary</u>
- 24 pisti
- 25 <u>tcl--the-requirement-of-a-public-hearingt-and</u>

SB 0224/04

| 1  | <u>iditherequirementthettheaubdivision-be-in-the</u>              |
|----|---|
| 2  | <u>public-interests</u> MHEREIN ZONING REGULATIONS PURSUANT TO    |
| 3  | 11-2701_THROUGH_11-2709_OR_16-4701_AND_A_CAPITAL:INPROVEMENT      |
| 4  | <u>PROGRAM LONG-RANGE DEVELOPMENT PROGRAM OF PUBLIC WORKS*</u>    |
| 5  | PROJECTS PURSUANT TO 11-3831 HAVE BEEN ADOPTED ARE DESIGNED       |
| 6  | DEEMED TO BE IN THE PUBLIC INTEREST AND EXEMPT FROM THE           |
| 7  | REQUIREMENT OF AN ENVIRONMENTAL ASSESSMENT.                       |
| 8  | <del>(8)[9]</del> Unless the method of disposition is adopted for |
| 9  | the purpose of evading this act, the requirements of this         |
| 10 | act shall not apply to any division of land:                      |
| 11 | (a) which is created by order of any court of record              |
| 12 | in this state or by operation of law, or which, in the            |
| 13 | absence of agreement between the parties to the sale; could       |
| 14 | be created by an order of any court in this state pursuant        |
| 15 | to the law of eminent domain (sections 93-9901 through            |
| 16 | 93-9926};   |
| 17 | (b) which-is-created-by-alienymortgageyortrust                    |
| 18 | indenturet WHICH IS CREATED TO PROVIDE SECURITY FOR               |
| 19 | CONSTRUCTION_MORTGAGES+_LIENS+_OR_TRUST_INDENTURES:               |
| 20 | (c) which creates an interest in oil, gas, minerals,              |
| 21 | or water which is now or hereafter severed from the surface       |
| 22 | ownership of real property;                                       |
| 23 | (d) which creates cemetery lots;                                  |
| 24 | (e) which is created by the reservation of a life                 |
| 25 | estate;   |
|    |   |

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SB 224

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(f) which is created by lease or rental for farming
 and agricultural purposes.
 f9f(10) The sale, rent, lease, or other conveyance of
 one or more parts of a building, structure, or other
 improvement situated on one or more parcels of land is not a

÷ ...

6 division of land, as that term is defined in this act, and 7 is not subject to the requirements of this act.

8 (10)(11) The department of community affairs shall, in 9 conformance with the Montana Administrative Procedure Act 10 (sections 82-4201 through 82-4225), prescribe uniform 11 standards for monumentation and for the form, accuracy, and 12 descriptive content of records of survey.

13 (11)(12) It shall be the responsibility of the 14 governing body to require the replacement of all monuments 15 removed in the course of construction."

-End-



-7-

SENATE BILL NO. 224 1 INTRODUCED BY STORY, DEVINE, MANLEY, DOVER, 2 PETERSON, BOYLAN, LOWE, LOCKREM, GALT, HEALY 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 5 11-3860 AND 11-3862, R.C.M. 1947, TO ALLOW A SIMPLIFIED 6 7 PROCEDURE FOR SUBDIVISIONS WITHIN MASTER PLAN AREAS." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 11-3860, R.C.M. 1947, is amended to read as follows: 11 "11-3860. Statement of purpose. It is the purpose of 12 13 this act to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent 14 overcrowding of land; to lessen congestion in the streets 15 16 and highways; to provide for adequate light, air, water 17 supply, sewage disposal, parks and recreation areas, ingress 18 and agress, and other public requirements; to require 19 development in harmony with the natural environment; to 20 require that whenever necessary, the appropriate approval 21 of any subdivision subdivisions be contingent upon a written finding of public interest by the governing body; and to 22 23 require uniform monumentation of land subdivisions and 24 transferring interests in real property by reference to plat 25 or certificate of survey."

