

HOUSE BILL NO. 124

INTRODUCED BY F. MANDEVILLE

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS CONCERNING AGRICULTURAL COVENANTS UNDER THE SUBDIVISION AND PLATTING ACT; CLARIFYING THAT A CHANGE IN USE SUBJECTS CERTAIN EXEMPTIONS TO SUBDIVISION REVIEW; ALLOWING A GOVERNING BODY TO REVOKE CERTAIN EXEMPTIONS IF THERE IS A CHANGE IN USE; PROVIDING EXCEPTIONS; AND AMENDING SECTION 76-3-207, MCA."

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

NEW SECTION. **Section 1. Agricultural covenant -- change in use.** (1) A change in use for anything other than agricultural purposes subjects a division of land that received an exemption under 76-3-207(1)(c) to subdivision review under parts 5 and 6 of this chapter. However, the governing body, in its discretion, may revoke the covenant provided for in 76-3-207(1)(c) for the purposes of this chapter and the division may proceed without subdivision review if:

(a) the original lot lines are restored through aggregation of the covenanted land prior to or in conjunction with the revoking of the covenant; or

(b) a government or public entity seeks to use the land for public purposes as defined in the governing body's review criteria pursuant to 76-3-504(1)(p).

(2) If a governing body proposes to revoke a covenant pursuant to subsection (1)(b), the governing body shall hold a public hearing. Within 15 days of the hearing, the governing body shall issue written findings of fact and a decision based on the record. If the governing body approves the revoking of the covenant, the approval must be recorded with the clerk and recorder.

(3) THE REVOCATION OF A COVENANT PURSUANT TO THIS SECTION DOES NOT AFFECT SANITARY RESTRICTIONS IMPOSED UNDER TITLE 76, CHAPTER 4.

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

"76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division. (1) Except as



1 provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter,
 2 the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot
 3 created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying
 4 requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to
 5 applicable zoning regulations adopted under Title 76, chapter 2:

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

8 (b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county
 9 to each member of the landowner's immediate family;

10 (c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the
 11 ~~parties to the transaction enter~~ landowner enters into a covenant running for the purposes of this chapter with
 12 the governing body that runs with the land and revocable only by mutual consent of the governing body and the
 13 property owner and provides that the divided land will be used exclusively for agricultural purposes, subject to
 14 the provisions of [section 1];

15 (d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

16 (e) divisions made for the purpose of relocating a common boundary line between a single lot within a
 17 platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original
 18 platted lot or original unplatted parcel continues to apply to those areas.

19 (f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the
 20 boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are
 21 established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply
 22 to those areas.

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

24 ~~(a)~~ within a platted subdivision filed with the county clerk and recorder, a division, redesign, or
 25 rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more
 26 lots must be reviewed and approved by the governing body before an amended plat may be filed with the county
 27 clerk and recorder;

28 ~~(b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural~~
 29 ~~purposes subjects the division to review under parts 5 and 6 of this chapter.~~

30 (3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the

1 county treasurer has certified that all real property taxes and special assessments assessed and levied on the
2 land to be divided have been paid.

3 (b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the
4 division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the
5 taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property
6 shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before
7 the division of land is made.

8 (ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as
9 a partial payment of the total tax that is due.

10 (4) The governing body may examine a division or aggregation of land to determine whether or not the
11 requirements of this chapter apply to the division or aggregation and may establish reasonable fees, not to
12 exceed \$200, for the examination."

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14 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
15 integral part of Title 76, chapter 3, part 2, and the provisions of Title 76, chapter 3, part 2, apply to [section 1].

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