

Legislative Analysis



COUNTY ROAD COMMISSION PLAT APPROVAL

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Senate Bill 804 as passed by the Senate

Sponsor: Sen. Patricia L. Birkholz

House Committee: Local Government and Urban Policy

Senate Committee: Local, Urban and State Affairs

First Analysis (4-21-04)

BRIEF SUMMARY: The bill would amend the Land Division Act to make it mandatory that a county road commission require a proprietor to make a deposit ensuring that required improvements to a roadway are made, as a condition of approval of a final plat.

FISCAL IMPACT: The bill has no fiscal impact on state or local governments.

THE APPARENT PROBLEM:

Under the Land Division Act, a person planning to develop a subdivision must obtain the approval of a number of different authorities, including the municipality, the county plat board, and the state administrator (in the Department of Labor and Economic Growth). These authorities must approve preliminary and final plats (charts or maps) of the proposed subdivision. If the subdivision includes or abuts roads that are or will be under the jurisdiction of the county road commission, the commission's approval is required, as well. Under Section 183 of the act, a county road commission may require that certain conditions be met, before the commission will approve a final plat. Among other things, the road commission may require the subdivision developer (the "proprietor") to give the commission a deposit or surety bond, in order to ensure that required improvements will be made.

Some people believe that county road commissions should be required, rather than permitted, to accept surety for unfinished improvements, in order to prevent delays in the plat review and approval process. Evidently, upon receiving preliminary plat approval, a developer will begin work on roads and other infrastructure, such as drains and sewer systems. If a project is started late in the year, the weather may prevent the developer from completing the road work until the following spring. If the county road commission accepts a surety bond and gives final plat approval, the developer then may seek the approval of the remaining authorities, and ultimately record the final plat. On the other hand, if the county road commission does not accept a bond, the developer cannot proceed with the approval process until the actual improvements have been completed.

THE CONTENT OF THE BILL:

The bill would amend the Land Division Act to make it mandatory that a county road commission require a proprietor to make a deposit ensuring that required improvements to a roadway are made, as a condition of approval of a final plat.

The bill specifies that, as used in Section 183, "county road commission" would mean the elected or appointed board of county road commissioners or, in the case of a charter county with a population of 2 million or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission for legislative functions.

MCL 560.183

HOUSE COMMITTEE ACTION:

The House Committee on Local Government and Urban Policy reported out the Senate-passed version of the bill without amendments. Information in this analysis is derived from the analysis of that bill by the Senate Fiscal Agency dated 3-5-04.

ARGUMENTS:

For:

Under the plat review and approval process, the county road commission must approve a final plat before the developer can obtain the approval of the municipal governing body, the county plat board, and the state administrator. Once all of those authorities give their approval, the final plat may be recorded and the developer may begin selling lots in the subdivision. According to the Michigan Association of Realtors, the process can take two or three months after the county road commission approves the final plat. If a project is begun in the late summer or fall, it is likely to come to a standstill when the ground freezes and frost laws take effect, since the developer cannot use heavy equipment such as cement mixers and asphalt trucks to finish the road work. If the county road commission does not accept a surety bond, the developer then must wait until the following spring to obtain the commission's final plat approval, after completing the improvements. This adds at least several more months to the process.

According to the Michigan Association of Realtors, the vast majority of county road commissions will accept a surety bond, which commits the developer to the completion of the road work. If the developer then is unable or unwilling to finish the work, the county road commission has the means to contract for the completion of the project. Thus, the developer benefits by avoiding delays, and the county is protected. Under the bill, this would be the practice statewide.

POSITIONS:

The Michigan Association of Realtors supports the bill. (4-20-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.