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House BILL NO. 181

INTRODUCED BY Rehbein

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE DURATION OF CONSERVATION EASEMENTS GRANTED TO PUBLIC BODIES TO A TERM OF 5 OR MORE YEARS; AND AMENDING SECTIONS 76-6-103, 76-6-202, 76-6-208, AND 77-2-319, MCA."

WHEREAS, the State of Montana recognizes the need for conservation efforts; and

WHEREAS, where they are applied with realistic restrictions and terms, conservation easements can benefit all persons; and

WHEREAS, "in perpetuity" clauses sell Montana's children's future by limiting growth in communities and negating economic development efforts; and

WHEREAS, conservation easements should be written so that property owners do not have to sell their property rights forever and therefore should be written with options for termination within 5 to 10 years to allow property owners to retain options for their valuable rights and futures.

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

Section 1. Section 76-6-103, MCA, is amended to read:

"76-6-103. Purposes. In accordance with the findings in 76-6-102, the legislature states that the purposes of this chapter are to:

(1) authorize and enable public bodies and certain ~~qualifying~~ qualified private organizations voluntarily to provide for the preservation of native plants or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational interest;

(2) provide for the preservation of other significant open-space land anywhere in the state ~~either in perpetuity or for a term of years~~; and

(3) encourage private participation in ~~such a~~ the program by establishing the policy to be utilized in determining the property tax to be levied upon the real property which is subject to the provisions of this chapter."

1           **Section 2.** Section 76-6-202, MCA, is amended to read:

2           **"76-6-202. Duration of conservation easements.** ~~Conservation easements may be granted either~~  
3 ~~in perpetuity or~~ (1) A landowner may grant to a public body a conservation easement for a term of years-  
4 ~~If granted for a term of years, that term may not be~~ of not less than 5 years. An easement granted for  
5 a term of years may be renewed for a term of ~~15~~ 5 or more years upon the execution of a new granting  
6 instrument by the parties.

7           (2) A landowner may grant to a qualified private organization a conservation easement either in  
8 perpetuity or for a term of years. If granted for a term of years, that term may not be less than 5 years.  
9 An easement granted for a term of years may be renewed for a term of 5 or more years upon the execution  
10 of a new granting instrument by the parties."

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12           **Section 3.** Section 76-6-208, MCA, is amended to read:

13           **"76-6-208. Taxation of property subject to conservation easement.** (1) Assessments made for  
14 taxation on property subject to a conservation easement ~~either in perpetuity or~~ where a public body holds  
15 the conservation easement for a term of years, or on property subject to a conservation easement where  
16 ~~a public body or a qualifying~~ qualified private organization holds the conservation easement ~~either in~~  
17 perpetuity or for a term of years, shall must be determined on the basis of the restricted purposes for which  
18 the property may be used. The minimum assessed value for land subject to an easement conveyed under  
19 this chapter may not be less than the actual assessed value of ~~such~~ the land in calendar year 1973. Any  
20 land subject to ~~such~~ a conservation easement may not be classified into a class affording a lesser assessed  
21 valuation solely by reason of the creation of the easement. The value of the interest held by a public body  
22 or qualifying private organization ~~shall be~~ is exempt from property taxation.

23           (2) Expiration of an easement granted for a term of years ~~shall~~ may not result in a reassessment  
24 of the land for property tax purposes if the easement is renewed and the granting instrument reflecting the  
25 renewed easement is executed and properly filed not later than 15 days after the date of expiration."

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27           **Section 4.** Section 77-2-319, MCA, is amended to read:

28           **"77-2-319. Conservation easement for certain sales.** As a condition of any sale initiated pursuant  
29 to 77-2-318, the board shall, if consistent with its trust responsibility, grant to the state of Montana a  
30 conservation easement, as provided for in 76-6-203, for the leased cabin or home site or city or town lot

1 to be sold. The conservation easement must run with the land ~~in perpetuity~~ and must:

2 (1) prohibit subdivision of the land, lake, or stream;

3 (2) for property within 100 feet of a river, stream, or lake, prohibit the cutting of trees except as  
4 necessary for construction on the lot, fire prevention, safety, or protection of personal property; and

5 (3) require that any permanent structure be set back 25 feet from the high-water mark of a lake  
6 or stream."

7

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0181, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act limiting the duration of conservation easements granted to public bodies to a term of 5 or more years.

FISCAL IMPACT:

None

Dave Lewis 1-11-97  
DAVE LEWIS, BUDGET DIRECTOR                      DATE  
Office of Budget and Program Planning

William Rehbein, Jr. 1-13-97  
WILLIAM REHBEIN, JR. PRIMARY SPONSOR      DATE  
Fiscal Note for HB0181, as introduced

**HB 181**