

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 643

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO SUBDIVIDING LAND; AMENDING SECTION 67-6513, IDAHO CODE, TO PRO-
2 VIDE REQUIREMENTS FOR EXEMPTIONS FROM COUNTY SUBDIVISION ORDINANCES,
3 REGULATIONS, RULES, AND PROCESSES; AMENDING SECTION 67-6523, IDAHO
4 CODE, TO LIMIT THE APPLICATION OF EMERGENCY ORDINANCES AND MORATORI-
5 UMS; AMENDING SECTION 67-6524, IDAHO CODE, TO LIMIT THE APPLICATION
6 OF INTERIM ORDINANCES AND MORATORIIUMS; AND DECLARING AN EMERGENCY AND
7 PROVIDING AN EFFECTIVE DATE.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 67-6513, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 67-6513. SUBDIVISION ORDINANCE. (1) Each governing board shall pro-
13 vide, by ordinance adopted, amended, or repealed in accordance with the no-
14 tice and hearing procedures provided under section 67-6509, Idaho Code, for
15 standards and for the processing of applications for subdivision permits un-
16 der sections 50-1301 through 50-1329, Idaho Code this chapter. Each such or-
17 dinance may provide for mitigation of the effects of subdivision development
18 on the ability of political subdivisions of the state, including school dis-
19 tricts, to deliver services without compromising quality of service deliv-
20 ery to current residents or imposing substantial additional costs upon cur-
21 rent residents to accommodate the proposed subdivision.

22 (2) Each county governing board shall enact and maintain an ordinance
23 expressly exempting each of the following qualifying actions to divide land
24 from all requirements of such county's subdivision ordinances, subdivision
25 regulations, subdivision rules, and subdivision processes:

26 (a) A division of land performed to adjust lot lines shown on a recorded
27 subdivision plat or the assessor's records; provided that to qualify
28 for this exemption such division of land must not result in a violation
29 of the county's minimum setback requirements or minimum dimensional
30 standards or any covenant applicable to an existing subdivision plat;

31 (b) A division of land for the limited purpose of settling a decedent's
32 estate by distributing real property among a decedent's heirs pursuant
33 to a will, a court order, or a determination by an authorized executor,
34 personal representative, or estate administrator;

35 (c) A division of land comprised of eighty (80) or more acres, whether
36 in a single lot or parcel or in multiple contiguous lots or parcels, into
37 two (2) or more lots or parcels, with each resulting lot or parcel being
38 comprised of twenty (20) or more acres;

39 (d) A division of land for the limited purpose of allocating, convey-
40 ing, dedicating, or granting to the public a right to use a lot or parcel
41 resulting from such land division as a trail or pathway; provided the

1 resulting lot or parcel and the use thereof may be subject to reasonable
 2 rules governing such public use;

3 (e) A division of public land owned or managed by a government agency
 4 for a public purpose; and

5 (f) A division of land for the purpose of conveying property to the
 6 owner of a lot or parcel that is adjacent to and abutting the property
 7 being conveyed.

8 (3) A county may enact and maintain additional exemptions from the
 9 requirements of its subdivision ordinances, subdivision regulations, sub-
 10 division rules, and subdivision processes as it deems necessary or proper;
 11 provided, however, that the exemptions set forth in subsection (2) of this
 12 section shall not be limited or circumscribed in any way whatsoever by such
 13 additional exemptions.

14 (4) No county governing board shall enact or maintain any ordinance or
 15 policy that subjects a division of land qualifying for one (1) or more of the
 16 exemptions set forth in subsection (2) of this section to any regulations,
 17 rules, or processes applicable to subdivisions of land in such county.

18 (5) Fees established for purposes of mitigating the financial impacts
 19 of development must comply with the provisions of chapter 82, title 67, Idaho
 20 Code.

21 (6) Denial of a subdivision permit or approval of a subdivision permit
 22 with conditions unacceptable to the landowner may be subject to the regula-
 23 tory taking analysis provided for by section 67-8003, Idaho Code, consistent
 24 with the requirements established thereby.

25 SECTION 2. That Section 67-6523, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 67-6523. EMERGENCY ORDINANCES AND MORATORIUMS. If a governing board
 28 finds that an imminent peril to the public health, safety, or welfare re-
 29 quires adoption of ordinances as required or authorized under this chapter,
 30 or adoption of a moratorium upon the issuance of selected classes of permits,
 31 or both, it shall state in writing its reasons for that finding. The gov-
 32 erning board may then proceed without recommendation of a commission, upon
 33 any abbreviated notice of hearing that it finds practical, to adopt the ordi-
 34 nance or moratorium. An emergency ordinance or moratorium may be effective
 35 for a period of not longer than one hundred eighty-two (182) days. Restric-
 36 tions established by an emergency ordinance or moratorium may not be imposed
 37 for consecutive periods. Further, an intervening period of not less than one
 38 (1) year shall exist between an emergency ordinance or moratorium and rein-
 39 statement of the same. To sustain restrictions established by an emergency
 40 ordinance or moratorium beyond the one hundred eighty-two (182) day period,
 41 a governing board must adopt an interim or regular ordinance, following the
 42 notice and hearing procedures provided in section 67-6509, Idaho Code. The
 43 authority of a governing board to adopt an emergency ordinance or moratorium
 44 pursuant to this section shall not include or apply to the required exemp-
 45 tions from county subdivision ordinances, county subdivision regulations,
 46 and county subdivision rules as provided in section 67-6513, Idaho Code.

47 SECTION 3. That Section 67-6524, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 67-6524. INTERIM ORDINANCES AND MORATORIUMS. If a governing board
2 finds that a plan, a plan component, or an amendment to a plan is being pre-
3 pared for its jurisdiction, it may adopt interim ordinances as required or
4 authorized under this chapter, following the notice and hearing procedures
5 provided in section 67-6509, Idaho Code. The governing board may also adopt
6 an interim moratorium upon the issuance of selected classes of permits if, in
7 addition to the foregoing, the governing board finds and states in writing
8 that an imminent peril to the public health, safety, or welfare requires the
9 adoption of an interim moratorium. An interim ordinance or moratorium shall
10 state a definite period of time, not to exceed one (1) calendar year, when it
11 shall be in full force and effect. To sustain restrictions established by
12 an interim ordinance or moratorium, a governing board must adopt a regular
13 ordinance, following the notice and hearing procedures provided in section
14 67-6509, Idaho Code. The authority of a governing board to adopt an interim
15 ordinance or moratorium pursuant to this section shall not include or apply
16 to the required exemptions from county subdivision ordinances, county sub-
17 division regulations, and county subdivision rules as provided in section
18 67-6513, Idaho Code.

19 SECTION 4. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after
21 July 1, 2022.