Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 112 (as enrolled)
Sponsor: Senator Leon Stille
Senate Committee: Local, Urban and State Affairs
House Committee: Local Government

Date Completed: 12-23-96

## CONTENT

**The bill would amend the Subdivision Control Act, which the bill would rename the "Land Division Act", to do the following:**

- **Specify that a land "division" (resulting in one or more parcels of less than 40 acres or the equivalent) would be exempt from the Act's platting requirements if the division satisfied requirements in the bill concerning the number of resulting parcels, municipal approval, and the sale of unplatted land.**
- **Establish the maximum number of parcels that could result from a division, together with any previous division of the same parent parcel or parent tract (a parcel or tract lawfully in existence on the bill's effective date).**
- **Provide that a parcel of 40 acres or more would not count toward the number of parcels permitted or be subject to the requirements for municipal approval, if the parcel were accessible.**
- **Require a municipality to approve a proposed division if it met certain requirements, including depth to width ratios, accessibility, and, if a parcel were a development site, health department approval for water and sewage.**
- **Prohibit the sale of a parcel of unplatted land unless the deed contained a statement as to whether the right to make further exempt divisions would be conveyed.**
- **Require deeds to unplatted land to contain a statement concerning farming operations.**

Applicability of Act

The bill would delete a provision under which any division of land that results in a subdivision must be surveyed and a plat of it must be submitted, approved, and recorded as required by the Act. (A "plat" is a map or chart showing a subdivision of land. In general, the Act requires the approval of preliminary and final plats by the municipal governing body, the county road commission, the county drain commissioner, the State Transportation Department, the Department of Natural Resources, State and local health departments, the State Treasurer, and the county plat board. The Act also contains specific surveying and recording requirements.)

The bill specifies that a "subdivision" would be subject to the Act's platting requirements. A "division" would not be subject to the Act's platting requirements but would be subject to the requirements of Sections 108 and 109. (These sections would be added by the bill and pertain to the number of resulting parcels, municipal approval, and the sale of unplatted land.) An "exempt

split" would not be subject to approval under the Act as long as the resulting parcels were accessible.

Currently, the Act defines "subdivision" as the partitioning or dividing of a parcel or tract of land by the proprietor or his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, "where the act of division creates 5 or more parcels of land each of which is 10 acres or less in area; or 5 or more parcels of land each of which is 10 acres or less in area created by successive divisions within a 10-year period". The bill would refer, instead, to a partitioning or splitting that "results in 1 or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of this act by sections 108 and 109". As currently provided, "subdivision" would not include a property transfer between two or more adjacent parcels, if the property taken from one parcel were added to an adjacent parcel; and any resulting parcel would not be considered a building site unless the parcel conformed to the Act's requirements or the requirements of an applicable local ordinance.

Under the bill, "division" would have the same definition as "subdivision", except that "division" would refer to a partitioning or splitting that satisfied the requirements of Sections 108 and 109. "Exempt split" would refer to a partitioning or splitting that did not result in one or more parcels of less than 40 acres or the equivalent. "Forty acres or the equivalent" would mean 40 acres, a quarter-quarter section containing at least 30 acres, or a government lot containing at least 30 acres. "Tract" would mean two or more parcels that shared a common property line and were under the same ownership.

Division (Section 108)

The bill provides that a division, together with any previous divisions of the same parent parcel or parent tract, would have to result in a number of parcels that did not exceed the sum of the following:

-- Four parcels for the first 10 acres or fraction of 10 acres in the parent parcel or tract.
-- One additional parcel, for up to a maximum of 11 additional parcels, for each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract.
-- One additional parcel for each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract.

For a parent parcel or parent tract of at least 20 acres, the division could result in up to two parcels in addition to those allowed above, if one or both of the following applied:

-- Because of the establishment of one or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels would be created or required.
-- One of the resulting parcels comprised at least 60% of the area of the parent parcel or parent tract.

A parcel of at least 40 acres created by the division of a parent parcel or parent tract could not be counted toward the number of permitted parcels and would not be subject to the requirements of Section 109 if the parcel were accessible. "Accessible" would mean that a parcel met one or both of the following:

-- Had an area where a driveway provided vehicular access to an existing road or street and met all applicable location standards of the State Transportation Department or county road

commission and of the city or village, or had an area where a driveway could provide vehicular access to an existing road or street and met all such applicable location standards.
-- Was served by an existing easement that provided vehicular access to an existing road or street and that met all applicable location standards of the Transportation Department or county road commission and of the city or village, or could be served by a proposed easement that would provide vehicular access to an existing road or street and that would meet all such applicable location standards.

A parcel or tract created by an exempt split or a division would not be a new parent parcel or parent tract, and could be further partitioned or split without being subject to the Act's platting requirements, if at least 10 years had elapsed since the parcel or tract was recorded, the partitioning or splitting satisfied the requirements of Section 109, and the partitioning or splitting did not result in more than the following number of parcels, whichever was less:

-- Two parcels for the first 10 acres or fraction of 10 acres in the parcel or tract plus one additional parcel for each whole 10 acres in excess of the first 10 acres.
-- Seven parcels or 10 parcels if one of the resulting parcels comprised at least 60% of the parcel or tract being partitioned or split.

A parcel or tract created under this provision could not be further partitioned or split without being subject to the Act's platting requirements, except according to this provision.

Municipal Approval/Unplatted Land (Section 109)

Municipal Approval. Within 30 days after a proposed division was filed with the assessor or other locally designated official, a municipality would have to approve the division if, in addition to the requirements of Section 108, all of the following were met:

-- Each resulting parcel had an adequate and accurate legal description and was included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of Sections 108 and 109. The tentative parcel map would have to be a scale drawing showing the approximate dimensions of the parcels.
-- Each resulting parcel had a depth of not more than four times the width, or a smaller depth to width ratio as required by a municipal or county ordinance adopted to carry out the Act. Based on standards set forth in an ordinance, a municipality could allow a greater depth to width ratio than that otherwise required by this provision or a municipal or county ordinance. The standards could include, but would not have to include and would not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. These depth to width ratio requirements would not apply to a parcel larger than 10 acres, unless a municipal or county ordinance provided otherwise, and would not apply to the remainder of the parent parcel or parent tract retained by the proprietor.
-- Each resulting parcel had a width not less than that required by a municipal or county ordinance.
-- Each resulting parcel had an area not less than that required by a municipal or county ordinance.
-- Each resulting parcel was accessible.
-- The division met all of the requirements of Section 108.

In addition, each resulting parcel that was a development site would have to have all of the following: public water or health department approval for on-site water supply; public sewer or city, county, or district health department approval for on-site sewage disposal; and adequate

easements for public utilities from the parcel to existing public utility facilities. ("Health department" would mean the Department of Environmental Quality, a city health department, a county health department, or a district health department, whichever had jurisdiction. "Development site" would mean any parcel or lot on which existed or which was intended for building development other than the following: 1) forestry use involving the planting, management, or harvesting of timber; or 2) agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.)

Sale of Unplatted Land. A person could not sell a parcel of unplatted land unless the deed contained a statement as to whether the right to make further divisions exempt from the platting requirements of Sections 108 and 109 was proposed to be conveyed. The statement would have to be substantially in the form provided in the bill. In the absence of a statement conforming to these requirements, the right to make such divisions would stay with the remainder of the parent tract or parent parcel retained by the grantor

All deeds for parcels of unplatted land within the State after the bill's effective date would have to contain the following statement: "This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act."

The right to make divisions exempt from the Act's platting requirements under Sections 108 and 109 could be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract.

MCL 560.101 et al. Legislative Analyst: S. Margules

## FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross
M. Tyszkiewicz
G. Cutler

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