

HOUSE BILL No. 4381

February 26, 1997, Introduced by Rep. Wetters and referred to the Committee on Agriculture.

A bill to amend 1967 PA 288, entitled "Land division act," by amending sections 102, 105, 108, 109, and 261 (MCL 560.102, 560.105, 560.108, 560.109, and 560.261), sections 102 and 105 as amended and sections 108 and 109 as added by 1996 PA 591.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

2 (a) "Plat" means a map or chart of a subdivision of land.

3 (b) "Land" means all land areas occupied by real property.

4 (c) "Preliminary plat" means a map showing the salient fea-
5 tures of a proposed subdivision submitted to an approving author-
6 ity for purposes of preliminary consideration.

7 (d) "Division" means the partitioning or splitting of a
8 parcel or tract of land by the proprietor thereof or by his or
9 her heirs, executors, administrators, legal representatives,

1 successors, or assigns for the purpose of sale, or lease of more
2 than 1 year, or of building development that results in 1 or more
3 parcels of less than 40 acres or the equivalent, and that satis-
4 fies the requirements of sections 108 and 109. Division does not
5 include a property transfer between 2 or more adjacent parcels,
6 if the property taken from 1 parcel is added to an adjacent
7 parcel; and any resulting parcel shall not be considered a
8 ~~building~~ DEVELOPMENT site unless the parcel conforms to the
9 requirements of this act or the requirements of an applicable
10 local ordinance.

11 (e) "Exempt split" means the partitioning or splitting of a
12 parcel or tract of land by the proprietor thereof or by his or
13 her heirs, executors, administrators, legal representatives, suc-
14 cessors, or assigns that does not result in 1 or more parcels of
15 less than 40 acres or the equivalent. ~~For~~ EXEMPT SPLIT DOES
16 NOT INCLUDE a property transfer between 2 or more adjacent par-
17 cels, if the property taken from 1 parcel is added to an adjacent
18 parcel, AND any resulting parcel shall not be considered a
19 ~~building~~ DEVELOPMENT site unless the parcel conforms to the
20 requirements of this act or the requirements of an applicable
21 local ordinance.

22 (f) "Subdivide" or "subdivision" means the partitioning or
23 splitting of a parcel or tract of land by the proprietor thereof
24 or by his or her heirs, executors, administrators, legal repre-
25 sentatives, successors, or assigns for the purpose of sale, or
26 lease of more than 1 year, or of building development that
27 results in 1 or more parcels of less than 40 acres or the

1 equivalent, and that is not exempted from the platting
2 requirements of this act by sections 108 and 109. "Subdivide" or
3 "subdivision" does not include a property transfer between 2 or
4 more adjacent parcels, if the property taken from 1 parcel is
5 added to an adjacent parcel; and any resulting parcel shall not
6 be considered a ~~building~~ DEVELOPMENT site unless the parcel
7 conforms to the requirements of this act or the requirements of
8 an applicable local ordinance.

9 (g) "Parcel" means a continuous area or acreage of land
10 which can be described as provided for in this act.

11 (h) "Tract" means 2 or more parcels that share a common
12 property line and are under the same ownership.

13 (i) "Parent parcel" or "parent tract" means a parcel or
14 tract, respectively, lawfully in existence on ~~the effective date~~
15 ~~of the amendatory act that added this subdivision~~ JANUARY 21,
16 1997.

17 (j) "Accessible", in reference to a parcel, UNLESS THE CON-
18 TEXT CLEARLY INDICATES OTHERWISE, means that the parcel meets 1
19 or both of the following requirements:

20 (i) Has an area where a driveway provides vehicular access
21 to an existing road or street and meets all applicable location
22 standards of the state transportation department or county road
23 commission under ~~Act No. 200 of the Public Acts of 1969, being~~
24 ~~sections 247.321 to 247.329 of the Michigan Compiled Laws 1969~~
25 PA 200, MCL 247.321 TO 247.329, and of the ~~city or village~~
26 MUNICIPALITY, or has an area where a driveway can provide

1 vehicular access to an existing road or street and meet all such
2 applicable location standards.

