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Senate BILL NO. 284

INTRODUCED BY

Halley

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INDIVIDUAL OWNERS OF TRACTS OF LAND 5 ACRES OR SMALLER IN SIZE LOCATED WITHIN THE BOUNDARIES OF AN IRRIGATION DISTRICT THAT ARE NOT BEING SERVED BY THE IRRIGATION DISTRICT WORKS TO BE ELIMINATED FROM ASSESSMENTS OVER AND ABOVE CURRENT INDEBTEDNESS; AND AMENDING SECTIONS 85-7-411 AND 85-7-1802, MCA."

Charlesville *Bradley Carey* *Markus* **DENNY** *Brannon*

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

NEW SECTION. Section 1. Small-tract petition to exclude land from district.

(1) A person holding title to a tract of land meeting the criteria in 85-7-1802(2) may petition the district court for an exclusion of the person's tract from an irrigation district, a subdistrict, or a combination of a district and subdistrict. The petition must be signed by all persons who hold title to the tract to be excluded and must specify:

- (a) the name of the irrigation district;
 - (b) the name and address of the persons holding title to the tract;
 - (c) evidence of title to the tract to be excluded, as provided in 85-7-101 and 85-7-102;
 - (d) a copy of a map or plat of the irrigation district showing the location of the tract sought to be excluded and the relation of that land to the works of the district;
 - (e) a statement that the users of the tract do not and cannot feasibly obtain water from the irrigation district through existing irrigation works;
 - (f) a copy of a recent tax statement documenting assessment of the tract by the irrigation district;
- and
- (g) a request that the tract be excluded.

(2) Prior to filing the petition with the court, the petitioner shall mail a copy of the completed petition to the irrigation district subject to the petition.

(3) The petitioner shall file the petition, proof of mailing pursuant to subsection (2), and a \$20 fee with the clerk of the district court for the court in which the irrigation district was created.

(4) Within 15 days of the date of the filing of the petition, the irrigation district may file an

1 objection to the petition. To be valid, the objection must provide sufficient evidence that the conditions
2 set forth in 85-7-1802(2) do not apply to the tract petitioned for exclusion.

3 (5) If a valid objection is filed, the court may hold a hearing if necessary to resolve the facts of the
4 petition.

5 (6) The court shall grant the petition for exclusion:

6 (a) if no objections are filed within 15 days of filing the petition; or

7 (b) upon determination of the court that the petition is sufficient.

8 (7) The court shall forward to the irrigation district a copy of the order granting the exclusion.

9 (8) A petition granted in this section excludes the petitioned tract from the irrigation district for all
10 purposes, except that it remains subject to assessment for any existing district debt.

11

12 **Section 2.** Section 85-7-411, MCA, is amended to read:

13 **"85-7-411. Alteration and determination of subdistrict acreage.** (1) Land may be deleted from or
14 added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through
15 85-7-1810 and in [section 1].

16 (2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless
17 it is specifically deleted from the subdistrict according to subsection (1).

18 (3) The taxable area of the land in the subdistrict may be determined in the manner provided in
19 85-7-1841 through 85-7-1845."

20

21 **Section 3.** Section 85-7-1802, MCA, is amended to read:

22 **"85-7-1802. Elimination of ~~lands~~ land from district.** (1) Whenever ~~lands have~~ land has been
23 included within the boundaries of an established and organized irrigation district, which from ~~their~~ its
24 location or conformation cannot be successfully irrigated by the irrigation works or system already
25 constructed or proposed to be constructed or the cost of irrigating the ~~same~~ land will become burdensome
26 upon the landowners of the district, a majority ~~in number~~ of the holders of title or evidence of title to the
27 land included in ~~such~~ the district (such holders of title or evidence of title also representing a majority in
28 acreage of ~~said lands~~ that land) may in conformance with 85-7-1803 through 85-7-1807 petition the district
29 court of the county in which the ~~lands~~ land of the district or the greater portion ~~thereof are~~ of that land is
30 situated for an order or decree changing the boundaries of the district by ~~the elimination therefrom of such~~

1 ~~lands eliminating that land from the district.~~

2 (2) Whenever a tract of record is located within an irrigation district, is 5 acres or smaller in size,
3 and is not served by any district canal, system, facility, or other undertaking, the owner of the tract may
4 petition to eliminate the tract from a district pursuant to [section 1]."

5
6 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
7 integral part of Title 85, chapter 7, part 18, and the provisions of Title 85, chapter 7, part 18, apply to
8 [section 1].

