

HOUSE BILL 721

Introduced by Hannah

2/15	Introduced
2/16	Referred to Natural Resources
2/17	Hearing
2/17	Tabled in Committee

1 HOUSE BILL NO. 721
2 INTRODUCED BY Hand
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A LOCAL
5 GOVERNING BODY TO USE STATUTORY CRITERIA TO DETERMINE IF
6 CERTAIN EXEMPTIONS ARE CLAIMED FOR THE PURPOSE OF EVADING
7 THE MONTANA SUBDIVISION AND PLATTING ACT; PROVIDING MINIMUM
8 REQUIREMENTS FOR EXEMPTED DIVISIONS OF LAND AND
9 SUBDIVISIONS; AMENDING SECTIONS 76-3-201, 76-3-207, AND
10 76-3-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 NEW SECTION. Section 1. Criteria for determining an
14 evasion. (1) The county clerk and recorder shall review each
15 exemption claimed under 76-3-201 or 76-3-207 to determine
16 preliminarily if the claimed exemption is being used for the
17 purpose of evading this chapter and shall forward a
18 recommended determination to the governing body.
19 (2) A governing body may find that the land division
20 represents an attempt to evade the requirements of this
21 chapter only if the subdivider has:
22 (a) claimed five or more exemptions from the original
23 tract under 76-3-201 or 76-3-207 within the 2-year period
24 immediately prior to the claiming of the exemption; and
25 (b) used a common marketing approach to sell or lease

1 the land divisions.
2 NEW SECTION. Section 2. Limited review for certain
3 exempt land divisions. A division of land exempt under
4 76-3-201 or 76-3-207 must be reviewed to ensure that:
5 (1) an easement or easements are provided enabling
6 ingress and egress to each parcel created by the
7 subdivision;
8 (2) the parcels have been properly surveyed and a
9 certificate of survey or a plat has been filed with the
10 county clerk and recorder according to the requirements of
11 this chapter, unless the land division was exempt under
12 76-3-201(3) through (6); and
13 (3) the requirements imposed by Title 76, chapter 4,
14 are met, unless the land division is exempt under that
15 chapter.
16 Section 3. Section 76-3-201, MCA, is amended to read:
17 "76-3-201. Exemption for certain divisions of land.
18 Unless the method of disposition is adopted determined under
19 [section 1] to be for the purpose of evading this chapter,
20 only the requirements of this chapter [section 2] shall--not
21 apply to any a division of land which that:
22 (1) is created by order of any court of record in this
23 state or by operation of law or which, in the absence of
24 agreement between the parties to the sale, could be created
25 by an order of any court in this state pursuant to the law

1 of eminent domain (Title 70, chapter 30);

2 (2) is created to provide security for construction
3 mortgages, liens, or trust indentures;

4 (3) creates an interest in oil, gas, minerals, or
5 water which is now-or-hereafter severed from the surface
6 ownership of real property;

7 (4) creates cemetery lots;

8 (5) is created by the reservation of a life estate;

9 (6) is created by lease or rental for farming and
10 agricultural purposes."

11 **Section 4.** Section 76-3-207, MCA, is amended to read:

12 "76-3-207. Subdivisions exempted from review but
13 subject to survey--requirements-----exceptions certain
14 conditions. (1) ~~Except-as-provided-in-subsection-(2), unless~~
15 Unless the method of disposition is adopted determined under
16 [section 1] to be for the purpose of evading this chapter,
17 the following divisions of land are not subdivisions under
18 this chapter but are subject to the surveying requirements
19 of 76-3-401--for--divisions--of--land--not---amounting---to
20 subdivisions [section 2] and subsections (2) and (3) of this
21 section:

22 (a) divisions made outside of platted subdivisions for
23 the purpose of relocating common boundary lines between
24 adjoining properties;

25 (b) divisions made outside of platted subdivisions for

1 the purpose of a gift or sale to any member of the
2 landowner's immediate family;

3 (c) divisions made outside of platted subdivisions by
4 sale or agreement to buy and sell where the parties to the
5 transaction enter a covenant running with the land and
6 revocable only by mutual consent of the governing body and
7 the property owner that the divided land will be used
8 exclusively for agricultural purposes;

9 (d) a single division of a parcel outside of platted
10 subdivisions when the transaction is an occasional sale;

11 (e) for five or fewer lots within a platted
12 subdivision, relocation of common boundaries and the
13 aggregation of lots.

14 (2) Notwithstanding the provisions of subsection (1):

15 (a) within a platted subdivision filed with the county
16 clerk and recorder, any division of lots which results in an
17 increase in the number of lots or which redesigns or
18 rearranges six or more lots must be reviewed and approved by
19 the governing body, and an amended plat must be filed with
20 the county clerk and recorder;

21 (b) any change in use of the land exempted under
22 subsection (1)(c) for anything other than agricultural
23 purposes subjects the division to the provisions of this
24 chapter.

25 (3) ~~No~~ A division of land may not be made under this

1 section unless the county treasurer has certified that no
2 real property taxes assessed and levied on the land to be
3 divided are not delinquent."

4 **Section 5.** Section 76-3-301, MCA, is amended to read:

5 "76-3-301. General restriction on transfer of title to
6 subdivided lands. (1) Except as provided in 76-3-303, every
7 final subdivision plat must be filed for record with the
8 county clerk and recorder before title to the subdivided
9 land can be sold or transferred in any manner. The clerk and
10 recorder of the county shall refuse to accept any plat for
11 record that fails to have the approval of 76-3-611(1) in
12 proper form.

13 (2) The clerk and recorder shall notify the governing
14 body or its designated agent of any land division described
15 in 76-3-201 or 76-3-207(1).

16 (3) If transfers ~~not in accordance with this chapter~~
17 are made that are not in accordance with this chapter, the
18 county attorney shall commence action to enjoin further
19 sales or transfers and compel compliance with all provisions
20 of this chapter. The cost of such the action shall be
21 imposed against the party not prevailing."

22 **NEW SECTION. Section 6.** Codification instruction.
23 [Sections 1 and 2] are intended to be codified as an
24 integral part of Title 76, chapter 3, part 2, and the
25 provisions of Title 76, chapter 3, part 2, apply to

1 [sections 1 and 2].

2 **NEW SECTION. Section 7.** Effective date. [This act] is
3 effective on passage and approval.

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