HOUSE BILL NO. 768

.

INTRODUCED BY BRADLEY, MARKS, MILES, KITSELMAN

IN THE HOUSE

February	11,	1985		Introduced and refe Committee on Local	
				Fiscal Note request	ed.
February	13,	1985		Rereferred to Commi Natural Resources.	ttee on
February	16,	1985		Fiscal Note returne	d.
February	25,	1985		Committee recommend pass as amended. R adopted.	
				Bill printed and pl members' desks.	aced on
February	26,	1985		Second reading, do	pass.
				Considered correctl engrossed.	У
February	27,	1985		Third reading, pass	ed.
				Transmitted to Sena	te.
			IN THE SI	ENATE	
March 5,	1985	5		Introduced and refe Committee on Local	
March 21,	, 198	35		Committee recommend concurred in. Repo	
March 23	, 198	35		Second reading, con as amended.	curred in

.

March 26, 1985		Third reading, concurred in. Ayes, 50; Noes, 0.
		Returned to House with amendments.
	IN THE HO	OUSE
March 27, 1985		Received from Senate.
April 8, 1985		Second reading, pass consideration.
April 9, 1985		Second reading, amendments concurred in.
		On motion, rules suspended and bill placed on third reading this day.
		Third reading, amendments concurred in.
		Sent to enrolling.
		Reported correctly enrolled.

LC 0925/01

INTRODUCED BY Braden Hiller Mills Ribelmon 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING APARTMENTS 4 AND OTHER PORTIONS OF BUILDINGS THAT ARE RENTED OR LEASED 5 FROM REVIEW AS SUBDIVISIONS; EXEMPTING SUBDIVISIONS. б 7 INCLUDING CONDOMINIUMS, THAT WILL BE SERVED BY MUNICIPAL WATER AND SEWAGE FACILITIES IN CLASS 1 AND CLASS 2 8 9 MUNICIPALITIES FROM DEPARTMENT REVIEW; AMENDING SECTIONS 76-4-103, 76-4-105, 76-4-122 THROUGH 76-4-124, AND 76-4-127, 10 MCA." 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 76-4-103, MCA, is amended to read: 14 15 "76-4-103. What constitutes subdivision. A subdivision 16 shall comprise only those parcels of less than 20 acres 17 which have been created by a division of land, and the plat 18 thereof shall show all such parcels, whether contiguous or not. The rental or lease of one or more parts of a building, 19 structure, or other improvement, whether existing or newly 20 constructed, is not a subdivision, as that term is defined 21 22 in this part, and is not subject to the requirements of this

23 part."

Section 2. Section 76-4-105, MCA, is amended to read:
"76-4-105. Lot fees. (1) The department shall adopt

ntana Legislative Counci

1 reasonable rules setting forth fees, not to exceed \$48 per parcel, for services rendered in the review of plats and 2 subdivisions. The rules shall provide for a schedule of fees 3 to be paid by the applicant for plat or subdivision review Δ to the department for deposit in the state special revenue 5 6 fund provided for in 17-2-102. The fees shall be used for review of plats and subdivisions based on the complexity of 7 8 the subdivision, including but not limited to:

9 (a) number of lots in the subdivision;

10 (b) the type of water system to serve the development; 11 (c) the type of sewage disposal to serve the 12 development; and

13 (d) the degree of environmental research necessary to14 supplement the review procedure.

15 (2) The department shall adopt rules to determine the distribution of lot fees between the local governing body 16 17 and the department as provided in 76-4-128. When a subdivision is reviewed under the master-plan provisions of 18 76-4-124, the local governing body shall, within 20 days 19 20 after receiving an application under the Montana Subdivision 21 and Platting Act, distribute the lot fees as determined by 22 this subsection.

(3) A fee as described in this section is not required
for the review of subdivisions in which divisions are made
for the purpose of relocating common boundary lines unless

-2- INTRODUCED BILL HB 768

LC 0925/01

the division will result in the installation of additional
 water supply or sewage disposal facilities."

3 Section 3. Section 76-4-122, MCA, is amended to read:
4 "76-4-122. Filing or recording of noncomplying map or
5 plat prohibited. (1) The county clerk and recorder shall not
6 file or record any map or plat showing a subdivision unless
7 it complies with the provisions of this part.

8 (2) A county clerk and recorder may not accept a
9 subdivision plat for filing until one of the following
10 conditions has been met:

11 (a) the person wishing to file the plat has obtained 12 approval of the local health officer having jurisdiction and 13 has filed the approval with the department, and the 14 department has indicated by stamp or certificate that it has 15 approved the plat and plans and specifications and that the 16 subdivision is subject to no sanitary restriction whenever 17 department approval is necessary; or

(b) whenever department approval is not necessary, the person wishing to file the plat has obtained a certificate from the governing body that the subdivision is inside a master planning area or a class 1 or class 2 municipality and will be provided with municipal facilities for the supply of water and disposal of sewage and solid waste."

Section 4. Section 76-4-123, MCA, is amended to read:
"76-4-123. Department review and approval required

1 outside master planning areas and class 1 and class 2 2 municipalities. Outside master planning areas adopted 3 pursuant to chapter 1 and class 1 and class 2 municipalities as provided in 76-4-124, a person may not file a subdivision 4 plat with a county clerk and recorder, make disposition of a 5 б lot within a subdivision, erect any facility for the supply 7 of water or disposal of sewage or solid waste, erect a 8 building or shelter in a subdivision which requires 9 facilities for the supply of water or disposal of sewage or 10 solid waste, or occupy a permanent building in a subdivision 11 until the department has indicated that the subdivision is 12 subject to no sanitary restriction."