REFERENCE BILL: Includes Free Joint Conference Committee Report Dated <u>H-17-17</u>

1 Section 2. Section 11-3862, R.C.M. 1947, is amended to read as follows: 2 3 "11-3862. Surveys required -- exceptions --- standards 4 for monumentation. (1) All divisions of land for sale other 5 than a subdivision after the effective date of this act into parcels which cannot be described as 1/32 or larger aliquot 6 7 parts of a United States government section or a United 8 States government lot must be surveyed by or under the 9 supervision of a registered land surveyor. (2) Every subdivision of land after June 30, 1973, 10 shall be surveyed and platted in conformance with this act 11 12 by or under the supervision of a registered land survayor. Subdivision plats shall be prepared and filed in accordance 13 14 with this act and regulations adopted pursuant thereto. All division of sections into aliquot parts and retracement of 15 lines must conform to United States bureau of land 16 management instructions, and all public land survey corners 17 18 shall be filed in accordance with Corner Recordation Act of 19 Montana (sections 67-2001 through 67-2019). Engineering 20 plans, specifications, and reports required in connection 21 with public improvements and other elements of the subdivision required by the governing body shall be prepared 22 23 and filed by a registered engineer or a recistered land 24 surveyor as their respective licensing laws allow in 25 accordance with this act and regulations adopted pursuant

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2 (3) The county clerk and recorder of any county shall 3 not record any instrument which purports to transfer title 4 to or possession of a parcel or tract of land which is 5 required to be surveyed by this act unless the required 6 certificate of survey or subdivision plat has been filed 7 with the clerk and recorder and the instrument of transfer 8 describes the parcel or tract by reference to the filed 9 certificate or plat.

10 (4) Instruments of transfer of land which is acquired 11 for state highways may refer by parce) and project number to 12 state highway plans which have been recorded in compliance 13 with section 32-2413, and are exempted from the surveying 14 and platting requirements of this act; provided, however, 15 that if such parcels are not shown on highway plans of 16 record, instruments of transfer of such parcels shall be 17 accompanied by and refer to appropriate certificates of 18 survey and plats when presented for recording.

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

(6) Unless the method of disposition is adopted for
the purpose of evading this act, the following divisions of
land are not subdivisions under this act but are subject to

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| 1  | the surveying requirements of this section for divisions of           |
|----|---|
| 2  | land not amounting to subdivisions.                                   |
| 3  | WITHIN A PLATTED SUBDIVISION FILED WITH THE COUNTY                    |
| 4  | CLERK AND RECORDER ANY DIVISION OF LOTS WHICH RESULTS IN AN           |
| 5  | INCREASE IN THE NUMBER OF LOTS. OR WHICH REDESIGNS OR                 |
| 6  | REARRANGES SIX OR MORE LOTS. MUST BE REVIEWED AND APPROVED            |
| 7  | BY THE GOVERNING BOOY AND AN AMENDED PLAT MUST BE FILED WITH          |
| 8  | THE COUNTY CLERK AND RECORDER. FOR FIVE OR FEWER LOIS HITHIN          |
| 9  | A PLATIED SUBDIVISION, RELOCATION OF COMMON ROUNDARIES AND            |
| 10 | THE AGGREGATION OF LOTS ARE EXEMPTED FROM REVIEW AS                   |
| 11 | SUBDIVISIONS. EXEMPTED FROM LOCAL REVIEW OUTSIDE OF PLATED            |
| 12 | SUBDIVISIONS ARE:   |
| 13 | (a) Divisions made for the purpose of relocating                      |
| 14 | common boundary lines between adjoining properties.                   |
| 15 | (b) <del>Divisions-made-for-the-purpose-of-s-giftorsale</del>         |
| 16 | toanymemberof-the-landowner1s-immediate-family* <u>SINGLE</u>         |
| 17 | <del>DIVISIONS-MADE-FOR-THE-PURPOSE-DE-TRANSFERRINGTITLETO&amp;</del> |
| 18 | <u>HEMBERBETHE-GRANTOR*5-INHEDIATE-FAMILY-HHEN-THE-SIVISION</u>       |
| 19 | <u>EREATES-NO-MORE-THAN-ONE-REMAINING-PAREEL-DE-LESSTHAN-20</u>       |
| 20 | AGRESTONLYONECONVEYANCE-DE-LAND-TO-EACH-MEMBER-OF-THE                 |
| 21 | GRANTURAS_IMMEDIATE_FAMILY_IS_ELIGIBLEEORTHISEXEMPIION                |
| 22 | HITHINANY-5-YEAR-PERIOD. DIVISIONS_MADE-FOR-THE-PURPOSE-OF            |
| 23 | A-GIFT-OR-SALE-TO-ANY-MEMBER-OFINELANDOWNER*SIMMEDIATE                |
| -  | FINTING STUTETONS HARE CON THE DUBDOOL OF A STEEL OF THE              |

25 ANY MEMBER OF THE LANDOWNER'S IMMEDIATE FAMILY.

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FAMILY DIVISIONS MADE FOR THE PURPOSE OF A GIFT OR SALE TO

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(c) Divisions made by sale or agreement to buy and 1 sell where the parties to the transaction enter a covenant 2 running with the land and revocable only by mutual consent 3 of the governing body and the property owner that the 4 divided land will be used exclusively for agricultural 5 purposes. Any change in use of the land for anything other 6 than agricultural purposes subjects the division to the 7 8 provisions of this chapter.

