

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to subdivisions; providing for subdivision of land prior to construction or sale; defining water supply systems; providing for requirement of homeowners' or related associations in subdivisions plans as specified; providing for mediation for disputes between members of homeowner or related associations; requiring notice of dominance of mineral estates in subdivisions as specified; providing for fees; providing an exception to qualify certain parcels as agricultural land for taxation purposes; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 18-5-318 is created to read:

18-5-318. Large parcels used for agricultural purposes.

If any lot, unit, tract or parcel not less than thirty-five (35) acres in size is used for agricultural purposes within a platted subdivision and otherwise qualifies as agricultural land for purposes of W.S. 39-13-103(b)(x), the parcel shall be deemed not to be part of a platted subdivision for purposes of W.S. 39-13-103(b)(x)(B)(II).

Section 2. W.S. 18-5-302(a)(v) and (ix), 18-5-304, 18-5-306(a)(intro), by creating a new paragraph (xii) and by creating new subsection (e), 18-5-309, 18-5-314, 18-5-316(b) by creating a new paragraph (x) and 39-13-103(b)(x)(B)(II) are amended to read:

18-5-302. Definitions.

(a) As used in this article:

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(v) "Sell" or "sale" includes sale as evidenced by the delivery of a deed, contract ~~to sell for deed~~, lease, assignment, auction, or award by lottery, ~~or any offer or solicitation of any offer to do any of the foregoing~~, concerning a subdivision or any part of a subdivision. "Sell" or "sale" does not include a contract to sell which is expressly contingent upon the recording of the final plat by the county clerk, if all funds paid by the buyer under the contract are escrowed with a financial institution located in this state or a title company licensed to do business in this state until the final plat is recorded and the seller tenders the deed or the contract to sell is cancelled or the buyer and seller agree otherwise in writing;

(ix) "Water supply system" includes development of the source and all structures for conveyance of raw water to the treatment plant or delivery systems; all water treatment plants including disinfection facilities; water supply systems used for irrigation and stock water; and all finished water delivery systems including pipelines, pumping stations and finished water storage facilities; ~~Separate water supply systems used solely for irrigation or stock water are not included;~~

18-5-304. Subdivision permit required.

No person shall ~~subdivide~~ sell land subject to subdivision regulation under this article, record a plat or commence construction of a subdivision without first obtaining a subdivision permit pursuant to W.S. 18-5-306 or, if applicable, W.S. 18-5-316 from the board of the county in which the land is located.

18-5-306. Minimum requirements for subdivision permits.

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(a) The board shall require, and with respect to paragraph (xii) of this subsection may require, the following information to be submitted with each application for a subdivision permit, provided the board may by rule exempt from any of the following requirements of this subsection or subsection (c) of this section and may exempt from paragraph (xii) of this subsection the subdivision of one (1) or more units of land into not more than a total of five (5) units of land:

(xii) Evidence that all parcels of land created by the subdivision will be subject to written and recorded covenants or other instruments creating an entity, binding on subsequent owners of the land within the subdivision. The entities that may be used include, but are not limited to, special improvement districts, homeowners associations and mutual benefit corporations. The board shall not mandate the creation of an entity with the ability to interfere with any owner's ability to use his private property, except to collect any assessment. The entity shall have the ability to address the following topics:

(A) Maintenance and responsibility for common areas, roads and water supply systems and assessments against all parcels of land in the subdivision to defray the costs thereof;

(B) Continued management of the entity.

(e) If the permit is approved the board shall require the applicant to put a legend on the plat and on all offers, contracts or agreements for the sale and purchase of lots within the subdivision showing in capital letters "THE SURFACE ESTATE OF THE LAND TO BE SUBDIVIDED IS SUBJECT TO FULL AND EFFECTIVE DEVELOPMENT OF THE MINERAL ESTATE".

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18-5-309. Permit fee.

Each application for a subdivision permit shall be accompanied by a reasonable fee ~~to be not to exceed the cost of processing the application as~~ determined by the board. ~~The fee shall be the greater of one hundred dollars (\$100.00) or ten dollars (\$10.00) per lot up to a maximum fee of one thousand dollars (\$1,000.00).~~ All fees collected shall be credited to the county general fund.

18-5-314. Penalties.

Any person who willfully violates any provision of this article or any rule or order issued under this article, ~~and any person who as an agent for a subdivider, developer or owner of subdivided lands offers for sale any subdivided lands or subdivisions without first complying with the provisions of this article~~ shall upon conviction be fined not more than five hundred dollars (\$500.00) or imprisoned in a county jail for not more than thirty (30) days or both. Each day of violation constitutes a new offense.

18-5-316. Requirements for large acreage subdivision permits.

(b) The board may require any or all of the following information to be submitted with an application for a subdivision permit pursuant to this section:

(x) Evidence that all parcels of land created by the subdivision will be subject to written and recorded covenants or other instruments creating an entity, binding on subsequent owners of the land within the subdivision. The entities that may be used include, but are not limited to, special improvement districts, homeowners associations

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and mutual benefit corporations. The board shall not mandate the creation of an entity with the ability to interfere with any owner's ability to use his private property, except to collect any assessment. The entity shall have the ability to address the following topics:

(A) Maintenance and responsibility for common areas, roads and water supply systems and assessments against all parcels of land in the subdivision to defray the costs thereof;

(B) Continued management of the entity.

39-13-103. Imposition.

(b) Basis of tax. The following shall apply:

(x) The following shall apply to agricultural land:

(B) Contiguous or noncontiguous parcels of land under one (1) operation owned or leased shall qualify for classification as agricultural land if the land meets each of the following qualifications:

(II) The land is not part of a platted subdivision, except for a parcel of thirty-five (35) acres or more which otherwise qualifies as agricultural land;

Section 3. W.S. 18-5-318 as created by section 1 of this act and W.S. 39-13-103(b)(x)(B)(II) as amended by section 2 of this act shall apply to any property tax assessed on or after January 1, 2009.

Section 4.

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(a) Sections 1 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) The remainder of this act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk