

SENATE BILL NO. 168

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING LAKESHORE PROTECTION; PROVIDING A STATUTE OF LIMITATIONS FOR ACTIONS AGAINST PROPERTY OWNERS OR CONTRACTORS FOR VIOLATING LAKESHORE REGULATIONS; PROVIDING EXEMPTIONS FROM FUTURE PERMITTING FOR ONGOING MAINTENANCE, REMODELING, OR MINOR MODIFICATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

WHEREAS, a local governing body or the state has had ample opportunity to initiate an enforcement action if the governing body 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:

NEW SECTION. Section 1. Lakeshore protection zone statute of limitations -- exemptions from future permitting. (1) (a) As applied to 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, the period prescribed for the commencement of an action against a property owner or the property owner's contractor for a violation of lakeshore regulations adopted pursuant to 75-7-207 is within 2 years of completion of construction or issuance of the permit, whichever occurs later.

(b) The limitation set forth in subsection (1)(a) does not apply to an item that was constructed illegally and that:

- (i) causes documented, material harm to lakeshore stability, water quality, or aquatic life;
- (ii) materially interferes with navigation or other lawful recreation activities; or
- (iii) creates a documented public nuisance.

(2) (a) Minor ongoing maintenance, minor remodeling, or minor modifications to the items described in subsection (1)(a) are exempt from lakeshore protection review unless the activity involves significant excavation, dredging, in-fill of material, diminishment of aquatic life, or interference with navigation or lawful recreation activities.

(b) For the purposes of subsection (2)(a), "minor" means a change to an item described in subsection (1)(a) that is less than \$10,000 over a 5-year period, exclusive of personal services provided by the property owner or another individual at no cost to the property owner.

(3) This section may not be construed to prevent the local governing body or state from compensating a property owner to remove or alter any of the items described in subsection (1)(a) if the governing body or state believes it is in the best interests of lakeshore protection and aquatic life.

NEW SECTION. **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].

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

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