9 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0284, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing individual owners of tracts of land 5 acres or smaller in size located within the boundaries of an irrigation district that are not being served by the irrigation district works to be eliminated from assessments over and above current indebtedness.

ASSUMPTIONS:

1. The Department of Natural Resources and Conservation (DNRC) will continue to make loans to irrigation districts under its current program guidelines.
2. Current statutes that pertain to irrigation districts will continue to be used.
3. Expenditures and revenue for CARDD will be essentially as recommended in the Executive Budget.

FISCAL IMPACT:


None.


EFFECT ON COUNTY OR LOCAL REVENUES OR EXPENDITURES:

None.

TECHNICAL NOTES:

This may have some effect on subdivisions; however, it more clearly defines the petition process to opt out of an irrigation district if the landowner has less than a 5-acre land tract and is not served by the irrigation system.


DAVE LEWIS, Budget Director Date
Office of Budget and Program Planning


MIKE HALLIGAN, Primary Sponsor Date
Fiscal Note For SB0284 as Introduced

SB 284

1 SENATE BILL NO. 284

2 INTRODUCED BY HALLIGAN, VAN VALKENBURG, BROOKE, CAREY, MAHLUM, DENNY, BRAINARD,
3 COCCHIARELLA

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INDIVIDUAL OWNERS OF TRACTS OF LAND ~~6~~ 3
6 ACRES OR SMALLER IN SIZE LOCATED WITHIN THE BOUNDARIES OF ~~AN~~ CERTAIN URBANIZED
7 IRRIGATION DISTRICT DISTRICTS THAT ARE NOT BEING SERVED BY THE IRRIGATION DISTRICT WORKS
8 TO BE ELIMINATED FROM ASSESSMENTS OVER AND ABOVE CURRENT INDEBTEDNESS; ~~AND~~
9 AMENDING SECTIONS 85-7-411 AND 85-7-1802, MCA; AND PROVIDING A TERMINATION DATE."

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

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14 IRRIGATION DISTRICT HAS BECOME URBANIZED TO SUCH A DEGREE THAT THE AVERAGE PARCEL SIZE
15 IN THE DISTRICT IS LESS THAN 3 ACRES, A person holding title to a tract of land meeting the criteria in
16 85-7-1802(2) may petition the district court for an exclusion of the person's tract from an irrigation district,
17 a subdistrict, or a combination of a district and subdistrict. The petition must be signed by all persons who
18 hold title to the tract to be excluded and must specify:

19 (a) the name of the irrigation district;

20 (b) the name and address of the persons holding title to the tract;

21 (c) evidence of title to the tract to be excluded, as provided in 85-7-101 and 85-7-102;

22 (d) a copy of a map or plat of the irrigation district showing the location of the tract sought to be
23 excluded and the relation of that land to the works of the district;

24 (e) a statement that the users of the tract do not and cannot feasibly obtain water from the
25 irrigation district through existing irrigation works;

26 (f) a copy of a recent tax statement documenting assessment of the tract by the irrigation district;

27 and

28 (g) a request that the tract be excluded.

29 (2) Prior to filing the petition with the court, the petitioner shall mail a copy of the completed
30 petition to the irrigation district subject to the petition.

1 (3) The petitioner shall file the petition, proof of mailing pursuant to subsection (2), and a \$20 fee
2 with the clerk of the district court for the court in which the irrigation district was created.

3 (4) Within 15 days of the date of the filing of the petition, the irrigation district may file an
4 objection to the petition. To be valid, the objection must provide sufficient evidence that the conditions
5 set forth in 85-7-1802(2) do not apply to the tract petitioned for exclusion.

6 (5) If a valid objection is filed, the court may hold a hearing if necessary to resolve the facts of the
7 petition.

8 (6) The court shall grant the petition for exclusion:

9 (a) if no objections are filed within 15 days of filing the petition; or

10 (b) upon determination of the court that the petition is sufficient.

11 (7) The court shall forward to the irrigation district a copy of the order granting the exclusion.

12 (8) A petition granted in this section excludes the petitioned tract from the irrigation district for all
13 purposes, except that it remains subject to assessment for any existing district debt.

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15 **Section 2.** Section 85-7-411, MCA, is amended to read:

16 "**85-7-411. Alteration and determination of subdistrict acreage.** (1) Land may be deleted from or
17 added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through
18 85-7-1810 and in [section 1].

19 (2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless
20 it is specifically deleted from the subdistrict according to subsection (1).

