

SENATE BILL NO. 189
INTRODUCED BY DOHERTY

IN THE SENATE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
FEBRUARY 10, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 12, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 26, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 91; NOES, 7.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 5, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 189
2 INTRODUCED BY Dherty
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT CURRENT
5 AND DELINQUENT TAXES BE PAID BEFORE REAL PROPERTY MAY BE
6 SPLIT OR COMBINED AND BEFORE A DIVISION OR MERGER OF REAL
7 PROPERTY MAY BE RECORDED; AND AMENDING SECTIONS 7-4-2613 AND
8 76-3-207, MCA."
9

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

11 **Section 1.** Section 7-4-2613, MCA, is amended to read:

12 "7-4-2613. Documents subject to recording. The county
13 clerk ~~must~~ shall, upon the payment of his the required fees
14 ~~for---the---same~~, record, photograph, or correctly copy,
15 separately, in large and well-bound or to be bound separate
16 books, either in a fair hand or by printing, typewriting, or
17 photographic process or by the use of prepared blank forms:

18 (1) (a) subject to subsection (1)(b), deeds, grants,
19 transfers, certified copies of final judgments or decrees
20 partitioning or affecting the title or possession of real
21 property any part of which is situated in the county,
22 contracts to sell or convey real estate and mortgages of
23 real estate, releases of mortgages, powers of attorney to
24 convey real estate, leases which that have been acknowledged
25 or proved, and abstracts of ~~such~~ instruments which that have

1 been acknowledged or proved;

2 (b) an instrument or deed evidencing either a division
3 of real property or a merger of real property only if the
4 instrument or deed is accompanied by a certification from
5 the county treasurer that taxes and special assessments that
6 have been assessed or levied have been paid;

7 (2) notices of buyer's interest in real property,
8 notwithstanding any other requirement of law or rule
9 relating to eligibility for recording of the deed, contract
10 for deed, or other document relating to the notice of
11 buyer's interest; however, if the instrument of conveyance
12 underlying a notice of buyer's interest would be
13 unrecordable, the clerk and recorder shall notify the buyer
14 by certified mail that the underlying instrument is
15 unrecordable and may be void;

16 (3) a document on a form provided by the department of
17 revenue certifying that the holder of a nonprobate interest
18 in real property is deceased and that his the deceased
19 person's interest is terminated. A nonprobate interest in
20 real property is a joint tenancy interest, a life estate
21 interest, or any other interest not requiring probate. The
22 document may be on the form used by the department of
23 revenue for responding to the application for determination
24 of inheritance or estate tax. It ~~shall~~ must contain:

25 (a) a statement that the holder of the nonprobate

1 interest has died and that his the holder's interest in the
2 property is terminated;

3 (b) a certification by the county treasurer that the
4 inheritance or estate tax, if any tax was due, has been paid
5 or that no inheritance or estate tax was not due;

6 (c) a description of the property;

7 (4) certificates of births and deaths;

8 (5) wills devising real estate admitted to probate;

9 (6) official bonds;

10 (7) transcripts of judgments which by law are made
11 liens upon real estate;

12 (8) instruments describing or relating to the
13 individual property of married persons;

14 (9) all orders and decrees made by the district court
15 in probate matters affecting real estate and which are
16 required to be recorded;

17 (10) notice of preemption claims;

18 (11) notice and declaration of water rights;

19 (12) assignments for the benefit of creditors;

20 (13) affidavits of annual work done on mining claims;

21 (14) notices of mining locations and declaratory
22 statements;

23 (15) estrays and lost property;

24 (16) a book containing appraisement of state lands;

25 (17) such other writings as are required or permitted by

1 law to be recorded."

2 **Section 2.** Section 76-3-207, MCA, is amended to read:

3 **"76-3-207. Subdivisions exempted from review but**
4 **subject to survey requirements -- exceptions.** (1) Except as
5 provided in subsection (2), unless the method of disposition
6 is adopted for the purpose of evading this chapter, the
7 following divisions of land are not subdivisions under this
8 chapter but are subject to the surveying requirements of
9 76-3-401 for divisions of land not amounting to
10 subdivisions:

11 (a) divisions made outside of platted subdivisions for
12 the purpose of relocating common boundary lines between
13 adjoining properties;

14 (b) divisions made outside of platted subdivisions for
15 the purpose of a gift or sale to any member of the
16 landowner's immediate family;

17 (c) divisions made outside of platted subdivisions by
18 sale or agreement to buy and sell where the parties to the
19 transaction enter a covenant running with the land and
20 revocable only by mutual consent of the governing body and
21 the property owner that the divided land will be used
22 exclusively for agricultural purposes;

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

25 (e) for five or fewer lots within a platted

1 subdivision, relocation of common boundaries and the
2 aggregation of lots; and

3 (f) divisions made for the purpose of relocating a
4 common boundary line between a single lot within a platted
5 subdivision and adjoining land outside a platted
6 subdivision. Any restrictions or requirements on the
7 original platted lot or original unplatted parcel continue
8 to apply to those areas.

