



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

BILL



ANALYSIS

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

Senate Bill 342 (Substitute S-1 as passed by the Senate)
Sponsor: Senator John Proos
Committee: Local Government

Date Completed: 6-16-17

RATIONALE

The Land Division Act prescribes criteria that a proposed division must meet in order to be approved by a municipality, and requires a complete application to be approved if the criteria are met. A division is not subject to the Act's platting requirements but is subject to other requirements. The right to make divisions exempt from the platting requirements may be transferred, but only from a parent parcel or parent tract. A proprietor transferring the right to make a division, within 45 days, must give written notice of the transfer to the assessor of the city or township where the property is located on a form prescribed by the State Tax Commission. The form must substantially include certain questions in its mandatory information portion. In addition, a person may not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the Act's platting requirements is proposed to be conveyed.

Apparently, it is common practice to write the word "all", when appropriate, on a form or deed to indicate the number of divisions transferred or granted. However, in the statements that must be included on those documents, the Act generally requires a person to specify the number of divisions that will be transferred or granted to the grantee. It has been suggested that the Act should permit use of the written word "all" on the documents.

CONTENT

The bill would amend the Land Division Act to revise statements that must be on a form that a proprietor transferring the right to make a division submits to the assessor of the city or township where the property is located, and on a deed for the sale of a parcel of unplatted land.

Under Section 109 of the Act, as noted above, a proprietor transferring the right to make a division must give written notice of the transfer to the assessor of the city or township where the property is located on a form prescribed by the State Tax Commission. The form must substantially include the following question: "Were any unallocated divisions transferred to the newly created parcel? If so, how many?" The bill would amend the question to the following: "Were any unallocated divisions transferred to the newly created parcel? If so, state whether all were transferred or, if not, how many?"

Also, as described above, a person may not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the platting requirements of the Act is proposed to be conveyed. The statement must be in substantially the following form: "The grantor grants to the grantee the right to make [insert number] division(s) under section 108 of the land division act...". In the absence of a statement conforming to the requirements of the Act, the right to make divisions stays with the remainder of the parent tract or parent parcel retained by the grantor. The bill would change the statement to the following: "The grantor grants to the grantee the right to make [insert "zero", a number, or "all"] division(s) under section 108 of the land division act...".

(Section 108 states that a division is not subject to the platting requirements of the Act, and limits the number of parcels a division may result in, depending on the circumstances.)

In addition, the bill specifies that compliance with Section 109 would not be a requirement for a deed to be received for record or recorded by a register of deeds.

The bill would take effect 90 days after its enactment.

(The Act defines "division" as the partitioning or splitting of a parcel or tract of land by the proprietor or by 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 that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies certain requirements. Division does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel cannot be considered a building site unless the parcel conforms to the requirements of the Act or the requirements of an applicable local ordinance.

"Parcel" means a continuous area or acreage of land that can be described as provided for in the Act. "Tract" means two or more parcels that share a common property line and are under the same ownership. "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on March 31, 1997 (the effective date of amendments that enacted Section 109).

MCL 560.109

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill is necessary to codify in statute the long-standing practice of using the word "all" when indicating that all divisions are intended to be transferred, or that a grantor grants to the grantee the right to make all the divisions permissible under the Act. This practice has been common since amendments adding the required statements took effect in 1997. Using the word "all" is more advantageous than using an exact number for several reasons. First, there are a number of variables that may affect the number of divisions permitted for transfer. For example, the land may meet criteria that qualify it to be further partitioned or split without being subject to the platting requirements of the Act (considered "bonus" divisions). Also, the grantor of the property might not have had the property surveyed, and he or she may lack the exact acreage for the formula that determines the number of divisions available for transfer or sale. Including the phrase "all" is a way to indicate that a person is transferring or granting whatever divisions are permitted, whatever the exact number may be. Due to the variables, citing a specific number of divisions may result in inaccuracies. According to Committee testimony, negotiations for the transfer or sale of less than the maximum amount are uncommon. Incorporating "all" would ensure that a grantor grants all of the division rights to a grantee when intending to do so.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. The bill would clarify procedures related to the transfer of unplatted land and indicate that the absence of certain statements on the deed would not prevent it from being recorded.

Fiscal Analyst: Elizabeth Pratt

SASVA1718\sb342p

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.