(d) A-single-division-of-a-parcel-when-the-transaction 9 10 is--an--occosional--sales SINGLE-DIVISIONS-MADE-DY-A-GRANTOR 11 FOR-TRANSFER-OF-TITLE-AS-AN-BECASIONAL-SALE-WHEN-THE DIVISION--CREATES--NO-HORE-THAN-ONE-REMAINING-PARCEL-OF-LESS 12 13 14 EXEMPTION-OR-THE-EXEMPTION-FOR-TRANSFER-OF-TITLE-TO-A-MEMBER 15 OF-THE-GRANTORS-S-IMMEDIATE FANILEY-NO-FURTHER-DIVISION-OF 16 THAT-PARCEL-CREATED-UNDER-THIS-EXEMPTION-MAX--OCCUR--FOR--A 17 PERIOD-BE-12-MONTHS A SINGLE DIVISION OF A PARCEL WHEN THE TRANSACTION IS AN OCCASIONAL SALE. 18 19 (7) Subdivisions created by rent or lease are exempt 20 from the surveying and filing requirements of this act but 21 must be submitted for review and approved by the governing 22 body before portions thereof may be rented or leased.

23 (8) Subdivisions totally within a master planning area
 24 adopted pursuant to 11-3801 through 11-3856 are exempt-from

25 <u>the-following-requirements-of-this-actt</u>

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| 1  | tal the requirement of an environmental assessments               |
|----|---|
| 2  | <u>fbtthe-requirement-of-submission-of-a-preliminary</u>          |
| 3  | <del>plati</del>  |
| 4  | <u>tctthe-requirement-of-a-public-hearingt-and</u>                |
| 5  | <u>id&gt;therequirementthatthesubdivision-be_in-the</u>           |
| 6  | public-interest: WHEREIN ZONING REGULATIONS PURSUANT TO           |
| 7  | 11-2701 THROUGH 11-2709 OR 16-4701 AND A CAPITAL IMPROVEMENT      |
| 8  | PROGRAM LONG-BANGE_DEVELOPMENT_PROGRAM_OF_PUBLIC_WORKS*           |
| 9  | PROJECTS PURSUANT TO 11-3831 HAVE BEEN ADOPTED ARE BESIGNED       |
| 10 | DEEMED TO BE IN THE PUBLIC INTEREST AND EXEMPT FROM THE           |
| 11 | REQUIREMENT OF AN ENVIRONMENTAL ASSESSMENT.                       |
| 12 | <del>(8)[2]</del> Unless the method of disposition is adopted for |
| 13 | the purpose of evading this act, the requirements of this         |
| 14 | act shall not apply to any division of land:                      |
| 15 | (a) which is created by order of any court of record              |
| 15 | in this state or by operation of law, or which, in the            |
| 17 | absence of agreement between the parties to the sale, could       |
| 18 | be created by an order of any court in this state pursuant        |
| 19 | to the law of eminent domain (sections 93–9901 through            |
| 20 | 93-9926);   |
| 21 | (b) which-is-created-by-alienymortgageyortrust                    |
| 22 | indenture: WHICH IS CREATED TO PROVIDE SECURITY FOR               |
| 23 | CONSTRUCTION MORTGAGES, LIENS, OR TRUST INDENTURES:               |
| 24 | (c) which creates an interest in oil, gas, minerals,              |
| 25 | or water which is now or hereafter severed from the surface       |

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S6 224

ownership of real property; 1 2 (d) which creates cemetery lots; (e) which is created by the reservation of a life 3 estate; 4 (f) which is created by lease or rental for farming 5 and agricultural purposes. 6 7 (9)(10) The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other 8 improvement situated on one or more parcels of land is not a 9 division of land, as that term is defined in this act, and 10 is not subject to the requirements of this act. 11 (10)(11) The department of community affairs shall, in 12 conformance with the Montana Administrative Procedure Act 13 14 (sections 82-4201 through 82-4225), prescribe uniform 15 standards for monumentation and for the form, accuracy, and 16 descriptive content of records of survey. 17 (11)(12) It shall be the responsibility of the 18 governing body to require the replacement of all monuments

19 removed in the course of construction."

-End-

-7-