

Amendment - 2nd Reading-yellow - Requested by: Alanah Griffith - (H) Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Rachel Weiss,

HB0233.002.001

HOUSE BILL NO. 233

INTRODUCED BY A. GRIFFITH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE TRANSFER OF TITLE OF OPEN SPACES IN A RECORDED FINAL PLAT TO A HOMEOWNERS' ASSOCIATION; REQUIRING A PUBLIC HEARING; PROVIDING A DEFINITION; ~~AND~~ AMENDING SECTIONS 76-3-103, 76-8-101, 76-25-103, AND 76-25-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Transfer of title of open spaces in recorded final plat.** (1) After a final subdivision plat has been filed for record with the county clerk and recorder, a homeowners' association may file a petition with the governing body to transfer title to the homeowners' association of any open spaces, parks, or similar common-use areas set aside in the final plat if the following conditions are met:

- (a) the homeowners' association is organized in accordance with the covenants;
- (b) the covenants require the homeowners' association to maintain, repair, or insure the open spaces, parks, or similar common-use areas; ~~and~~
- (c) the governing body finds that it was the intent of the subdivider that the open spaces, parks, or similar common-use areas be owned by the homeowners' association; AND

(D) THE PROPERTY TO BE TRANSFERRED IS NOT OWNED BY A PERSON.

(2) The petition under subsection (1) must be signed by an authorized representative of the homeowners' association.

(3) After a public hearing on the petition, the governing body shall issue written findings of fact and a decision based on the record. If the requirements of subsection (1) have been met, the governing body shall approve the transfer. If the governing body approves the transfer, the approval must be recorded with the clerk and recorder.

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(iii) the governing body finds that it was the intent of the subdivider that the open spaces, parks, or similar common-use areas be owned by the homeowners' association; AND

(iv) THE PROPERTY TO BE TRANSFERRED IS NOT OWNED BY A PERSON.

(b) The petition under subsection (6)(a) must be signed by an authorized representative of the homeowners' association.

(c) After a public hearing on the petition, the governing body shall issue written findings of fact and a decision based on the record. If the requirements of subsection (6)(a) have been met, the governing body shall approve the transfer. If the governing body approves the transfer, the approval must be recorded with the clerk and recorder."

NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 3, part 3, and the provisions of Title 76, chapter 3, part 3, apply to [section 1].

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

NEW SECTION. Section 8. Applicability. [This act] applies retroactively, within the meaning of 1-2-109, to final subdivision plats recorded on or after October 1, 1973.

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