

CHAPTER NO. 633.

HOUSE BILL NO. 84

INTRODUCED BY LORY

BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS

IN THE HOUSE

January 8, 1979	Introduced and referred to Committee on Local Government.
January 19, 1979	Committee recommend bill do pass as amended. Report adopted.
January 20, 1979	Printed and placed on members' desks.
January 22, 1979	Second reading, do pass as amended.
January 23, 1979	Correctly engrossed.
January 24, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 25, 1979	Introduced and referred to Committee on Local Government.
March 19, 1979	Committee recommend bill be concurred in. Report adopted.
March 21, 1979	Second reading, concurred in. Segregated from the Committee of the Whole report.
March 22, 1979	Second reading, concurred in as amended.
March 26, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 27, 1979	Returned from second house. Concurred in as amended.
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March 28, 1979

Second reading, amendments
rejected.

On motion, Joint Conference
Committee requested.

Joint Conference Committee
appointed.

April 19, 1979

Joint Conference Committee
dissolved.

On motion Senate amendments
placed on second reading this day.

Second reading, amendments adopted.

Third reading, amendments adopted.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 84
 2 INTRODUCED BY Long
 3 BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PRESCRIBE DUTIES OF
 6 CLERKS AND RECORDERS AND CITY ATTORNEYS WITH REGARD TO
 7 SUBDIVISION FILING REQUIREMENTS; AMENDING SECTIONS 76-3-301
 8 AND 76-3-404, MCA."

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

11 Section 1. Section 76-3-301, MCA, is amended to read:
 12 "76-3-301. General restriction on transfer of title to
 13 subdivided lands. (1) Except as provided in 76-3-303, every
 14 final subdivision plat must be filed for record with the
 15 county clerk and recorder before title to the subdivided
 16 land can be sold or transferred in any manner. The clerk and
 17 recorder of the county shall refuse to accept any plat for
 18 record that fails to have the approval of 76-3-611(1) in
 19 proper form ~~or that does not conform to drafting and filing~~
 20 ~~requirements of this chapter.~~

21 ~~(2) The clerk and recorder shall notify the governing~~
 22 ~~body or its designated agent of any land division described~~
 23 ~~in 76-3-207(1)(b).~~

24 ~~(3) If illegal transfers of any manner are made,~~
 25 ~~the county attorney or the city attorney if the land lies~~

1 ~~within the incorporated boundaries of a municipality shall~~
 2 ~~commence action to enjoin further sales or transfers and~~
 3 ~~compel compliance with all provisions of this chapter.~~
 4 ~~However, if the city attorney fails to act within 60 days of~~
 5 ~~written notification of the violation when the land lies~~
 6 ~~within the incorporated municipal boundaries, the county~~
 7 ~~attorney shall commence the necessary action. The cost of~~
 8 ~~such action shall be imposed against the person transferring~~
 9 ~~the property party not prevailing."~~

10 Section 2. Section 76-3-404, MCA, is amended to read:
 11 "76-3-404. Certificate of survey. (1) Within 180 days
 12 of the completion of a survey, the registered land surveyor
 13 responsible for the survey, whether he is privately or
 14 publicly employed, shall prepare and file-for-record ~~submit~~
 15 ~~for filing~~ a certificate of survey in the county in which
 16 the survey was made if the survey:

17 (a) provides material evidence not appearing on any
 18 map filed with the county clerk and recorder or contained in
 19 the records of the United States bureau of land management;

20 (b) reveals a material discrepancy in such map;

21 (c) discloses evidence to suggest alternate locations
 22 of lines or points;

23 (d) establishes one or more lines not shown on a
 24 recorded map, the positions of which are not ascertainable
 25 from an inspection of such map without trigonometric

1 calculations.

2 (2) A certificate of survey will not be required for
3 any survey which is made by the United States bureau of land
4 management or which is preliminary or which will become part
5 of a subdivision plat being prepared for recording under the
6 provisions of this chapter.

7 (3) Certificates of survey shall be legibly drawn,
8 printed, or reproduced by a process guaranteeing a permanent
9 record and shall conform to monumentation and surveying
10 requirements promulgated under this chapter.

11 ~~(4) The county clerk and recorder shall refuse to file~~
12 ~~any certificate of survey that does not conform to the~~
13 ~~drafting and filing requirements of this chapter.~~"

-End-

HB 34

Approved by Comm.
on Local Government

HOUSE BILL NO. 84

INTRODUCED BY LORY

BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PRESCRIBE DUTIES OF
CLERKS AND RECORDERS AND CITY ATTORNEYS WITH REGARD TO
SUBDIVISION FILING REQUIREMENTS; AMENDING SECTIONS 76-3-301
AND 76-3-404, MCA."