3 (ii) Is served by an existing easement that provides vehicu-
4 lar access to an existing road or street and that meets all
5 applicable location standards of the state transportation depart-
6 ment or county road commission under ~~Act No. 200 of the Public~~
7 ~~Acts of 1969~~ 1969 PA 200, MCL 247.321 TO 247.329, and of the
8 ~~city or village~~ MUNICIPALITY, or can be served by a proposed
9 easement that will provide vehicular access to an existing road
10 or street and that will meet all such applicable location
11 standards.

12 (k) "Development site" means any parcel or lot on which
13 exists or which is intended for building development other than
14 the following:

15 (i) Agricultural use involving the production of plants and
16 animals useful to humans, including forages and sod crops;
17 grains, feed crops, and field crops; dairy and dairy products;
18 poultry and poultry products; livestock, including breeding and
19 grazing of cattle, swine, and similar animals; berries; herbs;
20 flowers; seeds; grasses; nursery stock; fruits; vegetables;
21 Christmas trees; and other similar uses and activities.

22 (ii) Forestry use involving the planting, management, or
23 harvesting of timber.

24 (l) "Forty acres or the equivalent" means 40 acres, a
25 quarter-quarter section containing not less than 30 acres, or a
26 government lot containing not less than 30 acres.

1 (m) "Lot" means a measured portion of a parcel or tract of
2 land, which is described and fixed in a recorded plat.

3 (n) "Outlot", when included within the boundary of a
4 recorded plat, means a lot set aside for purposes other than a
5 development site, park, or other land dedicated to public use or
6 reserved to private use.

7 (o) "Proprietor" means a natural person, firm, association,
8 partnership, corporation, or combination of any of them that
9 holds an ownership interest in land whether recorded or not.

10 (p) "Governing body" means the legislative body of a city or
11 village or the township board of a township.

12 (q) "Municipality" means a township, city, or village.

13 (r) "County plat board" means the register of deeds, who
14 shall act as chairperson, the county clerk, who shall act as sec-
15 retary, and the county treasurer. If the offices of county clerk
16 and register of deeds have been combined, the chairperson of the
17 board of supervisors shall be a member of the plat board and
18 shall act as chairperson. In a county where a board of auditors
19 is authorized by law such board may elect to serve on the county
20 plat board by adopting a resolution so ordering. A copy of the
21 recorded resolution shall be sent to the state treasurer.

22 (s) "Public utility" means all persons, firms, corporations,
23 copartnerships, or municipal or other public authority providing
24 gas, electricity, water, steam, telephone, sewer, or other serv-
25 ices of a similar nature.

26 (t) "Caption" means the name by which the plat is legally
27 and commonly known.

1 (u) "Replat" means the process of changing, or the map or
2 plat which changes, the boundaries of a recorded subdivision plat
3 or part thereof. The legal dividing of an outlot within a
4 recorded subdivision plat without changing the exterior bounda-
5 ries of the outlot is not a replat.

6 (v) "Surveyor" means a professional surveyor licensed under
7 article 20 of the occupational code, ~~Act No. 299 of the Public~~
8 ~~Acts of 1980, being sections 339.2001 to 339.2014 of the Michigan~~
9 ~~Compiled Laws~~ 1980 PA 299, MCL 339.2001 TO 339.2014.

10 (w) "Engineer" means a civil engineer who is a professional
11 engineer licensed under article 20 of the occupational code, ~~Act~~
12 ~~No. 299 of the Public Acts of 1980, being sections 339.2001 to~~
13 ~~339.2014 of the Michigan Compiled Laws~~ 1980 PA 299, MCL 339.2001
14 TO 339.2014.