13 Section 5. Section 76-4-124, MCA, is amended to read: 14 "76-4-124. Type of review and approval required within 15 master planning areas and class 1 and class 2 16 municipalities. (1) Within master planning areas adopted 17 pursuant to chapter 1 or within a class 1 or class 2 18 municipality as defined in 7-1-4111, a subdivision, 19 including a development of condominiums, is not subject to 20 sanitary restrictions when the local governing body certifies that municipal facilities for the supply of water 21 22 and disposal of sewage and solid waste will be provided for 23 the subdivision as provided in 76-4-127. In this case, 24 department approval is not necessary.

25 (2) To the extent that municipal facilities for the

-3-

-4-

supply of water or disposal of sewage or solid waste are not to be provided for a subdivision as certified to by the governing body, the person wishing to subdivide must obtain department approval as provided in 76-4-122(2)(a)."

Section 6. Section 76-4-127, MCA, is amended to read: 5 "76-4-127. Notice of certification to department that 6 water and waste services will be provided by local 7 government. (1) When a subdivision is reviewed under the 8 master-plan provisions of 76-4-124, the local governing body 9 shall, within 20 days after receiving an application under 10 the Montana Subdivision and Platting Act, send notice of 11 certification to the department that a subdivision has been 12 submitted for approval and that municipal facilities for the 13 supply of water and disposal of sewage and solid waste will 14 be provided for the subdivision. 15

16 (2) The notice of certification shall include the 17 following:

18 (a) the name and address of the applicant;

(b) a copy of the preliminary plat or a final platwhere a preliminary plat is not necessary;

21 (c) the number of proposed parcels in the subdivision;
22 (d) a copy of any applicable zoning ordinances in
23 effect;

24 (e) how construction of the sewage disposal and water
 25 supply systems or extensions will be financed;

(f) a copy of the master plan, when applicable, if one
 has not yet been submitted to the department;

3 (g) the relative location of the subdivision to the
4 city or town; and

5 (h) certification that adequate municipal facilities 6 for the supply of water and disposal of sewage and solid 7 waste are available or will be provided within 1 year after 8 the notice of certification is issued."

9 <u>NEW SECTION.</u> Section 7. Extension of authority. Any 10 existing authority of the department of health and 11 environmental sciences to make rules on the subject of the 12 provisions of this act is extended to the provisions of this 13 act.

-End-

-5-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN399-85

Form BD-15

In compliance with a written request received <u>February 11</u>, <u>19</u><u>85</u>, there is hereby submitted a Fiscal Note for <u>H.B. 768</u> pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

House Bill 768 exempts apartments and other portions of buildings that are rented or leased from review as subdivisions; exempts subdivisions, including condominiums, that will be served by minicipal water and sewage facilities in class 1 and class 2 municipalities from Department of Health review.

FISCAL IMPACT:

None

BUDGET DIRECTOR Office of Budget and Program Planning

Date: HB 768

RF-RFFERRED AND APPROVED BY COMM. ON NATURAL RESOURCES

water line that connects two or more water service lines to 1 1 HOUSE BILL NO. 768 2 INTRODUCED BY BRADLEY, MARKS, MILES, KITSELMAN a water main. 2 3 3 4 4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING APARTMENTS 5 AND OTHER PORTIONS OF BUILDINGS THAT ARE RENTED OR LEASED 5 6 FROM REVIEW AS SUBDIVISIONS; EXEMPTING SUBDIVISIONS. 5 7 distributed. INCLUDING CONDOMINIUMS, THAT WILL BE SERVED BY MUNICIPAL 7 8 8 WATER AND SEWAGE FACILITIES IN CLASS 1 AND CLASS 2 MUNICIPALITIES FROM DEPARTMENT REVIEW; AMENDING SECTIONS 9 9 10 76-4-102, 76-4-103, 76-4-105, 76-4-111, 76-4-122 THROUGH 10 11 11 76-4-124, AND 76-4-127, MCA." 12 year. 12 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 14 14 SECTION 1. SECTION 76-4-102, MCA, IS AMENDED TO READ: "76-4-102. Definitions. As used in this part, unless 15 15 16 16 the context clearly indicates otherwise, the following words 17 17 or phrases have the following meanings: 18 (1) "Board" 18 means the board of health and 19 facilities. environmental sciences. 19 (8) "Sewer service line" means a sewer line that 20 20 (2) "Department" means department of health and 21 environmental sciences. 21 system or extension of such a system. 22 (3) "Extension of public sewage disposal system" means 72 23 23 a sewer line that connects two or more sewer service lines 24 to a sewer main. 24

(4) "Extension of public water supply system" means a 15

Montana Legislative Council

(3)(5) "Facilities" means public or private facilities for the supply of water or disposal of sewage or solid waste and any pipes, conduits, or other stationary method by which water, sewage, or solid wastes might be transported or

(6) "Public water supply system" or "public sewage disposal system" means, respectively, a water supply or sewage disposal system that serves 10 or more families or 25 or more persons for at least 60 days out of the calendar

