

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. \_\_\_\_\_

Subdivisions-requirements.

Sponsored by: Joint Corporations, Elections and Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to subdivisions; providing for subdivision  
2 of land prior to construction or sale; defining water  
3 supply systems; providing for requirement of homeowners' or  
4 related associations in subdivisions plans as specified;  
5 providing for arbitration or mediation for disputes between  
6 members of homeowner or related associations; requiring  
7 notice of dominance of mineral estates in subdivisions as  
8 specified; providing for fees; and providing for an  
9 effective date.

10

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

12

1           **Section 1.** W.S. 18-5-302(a)(v) and (ix), 18-5-304,  
2 18-5-306(a) by creating a new paragraph (xii) and by  
3 creating new subsection (e), 18-5-309, 18-5-312, 18-5-314  
4 and 18-5-316(b) by creating a new paragraph (x) are amended  
5 to read:

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7           **18-5-302. Definitions.**

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9           (a) As used in this article:

10

11                   (v) "Sell" or "sale" includes sale as evidenced  
12 by the delivery of a deed, contract ~~to sell~~ for deed,  
13 ~~lease~~, assignment, auction, or award by lottery, ~~or any~~  
14 ~~offer or solicitation of any offer to do any of the~~  
15 ~~foregoing~~, concerning a subdivision or any part of a  
16 subdivision;

17

18                   (ix) "Water supply system" includes development  
19 of the source and all structures for conveyance of raw  
20 water to the treatment plant or delivery systems; all water  
21 treatment plants including disinfection facilities; water  
22 supply systems used for irrigation and stock water; and all  
23 finished water delivery systems including pipelines,

1 pumping stations and finished water storage facilities;  
2 ~~Separate water supply systems used solely for irrigation or~~  
3 ~~stock water are not included;~~

4

5 **18-5-304. Subdivision permit required.**

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

12

13 **18-5-306. Minimum requirements for subdivision**  
14 **permits.**

15

16 (a) The board shall require the following information  
17 to be submitted with each application for a subdivision  
18 permit, provided the board may by rule exempt from any of  
19 the following requirements of this subsection or subsection

20 (c) of this section and shall exempt from paragraph (xii)  
21 of this subsection the subdivision of one (1) or more units  
22 of land into not more than a total of five (5) units of  
23 land:

1

2

(xii) Evidence that the owners of all parcels of land created by the subdivision have entered into an agreement creating a homeowner's association or similar entity, binding on subsequent owners of the land within the subdivision, that addresses the following topics:

7

8

(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;

12

13

(B) Continued management of the homeowner's association;

15

16

(C) Provisions requiring dispute resolution between members of the homeowner's association or similar entity through arbitration as provided in W.S. 1-36-101 through 1-36-119 or mediation as provided in W.S. 1-43-101 through 1-43-104;

21

22

(D) Provisions designating a person or entity initially responsible for representing the

23

1 landowners in disputes against the association or entity  
2 where another party is asserting legal rights or  
3 responsibilities against the association or entity which  
4 shall be filed with the county clerk initially and upon any  
5 change of the person designated; and

6  
7 (E) Nuisance abatement and covenants.

8  
9 (e) If the permit is approved the board shall require  
10 the applicant to put a legend on the plat and on all  
11 offers, contracts or agreements for the sale and purchase  
12 of lots within the subdivision showing in capital letters  
13 "THE SURFACE ESTATE OF THE LAND TO BE SUBDIVIDED IS SUBJECT  
14 TO FULL AND EFFECTIVE DEVELOPMENT OF THE MINERAL ESTATE".

15  
16 **18-5-309. Permit fee.**

17  
18 Each application for a subdivision permit shall be  
19 accompanied by a fee to be determined by the board. ~~The~~  
20 ~~fee shall be the greater of one hundred dollars (\$100.00)~~  
21 ~~or ten dollars (\$10.00) per lot up to a maximum fee of one~~  
22 ~~thousand dollars (\$1,000.00).~~ All fees collected shall be  
23 credited to the county general fund.

1

2 **\*\*\* Staff note: This leaves the county with no guidance as**  
3 **to how fees shall be set and may be an unlawful delegation**  
4 **of authority. At the very least the fee should be**  
5 **"reasonable" and set through some process that allows**  
6 **public input to ensure that it is not arbitrary and**  
7 **capricious. \*\*\***

8

9 **18-5-312. Enforcement.**

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11 (a) Except as provided in subsection (b) of this  
12 section, the provisions of this article are enforceable by  
13 all appropriate legal remedies including but not limited to  
14 injunctive relief or a writ of mandamus. Upon failure or  
15 refusal of any county attorney to act upon a violation of  
16 the provisions of this article, the attorney general at the  
17 request of the board shall initiate civil or criminal  
18 proceedings to enforce the provisions of this article.

19

20 (b) Before civil proceedings may be brought pursuant  
21 to subsection (a) of this section, all disputes arising  
22 under homeowner's association agreements or the  
23 organization documents of any similar entity required under  
24 W.S. 18-5-306(a)(xii) and 18-5-316(b)(x) shall be subject  
25 to mediation proceedings as provided in this section and  
26 subject to the provisions of W.S. 1-43-101 through 1-43-104

1 or arbitration pursuant to W.S. 1-36-101 through 1-36-119.  
2 Expenses and fees for the mediators shall be borne by the  
3 parties to the mediation.

4  
5 **18-5-314. Penalties.**

6  
7 Any person who willfully violates any provision of this  
8 article or any rule or order issued under this article, ~~and~~  
9 ~~any person who as an agent for a subdivider, developer or~~  
10 ~~owner of subdivided lands offers for sale any subdivided~~  
11 ~~lands or subdivisions without first complying with the~~  
12 ~~provisions of this article~~ shall upon conviction be fined  
13 not more than five hundred dollars (\$500.00) or imprisoned  
14 in a county jail for not more than thirty (30) days or  
15 both. Each day of violation constitutes a new offense.

16  
17 **18-5-316. Requirements for large acreage subdivision**  
18 **permits.**

19  
20 (b) The board may require any or all of the following  
21 information to be submitted with an application for a  
22 subdivision permit pursuant to this section:

23

1           (x) Evidence that the owners of all parcels of  
2 land created by the subdivision have entered into an  
3 agreement creating a homeowner's association or similar  
4 entity, binding on subsequent owners of the land within the  
5 subdivision, that addresses the following topics:

6  
7           (A) Maintenance and responsibility for  
8 common areas, roads and water supply systems and  
9 assessments against all parcels of land in the subdivision  
10 to defray the costs thereof;

11  
12           (B) Continued management of the homeowner's  
13 association;

14  
15           (C) Provisions requiring dispute resolution  
16 between members of the homeowner's association or similar  
17 entity through arbitration as provided in W.S. 1-36-101  
18 through 1-36-119 or mediation as provided in W.S. 1-43-101  
19 through 1-43-104;

20  
21           (D) Provisions designating a person or  
22 entity initially responsible for representing the  
23 landowners in disputes against the association or entity



1 where another party is asserting legal rights or  
2 responsibilities against the association or entity which  
3 shall be filed with the county clerk initially and upon any  
4 change of the person designated; and

5

6 (E) Nuisance abatement and covenants.

7

8 **Section 2.** This act is effective July 1, 2009.

9

10

(END)