15 (x) "Government survey" means the land surveyed, subdivided
16 and monumented by the United States public land survey.

17 (y) "Michigan coordinate system" means the system defined in
18 ~~Act No. 9 of the Public Acts of 1964, being sections 54.231 to~~
19 ~~54.239 of the Michigan Compiled Laws~~ 1964 PA 9, MCL 54.231 TO
20 54.239.

21 (z) "Alley" means a public or private right of way shown on
22 a plat which provides secondary access to a lot, block, or parcel
23 of land.

24 (aa) "Health department" means the department of environmen-
25 tal quality, a city health department, a county health depart-
26 ment, or a district health department, whichever has
27 jurisdiction.

1 (bb) "Public sewer" means a sewerage system as defined in
2 section 4101 of part 41 (sewerage systems) of the natural
3 resources and environmental protection act, ~~Act No. 451 of the~~
4 ~~Public Acts of 1994, being section 324.4101 of the Michigan~~
5 ~~Compiled Laws~~ 1994 PA 451, MCL 324.4101.

6 (cc) "Public water" means a system of pipes and structures
7 through which water is obtained and distributed to the public,
8 including wells and well structures, intakes, and cribs, pumping
9 stations, treatment plants, reservoirs, storage tanks and appur-
10 tenances, collectively or severally, actually used or intended
11 for use for the purpose of furnishing water to the public for
12 household or drinking purposes.

13 (dd) "Topographical map" means a map showing existing physi-
14 cal characteristics, with contour lines at sufficient intervals
15 to permit determination of proposed grades and drainage.

16 (ee) "Flood plain" means that area of land adjoining the
17 channel of a river, stream, water course, lake, or other similar
18 body of water which will be inundated by a flood which can rea-
19 sonably be expected for that region.

20 Sec. 105. (1) A MUNICIPALITY OR COUNTY MAY ADOPT AN ORDI-
21 NANCE OR PUBLISH RULES TO CARRY OUT THIS ACT.

22 (2) Approval of a preliminary plat ~~—~~ or final plat shall
23 be conditioned upon compliance with all of the following:

24 (a) ~~The provisions of this~~ THIS act.

25 (b) Any ordinance or published rules of a municipality or
26 county ~~adopted to carry out the provisions of this act~~ REFERRED
27 TO IN SUBSECTION (1).

1 (c) Any published rules of a county drain commissioner,
2 county road commission, or county plat board adopted to carry out
3 ~~the provisions of~~ this act.

4 (d) The rules of the state transportation department relat-
5 ing to provisions for the safety of entrance upon and departure
6 from the abutting state trunk line highways or connecting streets
7 and relating to the provisions of drainage as required by the
8 department's then currently published standards and
9 specifications.

10 (e) The rules of the department of consumer and industry
11 services for the approval of plats, including forms, certificates
12 of approval, and other required certificates, captioning of
13 plats, and numbering of lots.

14 (f) The rules of the department of environmental quality for
15 the determination and establishment of floodplain areas of
16 rivers, streams, creeks, or lakes, as provided in this act, as
17 published in the state administrative code.

18 (g) The rules of the department of environmental quality
19 relating to suitability of groundwater for on-site water supply
20 for subdivisions or development sites not served by public water
21 or to suitability of soils for subdivisions or development sites
22 not served by public sewers. The department of environmental
23 quality may authorize a city, county, or district health depart-
24 ment to carry out the provisions of this act and rules promul-
25 gated under this act relating to suitability of groundwater for
26 subdivisions or development sites not served by public water or
27 relating to suitability of soils for subdivisions or development

1 sites not served by public sewers. The department of
2 environmental quality may require percolation tests and boring
3 tests to determine suitability of soils. When such tests are
4 required, they shall be conducted under the supervision of ~~a~~
5 ~~registered~~ AN engineer, ~~registered land~~ surveyor, or regis-
6 tered sanitarian in accordance with uniform procedures estab-
7 lished by the department of environmental quality.

