



AN ACT PROVIDING FOR THE OWNERSHIP OF THE CHANNEL AND FORMER CHANNEL OF A NAVIGABLE RIVER OR STREAM; PROVIDING THAT A FORMER CHANNEL IS OWNED BY THE ADJACENT LANDOWNER AND THE LAND UNDER THE NEW CHANNEL IS OWNED BY THE STATE; DEFINING THE TERM "NAVIGABLE"; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 77-1-102, MCA; REPEALING SECTION 70-18-202, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

Section 1. Sudden change in bed of navigable river or stream. (1) (a) If a navigable river or stream rapidly abandons its channel and forms a new river or stream channel, the land that constituted the old channel belongs to the owner of the shores through which the old channel flowed or, if the shores are owned by different owners, to the owners of the shore on the two sides, divided by an imaginary line drawn through the middle of the old river or stream channel. The land that constituted the old channel is subject to property taxation payable by the new owners.

(b) Within 6 months of the sudden change, the affected owners shall provide the department of natural resources and conservation and the department of revenue with a land survey and any other information required by either agency to verify the sudden change and update the applicable ownership records.

(c) The department of natural resources and conservation and the department of revenue may adopt rules to implement the provisions of this section.

(2) Ownership remains unchanged for land that constituted an island before the avulsion occurred in the channel and that is not wholly surrounded by water after the river has abandoned the old channel.

(3) As a channel of a navigable river or stream, the land under the water of the new channel belongs to the state pursuant to 70-1-202.

(4) For the purposes of this section, "navigable" means a river or stream adjudicated as navigable for title purposes by a court of competent jurisdiction.

Section 2. Section 77-1-102, MCA, is amended to read:

"77-1-102. Ownership of certain islands and abandoned riverbeds. (1) ~~At~~ Except as provided in [section 1] and subsection (2) of this section and subject to Title 70, chapter 18, part 2, the following lands belong to the state of Montana to be held in trust for the benefit of the public schools of the state:

(a) all lands lying and being in and forming a part of the abandoned bed of any navigable stream or lake in this state and lying between the meandered lines of such the stream or lake as the same are shown by the United States survey thereof and of the stream or lake; and

(b) all islands existing in the navigable streams or lakes in this state which that have not been surveyed by the government of the United States and all lands which that at any time in the past comprised such constituted an island or any part thereof, of an island.

(2) This section does not apply to except such lands as that are occupied by and belong to the adjacent landowners as that were formed by accretions, belong to the state of Montana to be held in trust for the benefit of the public schools of the state.

(3) For the purposes of this section:

(a) "abandoned bed" means a river bed or stream bed with no water over it; and

(b) "navigable" means a river or stream adjudicated as navigable for title purposes by a court of competent jurisdiction."

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

70-18-202. Sudden removal of bank -- right of owner to reclaim.

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 70, chapter 18, part 2, and the provisions of Title 70, chapter 18, part 2, apply to [section 1].

Section 5. Applicability. [This act] applies to a sudden change in the bed of a navigable river or stream that occurs on or after October 1, 2011.

- END -

I hereby certify that the within bill,
SB 0299, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 299

INTRODUCED BY B. HAMLETT, T. BROWN

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