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**BILL ANALYSIS**



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Senate Bill 112 (Substitute S-1)  
 Sponsor: Senator Leon Stille  
 Committee: Local, Urban and State Affairs

Date Completed: 2-23-96

**CONTENT**

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

- Require all division of lands to obtain approving authority approval and satisfy the bill's requirements for the division of lands whether they were exempt or not exempt from the Act's platting requirements.
- Permit a county or municipality to adopt a land division ordinance, which could include provisions concerning roads and road easements and provisions of a county's or municipality's zoning ordinance.
- Establish a time frame and procedure for an approving authority to approve or reject a plat.
- Specify that a division of a parcel or tract would be exempt from the Act's platting requirements if the division satisfied the bill's requirements concerning a parcel's size, availability of public water and sewers, and approved access to the parcels.
- Require a county board of commissioners to designate a county agency or official to review land divisions.
- Specify requirements that a preliminary plat would have to meet and establish a process for the filing and approval of a preliminary plat.
- Require a proprietor of land, before making a final plat, to have prepared a plan for each improvement required for the subdivision.

- Establish requirements that a final plat would have to meet and establish a process for its approval.
- Require a county plat board to be established in each county and provide for the approval of a final plat by the board.
- Establish requirements for lots and outlots that would have to be met as a condition of approval of a final plat.
- Permit a proprietor's dedication of open space to be made a condition of a plat.
- Establish fees for the review of preliminary and final plats as well as improvement plans.

Subdivisions of Land

The bill would delete the current requirement that any division of land that results in a subdivision be surveyed and a plat be submitted, approved, and recorded as required by the Act.

The Act requires a survey and plat to be made when a recorded plat has been amended, corrected, altered, or revised as the result of a circuit court order. The bill would require a proprietor, under these circumstances, to do one of the following: if new lots were to be fixed, comply with the Act's platting requirements; or, if new lots were not fixed, comply with the Act's provisions on the preparation of a new plat upon a court order to vacate, correct, or revise a plat.

Regardless of the manner by which an interest was to be held in the resulting parcels, a subdivision of land owned or controlled by a corporation organized under any of the following

Acts would be subject to the Act's platting requirements: Public Act 230 of 1897, which provides for summer resort and park associations; Public Act 39 of 1889, which provides for summer resort and assembly associations; Public Act 69 of 1887, which provides for suburban homestead, villa park, and summer resort associations; and, Public Act 137 of 1929, which authorizes the incorporation of summer resort owners.

A replat of all or any part of a recorded plat could not be approved or recorded unless one of the following applied:

- A proper court action had been taken to vacate the original plat or the specific part being replatted. A replat under this provision would be subject to the platting requirements of the Act.
- All of the following requirements were satisfied: written notice of the replat, signed by the owner(s) of each lot included in the new plat, was recorded with the register of deeds; notice to the abutting property owners had been given by certified mail; and, the governing body of the municipality in which the land included in the recorded plat was situated had adopted a resolution or other legislative enactment vacating all areas dedicated to public use within the proposed replat.
- The replat was an assessor's plat made, approved, and recorded as provided for in the Act.
- The replat was an urban renewal plat authorized by a municipality's governing body, as provided in Public Act 344 of 1945, which provides for the rehabilitation of blighted areas. Roads, alleys, and other public places would have to be vacated in accordance with the provisions of law.

The bill would delete current requirements concerning the replat of all or any part of a recorded subdivision plat.

#### Exempt Division

The division of a lot, outlot, or parcel described and fixed by an assessor's or supervisor's plat would be subject to the bill's provisions for an exempt division or the platting requirements of the Act, whichever were applicable.

To divide lands if the division were exempt from the bill's platting requirements, the proprietor would have to obtain approving authority approval

of the division and comply with the following. Before a parcel resulting from that division was recorded, the proprietor would have to have the parcel surveyed. Within one year after approval of the division, the survey could be recorded with the register of deeds. Before a conveyance or lease of a parcel resulting from the division was recorded, the survey would have to be recorded and prepared in conformance with the tentative parcel map under the bill and in the manner provided concerning the preparation of maps in Public Act 132 of 1970, which provides for the filing of surveys in the register of deeds office. ("Approving authority" would mean an individual, agency, office, or other entity that was designated by or pursuant to the Act as having responsibility to approve, approve with conditions, or reject a division, plat, improvement plan, or other submission by a proprietor.)

#### Nonexempt Division

To divide land if the division were not exempt from the bill's platting requirements, the proprietor would have to obtain approving authority approval for and otherwise satisfy the bill's requirements pertaining to a preliminary plat, an improvement plan, if required, and a final plat.

The Act establishes compliance requirements for preliminary and final plats. Under the bill, these requirements also would apply to a division and an improvement plan. These requirements currently include compliance with the rules of the Water Resources Commission and the Department of Conservation concerning the determination and establishment of floodplain areas of rivers, streams, or creeks or lakes. The bill would delete this provision, and require compliance with rules promulgated by the Department of Environmental Quality (DEQ) under the Natural Resources and Environmental Protection Act for the determination and establishment of floodplain areas of rivers, streams, creeks, or lakes. There also would have to be compliance with the rules of the Department of Community Health (DCH) relating to suitability of groundwater for on-site water supply for subdivisions or development sites not served by public water. If on-site sewer or water were proposed, the DCH could require soil evaluation tests to determine the suitability of soils for on-site sewage disposal and could require the submission of sufficient data to determine the suitability of groundwater for on-site water supply. If tests and data were required, they would have to be conducted under the supervision of, and would have to be certified by, an engineer, surveyor, or

sanitarian in accordance with uniform procedures and practice established by the DCH.