8 Sec. 108. (1) A division is not subject to the platting
9 requirements of this act BUT IS SUBJECT TO APPROVAL UNDER SECTION
10 109.

11 (2) ~~Subject to subsection (3), the~~ A division, together
12 with any previous divisions of the same parent parcel or parent
13 tract, shall result in a number of parcels not more than the sum
14 of the following, as applicable:

15 (a) For the first 10 acres or fraction thereof in the parent
16 parcel or parent tract, ~~4~~ 2 parcels.

17 (b) For each whole 10 acres in excess of the first 10 acres
18 in the parent parcel or parent tract, 1 additional parcel, for up
19 to a maximum of ~~11~~ 3 additional parcels.

20 (c) FOR EACH WHOLE 20 ACRES IN EXCESS OF THE FIRST 40 ACRES
21 IN THE PARENT PARCEL OR PARENT TRACT, 1 ADDITIONAL PARCEL, FOR UP
22 TO A MAXIMUM OF 4 ADDITIONAL PARCELS.

23 (d) ~~(c)~~ For each whole 40 acres in excess of the first 120
24 acres in the parent parcel or parent tract, 1 additional parcel,
25 FOR UP TO A MAXIMUM OF 10 ADDITIONAL PARCELS.

26 ~~(3) For a parent parcel or parent tract of not less than 20~~
27 ~~acres, the division may result in a total of 2 parcels in~~

1 addition to those permitted by subsection (2) if 1 or both of the
2 following apply:

3 (E) ~~(a) Because~~ TWO ADDITIONAL PARCELS IF, BECAUSE of the
4 establishment of 1 or more new roads, no new driveway accesses to
5 an existing public road for any of the resulting parcels under
6 ~~subsection (2) or~~ this subsection are created or required.

7 ~~(b) One of the resulting parcels under subsection (2) and~~
8 ~~this subsection comprises not less than 60% of the area of the~~
9 ~~parent parcel or parent tract.~~

10 (3) THE RIGHT TO MAKE SUBSEQUENT DIVISIONS OF A PARENT
11 PARCEL OR PARENT TRACT UNDER SUBSECTION (2) STAYS ATTACHED TO THE
12 REMAINDER OF THE PARENT PARCEL OR PARENT TRACT RETAINED BY THE
13 PROPRIETOR.

14 (4) A parcel of 40 acres or more ~~created by the division of~~
15 ~~a parent parcel or parent tract~~ shall not be counted toward the
16 number of parcels permitted under subsections (2) and ~~(3)~~ (5)
17 and is not subject to section 109, if the parcel is accessible.

18 (5) A parcel or tract created by an exempt split or BY a
19 division UNDER THIS SUBSECTION OR SUBSECTION (2) is not a new
20 parent parcel or parent tract and may NOT be further partitioned
21 or split ~~without being subject to the platting requirements of~~
22 ~~this act if all~~ UNLESS 1 OR MORE of the following requirements
23 are met:

24 (A) THE PARTITIONING OR SPLITTING COMPLIES WITH THE PLATTING
25 REQUIREMENTS OF THIS ACT.

26 (B) THE PARTITIONING OR SPLITTING IS AN EXEMPT SPLIT.

1 (C) ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

2 (i) ~~(a)~~ Not less than ~~10~~ 20 years have elapsed since the
3 parcel or tract was recorded.

4 (ii) ~~(b)~~ The ~~partitioning or splitting~~ DIVISION,
5 TOGETHER WITH ANY PREVIOUS DIVISIONS OF THE SAME PARCEL OR TRACT,
6 results in not more than ~~the following number of parcels, which~~
7 ~~ever is less:~~

8 ~~(i)~~ Two 2 parcels for the first 10 acres or fraction
9 thereof in the parcel or tract plus 1 additional parcel for each
10 whole 10 acres in excess of the first 10 acres in the parcel or
11 tract, FOR UP TO A MAXIMUM OF 5 PARCELS.