(5)(7) "Sanitary restriction" means a prohibition against the erection of any dwelling, shelter, or building requiring facilities for the supply of water or the disposition of sewage or solid waste or the construction of water supply or sewage or solid waste disposal facilities until the department has approved plans for those

connects a single building or living unit to a public sewer

(6)(9) "Solid wastes" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard 25

-2-

HB 758 SECOND READING

clippings, and solid market and solid industrial wastes. 1 (7)(10) "Subdivision" means a division of land or land 2 so divided which creates one or more parcels containing less 3 than 20 acres, exclusive of public roadways, in order that 4 the title to or possession of the parcels may be sold, 5 rented, leased, or otherwise conveyed and includes any 6 7 resubdivision and any condominium or area, regardless of size, which provides permanent multiple space for 8 recreational camping vehicles or mobile homes. 9 (11) "Water service line" means a water line that 10 connects a single building or living unit to a public water 11 system or extension of such a system." 12 13 Section 2. Section 76-4-103, MCA, is amended to read: 14 "76-4-103. What constitutes subdivision. A subdivision shall comprise only those parcels of less than 20 acres 15 16 which have been created by a division of land, and the plat thereof shall show all such parcels, whether contiguous or 17 not. The rental or lease of one or more parts of a building, 18 19 structure, or other improvement, whether existing or newly 20 constructed, is not a subdivision, as that term is defined in this part, and is not subject to the requirements of this 21 22 part." Section 3. Section 76-4-105, MCA, is amended to read: 23

24 "76-4-105. Lot fees. (1) The department shall adopt
 25 reasonable rules setting forth fees, not to exceed \$48 per

-3-

parcel, for services rendered in the review of plats and subdivisions. The rules shall provide for a schedule of fees to be paid by the applicant for plat or subdivision review to the department for deposit in the state special revenue fund provided for in 17-2-102. The fees shall be used for review of plats and subdivisions based on the complexity of the subdivision, including but not limited to:

(a) number of lots in the subdivision;

8

9 (b) the type of water system to serve the development;
10 (c) the type of sewage disposal to serve the
11 development; and

12 (d) the degree of environmental research necessary to13 supplement the review procedure.

14 (2) The department shall adopt rules to determine the distribution of lot fees between the local governing body 15 the department as provided in 76-4-128. When a 16 and subdivision is reviewed under the master-plan provisions of 17 76-4-124, the local governing body shall, within 20 days 18 after receiving an--application PRELIMINARY PLAT APPROVAL 19 under the Montana Subdivision and Platting Act, distribute 20 the lot fees as determined by this subsection. 21

(3) A fee as described in this section is not required
for the review of subdivisions in which divisions are made
for the purpose of relocating common boundary lines unless
the division will result in the installation of additional

HB 0768/02

-4-

HB 76**8**

HE 768

12

water supply or sewage disposal facilities." 1 2 SECTION 4. SECTION 76-4-111, MCA, IS AMENDED TO READ: "76-4-111. Exemption for certain condominiums. (1) 3 Condominiums constructed on land divided in compliance with 4 5 the Montana Subdivision and Platting Act and this part are б exempt from provisions of this part. 7 (2) Whenever a parcel of land has previously been 8 reviewed under either department requirements or local health requirements and has received approval for a given 9 10 number of living units for rental or lease, the construction of the same or a fewer number of condominium units on that 11 parcel is not subject to the provisions of this part, 12 13 provided that no new extension of a public water supply system or a public sewage disposal system is required as 14 15 defined in this part." Section 5. Section 76-4-122, MCA, is amended to read: 16 "76-4-122. Filing or recording of noncomplying map or 17

plat prohibited. (1) The county clerk and recorder shall not 18 19 file or record any map or plat showing a subdivision unless 20 it complies with the provisions of this part.

21 (2) A county clerk and recorder may not accept a subdivision plat for filing until one of the following 22 23 conditions has been met:

24 (a) the person wishing to file the plat has obtained 25 approval of the local health officer having jurisdiction and

~ 5 -

has filed the approval with the department, and the 1 department has indicated by stamp or certificate that it has 2 approved the plat and plans and specifications and that the 3 subdivision is subject to no sanitary restriction whenever 4 5 department approval is necessary; or

6 (b) whenever department approval is not necessary, the person wishing to file the plat has obtained a certificate 7 from the governing body that the subdivision is inside a 8 master planning area or a class 1 or class 2 municipality 9 and will be provided with municipal facilities for the 10 11 supply of water and disposal of sewage and solid waste."

Section 6. Section 76-4-123, MCA, is amended to read: "76-4-123. Department review and approval required 13 outside master planning areas and class 1 and class 2 14 municipalities. Outside master planning areas adopted 15 16 pursuant to chapter 1 and class 1 and class 2 municipalities as provided in 76-4-124, a person may not file a subdivision 17 plat with a county clerk and recorder, make disposition of a 18 lot within a subdivision, erect any facility for the supply 19 of water or disposal of sewage or solid waste, erect a 20 building or shelter in a subdivision which requires 21 facilities for the supply of water or disposal of sewage or 22 solid waste, or occupy a permanent building in a subdivision 23 24 until the department has indicated that the subdivision is 25 subject to no sanitary restriction."