No approving authority or agency having the power to approve or reject a division, preliminary plat, improvement plan, or final plat could condition approval upon compliance with, or base a rejection upon, any requirement other than those included above.

#### Land Division Ordinance

A county or municipality could adopt an ordinance to carry out the Act. The land division ordinance could include provisions concerning roads and road easements. An ordinance could include provisions of a zoning ordinance if the municipality or county in adopting the ordinance cited the authority of the Act and followed the adoption or amendment procedures of the appropriate zoning enabling statute for that municipality or county. If an ordinance did not include provisions concerning roads and road easements or provisions of a zoning ordinance, the county or municipal land division ordinance would have to cite any such ordinances of the county or municipality, respectively, and require compliance with them.

A county or municipality could adopt a separate ordinance concerning roads and road easements. This ordinance could include provisions of a zoning ordinance if the county or municipality in adopting the ordinance cited the authority of the Act and followed the adoption or amendment procedures of the appropriate zoning enabling statute for that county or municipality.

The bill specifies that a county land division ordinance would apply only in a municipality that did not adopt its own land division ordinance. A county ordinance could implement on the county level all or part of the authority granted to a municipality under the Act. A county land division ordinance would have to provide for at least the following:

- The office to which a proposed land division application was made.
- The body or official that was the approving authority for land division and the body or official that was the approving authority for road creation.
- A procedure for notification of and input by the municipality in which the subdivision was located, and by the public utilities that would serve the parcels created by the proposed division.

An approving authority could adopt a State rule or resolution, as applicable, to carry out the Act.

The bill specifies that the plat approval standard prescribed in the Act would be minimum standards. A county or municipality, by zoning ordinance, land division ordinance, or resolution, as applicable, could impose stricter requirements and could reject any plat or division that did not conform to such requirements. Except as otherwise provided in the bill, a rule, ordinance, or resolution could not conflict with a time limit of the Act.

#### Approving Authority's Response

The bill would delete the provision prohibiting an approving authority or agency from approving or rejecting a plat based upon any requirement other than those included in the Act.

Unless the proprietor and approving authority agreed to a time extension or the bill's permit requirements applied, if an approving authority were required to respond to a division, plat, improvement plan, or other filing by a proprietor within a specified time period under the Act, the authority would have to respond in a manner prescribed by the Act within that period. Except as otherwise provided, an approving authority would have to respond to the proprietor, and would have to respond in writing.

A response of rejection would have to include each reason for rejection and each requirement for approval. An authority would have to send the response by personal service, registered or certified mail, or, if proof of mailing by the authority were filed with the authority's other records in the matter, by first-class mail. An authority could delegate to an employee the power to respond to a division, plat, improvement plan, or other submission in the manner prescribed by the Act.

An authority would have to establish a procedure for a proprietor to appeal the response. If an authority failed to respond to a division, plat, improvement plan, or other filing within the required time period, the authority would have to return promptly to the proprietor the fee, if any, charged for review.

If an authority failed to respond by the expiration of twice the period of time required, the proprietor could mail to the authority by registered or certified mail, return receipt requested, written notice that unless the approving authority responded to the

division, plat, improvement plan, or other filing not more than 15 days after receiving the notice, the division, plat, improvement plan, or other filing would be automatically approved. The bill specifies that automatic approval would not relieve a proprietor from liability for violating the Act or a statute, ordinance, or rule, as described in the Act.

#### Approved Access

The bill would replace provisions permitting the submission of a preliminary plat to a governing body.

Under the bill, if an approved access to a parcel were required by the Act and if provided for in a municipal or county land division ordinance, the locality could require a dedication or an offer of dedication by separate instrument for a road opening, widening, or easement. If a dedication or offer were required, it would have to be completed before or simultaneously with the recording of a survey. An offer of dedication would have to be in terms that bound the owner, heirs, assigns, and successors in interest of the land, and would have to continue until the municipality or county accepted or rejected the offer. If a municipal or county land division ordinance provided standards, the municipality or county could require that a public or private road or easement be improved so as to meet local traffic, drainage, and public utility needs.

A municipality or county could adopt an ordinance establishing standards for a road or permanent road easement required by the bill. The ordinance could provide for the following:

- Design and construction including, but not limited to, width, surface material, alignment, turning radius, overhead clearance, and drainage of the road or easement.
- Area and access necessary for public utilities.
- Access by emergency vehicles, if the road were to be private.
- Terms of a private maintenance agreement, if the road were to be private. An ordinance providing for this would have to require the agreement to be recorded at the register of deeds office. The recording would have to be separate, but the deed would have to have attached to it a copy of the private maintenance agreement or otherwise give notice of the existence of the private maintenance agreement.

- The levying of special assessments to finance the maintenance of a private road if, under a private maintenance agreement, the road were not maintained in conformity with the standards under the ordinance.

#### Platting Requirements Exemption

A division of a parcel or tract would be exempt from the platting requirements of the Act if the division satisfied the bill's requirements. An exempt division, together with any previous divisions of the same parent parcel or parent tract, could result in up to two parcels for the first 10 acres or fraction of that, plus one additional parcel for each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, subject to the following provisions. A county or municipal land division ordinance could permit an exempt division to result in up to two additional parcels if one or more new public roads or shared access driveways to an existing public road, or both, were used to reduce the number of driveway accesses to an existing public road to less than one per parcel, as prescribed by the land division ordinance. An exempt division, together with any previous exempt divisions, could not result in more than nine parcels, or, if the previous provision applied, not more than 11 parcels, from a parent parcel or parent tract.

An exempt division could not result in more than one parcel larger than 2.5 acres or larger than 105% over the minimum lot size required by a zoning ordinance or land divisions ordinance, whichever was greater.

Each parcel created by an exempt division would have to have all of the following:

- An adequate and accurate legal description conforming to the requirements of Public Act 132 of 1970.
- A depth to width ratio of not more than 4:1 or, if a zoning or land division ordinance required a smaller depth to width ratio, a depth to width ratio as required by the zoning or land division ordinance. A municipality could grant a waiver from any applicable ratio if the standards for the waiver were set forth in a municipal or county zoning ordinance or land division ordinance and were based on exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. These depth to width requirements would not apply to a parcel

larger than 2.5 acres, as described above, unless a zoning or land division provided otherwise.

- A width not less than that required by a zoning or land division ordinance.
- An area not less than that required by a zoning or land division ordinance.
- If a resulting parcel were a development site, adequate easements for public utilities.
- Approved access. If access were afforded by easement, not more than two parcels could be served by the same easement unless permitted by a land division ordinance.

A municipality or county could plan and budget for improvements in the area and potentially to any divisions approved under these provisions whether or not a survey had been made or a conveyance or lease had occurred.

#### County Review

A county board of commissioners would have to designate the county agency or official to review exempt divisions. The proprietor would have to file the proposed division with that county agency or official for review. The applicable land division ordinance for review of the decision would be the county land division ordinance.

By resolution and notification to the county, a municipality's governing body that had adopted a land division ordinance and a road or road easement ordinance could designate itself or a municipal agency or official to review exempt divisions. If a municipality made a designation under this provision, the proprietor would have to file the proposed division with the municipal agency or official for review. The applicable land division ordinance for review of the division would be the municipal land division ordinance. The county agency or official designated under the above provision would not have jurisdiction to review a division located in such a municipality.

If, under the bill, a proposed division were exempt from the Act's platting requirements, the proprietor would have to file the proposed division with the agency or official designated by the municipality or county. The filing would have to state whether any development right to make further exempt divisions had been or were proposed to be transferred from the parent parcel to the parent tract.

The filing would have to include a tentative parcel map for approval as to area, improvements, lot design, public utility easements access, and other requirements of the bill. The tentative parcel map would have to be a scale drawing showing the approximate dimensions of each parcel.

Not more than 30 days after the filing of the proposed division, the agency or official would have to determine whether the division required a recorded plat, approve the division if it complied with the bill, or reject the division. Approval of the division would confer upon the proprietor the right that the general terms and conditions under which the division was approved would not be changed for that division for one year after the approval date. Upon application, the agency or official could grant an extension of the division's approval for up to one year. The agency or official could grant more than one division.

#### Preliminary Plat

The bill would replace current provisions requiring the submission of a preliminary plat.

A proprietor could voluntarily submit a sketch of a proposed plat to a governing body to review for the proprietor's information. A municipality, county, or State agency could not require an approval of a preliminary plat or plan other than as provided in the bill.

Currently, a preliminary plat must be drawn to scale, as specified in the Act. Under the bill, the preliminary plat also would have to be prepared, signed, sealed, and dated by a surveyor or engineer and would have to contain all of the following:

- The name of the proposed subdivision with section number, town, range, municipality, and county.
- The name, address, and telephone number of the proprietor and of the surveyor or engineer preparing the plat.
- Adjacent property showing zoning, recorded subdivisions, recorded condominiums, parcels as shown on the tax records, rights-of-way, and intersecting roads. If adjacent property were other than recorded subdivisions or recorded condominiums, the owners' names as shown on the tax roll would have to be included.

- A vicinity sketch showing the location of the proposed plat in relation to the surrounding area.
- Lot lines, lot numbers, approximate lot dimensions, and approximate lot areas in square feet.
- Roads, road names, and widths of existing and proposed road rights-of-way.
- Other existing or proposed rights-of-way or easements, showing location, width, and purpose.
- Topographic information with two-foot contour intervals that extended 100 feet beyond each proposed boundary and specifying the datum used.
- Surface water elevations of bodies of water with the date when taken, and existing floodplain and wetland information available from the DEQ.
- If on-site sewage disposal were proposed, results of preliminary soil tests and the approximate location of the test holes in the sewage disposal area.
- If an on-site water supply were proposed, data relating to well depth, quality, quantity, and protection.
- Existing public utilities, including but not limited to major public utility facilities.
- Existing structures intended to be left standing and significant natural and man-made features that could influence the layout and design of the subdivision.
- Existing zoning classifications within the proposed plat.
- Areas proposed within the plat to be reserved or dedicated for open space, storm water retention or detention, storm water drainage easements, or other public or nonpublic uses.
- Minimum front building setback lines.
- Date, north arrow, and scale of not more than 200 feet to one inch.
- A description of the boundary of the subdivision as shown on the tax roll or as on record, and an indication of the nearest section corner, quarter section corner, or private claim corner.
- A written statement in a note on the preliminary plat as to sanitary sewer, water supply, storm drainage, and public utilities and road improvements to be provided to the subdivision, and specifications for road improvements.

### Preliminary Plat Approval

The bill would delete the requirement that a proprietor submit from four to 10 copies of a preliminary plat and other data to the clerk of the municipality. Under the bill, a proprietor would have to file copies of a preliminary plat, together with any other required data and any required fees, as follows:

- Three copies with the engineer or chairperson of the county road commission if the proposed subdivision included or abutted a road under the commission's jurisdiction, included a road to come under its jurisdiction, or included a private road in an unincorporated area.
- Three copies with the county drain commissioner.
- Four copies with the State Transportation Department if any of the proposed subdivision included or abutted a State trunk line highway or included roads that connected with or lay within the right-of-way of State trunk line highways.
- Four copies with the health department if the subdivision would be served wholly or in part by individual on-site sewage or on-site water systems.
- Four copies with the DEQ, if one or more of the following applied: 1) the subdivision lay wholly or partly within a wetland or floodplain; within 500 feet of a river, stream, creek, lake, or the Great Lakes; or within other land areas subject to statutes administered by the DEQ; 2) the subdivision abutted an existing or proposed channel or lagoon affording access to a river, stream, creek, lake, or the Great Lakes, and public rights could be affected; or 3) development of the subdivision involved the construction of sewage facilities requiring approval by the DEQ.
- Between four and 15 copies, as specified by the municipality in which the subdivision was located, with the clerk of that municipality.

Currently, the governing body, within 90 days from the filing date, must tentatively approve and note its approval on the copy of the preliminary plat to be returned to the proprietor, or give in writing its reasons for rejection and requirements for tentative approval. The governing body may

require that other related data be submitted as it deems necessary, if the requirement for such data has previously been adopted and published. The bill would delete these provisions.

Under the bill, within 30 days after the filing, the approving authority would have to approve the plat or approve it with conditions and certify the approval on the copy to be returned to the proprietor, or reject the plat. Within 90 days after the filing with a municipality's clerk, or within 15 days after the proprietor filed the certification of approval and an approved copy of the preliminary plat from each approving authority, whichever was later, the governing body would have to approve the plat or approve it with conditions and certify the approval on the copy to be returned to the proprietor or would have to reject the plat. If the governing body approved the plat or approved it with conditions, and the plat were for a multiphase subdivision, the governing body could at that time also grant an extension of the two-year period otherwise applicable under the bill (during which conditions of approval would not change), and would have to certify any extension on the plat.

The bill would delete a provision of the Act that tentative approval confers on the proprietor for one year approval of lot sizes, lot orientation and street layout, and that tentative approval may be extended if applied for by the proprietor and granted in writing by the governing body.

Under the bill, within 30 days after the filing with the DEQ, or within 60 days after that filing if the subdivision lay wholly or partly within or were affected by a floodplain or elevation not previously established by the DEQ, the Department would have to approve the plat or approve it with conditions and certify the approval on the copy to be returned to the proprietor or reject the plat. If an approving authority rejected a preliminary plat because it was incomplete, when the proprietor refiled the preliminary plat with the approving authority, the proprietor would be required to file also with every other approving authority the additional information contained in the refiled preliminary plat. If a filing or submission for preliminary plat approval were rejected, after each refiling or resubmission, the approving authority would have to respond in the same manner and within the same period of time as required by those provisions for an original filing or submission.

Currently, a proprietor must submit two copies of the preliminary plat to the county plat board and

public utilities serving the area. The bill also would require copies to be submitted to the State administrator.

Under the Act, a preliminary plat may be approved for two years, and that period may be extended for another two years if the proprietor applies to the governing body for an extension, and submits certain information as outlined in the Act. The bill would retain the two-year approval provisions and specify that an approved plat could not be changed for two years after the certification date, or if the preliminary plat were for an entire multiphase subdivision, for a longer period as granted by the governing body. A proprietor could apply to the governing body for a two-year extension. The application would have to include a list of other approving authorities and certification that the proprietor had given written notice of the extension application to each approving authority. The governing body could not grant an extension if another approving authority objected to the extension within 30 days after notification, unless the approving authority subsequently waived its objection. The governing body could grant a two-year extension, and could grant more than one two-year extension.

If a preliminary plat had been approved for an entire multiphase subdivision, at the time of approval of a final plat for one phase of that subdivision, an approving authority could grant an extension of the approval period in the same manner as the governing body under the bill. During the extension period, the proprietor would have a right that the general terms and conditions under which the preliminary plat of the remaining phases had been approved would not be changed for that plat. An extension under this provision would have to be based on one or more of the following: the delay in completion of the subdivision was the result of circumstances beyond the proprietor's control; the proprietor had not discontinued the platting process for more than 36 months; substantial expenditures had been made in connection with the remaining phases; or, improvements relating to the remaining phases had been constructed.

#### Monuments and Surveys

The Act requires that for every subdivision of land there be a survey that complies with the Act. Under the bill, after approval of a preliminary plat and approval of any necessary improvement plans, the proprietor would have to arrange for a

surveyor to prepare a survey of the land proposed to be subdivided and a final plat of that survey.

The Act specifies the composition of a monument, including that it must be made of steel and encased in concrete. The bill would permit the use of another marker that possessed a magnetic field, if it were approved by the administrator and at the election of the proprietor.

Currently, the governing body of a municipality may waive the placement of required monuments and markers for up to one year, if the proprietor deposits with the municipality's clerk at least \$25 per monument and at least \$100 in total, except that lot corner markers must be at the rate of at least \$10 per marker. The bill would increase the minimum amount per marker to \$100, the total minimum amount to \$500, and the lot corner markers to \$25 per marker. In addition to the methods of payment provided in the Act, the bill would allow a surety bond acceptable to the municipality.

The Act requires a surveyor to survey all subdivisions. The relative error of closure of the surveyed land must be less than the ratio of one part in 5,000. Under the bill, the relative error of closure on the unadjusted field observations of the exterior boundary survey would have to be less than the ratio of one part in 10,000. The relative error of closure on the unadjusted field observations for interior lots would have to be less than the ratio of one part in 10,000 or 0.15 feet, whichever was greater.

#### Improvement Plan

Before making a final plat, a proprietor would have to have prepared a plan for each improvement required for the subdivision. This plan would have to provide detailed information regarding the design of the improvement under design standards that were adopted or promulgated by State statute or rule or land division ordinance, whichever was applicable, and published by the approving authority specified below. The detailed information would have to include, but would not be limited to, the estimated cost of the improvement and, if the improvement were not to be completed before final plat approval, the type of security proposed to comply with the bill. An improvement plan and fee would have to be filed concurrently with each of the following that had jurisdiction over that improvement for administrative review and approval: the municipality, the county road

commission, the county drain commissioner, the health department, the State Transportation Department, the DEQ, and the local water and sewer authorities.

Within 30 days after the date an improvement plan was filed with the approving authority, that authority would have to approve, approve with conditions, or reject the improvement plan. If a change in the approved preliminary plat were required as the result of an improvement plan's review, a revised drawing of the affected areas would have to be filed with the approving authority, specified in the Act's provisions concerning a preliminary plat, and the officer and entities specified in the Act for review and approval under the procedures of those provisions. An improvement plan filed for review would have to be prepared, signed, sealed, and dated as prescribed in the Occupational Code. The proprietor could not begin an improvement until he or she obtained all applicable approvals and permits for it.

An approving authority having jurisdiction over the improvement being constructed for a subdivision could require inspection of that improvement. If jurisdiction overlapped, approving authorities would have to attempt to cooperate on inspection of an improvement being constructed to avoid duplication of inspections and fees. Upon an improvement's completion, an approving authority could require the proprietor to file as-built drawings containing detailed as-built information in accordance with standards adopted and published by the approving authority having jurisdiction over the improvement.

#### Final Plat Approval

The Act provides that following approval of a preliminary plat by the governing body, the proprietor must cause a survey and five true plats to be made by a surveyor. The bill would delete this provision. Currently, a final plat received by the State Treasurer more than one year after the date of approval by the city or county treasurer must be returned to the city or county treasurer, who must make a new certificate relative to paid or unpaid taxes, special assessments, and tax liens or titles. Under the bill, this provision would apply to a final plat received by the State administrator one year after the approval date. ("State administrator would mean the Director of the Department of Commerce, or his or her designee. The bill would require the State administrator and his or her chief assistant to be surveyors.)



The Act specifies requirements for all plats. The bill would apply these requirements to a final plat, and would require each sheet that had a drawing of the plat clearly to show a plat legend, and bar diagram of scale as well as north point, as currently required.

#### Final Plat Requirements

The Act requires a final plat to include a full and detailed description of the land in the subdivision by distances and bearings. The bill would require the description to contain sufficient information so that the subdivision's boundary could be established without referring to the drawing. The description also would have to include the acreage within the subdivision boundary.

If the subdivision were located in more than one municipality, the municipal boundaries would have to be labeled on the final plat. Lots located in more than one municipality would have to be dimensioned properly on the portions of the lot in each municipality. The government corners used in referencing the subdivision's location would have to be shown, and filing data would have to be noted on the plat sheets.

Under the Act, the exterior boundaries of the subdivision as drawn on the plat must include and correctly show certain information. The bill provides that, if adjacent land were platted in a recorded plat or included in a recorded condominium, the name and liber and page of recordation of that plat or condominium would have to be included on the final plat. If adjacent land were unplatted, it would have to be designated by the term "unplatted". The final plat would have to show abutting lots, units, and roads. Dashed lines, letters, and figures would have to be used to satisfy these requirements.

The Act also requires certain information on public or private grounds, streets, roads and alleys to be included in the plat. The bill would refer to these areas as public or private open space and rights-of-way, and would require the information to include an easement, by bearings and/or dimensions from which the easement could be relocated. If the easement were recorded, the plat would have to show the book and page where recorded. The final plat would have to specify the Liber and page of records of the county register of deeds where plat restrictions regarding open space were recorded.

#### Floodplains

Currently, if any part of a subdivision lies within or abuts a floodplain, the plat must show the floodplain, as provided in the Act. Under the bill, the determination of a floodplain area would have to be based on rules adopted under the Natural Resources and Environmental Protection Act. The DEQ could require that the plat include delineation or other identification of land areas within the plat that were subject to statutes administered by the DEQ, or municipal or county floodplain ordinances, that imposed limitations on construction activities in those land areas. The delineation or other identification of those land areas would have to be based on the statute that applied to the land area and rules promulgated pursuant to the Land Division Act.

#### Public Utility Easements

Currently, all public utility easements must be included in a plat and shown by their widths and relationship to the lot or street lines, as at least 12 feet wide where the rear lines of lots are contiguous, or as at least six feet wide if a lot has no adjoining subdivisions. The bill would increase the easement requirements to 12 feet when a lot had no adjoining subdivisions. Also, under the bill, a front line or sideline easement of a width determined adequate by the public utilities servicing the area could be used instead of the prescribed widths. A public utility easement of record would have to be noted on the final plat with the Liber and page of records of the county register of deed where the public utility easement was recorded.

#### County Land Division Ordinance

A final plat would have to be filed, reviewed, and processed pursuant to the bill's provisions. A county land division ordinance could modify the final plat approval process otherwise provided for in the Act by reconstituting the county plat board to include, in addition to the members already required under the Act, the county drain commissioner, a representative of the county road commission, a representative of a municipality's governing body, or any combination of these three, and by eliminating the applicable requirements for separate plat approval under the bill. The ordinance could reduce the combined aggregate time for final plat approval specified in the bill.

## Final Plat Approval Process

A proprietor and surveyor could agree that the surveyor would act as the proprietor's agent. The proprietor and an approving authority could agree that the approving authority, after certifying the final plat, would forward the final plat directly to the next approving authority, rather than returning the plat to the proprietor.

To entitle a final plat to be recorded, certificates from the following would have to appear on the plat: the surveyor, the proprietor, the county treasurer, the municipal treasurer if the municipality did not return delinquent taxes to the State Treasurer, the county drain commissioner, and the county road commission. A plat also would have to contain a municipal certificate, a State administrator's certificate, and certificates of members of the county plat board. All of these certificates would have to be in the form prescribed by the State administrator and would have to be lettered or printed legibly with black, durable ink or typed legibly with black ribbon.

The proprietor would have to arrange for the surveyor to sign, seal, and date the surveyor's certificate and each page of the final plat. The surveyor's certificate would have to be signed by the surveyor, or persons specified in the bill. This certificate would have the same force and effect as an affidavit and would have to contain the following information: at whose direction the surveyor made the survey, subdivision, and plat of the land described in the final plat; a statement that the final plat was a correct representation of all the exterior boundaries of the land surveyed and the subdivision of that land; a statement that the surveyor had prepared the description of the land shown on the final plat and that the surveyor certified to its correctness; a statement that the surveyor had caused all of the monuments shown on the final plat to be located in the ground or that the deposit required under the Act had been deposited with the clerk of the municipality by the proprietor; a statement that the accuracy and closure of survey were within the limits required in the Act; and, a statement that the bearings shown on the final plat were expressed as required under the Act.

After the surveyor certified the final plat, the proprietor would have to sign and date the proprietor's certificate on the final plat. A proprietor's certificate also would have to be signed by the following, with each signature witnessed by two persons and the signatures

acknowledged in the same manner as signatures on deeds conveying land had to be witnessed and acknowledged: all persons holding the title by deed of the lands; all persons holding any other title of record; all persons leasing the land for more than one year; all persons with an interest as mortgagee or vendee under a land contract; all persons who were in possession of the land, except persons leasing the land for one year or less or persons leasing a building or part of a building on the land; and, the wives of any men described above.

The proprietor's certificate on the final plat would have to include each of the following that applied to that plat: a statement that the proprietor had caused the land described on the plat to be surveyed, divided, monumented, mapped, and dedicated as shown on the plat; a statement that the roads, alleys, parks, and other places on the plat that were usually public were dedicated to public use; a statement that all public utility easements were private easements and that all other easements were reserved to the uses shown on the plat; the name of each road, park, or other place that was usually public and that was intended to be reserved to other than public use, and the character and purpose of that use; and a statement whether the plat included all land to the water's edge. If a proprietor intended to retain possession of the area between the exterior boundary and the water's edge, a statement to that effect would have to be noted on the certificate and on the plat.

After the proprietor certified the final plat, he or she would have to forward two copies of the final plat and one copy of the approvals, bonds, and sureties, and other agreements and documents, as required by the Act or rules promulgated under it, to all of the following: the State Department of Transportation, the DEQ, the county drain commissioner, the county road commission, the clerk of the governing body, each member of the county plat board, and the State administrator.

After the proprietor certified the final plat, he or she would have to file it with the county treasurer. The county treasurer would have to sign and date his or her certificate on the plat as to paid and unpaid taxes, special assessments, and tax liens or titles, as required by the General Property Tax Act. After certifying the final plat, the county treasurer would have to return it to the proprietor. If the municipality where the plat was located did not return delinquent taxes to the State Treasurer, the county treasurer, after certifying the final plat,

would have to file it with the municipal treasurer. If the plat were filed with the municipal treasurer under this provision, he or she would have to sign and date the municipal treasurer's certificate on the plat as to paid and unpaid taxes, special assessments, and tax liens or titles as required by Public Act 206 of 1893. After certifying the final plat, the municipal treasurer would have to return it to the proprietor.

After the county treasurer and, if applicable, the municipal treasurer certified the final plat, the proprietor would have to file it with the county drain commissioner. Within 10 days after the final plat was filed with the county drain commissioner, he or she would have to review and either approve or reject the final plat. If the final plat were approved by the drain commissioner, he or she would have to sign it and return it to the proprietor. If the drain commissioner rejected the final plat, he or she would have to send a copy of the rejection to the municipality's clerk.

Currently, after a final plat has been submitted, a drain commissioner, within 10 days, and the board of county road commissioners, within 15 days, must approve or reject the plat and state in writing the reasons for the rejection. The bill would delete these provisions, but require similar action as follows. Under the bill, after the county drain commissioner certified the final plat, the proprietor would have to file it with the county road commission. Within 15 days after the final plat was filed with the road commission, it would have to review and either approve or reject the final plat. If the commission approved the final plat, it would have to sign the commission's certificate and return the final plat to the proprietor. If the commission rejected the final plat, it would have to send a copy of the rejection to the clerk of the municipality.

After the road commission certified the final plat, the proprietor would have to file it with the municipality's clerk. The governing body would have to approve or reject a final plat at a regular meeting held between five days and 15 days after the final plat had been filed with the clerk. If a regular meeting had not been scheduled within this time period, at the proprietor's request and expense, the governing body would have to hold a special meeting for approval or rejection within that time period. If a regular meeting were not scheduled and the proprietor did not request a special meeting within that time period, the governing body would have to approve or reject

the final plat at its next regularly scheduled meeting.

During the time period of approval given to the preliminary plat under the bill (generally two years), approval or rejection of the final plat would have to be based on compliance with the general terms and conditions under which approval of the preliminary plat had been granted, and the governing body could not without the consent of the proprietor enforce a change in a land division ordinance or zoning ordinance adopted by the governing body after the preliminary plat of that subdivision was approved.

If the governing body approved the final plat and the proprietor had deposited with the clerk the fee required by the municipality for review and approval of the plat, the clerk would have to indicate on the certificate the date of the meeting at which the approval had been given and the date the clerk signed the certificate. After signing the municipal certificate, the clerk would have to return the final plat to the proprietor.

If the minimum residential lot width and area prescribed in the Act did not apply because the subdivision was served by public sewer and public water or connection to public sewer and water was guaranteed under the bill, the certificate would have to state this and also state that the municipality had a zoning ordinance or land division ordinance that specified residential lot widths and areas.

Currently, when the plat has been approved by the drain commissioner and the county road commissioners, the proprietor is required to submit all copies of the plat and the required filing fee to the clerk of the governing body of the municipality. The bill would delete this provision and provide, instead, that after the clerk of the municipality certified the final plat, the proprietor would have to give written notice to the State Transportation Department and the DEQ that the governing body had approved the final plat, if the preliminary plat were required to be filed with these Departments. Within 15 days after receiving this notice from the proprietor, each applicable Department would have to review, and either approve or reject, the final plat. If a Department approved the plat, it would have to forward a copy of the plat and applicable restrictive deed covenants to the State administrator. If a Department rejected the final plat, it would have to forward a copy of the plat and of the rejection to the State administrator.

The bill also would delete current provisions requiring a governing body to approve or reject a plat.

#### County Plat Board

The bill provides that a county plat board would be established in each county and consist of all of the following:

- The register of deeds or, if the offices of county clerk and register of deeds had been combined, the chairperson of the county board of commissioners. The officer serving on the county plat board under this provision would be the chairperson of that board.
- The county clerk or, if the county clerk and register of deeds offices had been combined, the holder of the combined offices. The officer serving on the county plat board under this provision would be the secretary of the county plat board.
- The county treasurer.
- The members of the board of county auditors, if this board were authorized by law in the county and the board adopted a resolution to serve on the county plat board. The board of county auditors would have to send a copy of the resolution to the State administrator.

A member of the county plat board could designate an alternate individual as a member. This designation would have to be in writing and filed with the chairperson of the county plat board. A copy of the designation would have to be sent to the State administrator.

The bill would delete the current requirement that the clerk of the county plat board, upon that board's approval of a plat, secure a warrant for one half of the required filing and recording fee and forward it with copies of the plat to the State administrator.

Under the bill, after a final plat was certified by a municipality's clerk, the proprietor would have to file it with the chairperson of the county plat board along with the required filing and recording fees and evidence that each member of the county plat board had been forwarded two copies of the plat. The evidence would have to consist of an acknowledgment of delivery signed by the member of the plat board or his or her agent, a receipt for

depositing the copies in the registered or certified mails, or proof of deposit in the first class mail. Within 15 days after this filing, the plat board would have to meet and do one of the following: approve the plat as conforming with all applicable provisions of the Act, approve the plat with conditions, or reject the plat. A final plat would not be approved by the county plat board if any of the board members voted to reject the plat.

Each member of the plat board who approved the final plat would have to sign the plat board certificate, which would have to include a statement that the plat was reviewed by each member who approved it for conformance to the Act's provisions that the member was responsible for administering and for conformance with any rules adopted by the county plat board. This certificate could not be signed unless the required filing and recording fee had been received. If the final plat were approved by the county plat board, the chairperson would have to send the final plat and applicable restrictive deed covenants to the State administrator.

#### State Review

The Act provides that within 15 days of receiving a plat, or within 25 days if the plat must be approved by the State highway commission, the State Treasurer is required to approve it and send a copy to the register of deeds, or reject it and notify the proprietor in writing of the reasons. Under the bill, within 25 days after receiving the final plat certified by the county plat board, the State administrator would be required to review the plat and approve it if, in the State administrator's opinion, if the plat and procedure conformed to the Act's requirements and to the published rules relative to plats, including, but not limited to, approval of all approving authorities and the furnishing of security as provided in the bill. If the State administrator approved the plat, he or she would have to notify the proprietor, who would have to submit six copies of the plat to the State administrator or authorize him or her to arrange for making five copies of the plat and to charge the proprietor for the copying cost. The State administrator would have to sign and date his or her certificate and the original and each copy of the plat and send the original to the register of deeds for recording. The State administrator's certificate could not be placed on the final plat unless the State administrator received the required review fee.

Under the Act, the register of deeds must accept a plat for recording and certify on the plat the time of recording, if the State Treasurer has sent the plat to the register of deeds and it bears the Treasurer's certificate of approval. Upon being notified of the recording the State Treasurer is required to take certain steps including transcribing the certificate of recording on all other copies and mailing copies of the plat to specified local officials. The bill would require the State administrator, instead of the Treasurer, to perform these duties.

### Street Requirements

Under the bill, alleys and roads shown, or required to be shown, on a plat would have to comply with the Act's requirements as a condition of final plat approval. The Act permits the governing body of a municipality in which a subdivision is situated to require that certain conditions concerning private and public streets, alleys and roads be met before a final plat is approved. The bill would apply these provisions to an approving authority and would revise these provisions and delete the requirement that a proprietor deposit cash, a letter of credit, or surety bond in an amount sufficient to insure completion of the project. The bill would permit, as a condition of approval of the final plat, an agency with jurisdiction over roads to require an agreement to complete road improvements in accordance with the bill's provisions on completion of improvements. The bill also provides that an agency with jurisdiction over roads, instead of a governing body, could reject a plat if specified road conditions existed on the plat. The bill also would delete current requirements for public and private roads and streets that must be met as a condition for approving a final plat.