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

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

16 (b) any change in use of the land exempted under
17 subsection (1)(c) for anything other than agricultural
18 purposes subjects the division to the provisions of this
19 chapter.

20 (3) No A division of land may not be made under this
21 section unless the county treasurer has certified that no
22 all real property taxes assessed and levied on the land to
23 be divided are delinquent have been paid."

24 NEW SECTION. Section 3. Taxes paid before recording
25 division or merger of real property. An instrument or deed

1 evidencing either a division of real property or a merger of
2 real property may not be accepted for recordation unless
3 accompanied by a certification from the county treasurer
4 that taxes and special assessments that have been assessed
5 or levied have been paid.

6 NEW SECTION. Section 4. Codification instruction.
7 [Section 3] is intended to be codified as an integral part
8 of Title 70, chapter 21, and the provisions of Title 70,
9 chapter 21, apply to [section 3].

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

SENATE BILL NO. 189
INTRODUCED BY DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT CURRENT AND DELINQUENT TAXES BE PAID BEFORE REAL PROPERTY MAY BE SPLIT OR COMBINED AND BEFORE A DIVISION OR MERGER OF REAL PROPERTY MAY BE RECORDED; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT OF REVENUE AND THE COUNTY TREASURER KEEP RECORDS OF THE SEPARATION OF THE TAXES BETWEEN THE PORTION OF THE PROPERTY BEING SOLD AND THE REMAINING PARCELS; AND AMENDING SECTIONS 7-4-2613, 15-8-702, AND 76-3-207, MCA."

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

Section 1. Section 7-4-2613, MCA, is amended to read:

"7-4-2613. Documents subject to recording. The county clerk ~~must~~ shall, upon the payment of his the required fees ~~for---the--same~~, record, photograph, or correctly copy, separately, in large and well-bound or to be bound separate books, either in a fair hand or by printing, typewriting, or photographic process or by the use of prepared blank forms:

(1) (a) subject to subsection (1)(b), deeds, grants, transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property any part of which is situated in the county, contracts to sell or convey real estate and mortgages of

real estate, releases of mortgages, powers of attorney to convey real estate, leases which that have been acknowledged or proved, and abstracts of such instruments which that have been acknowledged or proved;

(b) an instrument or deed evidencing either a division of real property or a merger of real property only if the instrument or deed is accompanied by a certification from the county treasurer that taxes and special assessments that have been assessed or levied have been paid;

(2) notices of buyer's interest in real property, notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the notice of buyer's interest; however, if the instrument of conveyance underlying a notice of buyer's interest would be unrecordable, the clerk and recorder shall notify the buyer by certified mail that the underlying instrument is unrecordable and may be void;

(3) a document on a form provided by the department of revenue certifying that the holder of a nonprobate interest in real property is deceased and that his the deceased person's interest is terminated. A nonprobate interest in real property is a joint tenancy interest, a life estate interest, or any other interest not requiring probate. The document may be on the form used by the department of

1 revenue for responding to the application for determination
2 of inheritance or estate tax. It ~~shall~~ must contain:

3 (a) a statement that the holder of the nonprobate
4 interest has died and that ~~his~~ the holder's interest in the
5 property is terminated;

6 (b) a certification by the county treasurer that the
7 inheritance or estate tax, if any tax was due, has been paid
8 or that ~~no~~ inheritance or estate tax was not due;

9 (c) a description of the property;

10 (4) certificates of births and deaths;

11 (5) wills devising real estate admitted to probate;

12 (6) official bonds;

13 (7) transcripts of judgments which by law are made
14 liens upon real estate;

15 (8) instruments describing or relating to the
16 individual property of married persons;

17 (9) all orders and decrees made by the district court
18 in probate matters affecting real estate and which are
19 required to be recorded;

20 (10) notice of preemption claims;

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25 statements;

1 (15) estrays and lost property;

2 (16) a book containing appraisement of state lands;

3 (17) such other writings as are required or permitted by
4 law to be recorded."

5 **SECTION 2.** SECTION 15-8-702, MCA, IS AMENDED TO READ:

6 "15-8-702. Persons desiring to be listed. ~~{1}~~ Lands
7 once described on the assessment book need not be described
8 a second time, but any person claiming the same and desiring
9 to be assessed therefor may have ~~his~~ the person's name
10 inserted with that of the person to whom such land is
11 assessed.