-6-

EB 768

Section 7. Section 76-4-124, MCA, is amended to read: 1 2 "76-4-124. Type of review and approval required within master planning areas and class 1 and class 2 3 municipalities. (1) Within master planning areas adopted 4 pursuant to chapter 1 or within a class 1 or class 2 5 municipality as defined in 7-1-4111, a subdivision, 6 including a development of condominiums, is not subject to 7 sanitary restrictions when the local governing body 8 9 certifies that municipal facilities for the supply of water 10 and disposal of sewage and solid waste will be provided for 11 the subdivision as provided in 76-4-127. In this case, department approval is not necessary. 12

(2) To the extent that municipal facilities for the
supply of water or disposal of sewage or solid waste are not
to be provided for a subdivision as certified to by the
governing body, the person wishing to subdivide must obtain
department approval as provided in 76-4-122(2)(a)."

18 Section 8. Section 76-4-127, MCA, is amended to read: "76-4-127. Notice of certification to department that 19 water and waste services will be provided by local 20 21 government. (1) When a subdivision is reviewed under the master-plan provisions of 76-4-124, the local governing body 22 shall, within 20 days after receiving an--application 23 24 PRELIMINARY PLAT APPROVAL under the Montana Subdivision and Platting Act, send notice of certification to the department 25

-7-

HB 768

that a subdivision has been submitted for approval and that 1 2 municipal facilities for the supply of water and disposal of 3 sewage and solid waste will be provided for the subdivision. (2) The notice of certification shall include the 4 following: 5 6 (a) the name and address of the applicant; 7 (b) a copy of the preliminary plat or a final plat where a preliminary plat is not necessary; 8 9 (c) the number of proposed parcels in the subdivision; 10 (d) a copy of any applicable zoning ordinances in effect: 11 12 (e) how construction of the sewage disposal and water 13 supply systems or extensions will be financed: 14 (f) a copy of the master plan, when applicable, if one 15 has not yet been submitted to the department; 16 (g) the relative location of the subdivision to the 17 city or town; and 18 (h) certification that adequate municipal facilities 19 for the supply of water and disposal of sewage and solid 20 waste are available or will be provided within 1 year after 21 the notice of certification is issued." 22 NEW SECTION. SECTION 9. EXCLUSION FOR CERTAIN SUBDIVISIONS. SUBDIVISIONS LOCATED WITHIN MASTER PLANNING 23 AREAS AND FIRST- OR SECOND-CLASS MUNICIPALITIES THAT WILL BE 24

25 PROVIDED WITH MUNICIPAL FACILITIES FOR THE SUPPLY OF WATER

-8-

1	AND DISPOSAL OF SEWAGE AND SOLID WASTE ARE NOT SUBJECT TO
2	THE PROVISIONS OF THIS PART; EXCEPT THAT, IF THE MUNICIPAL
3	FACILITIES FOR WATER SUPPLY OR SEWAGE DISPOSAL TO SERVE THE
4	SUBDIVISION CONSTITUTE EITHER AN EXTENSION OF A PUBLIC WATER
5	SUPPLY SYSTEM OR A PUBLIC SEWAGE DISPOSAL SYSTEM, THE
6	SUBDIVISION MUST BE REVIEWED IN ACCORDANCE WITH THE
7	PROVISIONS OF 76-4-105, 76-4-124, AND 76-4-127.
8	NEW SECTION. Section 10. Extension of authority. Any
9	existing authority of the department of health and
10	environmental sciences to make rules on the subject of the
11	provisions of this act is extended to the provisions of this
12	act.
13	NEW SECTION. SECTION 11, CODIFICATION INSTRUCTION.
14	SECTION 9 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
15	TITLE 76, CHAPTER 4, PART 1, AND THE PROVISIONS OF TITLE 76,
16	CHAPTER 4, PART 1, APPLY TO SECTION 9.

-End-

-9-

HOUSE BILL NO. 768 1 INTRODUCED BY BRADLEY, MARKS, MILES, KITSELMAN 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING APARTMENTS 4 AND OTHER PORTIONS OF BUILDINGS THAT ARE RENTED OR LEASED 5 FROM REVIEW AS SUBDIVISIONS: EXEMPTING SUBDIVISIONS. 6 INCLUDING CONDOMINIUMS, THAT WILL BE SERVED BY MUNICIPAL 7 WATER AND SEWAGE FACILITIES IN CLASS 1 AND CLASS 2 8 MUNICIPALITIES FROM DEPARTMENT REVIEW; AMENDING SECTIONS 9 76-4-102, 76-4-103, 75-4-105, 76-4-111, 76-4-122 THROUGH 10 76-4-124, AND 76-4-127, MCA." 11

12

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

14 SECTION 1. SECTION 76-4-102, MCA, IS AMENDED TO READ:

15 "76-4-102. Definitions. As used in this part, unless
16 the context clearly indicates otherwise, the following words
17 or phrases have the following meanings:

18 (1) "Board" means the board of health and 19 environmental sciences.

20 (2) "Department" means department of health and 21 environmental sciences.

(3) "Extension of public sewage disposal system" means
 a sewer line that connects two or more sewer service lines
 to a sewer main.

(4) "Extension of public water supply system" means a 25



HB 0768/02

1 water line that connects two or more water service lines to

2 a water main.

3 (3)(5) "Facilities" means public or private facilities
4 for the supply of water or disposal of sewage or solid waste
5 and any pipes, conduits, or other stationary method by which
6 water, sewage, or solid wastes might be transported or
7 distributed.