21 (3) The taxable area of the land in the subdistrict may be determined in the manner provided in
22 85-7-1841 through 85-7-1845."

23
24 **Section 3.** Section 85-7-1802, MCA, is amended to read:

25 "**85-7-1802. Elimination of ~~lands~~ land from district.** (1) Whenever ~~lands have~~ land has been
26 included within the boundaries of an established and organized irrigation district, which from ~~their~~ its
27 location or conformation cannot be successfully irrigated by the irrigation works or system already
28 constructed or proposed to be constructed or the cost of irrigating the ~~same~~ land will become burdensome
29 upon the landowners of the district, a majority ~~in number~~ of the holders of title or evidence of title to the
30 land included in ~~each~~ the district (such holders of title or evidence of title also representing a majority in

1 acreage of ~~said lands~~ that land) may in conformance with 85-7-1803 through 85-7-1807 petition the district
2 court of the county in which the ~~lands~~ land of the district or the greater portion ~~thereof are~~ of that land is
3 situated for an order or decree changing the boundaries of the district by ~~the elimination therefrom of such~~
4 ~~lands~~ eliminating that land from the district.

5 (2) Whenever a tract of record is located within an irrigation district THAT IS PARTIALLY WITHIN
6 OR ADJACENT TO A FIRST-CLASS CITY THAT HAD A POPULATION GREATER THAN 40,000 AND LESS
7 THAN 55,000 AS SHOWN BY THE 1990 CENSUS, is 5 3 acres or smaller in size, IS LOCATED WITHIN 5
8 MILES OF THE EXTERIOR BOUNDARY OF AN INCORPORATED CITY, and is not served by any district
9 canal, system, facility, or other undertaking, the owner of the tract may petition to eliminate the tract from
10 a district pursuant to [section 1]."

11

12 NEW SECTION. SECTION 4. TERMINATION. [THIS ACT] TERMINATES OCTOBER 1, 1999.

13

14 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
15 integral part of Title 85, chapter 7, part 18, and the provisions of Title 85, chapter 7, part 18, apply to
16 [section 1].

17

-END-

1 SENATE BILL NO. 284

2 INTRODUCED BY HALLIGAN, VAN VALKENBURG, BROOKE, CAREY, MAHLUM, DENNY, BRAINARD,
3 COCCHIARELLA

4
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8 TO BE ELIMINATED FROM ASSESSMENTS OVER AND ABOVE CURRENT INDEBTEDNESS; ~~AND~~
9 AMENDING SECTIONS 85-7-411 AND 85-7-1802, MCA; AND PROVIDING A TERMINATION DATE."

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15 IN THE DISTRICT IS LESS THAN 3 ACRES, A person holding title to a tract of land meeting the criteria in
16 85-7-1802(2) may petition the district court for an exclusion of the person's tract from an irrigation district,
17 a subdistrict, or a combination of a district and subdistrict. The petition must be signed by all persons who
18 hold title to the tract to be excluded and must specify:

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- 20 (b) the name and address of the persons holding title to the tract;
- 21 (c) evidence of title to the tract to be excluded, as provided in 85-7-101 and 85-7-102;
- 22 (d) a copy of a map or plat of the irrigation district showing the location of the tract sought to be
23 excluded and the relation of that land to the works of the district;
- 24 (e) a statement that the users of the tract do not and cannot feasibly obtain water from the
25 irrigation district through existing irrigation works;
- 26 (f) a copy of a recent tax statement documenting assessment of the tract by the irrigation district;
- 27 and
- 28 (g) a request that the tract be excluded.

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30 petition to the irrigation district subject to the petition.

1 (3) The petitioner shall file the petition, proof of mailing pursuant to subsection (2), and a \$20 fee
2 with the clerk of the district court for the court in which the irrigation district was created.

3 (4) Within 15 days of the date of the filing of the petition, the irrigation district may file an
4 objection to the petition. To be valid, the objection must provide sufficient evidence that the conditions
5 set forth in 85-7-1802(2) do not apply to the tract petitioned for exclusion.

6 (5) If a valid objection is filed, the court may hold a hearing if necessary to resolve the facts of the
7 petition.

8 (6) The court shall grant the petition for exclusion:

9 (a) if no objections are filed within 15 days of filing the petition; or

10 (b) upon determination of the court that the petition is sufficient.

11 (7) The court shall forward to the irrigation district a copy of the order granting the exclusion.

12 (8) A petition granted in this section excludes the petitioned tract from the irrigation district for all
13 purposes, except that it remains subject to assessment for any existing district debt.

