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SENATE BILL NO. 301

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INTRODUCED BY G. HERTZ, M. BERTOGLIO, S. FITZPATRICK, C. SPRUNGER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO REAL PROPERTY AND
5 REGULATIONS; PROVIDING THAT CERTAIN CONSTRUCTION IS GRANDFATHERED; AND PROVIDING
6 AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

10 WHEREAS, a local government reviewing authority or the state has had ample opportunity to initiate an
11 enforcement action prior to January 1, 2023, if the local government reviewing authority or the state believes
12 the lakeshore or aquatic life is being threatened by historical structures located within the lakeshore protection
13 zone area.

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

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17 **NEW SECTION. Section 1. Lakeshore protection zone grandfathered -- exemptions from future**
18 **permitting -- retroactive applicability.** (1) For the purposes of the implementation and enforcement of

19 lakeshore regulations adopted pursuant to 75-7-207, any CLEARLY VISIBLE boat ramp, boat house, boat shore
20 station, boat rail system, dock system, pier, wharf, retaining wall, road, or other structure located within the
21 lakeshore protection zone on or before January 1, 2023, is considered to be grandfathered for the purposes of
22 compliance with the regulations unless the item is the subject of a current, active, and documented
23 enforcement action by a local government reviewing authority or the state.

24 (2) Ongoing maintenance, remodeling, or minor modifications to the items set forth in subsection
25 (1) are exempt from lakeshore protection zone review unless the activity involves significant excavation,
26 dredging, or in-fill of material OR OTHERWISE SIGNIFICANTLY IMPACTS WATER QUALITY. For the purposes of this
27 subsection, a minor modification is a change to the items set forth in subsection (1) that is less than \$10,000.

Amendment - 1st Reading/2nd House-blue - Requested by: Jill Cohenour - (H) Local Government

- 2023

68th Legislature 2023

Drafter: Laura Sankey Keip, 406-444-4410

SB0301.002.001

1 (3) Nothing in this section may be construed to prevent the local government reviewing authority or
2 the state from compensating a property owner to remove or alter any of the items in subsection (1) if the local
3 government reviewing authority or the state believes it is in the best interests of lakeshore protection and
4 aquatic life.

5 (4) (a) THIS SECTION DOES NOT APPLY TO ITEMS SET FORTH IN SUBSECTION (1) THAT WERE
6 CONSTRUCTED ILLEGALLY AND OR CAUSE MATERIAL HARM TO LAKESHORE STABILITY, WATER QUALITY, OR AQUATIC LIFE.

7 (b) For the purposes of this section, an item set forth in subsection (1):

8 (i) was constructed illegally if the item was not permitted under the laws and regulations as the
9 laws and regulations existed at the time of construction; or

10 (ii) causes material harm if the item creates one of the conditions specified in 75-7-208.

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12 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
13 integral part of Title 75, chapter 7, part 2, and the provisions of Title 75, chapter 7, part 2, apply to [section 1].

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

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17 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the
18 meaning of 1-2-109, to lakeshore regulations adopted and property items constructed prior to January 1, 2023.

19 - END -