8 (4)(6) "Public water supply system" or "public sewage
9 disposal system" means, respectively, a water supply or
10 sewage disposal system that serves 10 or more families or 25
11 or more persons for at least 60 days out of the calendar
12 year.

13 (5)(7) "Sanitary restriction" means a prohibition 14 against the erection of any dwelling, shelter, or building 15 requiring facilities for the supply of water or the 16 disposition of sewage or solid waste or the construction of 17 water supply or sewage or solid waste disposal facilities 18 until the department has approved plans for those 19 facilities.

(8) "Sewer service line" means a sewer line that
 connects a single building or living unit to a public sewer
 system or extension of such a system.
 (6)(9) "Solid wastes" means all putrescible and

24 nonputrescible solid wastes (except body wastes), including
 25 garbage, rubbish, street cleanings, dead animals, yard

-2-

THIRD READING

clippings, and solid market and solid industrial wastes. 1 (7)(10) "Subdivision" means a division of land or land 2 3 so divided which creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that 4 5 the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any 6 resubdivision and any condominium or area, regardless of 7 size, which provides permanent multiple space for 8 recreational camping vehicles or mobile homes. 9 (11) "Water service line" means a water line that 10 connects a single building or living unit to a public water 11 12 system or extension of such a system." Section 2. Section 76-4-103, MCA, is amended to read: 13 "76-4-103. What constitutes subdivision. A subdivision 14 shall comprise only those parcels of less than 20 acres 15 which have been created by a division of land, and the plat 16 thereof shall show all such parcels, whether contiguous or 17 18 not. The rental or lease of one or more parts of a building, 19 structure, or other improvement, whether existing or newly constructed, is not a subdivision, as that term is defined 20

22 part."
23 Section 3. Section 76-4-105, MCA, is amended to read:
24 "76-4-105. Lot fees. (1) The department shall adopt
25 reasonable rules setting forth fees, not to exceed \$48 per

21

parcel, for services rendered in the review of plats and subdivisions. The rules shall provide for a schedule of fees to be paid by the applicant for plat or subdivision review to the department for deposit in the state special revenue fund provided for in 17~2-102. The fees shall be used for review of plats and subdivisions based on the complexity of the subdivision, including but not limited to:

8 (a) number of lots in the subdivision;

9 (b) the type of water system to serve the development;
10 (c) the type of sewage disposal to serve the
11 development; and

12 (d) the degree of environmental research necessary to13 supplement the review procedure.

14 (2) The department shall adopt rules to determine the 15 distribution of lot fees between the local governing body 16 and the department as provided in 76-4-128. When a subdivision is reviewed under the master-plan provisions of 17 18 76-4-124, the local governing body shall, within 20 days 19 after receiving an--application PRELIMINARY PLAT APPROVAL 20 under the Montana Subdivision and Platting Act, distribute 21 the lot fees as determined by this subsection.

(3) A fee as described in this section is not required
for the review of subdivisions in which divisions are made
for the purpose of relocating common boundary lines unless
the division will result in the installation- of- additional

-4-

-3-

in this part, and is not subject to the requirements of this

HB 768

HB 0768/02		
	1	ha
	2	de

12

2 SECTION 4. SECTION 76-4-111, MCA, IS AMENDED TO READ:
3 "76-4-111. Exemption for certain condominiums. (1)
4 Condominiums constructed on land divided in compliance with
5 the Montana Subdivision and Platting Act and this part are
6 exempt from provisions of this part.

water supply or sewage disposal facilities."

1

7 (2) Whenever a parcel of land has previously been reviewed under either department requirements or local 8 9 health requirements and has received approval for a given number of living units for rental or lease, the construction 10 of the same or a fewer number of condominium units on that 11 12 parcel is not subject to the provisions of this part, 13 provided that no new extension of a public water supply system or a public sewage disposal system is required as 14 15 defined in this part."

16 Section 5. Section 76-4-122, MCA, is amended to read: 17 "76-4-122. Filing or recording of noncomplying map or 18 plat prohibited. (1) The county clerk and recorder shall not 19 file or record any map or plat showing a subdivision unless 20 it complies with the provisions of this part.

21 (2) A county clerk and recorder may not accept a
22 subdivision plat for filing until one of the following
23 conditions has been met:

(a) the person wishing to file the plat has obtainedapproval of the local health officer having jurisdiction and

-5-

HB 768

has filed the approval with the department, and the
 department has indicated by stamp or certificate that it has
 approved the plat and plans and specifications and that the
 subdivision is subject to no sanitary restriction whenever
 department approval is necessary; or

6 (b) whenever department approval is not necessary, the 7 person wishing to file the plat has obtained a certificate 8 from the governing body that the subdivision is inside a 9 master planning area or a class 1 or class 2 municipality 10 and will be provided with municipal facilities for the 11 supply of water and disposal of sewage and solid waste."

Section 6. Section 76-4-123, MCA, is amended to read:

"76-4-123. Department review and approval required 13 outside master planning areas and class 1 and class 2 14 municipalities. Outside master planning areas adopted 15 pursuant to chapter 1 and class 1 and class 2 municipalities 16 as provided in 76-4-124, a person may not file a subdivision 17 plat with a county clerk and recorder, make disposition of a 18 lot within a subdivision, erect any facility for the supply 19 of water or disposal of sewage or solid waste, erect a 20 building or shelter in a subdivision which requires 21 22 facilities for the supply of water or disposal of sewage or 23 solid waste, or occupy a permanent building in a subdivision until the department has indicated that the subdivision is 24 25 subject to no sanitary restriction."

-6-

HB 768

HB 0768/02

1 Section 7. Section 76-4-124, MCA, is amended to read: 2 "76-4-124. Type of review and approval required within 3 master planning areas and class 1 and class 2 municipalities. (1) Within master planning areas adopted 4 5 pursuant to chapter 1 or within a class 1 or class 2 municipality as defined in 7-1-4111, a subdivision, 6 7 including a development of condominiums, is not subject to sanitary restrictions when the local governing body 8 certifies that municipal facilities for the supply of water 9 10 and disposal of sewage and solid waste will be provided for 11 the subdivision as provided in 76-4-127. In this case, department approval is not necessary. 12

(2) To the extent that municipal facilities for the
supply of water or disposal of sewage or solid waste are not
to be provided for a subdivision as certified to by the
governing body, the person wishing to subdivide must obtain
department approval as provided in 76-4-122(2)(a)."

Section 8. Section 76-4-127, MCA, is amended to read: 18 19 "76-4-127. Notice of certification to department that water and waste services will be provided by local 20 government. (1) When a subdivision is reviewed under the 21 22 master-plan provisions of 76-4-124, the local governing body within 20 days after receiving an--application 23 shall. PRELIMINARY PLAT APPROVAL under the Montana Subdivision and 24 25 Platting Act, send notice of certification to the department

that a subdivision has been submitted for approval and that 1 2 municipal facilities for the supply of water and disposal of sewage and solid waste will be provided for the subdivision. 3 4 (2) The notice of certification shall include the 5 following: 6 (a) the name and address of the applicant: 7 (b) a copy of the preliminary plat or a final plat 8 where a preliminary plat is not necessary: 9 (c) the number of proposed parcels in the subdivision: (d) a copy of any applicable zoning ordinances in 10 effect; 11 12 (e) how construction of the sewage disposal and water 13 supply systems or extensions will be financed; 14 (f) a copy of the master plan, when applicable, if one has not yet been submitted to the department; 15 (g) the relative location of the subdivision to the 16 17 city or town; and

(h) certification that adequate municipal facilities
for the supply of water and disposal of sewage and solid
waster are available or will be provided within 1 year after
the notice of certification is issued."

 22
 NEW SECTION. SECTION 9. EXCLUSION
 FOR
 CERTAIN

 23
 SUBDIVISIONS. SUBDIVISIONS
 LOCATED
 WITHIN MASTER PLANNING

 24
 AREAS AND FIRST- OR SECOND-CLASS MUNICIPALITIES THAT WILL BE

 25
 PROVIDED WITH MUNICIPAL FACILITIES FOR THE SUPPLY OF WATER

-7-

-8-

HB 768

12

l	AND DISPOSAL OF SEWAGE AND SOLID WASTE ARE NOT SUBJECT TO
2	THE PROVISIONS OF THIS PART; EXCEPT THAT, IF THE MUNICIPAL
3	FACILITIES FOR WATER SUPPLY OR SEWAGE DISPOSAL TO SERVE THE
4	SUBDIVISION CONSTITUTE EITHER AN EXTENSION OF A PUBLIC WATER
5	SUPPLY SYSTEM OR A PUBLIC SEWAGE DISPOSAL SYSTEM, THE
6	SUBDIVISION MUST BE REVIEWED IN ACCORDANCE WITH THE
7	PROVISIONS OF 76-4-105, 76-4-124, AND 76-4-127.
8	NEW SECTION. Section 10. Extension of authority. Any
9	existing authority of the department of health and
10	environmental sciences to make rules on the subject of the
11	provisions of this act is extended to the provisions of this
12	act.
13	NEW SECTION. SECTION 11. CODIFICATION INSTRUCTION.
14	SECTION 9 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
15	TITLE 76, CHAPTER 4, PART 1, AND THE PROVISIONS OF TITLE 76,
16	CHAPTER 4, PART 1, APPLY TO SECTION 9.

-End-

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

MAR 23, 1985 DATE

11:45	
TIME	

MR. CHAIRMAN: I MOVE TO AMEND

HOUSE BILL

__{No.} 768

third _____ reading copy (______) as follows:

Page 3, lines 19 and 20. Following: "existing or" Strike: "newly constructed" Insert: "proposed"

KB

PC3HB768.631

ADOP1 REJECT

Mayuch

MAZUREK

HOUSE BILL NO. 768 1 INTRODUCED BY BRADLEY, MARKS, MILES, KITSELMAN 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING APARTMENTS 4 AND OTHER PORTIONS OF BUILDINGS THAT ARE RENTED OR LEASED 5 FROM REVIEW AS SUBDIVISIONS: EXEMPTING SUBDIVISIONS. 6 7 INCLUDING CONDOMINIUMS, THAT WILL BE SERVED BY MUNICIPAL WATER AND SEWAGE FACILITIES IN CLASS 1 AND CLASS 2 8 MUNICIPALITIES FROM DEPARTMENT REVIEW; AMENDING SECTIONS 9 10 76-4-102, 76-4-103, 76-4-105, 76-4-111, 76-4-122 THROUGH 76-4-124, AND 76-4-127, MCA." 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 SECTION 1. SECTION 76-4-102, MCA, IS AMENDED TO READ: 14 15 "76-4-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following words 16 or phrases have the following meanings: 17 18 (1) "Board" means the board of health and 19 environmental sciences. (2) "Department" means department of health and 20 environmental sciences. 21 (3) "Extension of public sewage disposal system" means 22 a sewer line that connects two or more sewer service lines 23 24 to a sewer main. 25 (4) "Extension of public water supply system" means a

1 water line that connects two or more water service lines to

2 a water main.