14

15 **Section 2.** Section 85-7-411, MCA, is amended to read:

16 "**85-7-411. Alteration and determination of subdistrict acreage.** (1) Land may be deleted from or
17 added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through
18 85-7-1810 and in [section 1].

19 (2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless
20 it is specifically deleted from the subdistrict according to subsection (1).

21 (3) The taxable area of the land in the subdistrict may be determined in the manner provided in
22 85-7-1841 through 85-7-1845."

23

24 **Section 3.** Section 85-7-1802, MCA, is amended to read:

25 "**85-7-1802. Elimination of ~~lands~~ land from district.** (1) Whenever ~~lands have~~ land has been
26 included within the boundaries of an established and organized irrigation district, which from ~~their~~ its
27 location or conformation cannot be successfully irrigated by the irrigation works or system already
28 constructed or proposed to be constructed or the cost of irrigating the ~~same~~ land will become burdensome
29 upon the landowners of the district, a majority ~~in number~~ of the holders of title or evidence of title to the
30 land included in ~~such~~ the district (such holders of title or evidence of title also representing a majority in

1 acreage of ~~said lands~~ that land) may in conformance with 85-7-1803 through 85-7-1807 petition the district
2 court of the county in which the ~~lands~~ land of the district or the greater portion ~~thereof~~ are of that land is
3 situated for an order or decree changing the boundaries of the district by ~~the elimination therefrom~~ of such
4 ~~lands~~ eliminating that land from the district.

5 (2) Whenever a tract of record is located within an irrigation district THAT IS PARTIALLY WITHIN
6 OR ADJACENT TO A FIRST-CLASS CITY THAT HAD A POPULATION GREATER THAN 40,000 AND LESS
7 THAN 55,000 AS SHOWN BY THE 1990 CENSUS, is 5 3 acres or smaller in size, IS LOCATED WITHIN 5
8 MILES OF THE EXTERIOR BOUNDARY OF AN INCORPORATED CITY, and is not served by any district
9 canal, system, facility, or other undertaking, the owner of the tract may petition to eliminate the tract from
10 a district pursuant to [section 1]."

11
12 NEW SECTION. SECTION 4. TERMINATION. [THIS ACT] TERMINATES OCTOBER 1, 1999.

13
14 NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an
15 integral part of Title 85, chapter 7, part 18, and the provisions of Title 85, chapter 7, part 18, apply to
16 [section 1].

17 -END-

SENATE BILL NO. 284

INTRODUCED BY HALLIGAN, VAN VALKENBURG, BROOKE, CAREY, MAHLUM, DENNY, BRAINARD, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INDIVIDUAL OWNERS OF TRACTS OF LAND 6 3 ACRES OR SMALLER IN SIZE LOCATED WITHIN THE BOUNDARIES OF AN CERTAIN URBANIZED IRRIGATION DISTRICT DISTRICTS THAT ARE NOT BEING SERVED BY THE IRRIGATION DISTRICT WORKS TO BE ELIMINATED FROM ASSESSMENTS OVER AND ABOVE CURRENT INDEBTEDNESS; AND AMENDING SECTIONS 85-7-411 AND 85-7-1802, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Small-tract petition to exclude land from district. (1) A WHEN AN IRRIGATION DISTRICT HAS BECOME URBANIZED TO SUCH A DEGREE THAT THE AVERAGE PARCEL SIZE IN THE DISTRICT IS LESS THAN 3 ACRES, A person holding title to a tract of land meeting the criteria in 85-7-1802(2) may petition the district court for an exclusion of the person's tract from an irrigation district, a subdistrict, or a combination of a district and subdistrict. The petition must be signed by all persons who hold title to the tract to be excluded and must specify:

- (a) the name of the irrigation district;
(b) the name and address of the persons holding title to the tract;
(c) evidence of title to the tract to be excluded, as provided in 85-7-101 and 85-7-102;
(d) a copy of a map or plat of the irrigation district showing the location of the tract sought to be excluded and the relation of that land to the works of the district;
(e) a statement, CORROBORATED BY ADEQUATE DOCUMENTATION, that the users of the tract do not and cannot feasibly obtain water from the irrigation district through existing irrigation works;
(f) a copy of a recent tax statement documenting assessment of the tract by the irrigation district;
and
(g) a request that the tract be excluded.

(2) Prior to filing the petition with the court, the petitioner shall mail a copy of the completed

1 petition to the irrigation district subject to the petition.