12 ~~(ii)~~ Seven parcels or 10 parcels if one of the resulting
13 parcels under this subsection comprises not less than 60% of the
14 area of the parcel or tract being partitioned or split.

15 (iii) ~~(c)~~ The ~~partitioning or splitting~~ DIVISION satis-
16 fies the requirements of section 109.

17 ~~(6)~~ A parcel or tract created under the provisions of sub-
18 section (5) may not be further partitioned or split without being
19 subject to the platting requirements of this act, except in
20 accordance with the provisions of subsection (5).

21 (iv) THE PROPRIETOR OF THE PARCEL OR TRACT HAS PREVIOUSLY
22 USED ALL DIVISIONS ALLOWED UNDER SUBSECTIONS (2) AND (3).

23 Sec. 109. ~~(1)~~ A municipality shall approve a proposed
24 division within ~~30~~ 45 days after the filing of the proposed
25 division with the assessor or other locally designated official
26 if, in addition to the requirements of section 108, all of the
27 following requirements are met:

1 (a) Each resulting parcel has an adequate and accurate legal
2 description and is included in a tentative parcel map showing
3 area, parcel lines, public utility easements, accessibility, and
4 other requirements of this section and section 108. The tenta-
5 tive parcel map shall be a scale drawing showing the approximate
6 dimensions of the parcels.

7 (b) Each resulting parcel has a depth of not more than 4
8 times the width or, if an ordinance referred to in section
9 ~~105(b)~~ 105(1) requires a smaller depth to width ratio, a depth
10 to width ratio as required by the ordinance. A municipality may
11 allow a greater depth to width ratio than that otherwise required
12 by this subdivision or an ordinance referred to in section
13 ~~105(b)~~ 105(1). The greater depth to width ratio shall be based
14 on standards set forth in the ordinance referred to in section
15 ~~105(b)~~ 105(1). The standards may include, but are not required
16 to include and need not be limited to, exceptional topographic or
17 physical conditions with respect to the parcel and compatibility
18 with surrounding lands. ~~The~~ IF A PARCEL OR TRACT IS NOT LESS
19 THAN 40 ACRES IN SIZE, THE depth to width ratio requirements of
20 this subdivision do not apply to ~~a parcel larger than 10 acres,~~
21 ~~unless an ordinance referred to in section 105(b) provides other-~~
22 ~~wise, and do not apply to~~ the remainder of ~~the parent~~ THAT
23 parcel or ~~parent~~ tract retained by the proprietor AFTER MARKING
24 1 OR MORE OF THE DIVISIONS PERMITTED UNDER SECTION 108, EVEN IF
25 THAT REMAINDER IS LESS THAN 40 ACRES IN SIZE.

26 (c) Each resulting parcel has a width not less than that
27 required by an ordinance referred to in section ~~105(b)~~ 105(1).

1 (d) Each resulting parcel has an area not less than that
2 required by an ordinance referred to in section ~~105(b)~~ 105(1).

3 (E) THE RESULTING PARCELS DO NOT EXCEED THE DEVELOPMENT SITE
4 DENSITY, IF ANY, ESTABLISHED BY AN ORDINANCE REFERRED TO IN SEC-
5 TION 105(1).

6 (F) ~~(e)~~ Each resulting parcel is accessible. NOT MORE
7 THAN 2 PARCELS MAY BE SERVED BY THE SAME EASEMENT, UNLESS AN
8 ORDINANCE REFERRED TO IN SECTION 105(1) PROVIDES OTHERWISE.

9 (G) ~~(f)~~ The division meets all of the requirements of sec-
10 tion 108.

11 (H) ~~(g)~~ Each resulting parcel that is a development site
12 has all of the following:

13 (i) Public water or health department approval for on-site
14 water supply under rules described in section ~~105(g)~~
15 105(2)(G).