3 (3)(5) "Facilities" means public or private facilities
4 for the supply of water or disposal of sewage or solid waste
5 and any pipes, conduits, or other stationary method by which
6 water, sewage, or solid wastes might be transported or
7 distributed.

8 +4+(6) "Public water supply system" or "public sewage
9 disposal system" means, respectively, a water supply or
10 sewage disposal system that serves 10 or more families or 25
11 or more persons for at least 60 days out of the calendar
12 year.

13 (5)(7) "Sanitary restriction" means a prohibition 14 against the erection of any dwelling, shelter, or building 15 requiring facilities for the supply of water or the 16 disposition of sewage or solid waste or the construction of 17 water supply or sewage or solid waste disposal facilities 18 until the department has approved plans for those 19 facilities.

<u>(8) "Sewer service line" means a sewer line that</u>
 <u>connects a single building or living unit to a public sewer</u>
 <u>system or extension of such a system.</u>

f6;(9) "Solid wastes" means all putrescible and
 nonputrescible solid wastes (except body wastes), including
 garbage, rubbish, street cleanings, dead animals, yard

-2-

REFERENCE BILL

8

1 clippings, and solid market and solid industrial wastes.

2 (7)(10) "Subdivision" means a division of land or land so divided which creates one or more parcels containing less 3 than 20 acres, exclusive of public roadways, in order that 4 5 the title to or possession of the parcels may be sold, 6 rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area, regardless of 7 8 size, which provides permanent multiple space for 9 recreational camping vehicles or mobile homes.

10 <u>(11) "Water service line" means 'a water line that</u>
11 <u>connects a single building or living unit to a public water</u>
12 system or extension of such a system."

Section 2. Section 76-4-103, MCA, is amended to read: 13 14 "76-4-103. What constitutes subdivision. A subdivision 15 shall comprise only those parcels of less than 20 acres 16 which have been created by a division of land, and the plat 17 thereof shall show all such parcels, whether contiguous or 18 not. The rental or lease of one or more parts of a building. structure, or other improvement, whether existing or newly 19 20 constructed PROPOSED, is not a subdivision, as that term is 21 defined in this part, and is not subject to the requirements of this part." 22 23 Section 3. Section 76-4-105, MCA, is amended to read:

24 "76-4-105. Lot fees. (1) The department shall adopt
25 reasonable rules setting forth fees, not to exceed \$48 per

parcel, for services rendered in the review of plats and subdivisions. The rules shall provide for a schedule of fees to be paid by the applicant for plat or subdivision review to the department for deposit in the state special revenue fund provided for in 17-2-102. The fees shall be used for review of plats and subdivisions based on the complexity of the subdivision, including but not limited to:

(a) number of lots in the subdivision;

9 (b) the type of water system to serve the development;
10 (c) the type of sewage disposal to serve the
11 development; and

12 (d) the degree of environmental research necessary to13 supplement the review procedure.

14 (2) The department shall adopt rules to determine the 15 distribution of lot fees between the local governing body 16 and the department as provided in 76-4-128. When a 17 subdivision is reviewed under the master-plan provisions of 76-4-124, the local governing body shall, within 20 days 18 19 after receiving an--application PRELIMINARY PLAT APPROVAL under the Montana Subdivision and Platting Act, distribute 20 21 the lot fees as determined by this subsection.

22 (3) A fee as described in this section is not required 23 for the review of subdivisions in which divisions are made 24 for the purpose of relocating common boundary lines unless 25 the division will result in the installation of additional

-3-

HB 768

-4-

1	water supply or sewage disposal facilities."	1	has
2	SECTION 4. SECTION 76-4-111, MCA, IS AMENDED TO READ:	2	depar
3	"76-4-111. Exemption for certain condominiums. (1)	3	appro
4	Condominiums constructed on land divided in compliance with	4	subdi
5	the Montana Subdivision and Platting Act and this part are	5	depar
6	exempt from provisions of this part.	б	
7	(2) Whenever a parcel of land has previously been	. 7	perso
8	reviewed under either department requirements or local	8	from
9	health requirements and has received approval for a given	9	maste
10	number of living units for rental or lease, the construction	10	and w
11	of the same or a fewer number of condominium units on that	11	supply
12	parcel is not subject to the provisions of this part,	12	5
13	provided that no new extension of a public water supply	13	•
14	system or a public sewage disposal system is required as	14	outsid
15	defined in this part."	15	munici
16	Section 5. Section 76-4-122, MCA, is amended to read:	16	pursua
17	"76-4-122. Filing or recording of noncomplying map or	17	as pro
18	plat prohibited. (1) The county clerk and recorder shall not	18	plat w
19	file or record any map or plat showing a subdivision unless	19	lot w
20	it complies with the provisions of this part.	20	of wat
21	(2) A county clerk and recorder may not accept a	21	buildi
22	subdivision plat for filing until one of the following	22	facili
23	conditions has been met:	23	solid
24	(a) the person wishing to file the plat has obtained	24	until
25	approval of the local health officer having jurisdiction and	25	subjec

has filed the approval with the department, and the
 department has indicated by stamp or certificate that it has
 approved the plat and plans and specifications and that the
 subdivision is subject to no sanitary restriction whenever
 department approval is necessary; or

6 (b) whenever department approval is not necessary, the 7 person wishing to file the plat has obtained a certificate 8 from the governing body that the subdivision is inside a 9 master planning area or a class 1 or class 2 municipality 0 and will be provided with municipal facilities for the 1 supply of water and disposal of sewage and solid waste."