2 (3) The petitioner shall file the petition, proof of mailing pursuant to subsection (2), and a \$20 fee
3 with the clerk of the district court for the court in which the irrigation district was created.

4 (4) Within 15 days of the date of the filing of the petition, the irrigation district may file an
5 objection to the petition. To be valid, the objection must provide sufficient evidence that the conditions
6 set forth in 85-7-1802(2) do not apply to the tract petitioned for exclusion.

7 (5) If a valid objection is filed, the court may hold a hearing if necessary to resolve the facts of the
8 petition.

9 (6) The court shall grant the petition for exclusion:

10 (a) if no objections are filed within 15 days of filing the petition; or

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12 (7) The court shall forward to the irrigation district a copy of the order granting the exclusion.

13 (8) A petition granted in this section excludes the petitioned tract from the irrigation district for all
14 purposes, except that it remains subject to assessment for any existing district debt.

15

16 **Section 2.** Section 85-7-411, MCA, is amended to read:

17 "**85-7-411. Alteration and determination of subdistrict acreage.** (1) Land may be deleted from or
18 added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through
19 85-7-1810 and in [section 1].

20 (2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless
21 it is specifically deleted from the subdistrict according to subsection (1).

22 (3) The taxable area of the land in the subdistrict may be determined in the manner provided in
23 85-7-1841 through 85-7-1845."

24

25 **Section 3.** Section 85-7-1802, MCA, is amended to read:

26 "**85-7-1802. Elimination of ~~lands~~ land from district.** (1) Whenever ~~lands have~~ land has been
27 included within the boundaries of an established and organized irrigation district, which from ~~their~~ its
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6 (2) Whenever a tract of record is located within an irrigation district THAT IS PARTIALLY WITHIN
 7 OR ADJACENT TO A FIRST-CLASS CITY THAT HAD A POPULATION GREATER THAN 40,000 AND LESS
 8 THAN 55,000 AS SHOWN BY THE 1990 CENSUS, is 3 acres or smaller in size, IS LOCATED WITHIN 5
 9 MILES OF THE EXTERIOR BOUNDARY OF AN INCORPORATED CITY, and is not served by any district
 10 canal, system, facility, or other undertaking, the owner of the tract may petition to eliminate the tract from
 11 a district pursuant to [section 1]."

12

13 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 1997.

14

15 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT] TERMINATES ~~OCTOBER 1, 1998~~
 16 DECEMBER 31, 1998.

17

18 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
 19 integral part of Title 85, chapter 7, part 18, and the provisions of Title 85, chapter 7, part 18, apply to
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19 hold title to the tract to be excluded and must specify:

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21 it is specifically deleted from the subdistrict according to subsection (1).

22 (3) The taxable area of the land in the subdistrict may be determined in the manner provided in
23 85-7-1841 through 85-7-1845."

24

25 **Section 3.** Section 85-7-1802, MCA, is amended to read:

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 3 court of the county in which the ~~lands~~ land of the district or the greater portion ~~thereof are~~ of that land is
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 7 OR ADJACENT TO A FIRST-CLASS CITY THAT HAD A POPULATION GREATER THAN 40,000 AND LESS
 8 THAN 55,000 AS SHOWN BY THE 1990 CENSUS, is 5 3 acres or smaller in size, IS LOCATED WITHIN 5
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 13 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 1997.

14
 15 NEW SECTION. SECTION 5. TERMINATION. [THIS ACT] TERMINATES OCTOBER 1, 1999
 16 DECEMBER 31, 1998.

17
 18 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
 19 integral part of Title 85, chapter 7, part 18, and the provisions of Title 85, chapter 7, part 18, apply to
 20 [section 1].

21
 22 NEW SECTION. SECTION 7. SAVING CLAUSE. (1) [THIS ACT] DOES NOT AFFECT RIGHTS AND
 23 DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN
 24 BEFORE [THE EFFECTIVE DATE OF THIS ACT].

25 (2) A PROCEEDING UNDER [SECTION 1] INITIATED PRIOR TO [THE TERMINATION DATE OF THIS
 26 ACT] BUT NOT COMPLETED PRIOR TO [THE TERMINATION DATE OF THIS ACT] IS NOT TERMINATED
 27 BY THE TERMINATION OF [THIS ACT] BUT MUST CONTINUE UNDER [SECTION 1] AS IT READ PRIOR TO
 28 TERMINATION UNTIL THE PROCEEDING IS CONCLUDED.

29 -END-