16 (ii) Public sewer or city, county, or district health
17 department approval for on-site sewage disposal under rules
18 described in section ~~105(g)~~ 105(2)(G).

19 (iii) Adequate easements for public utilities from the
20 parcel to existing public utility facilities.

21 ~~(2) The right to make divisions exempt from the platting~~
22 ~~requirements of this act under section 108 and this section can~~
23 ~~be transferred, but only from a parent parcel or parent tract to~~
24 ~~a parcel created from that parent parcel or parent tract.~~

25 ~~(3) A person shall not sell a parcel of unplatted land~~
26 ~~unless the deed contains a statement as to whether the right to~~
27 ~~make further divisions exempt from the platting requirements of~~

1 ~~this act under this section and section 108 is proposed to be~~
2 ~~conveyed. The statement shall be in substantially the following~~
3 ~~form: "The grantor grants to the grantee the right to make~~
4 ~~[insert number] division(s) under section 108 of the land divi-~~
5 ~~sion act, Act No. 288 of the Public Acts of 1967." In the~~
6 ~~absence of a statement conforming to the requirements of this~~
7 ~~subsection, the right to make such divisions stays with the~~
8 ~~remainder of the parent tract or parent parcel retained by the~~
9 ~~grantor.~~

10 (4) ~~All deeds for parcels of unplatted land within the state~~
11 ~~of Michigan after the effective date of this act shall contain~~
12 ~~the following statement: "This property may be located within~~
13 ~~the vicinity of farm land or a farm operation. Generally~~
14 ~~accepted agricultural and management practices which may generate~~
15 ~~noise, dust, odors, and other associated conditions may be used~~
16 ~~and are protected by the Michigan right to farm act."~~

17 (iv) MINIMAL OFF-SITE DRAINAGE IMPACTS UNDER RULES DESCRIBED
18 IN SECTION 105(2)(C).

19 (v) AN AREA NOT MORE THAN 2.5 ACRES IN SIZE, UNLESS AN ORDI-
20 NANCE REFERRED TO IN SECTION 105(1) PROVIDES OTHERWISE. THIS
21 AREA REQUIREMENT DOES NOT APPLY TO THE REMAINDER OF THE PARCEL
22 RETAINED BY THE PROPRIETOR OR TO A PARCEL CREATED BY AN EXEMPT
23 SPLIT.

24 Sec. 261. (1) ~~No~~ A person shall NOT sell ~~any~~ A lot in a
25 recorded plat or ~~any~~ A parcel of unplatted land in an unincor-
26 porated area if it abuts a street or road ~~which~~ THAT has not
27 been accepted as public unless the seller first informs the

1 purchaser in writing on a separate instrument to be attached to
2 the instrument conveying any interest in ~~such~~ THE lot or parcel
3 of land of the fact that the street or road is private and is not
4 required to be maintained by the board of county road
5 commissioners. In addition, any contract or agreement of sale
6 entered into in violation of this ~~section shall be~~ SUBSECTION
7 IS voidable at the option of the purchaser.

8 (2) ALL DEEDS FOR PARCELS OF UNPLATTED LAND OR FOR LOTS
9 WITHIN THIS STATE EXECUTED AFTER THE EFFECTIVE DATE OF THE AMEN-
10 DATORY ACT THAT ADDED THIS SUBSECTION SHALL CONTAIN THE FOLLOWING
11 STATEMENT: "THIS PROPERTY MAY BE LOCATED WITHIN THE VICINITY OF
12 FARMLAND OR A FARM OPERATION. GENERALLY ACCEPTED AGRICULTURAL
13 AND MANAGEMENT PRACTICES WHICH MAY GENERATE NOISE, DUST, ODORS,
14 AND OTHER ASSOCIATED CONDITIONS MAY BE USED AND ARE PROTECTED BY
15 THE MICHIGAN RIGHT TO FARM ACT."