



AN ACT REVISING LAWS RELATING TO REAL PROPERTY AND REGULATIONS; PROVIDING THAT CERTAIN CONSTRUCTION IS GRANDFATHERED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

WHEREAS, Article II, section 3, of the Montana Constitution creates a fundamental right to acquire, possess, and protect property; and

WHEREAS, a local government reviewing authority or the state has had ample opportunity to initiate an enforcement action prior to January 1, 2023, if the local government reviewing authority or the state believes the lakeshore or aquatic life is being threatened by historical structures located within the lakeshore protection zone area.

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

Section 1. Lakeshore protection zone grandfathered -- exemptions from future permitting -- retroactive applicability. (1) For the purposes of the implementation and enforcement of lakeshore regulations adopted pursuant to 75-7-207, any clearly visible boat ramp, boat house, boat shore station, boat rail system, dock system, pier, wharf, retaining wall, road, or other structure located within the lakeshore protection zone on or before January 1, 2023, is considered to be grandfathered for the purposes of compliance with the regulations unless the item is the subject of a current, active, and documented enforcement action by a local government reviewing authority or the state.

(2) Ongoing maintenance, remodeling, or minor modifications to the items set forth in subsection (1) are exempt from lakeshore protection zone review unless the activity involves significant excavation, dredging, or in-fill of material or otherwise significantly impacts water quality. For the purposes of this subsection, a minor modification is a change to the items set forth in subsection (1) that is less than \$10,000.

(3) Nothing in this section may be construed to prevent the local government reviewing authority or the state from compensating a property owner to remove or alter any of the items in subsection (1) if the local government reviewing authority or the state believes it is in the best interests of lakeshore protection and aquatic life.

(4) This section does not apply to items set forth in subsection (1) that were constructed illegally and cause material harm to lakeshore stability, water quality, or aquatic life.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 7, part 2, and the provisions of Title 75, chapter 7, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to lakeshore regulations adopted and property items constructed prior to January 1, 2023.

- END -

I hereby certify that the within bill,
SB 301, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 301

INTRODUCED BY G. HERTZ, M. BERTOGLIO, S. FITZPATRICK, C. SPRUNGER

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