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

Section 1. Section 76-3-301, MCA, is amended to read:

"76-3-301. General restriction on transfer of title to
subdivided lands. (1) Except as provided in 76-3-303, every
final subdivision plat must be filed for record with the
county clerk and recorder before title to the subdivided
land can be sold or transferred in any manner. The clerk and
recorder of the county shall refuse to accept any plat for
record that fails to have the approval of 76-3-611(1) in
proper form ~~or that does not conform to drafting and filing
requirements of this chapter.~~

~~(2) The clerk and recorder shall notify the governing
body or its designated agent of any land division described
in 76-3-207(1)(b).~~

~~(2)(3) If ~~it~~ transfers of--any--manner NOT IN
ACCORDANCE WITH THIS CHAPTER are made, the county attorney~~

~~or the city attorney if the land lies within the
incorporated boundaries of a municipality shall commence
action to enjoin further sales or transfers and compel
compliance with all provisions of this chapter. However, if
the city attorney fails to act within 60 days of written
notification of the violation, when the land lies within the
incorporated municipal boundaries, the county attorney shall
commence the necessary action. The cost of such action shall
be imposed against the person--transferring--the--property
party not prevailing."~~

Section 2. Section 76-3-404, MCA, is amended to read:

"76-3-404. Certificate of survey. (1) Within 180 days
of the completion of a survey, the registered land surveyor
responsible for the survey, whether he is privately or
publicly employed, shall prepare and ~~file-for-record~~ submit
for filing a certificate of survey in the county in which
the survey was made if the survey:

(a) provides material evidence not appearing on any
map filed with the county clerk and recorder or contained in
the records of the United States bureau of land management;

(b) reveals a material discrepancy in such map;

(c) discloses evidence to suggest alternate locations
of lines or points;

(d) establishes one or more lines not shown on a
recorded map, the positions of which are not ascertainable

1 from an inspection of such map without trigonometric
2 calculations.

3 (2) A certificate of survey will not be required for
4 any survey which is made by the United States bureau of land
5 management or which is preliminary or which will become part
6 of a subdivision plat being prepared for recording under the
7 provisions of this chapter.

8 (3) Certificates of survey shall be legibly drawn,
9 printed, or reproduced by a process guaranteeing a permanent
10 record and shall conform to monumentation and surveying
11 requirements promulgated under this chapter.

12 ~~(4) The county clerk and recorder shall refuse to file~~
13 ~~any certificate of survey that does not conform to the~~
14 ~~drafting and filing requirements of this chapter."~~

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~~(2) The clerk and recorder shall notify the governing body or its designated agent of any land division described in 76-3-207(1) if:~~

~~(3) If ~~it~~ transfers of ~~any~~ manner NOT IN ACCORDANCE WITH THIS CHAPTER are made, the county attorney~~

~~or the city attorney if the land lies within the incorporated boundaries of a municipality shall commence action to enjoin further sales or transfers and compel compliance with all provisions of this chapter. However, if the city attorney fails to act within 60 days of written notification of the violation, when the land lies within the incorporated municipal boundaries, the county attorney shall commence the necessary action. The cost of such action shall be imposed against the person transferring the property party not prevailing."~~

Section 2. Section 76-3-404, MCA, is amended to read:

"76-3-404. Certificate of survey. (1) Within 180 days of the completion of a survey, the registered land surveyor responsible for the survey, whether he is privately or publicly employed, shall prepare and ~~file for record~~ submit for filing a certificate of survey in the county in which the survey was made if the survey:

- (a) provides material evidence not appearing on any map filed with the county clerk and recorder or contained in the records of the United States bureau of land management;
- (b) reveals a material discrepancy in such map;
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4 any survey which is made by the United States bureau of land
5 management or which is preliminary or which will become part
6 of a subdivision plat being prepared for recording under the
7 provisions of this chapter.

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9 printed, or reproduced by a process guaranteeing a permanent
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11 requirements promulgated under this chapter.

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16 land can be sold or transferred in any manner. The clerk and
17 recorder of the county shall refuse to accept any plat for
18 record that fails to have the approval of 76-3-611(1) in
19 proper form ~~or that does not conform to drafting and filing~~
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11 Section 2. Section 76-3-404, MCA, is amended to read:

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16 for filing a certificate of survey in the county in which
17 the survey was made if the survey:

18 (a) provides material evidence not appearing on any
19 map filed with the county clerk and recorder or contained in
20 the records of the United States bureau of land management;

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9 printed, or reproduced by a process guaranteeing a permanent
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11 requirements promulgated under this chapter.

12 ~~§§--The county clerk and recorder shall refuse to file~~
13 ~~any certificate of survey that does not conform to the~~
14 ~~drafting and filing requirements of this chapter."~~

-End-

March 22, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 84, third reading bill, be amended as follows:

1. Page 1, lines 19 and 20.

Following: "form"

Strike: remainder of lines 19 and 20 in their entirety

Insert: "."

2. Page 3, line 12.

Following: line 11

Strike: subsection (4) in its entirety