12 ~~{2}--When the owner of one or more parcels of real~~
13 ~~property conveys a portion of his interests to a buyer in a~~
14 ~~recorded transaction, the buyer may require the county~~
15 ~~treasurer to accept payment from the buyer on such portion~~
16 ~~of the taxes already levied against such property as may~~
17 ~~then be due and payable. The department of revenue or its~~
18 ~~agent shall cooperate with and assist the buyer and the~~
19 ~~county treasurer in keeping necessary records of the~~
20 ~~separation or division of a parcel or parcels listed~~
21 ~~together on the assessment lists."~~

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

23 "76-3-207. Subdivisions exempted from review but
24 subject to survey requirements -- exceptions. (1) Except as
25 provided in subsection (2), unless the method of disposition

1 is adopted for the purpose of evading this chapter, the
 2 following divisions of land are not subdivisions under this
 3 chapter but are subject to the surveying requirements of
 4 76-3-401 for divisions of land not amounting to
 5 subdivisions:

6 (a) divisions made outside of platted subdivisions for
 7 the purpose of relocating common boundary lines between
 8 adjoining properties;

9 (b) divisions made outside of platted subdivisions for
 10 the purpose of a gift or sale to any member of the
 11 landowner's immediate family;

12 (c) divisions made outside of platted subdivisions by
 13 sale or agreement to buy and sell where the parties to the
 14 transaction enter a covenant running with the land and
 15 revocable only by mutual consent of the governing body and
 16 the property owner that the divided land will be used
 17 exclusively for agricultural purposes;

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

20 (e) for five or fewer lots within a platted
 21 subdivision, relocation of common boundaries and the
 22 aggregation of lots; and

23 (f) divisions made for the purpose of relocating a
 24 common boundary line between a single lot within a platted
 25 subdivision and adjoining land outside a platted

1 subdivision. Any restrictions or requirements on the
 2 original platted lot or original unplatted parcel continue
 3 to apply to those areas.

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

5 (a) within a platted subdivision filed with the county
 6 clerk and recorder, any division of lots which results in an
 7 increase in the number of lots or which redesigns or
 8 rearranges six or more lots must be reviewed and approved by
 9 the governing body, and an amended plat must be filed with
 10 the county clerk and recorder;

11 (b) any change in use of the land exempted under
 12 subsection (1)(c) for anything other than agricultural
 13 purposes subjects the division to the provisions of this
 14 chapter.

15 (3) No A division of land may not be made under this
 16 section unless the county treasurer has certified that no
 17 all real property taxes AND SPECIAL ASSESSMENTS assessed and
 18 levied on the land to be divided are delinquent have been
 19 paid."

20 NEW SECTION. Section 4. Taxes paid before recording
 21 division or merger of real property. An instrument or deed
 22 evidencing either a division of real property or a merger of
 23 real property may not be accepted for recordation unless
 24 accompanied by a certification from the county treasurer
 25 that taxes and special assessments that have been assessed

1 or levied have been paid.

2 NEW SECTION. **Section 5.** Codification instruction.

3 [Section 3 4] is intended to be codified as an integral part
4 of Title 70, chapter 21, and the provisions of Title 70,
5 chapter 21, apply to [section 3 4].

-End-

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real estate, releases of mortgages, powers of attorney to convey real estate, leases which that have been acknowledged or proved, and abstracts of such instruments which that have been acknowledged or proved;

(b) an instrument or deed evidencing either a division of real property or a merger of real property only if the instrument or deed is accompanied by a certification from the county treasurer that taxes and special assessments that have been assessed or levied have been paid;

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revenue for responding to the application for determination of inheritance or estate tax. It ~~shall~~ must contain:

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(c) a description of the property;

(4) certificates of births and deaths;

(5) wills devising real estate admitted to probate;

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(17) such other writings as are required or permitted by law to be recorded."

SECTION 2. SECTION 15-8-702, MCA, IS AMENDED TO READ:

"15-8-702. Persons desiring to be listed. ~~{1}~~ Lands once described on the assessment book need not be described a second time, but any person claiming the same and desiring to be assessed therefor may have his the person's name inserted with that of the person to whom such land is assessed.

~~{2}--When the owner of one or more parcels of real property conveys a portion of his interests to a buyer in a recorded transaction, the buyer may require the county treasurer to accept payment from the buyer on such portion of the taxes already levied against such property as may then be due and payable. The department of revenue or its agent shall cooperate with and assist the buyer and the county treasurer in keeping necessary records of the separation or division of a parcel or parcels listed together on the assessment lists."~~

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

"76-3-207. Subdivisions exempted from review but subject to survey requirements -- exceptions. (1) Except as provided in subsection (2), unless the method of disposition

is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions:

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

(b) divisions made outside of platted subdivisions for the purpose of a gift or sale to any member of the landowner's immediate family;

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

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

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

(f) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted

subdivision. Any restrictions or requirements on the original platted lot or original unplatted parcel continue to apply to those areas.

