

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO PROPERTY;
5 REVISING LAWS RELATED TO REMOVAL OF FIXTURES BY A TENANT AND FIXED IMPROVEMENTS ON
6 PROPERTY; REVISING EXEMPTIONS TO SUBDIVISION REVIEW LAWS RELATING TO CREATION OF
7 MORE THAN FOUR NEW LOTS OR PARCELS; AND AMENDING SECTIONS 70-18-102 AND 76-25-402,
8 MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 70-18-102, MCA, is amended to read:

13 **"70-18-102. Removal of fixture by tenant -- fixed improvement, payment of tax, ownership**
14 **judicially resolved.** (1) A tenant may remove from the demised premises, any time during the continuance of
15 the tenant's term, anything affixed to the premises for purposes of trade, manufacture, ornament, or domestic
16 use if the removal can be effected without injury to the premises unless the thing has, by the manner in which it
17 is affixed, become an integral part of the premises."

18 (2) A person who developed a fixed improvement such as a residential home or commercial
19 building that the person has paid to the county tax assessor state property tax assessments as an improvement
20 separate from the land tax assessments may have ownership resolved judicially in a partition action or by
21 adverse possession.

22
23 **Section 2.** Section 76-25-402, MCA, is amended to read:

24 **"76-25-402. Exemptions to subdivision review.** (1) The following divisions of land, if made in
25 substantial compliance with zoning regulations adopted pursuant to Title 76, chapter 25, part 3, are not subject
26 to the requirements of this chapter:

27 (a) subject to subsection (2), the creation of four or fewer new lots or parcels, or the creation of
28 more than four new lots or parcels when the litigants seek recordable lot lines for the land upon which the

- 1 litigants occupy an improvement and pay taxes assessed on the improvement, from an original lot or parcel:
- 2 (i) by order of a court of record in this state;
- 3 (ii) by operation of law; or
- 4 (iii) that, in the absence of agreement between the parties to a sale, could be created by court
- 5 order in this state pursuant to the law of eminent domain, Title 70, chapter 30;
- 6 (b) subject to subsection (3), the creation of a lot to provide security for mortgages, liens, or trust
- 7 indentures for the purpose of construction, improvements to the land being divided, or refinancing, if the land
- 8 that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage,
- 9 lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture;
- 10 (c) the creation of an interest in oil, gas, minerals, or water that is severed from the surface
- 11 ownership of real property;
- 12 (d) the creation of cemetery lots;
- 13 (e) the reservation of a life estate on a portion of a tract of record;
- 14 (f) the lease or rental of a portion of a tract of record for farming and agricultural purposes;
- 15 (g) the division of property over which the state does not have jurisdiction;
- 16 (h) the creation of rights-of-way or utility sites;
- 17 (i) the creation of condominiums, townhomes, townhouses, or conversions, as those terms are
- 18 defined in 70-23-102, when any applicable park dedication requirements as set forth in Title 76, chapter 25, part
- 19 3, are complied with;
- 20 (j) the lease or rental of contiguous airport-related land owned by a city, a county, the state, or a
- 21 municipal or regional airport authority;
- 22 (k) subject to subsection (4), a division of state-owned land, unless the division creates a second
- 23 or subsequent residential parcel from a single tract for sale, rent, or lease after July 1, 1974;
- 24 (l) the creation of lots by deed, contract, lease, or other conveyance executed prior to July 1,
- 25 1974;
- 26 (m) the relocation of common boundary lines between or aggregations of adjoining properties that
- 27 does not result in an increase in the number of lots;
- 28 (n) a single gift or sale in each county to each member of the landowner's immediate family; or

1 (o) subject to subsection (5), the creation of lots by deed, contract, lease, or other conveyance in
2 which the landowner enters into a covenant with the governing body that runs with the land that provides that
3 the divided land must be used exclusively for agricultural purposes.

4 (2) Before a court of record orders a division of land under subsection (1)(a), the court shall notify
5 the governing body of the pending division and allow the governing body to present written comment on the
6 division.

7 (3) A transfer of divided land by the owner of the property at the time that the land was divided to
8 any party other than those identified in subsection (1)(b) subjects the division of land to the requirements of this
9 chapter.

10 (4) Instruments of transfer of land that is acquired for state highways may refer by parcel and
11 project number to state highway plans that have been recorded in compliance with 60-2-209 and are exempted
12 from the surveying and platting requirements of this chapter. If the parcels are not shown on highway plans of
13 record, instruments of transfer of the parcels must be accompanied by and refer to appropriate certificates of
14 survey and plats when presented for recording.

15 (5) The governing body, in its discretion, may revoke the covenant provided for in subsection (1)(o)
16 without subdivision review if the original lot lines are restored through aggregation of the covenanted land prior
17 to or in conjunction with the revoking of the covenant."

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