2 Section 6. Section 76-4-123, MCA, is amended to read:

13 "76-4-123. Department review and approval required 14 outside master planning areas <u>and class 1 and class 2</u> 15 <u>municipalities</u>. Outside master planning areas adopted 16 pursuant to chapter 1 <u>and class 1 and class 2 municipalities</u> 17 <u>as provided in 76-4-124</u>, a person may not file a subdivision 18 plat with a county clerk and recorder, make disposition of a 19 lot within a subdivision, erect any facility for the supply 20 of water or disposal of sewage or solid waste, erect a 21 building or shelter in a subdivision which requires 22 facilities for the supply of water or disposal of sewage or 23 solid waste, or occupy a permanent building in a subdivision 24 until the department has indicated that the subdivision is 25 subject to no sanitary restriction."

- 5 -

HB 768

-6-

1

2

٦

4

5

6

1 Section 7. Section 76-4-124, MCA, is amended to read: 2 "76-4-124. Type of review and approval required within master planning areas and class 1 and class 2 3 municipalities. (1) Within master planning areas adopted 4 5 pursuant to chapter 1 or within a class 1 or class 2 6 municipality as defined in 7-1-4111, a subdivision, 7 including a development of condominiums, is not subject to 8 sanitary restrictions when the local governing body certifies that municipal facilities for the supply of water q 10 and disposal of sewage and solid waste will be provided for the subdivision as provided in 76-4-127. In this case, 11 12 department approval is not necessary.

13 (2) To the extent that municipal facilities for the 14 supply of water or disposal of sewage or solid waste are not 15 to be provided for a subdivision as certified to by the 16 governing body, the person wishing to subdivide must obtain 17 department approval as provided in 76-4-122(2)(a)."

18 Section 8. Section 76-4-127, MCA, is amended to read: 19 "76-4-127. Notice of certification to department that water and waste services will be provided by local 20 government. (1) When a subdivision is reviewed under the 21 22 master-plan provisions of 76-4-124, the local governing body shall, within 20 days after receiving an--application 23 24 PRELIMINARY PLAT APPROVAL under the Montana Subdivision and 25 Platting Act, send notice of certification to the department

that a subdivision has been submitted for approval and that municipal facilities for the supply of water and disposal of sewage and solid waste will be provided for the subdivision. (2) The notice of certification shall include the following:

(a) the name and address of the applicant;

7 (b) a copy of the preliminary plat or a final plat8 where a preliminary plat is not necessary;

9 (c) the number of proposed parcels in the subdivision;

10 (d) a copy of any applicable zoning ordinances in 11 effect;

12 (e) how construction of the sewage disposal and water13 supply systems or extensions will be financed;

14 (f) a copy of the master plan, when applicable, if one15 has not yet been submitted to the department;

16 (g) the relative location of the subdivision to the 17 city or town; and

18 (h) certification that adequate municipal facilities 19 for the supply of water and disposal of sewage and solid 20 waste are available or will be provided within 1 year after 21 the notice of certification is issued."

22 <u>NEW SECTION. SECTION 9. EXCLUSION FOR CERTAIN</u> 23 SUBDIVISIONS. SUBDIVISIONS LOCATED WITHIN MASTER PLANNING

23 <u>SUBDIVISIONS. SUBDIVISIONS LOCATED WITHIN MASTER PLANNING</u>

24 AREAS AND FIRST- OR SECOND-CLASS MUNICIPALITIES THAT WILL BE

25 PROVIDED WITH MUNICIPAL FACILITIES FOR THE SUPPLY OF WATER

-7-

HB 768

-8-

1 AND DISPOSAL OF SEWAGE AND SOLID WASTE ARE NOT SUBJECT TO THE PROVISIONS OF THIS PART; EXCEPT THAT, IF THE MUNICIPAL 2 3 FACILITIES FOR WATER SUPPLY OR SEWAGE DISPOSAL TO SERVE THE 4 SUBDIVISION CONSTITUTE EITHER AN EXTENSION OF A PUBLIC WATER SUPPLY SYSTEM OR A PUBLIC SEWAGE DISPOSAL SYSTEM, THE 5 6 SUBDIVISION MUST BE REVIEWED IN ACCORDANCE WITH THE 7 PROVISIONS OF 76-4-105, 76-4-124, AND 76-4-127. NEW SECTION. Section 10. Extension of authority. Any 8 9 existing authority of the department of health and environmental sciences to make rules on the subject of the 10 11 provisions of this act is extended to the provisions of this 12 act. 13 NEW SECTION. SECTION 11. CODIFICATION INSTRUCTION. 14 SECTION 9 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF 15 TITLE 76, CHAPTER 4, PART 1, AND THE PROVISIONS OF TITLE 76, CHAPTER 4, PART 1, APPLY TO SECTION 9. 16

-End-

-9-