

HOUSE BILL NO. 352

INTRODUCED BY J. HINKLE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE PURCHASE OF CONSERVATION EASEMENTS; REQUIRING PUBLIC ACCESS AS PART OF CONSERVATION EASEMENTS THAT USE PUBLIC FUNDS; REVISING THE TYPE OF LAND WHERE A SUBDIVISION IS RESTRICTED; AMENDING SECTIONS 76-6-103, 76-6-106, 76-6-201, 76-6-204, 76-6-207, AND 76-6-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 76-6-103, MCA, is amended to read:

"76-6-103. Purposes. In accordance with the findings in 76-6-102, the legislature states that the purposes of this chapter are to:

(1) authorize and enable public bodies and certain qualifying private organizations voluntarily to provide for the preservation of native plants or animals, biotic communities, public enjoyment, or geological or geographical formations of scientific, aesthetic, or educational interest;

(2) provide for the preservation of other significant open-space land anywhere in the state either in perpetuity or for a term of years; and

(3) encourage private participation in such a program by establishing the policy to be utilized in determining the property tax to be levied upon the real property which is subject to the provisions of this chapter."

Section 2. Section 76-6-106, MCA, is amended to read:

"76-6-106. Acquisition and designation of real property by public body. To carry out the purposes of this chapter, any public body may:

(1) acquire by purchase, gift, devise, bequest, or grant title to or any interests or rights in real property, including land and water, that will provide a means for the preservation or provision of significant

1 open-space land or the preservation of native plants or animals, biotic communities, public enjoyment, or
2 geological or geographical formations of scientific, aesthetic, or educational interest, or both;

3 (2) designate any real property, including land and water, in which it has an interest to be retained
4 and used for the preservation and provision of significant open-space land or the preservation of native plants
5 or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational
6 interests, or both."

7
8 **Section 3.** Section 76-6-201, MCA, is amended to read:

9 **"76-6-201. Conservation easements in general.** (1) Where a public body acquires under this
10 chapter an interest in land less than fee, this acquisition shall be by conservation easement.

11 (2) A conservation easement may be applied to urban or nonurban land.

12 (3) Except for easements acquired pursuant to Title 76, chapter 22, part 1, public bodies using any
13 public funds to acquire easements shall provide public access as part of the agreement."

14
15 **Section 4.** Section 76-6-204, MCA, is amended to read:

16 **"76-6-204. Acquisition of conservation easements by qualified private organizations.** (1) Any
17 qualified private organization may acquire by a conservation easement, by purchase, or by gift, devise,
18 bequest, or grant title to any interest or interests in rights in real property, including land and water, that will
19 provide a means for the preservation or provision of permanent significant open-space land and/or the
20 preservation of native plants or animals, biotic communities, public enjoyment or geological or geographical
21 formations of scientific, aesthetic, or educational interest.

22 (2) (a) Except for easements acquired pursuant to Title 76, chapter 22, part 1, a conservation
23 easement acquired by a qualified private organization that uses any public funds must provide public access as
24 part of the agreement, including public recreation that is reasonable and possible on the real property.

25 (b) A conservation easement subject to subsection (2)(a) may:

26 (i) include reasonable limitations on recreational use of the real property if those recreational uses
27 hinder the productive use of the real property by the landowner; and

28 (ii) waive liability to the real property owner related to recreational use."

Section 5. Section 76-6-207, MCA, is amended to read:

"76-6-207. Recording and description of easement. (1) All conservation easements must be recorded in the county where the land lies so as to effect the land's title in the manner of other conveyances of interest in land and must:

(a) describe the land subject to the conservation easement by adequate legal description or by reference to a recorded plat showing its boundaries; and

(b) include the public access provisions required by 76-6-201 and 76-6-204.

(2) (a) The county clerk and recorder shall, upon recording, place a copy of the conservation easement in a separate file within the office of the county clerk and recorder.

(b) The county clerk and recorder shall provide a copy of the conservation easement to the department of revenue office in that county within 30 days of the receipt of the original conservation easement."

Section 6. Section 76-6-212, MCA, is amended to read:

"76-6-212. Additional reporting procedures -- coordination of information collection, transfer, and accessibility. ~~(1) A public body or qualified private organization holding a conservation easement before October 1, 2007, shall mail or electronically transfer a copy of that conservation easement to the department of revenue within 6 months of October 1, 2007.~~

~~(2)(1)~~ (1) The department of revenue shall review conservation easement agreements collected pursuant to 76-6-207 and subsection (1) of this section and record the:

(a) legal description of the conservation easement as it relates to the established property boundaries identified in the conservation easement agreement;

(b) approximate acreage as identified in the conservation easement agreement;

(c) date of the conservation easement agreement;

(d) book and page or document number as provided for in 7-4-2617; ~~and~~

(e) name of the conservation easement grantee; and

(f) the public access provisions required by 76-6-201 and 76-6-204.

~~(3)(2)~~ (2) (a) The department of revenue shall transfer conservation easement information collected

pursuant to 76-6-207 ~~and subsections (1) and (2) and subsection (1)~~ of this section to the state library.

(b) The department of revenue shall coordinate with the state library to develop procedures regarding the collection and transfer of conservation easement information between the two agencies.

(c) The state library shall convert conservation easement information received from the department of revenue to a digital format for land information purposes authorized in Title 90, chapter 1, part 4, that can be accessed through the state library's website.

(d) The state library shall incorporate the conservation easement data into appropriate databases developed or maintained by the Montana natural heritage program for the purposes of Title 90, chapter 15."

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 8. Applicability. [This act] applies to conservation easements where written negotiations begin on or after [the effective date of this act].

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