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

(a) 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;

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

(3) No A division of land may not be made under this section unless the county treasurer has certified that no all real property taxes AND SPECIAL ASSESSMENTS assessed and levied on the land to be divided are delinquent have been paid."

NEW SECTION. Section 4. Taxes paid before recording division or merger of real property. An instrument or deed evidencing either a division of real property or a merger of real property may not be accepted for recordation unless accompanied by a certification from the county treasurer that taxes and special assessments that have been assessed

1 or levied have been paid.

2 NEW SECTION. Section 5. Codification instruction.

3 [Section 3 4] is intended to be codified as an integral part
4 of Title 70, chapter 21, and the provisions of Title 70,
5 chapter 21, apply to [section 3 4].

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 119 (first reading copy -- white), respectfully report that Senate Bill No. 119 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 145, line 25.

Following: "intent."

Insert: "However, any one party may withdraw the entire amount on deposit in the account. Further, any one party may change the type of account."

2. Page 154, lines 8 and 9.

Following: "representative" on line 8

Strike: remainder of line 8 through "party" on line 9

Insert: "or a successor claiming under 72-3-1101"

-END-

These were the only amendments on Senate Bill 189 that were made in the Judiciary Committee. The entire bill will be printed on reference when it has completed both houses.

HOUSE STANDING COMMITTEE REPORT

March 26, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 189 (third reading copy -- blue) be concurred in as amended .

Signed: _____

Norm Wallin, Chair

And, that such amendments read:

Carried by: Rep. Brandewie

1. Page 2, line 9.
Strike: "or"
Insert: "and"

2. Page 7, line 1.
Strike: "or"
Insert: "and"

-END-

Committee Vote:
Yes 14, No 0.

HOUSE
SB 189
681027SC.Hss

SENATE BILL NO. 189

INTRODUCED BY DOHERTY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT CURRENT AND DELINQUENT TAXES BE PAID BEFORE REAL PROPERTY MAY BE SPLIT OR COMBINED AND BEFORE A DIVISION OR MERGER OF REAL PROPERTY MAY BE RECORDED; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT OF REVENUE AND THE COUNTY TREASURER KEEP RECORDS OF THE SEPARATION OF THE TAXES BETWEEN THE PORTION OF THE PROPERTY BEING SOLD AND THE REMAINING PARCELS; AND AMENDING SECTIONS 7-4-2613, 15-8-702, AND 76-3-207, MCA."

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{2}--When-the-owner-of-one-or-more-parcels-of-real property--conveys-a-portion-of-his-interests-to-a-buyer-in-a recorded-transaction--the-buyer--may--require--the--county treasurer--to--accept-payment-from-the-buyer-on-such-portion of-the-taxes-already-levied-against--such--property--as--may then--be--due-and-payable--The-department-of-revenue-or-its agent--shall-cooperate-with-and-assist--the-buyer--and--the county---treasurer--in--keeping--necessary--records--of--the separation--or--division--of--a--parcel--or--parcels--listed together-on-the-assessment-lists."

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

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1 is adopted for the purpose of evading this chapter, the
 2 following divisions of land are not subdivisions under this
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 22 aggregation of lots; and

23 (f) divisions made for the purpose of relocating a
 24 common boundary line between a single lot within a platted
 25 subdivision and adjoining land outside a platted

1 subdivision. Any restrictions or requirements on the
 2 original platted lot or original unplatted parcel continue
 3 to apply to those areas.

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

5 (a) within a platted subdivision filed with the county
 6 clerk and recorder, any division of lots which results in an
 7 increase in the number of lots or which redesigns or
 8 rearranges six or more lots must be reviewed and approved by
 9 the governing body, and an amended plat must be filed with
 10 the county clerk and recorder;

11 (b) any change in use of the land exempted under
 12 subsection (1)(c) for anything other than agricultural
 13 purposes subjects the division to the provisions of this
 14 chapter.

15 (3) No A division of land may not be made under this
 16 section unless the county treasurer has certified that no
 17 all real property taxes AND SPECIAL ASSESSMENTS assessed and
 18 levied on the land to be divided are delinquent have been
 19 paid."

20 NEW SECTION. Section 4. Taxes paid before recording
 21 division or merger of real property. An instrument or deed
 22 evidencing either a division of real property or a merger of
 23 real property may not be accepted for recordation unless
 24 accompanied by a certification from the county treasurer
 25 that taxes and special assessments that have been assessed

1 or AND levied have been paid.

2 NEW SECTION. **Section 5.** Codification instruction.

3 [Section 3 4] is intended to be codified as an integral part
4 of Title 70, chapter 21, and the provisions of Title 70,
5 chapter 21, apply to [section 3 4].

-End-