Under the bill, the governing body or an approving authority with jurisdiction over roads could adopt reasonable road design and construction standards that could include more than one set of road design and construction standards to serve in a reasonably safe, convenient, and economical manner the vehicular traffic projected to be generated by the various types and densities of development. The published standards would have to contain the criteria to be used in selecting the particular set of road design and construction standards to be required. The governing body or an approving authority with jurisdiction over roads could not adopt a standard unless a public hearing had been held on the proposed standard. A standard could not be in effect before notice of its adoption was published in a newspaper of general

circulation in the jurisdiction of the approving authority. The notice would have to include the text or a summary of the standard, the geographic area in which it applied, the standard's effective date, and the place and time when a copy of the standard could be purchased or inspected. An approving authority would not be required to maintain a road dedicated to the public in a plat until it was completed as provided in the road construction and design standards.

### Construction Permit

Before approving a final plat, the county road commission, county drain commissioner, municipality, State Transportation Department, DEQ, or health department could require the proprietor to secure a permit to begin construction or improvements. If so, the approving authority would have to notify the proprietor in writing that the final plat could not be approved before a permit was secured. The approving authority's time period to respond would be suspended from the date the written notice was sent until the date the proprietor notified the authority that a permit had been secured.

The bill would delete provisions establishing State highway department requirements as conditions for approval of highways and streets shown on a final plat.

### Requirements for Lots and Outlots

In addition to the bill's other requirements for residential lots and outlots as a condition of approval of the final plat, all lots and outlots would have to comply with the following requirements:

- Have a depth to width ration of not more than 4:1. If a zoning ordinance or land division ordinance required a smaller ratio, the ordinance would control this ratio. A municipality or county could grant a waiver from any applicable ratio if the standards for the waiver were set forth in a local zoning ordinance or land division ordinance and were based on exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands.
- Have a width not less than that required by a zoning ordinance or land division ordinance.
- Have an area not less than that required by a zoning ordinance or land division ordinance.

- If the lot were a development site, have adequate easements for public utilities.
- Direct access to road would have to be assured permanent access as provided for in accordance with applicable municipal or county land division ordinance.

The Act currently requires a residential lot to meet certain distance requirements, and have an area of at least 12,000 square feet. The bill specifies that these requirements would not apply if a local ordinance imposed a greater requirement. This provision also would not apply if connection to a public water or public sewer system were provided, or if the proprietor, before approval of the plat, posted security with the clerk of the municipality as provided in the bill and the municipality in which the subdivision was proposed had adopted a zoning ordinance or land division ordinance that included minimum residential lot width provisions.

A residential lot would have to contain areas suitable for the installation of on-site sewer and water systems. The bill specifies that this provision would not apply if connection to a public water and sewer system were provided, or if the proprietor, before approval of the plat, posted security with the clerk of the municipality. A residential lot would have to contain areas suitable for the construction of a residence. The bill would delete current width and area requirements for residential lots as well as certain requirements for outlots.

Under the bill, as a condition of a final plat's approval, if required by the governing body, outlots designated on the plat would have to be of a size and extent and in a location that did not impair the Act's intent or any applicable municipal rules, ordinances, or policies for development adopted and published by the governing body. A municipality or county could plan and budget for improvements in an area whether or not a survey had been made or a conveyance or lease had occurred.

#### Conditions of Approval

A proprietor's dedication of open space could be made a condition of approval of a plat if all of the following requirements were met: increased density or other benefits were provided to the proprietor in return for the dedication; the proprietor's equity in the land to be dedicated for open space was balanced by the value of the benefits provided to the proprietor; and, the

municipality made an individualized determination that the required dedication of open space was related in nature and roughly proportional in extent to the impact of the subdivision.

Currently, the county drain commissioner or governing body of the municipality in which a subdivision is situated must require adequate drainage as a condition of approval of the final plat. The bill would add that in agreement with the county drain commissioner, a municipality could assume the responsibility for the operation and maintenance of retention and detention basins.

The Act specifies conditions to be met in order for a final plat to be approved, if any part of a proposed subdivision lies within a floodplain. The bill would add that a building could not be located on any portion of a lot lying within a floodplain if prohibited by a municipal or county ordinance.

If any part of a proposed subdivision lay within or included a land area subject to a statute that was administered by the DEQ and that imposed limitations on construction activities, the DEQ could condition approval of the final plat on the recording of restrictive deed covenants or on the placement of lots on the plat in a manner that permitted the construction of buildings in compliance with the applicable statute. Conditions imposed by the DEQ would have to be based on the Natural Resources and Environmental Protection Act.

#### Completion of Improvement

Before a final plat was approved by the approving authority, the proprietor would have to complete an improvement required by the county road commission, county drain commissioner, municipality, State Transportation Department, or DEQ or would have to provide security for the improvement's completion. If security were provided, a written agreement between the proprietor and the approving authority would be required for completion of the required improvement under the terms of the improvement plan as approved and by the date stated in that agreement, which could not be less than one year after the agreement was entered into. The proprietor would have to furnish separate security to each approving authority guaranteeing that an improvement under that authority's jurisdiction would be completed in accordance with the written agreement. At the proprietor's option, the security would have to be one of the following: cash,

certified check, performance bond acceptable to the approving authority, escrow agreement acceptable to the approving authority, or irrevocable letter of credit issued by a State or Federally regulated financial institution acceptable to the approving authority.

If a required improvement were not completed in accordance with the written agreement, the security provided to an approving authority with jurisdiction would have to be used by that approving authority to complete the improvements unless the approving authority agreed to extend

the time period for completing the improvement conditional on maintenance of the security under the above provision. During an improvement's construction, the approving authority would have to reduce or rebate to the proprietor the amount of the deposit in excess of the cost of completing the rest of the improvement.

An approving authority with jurisdiction over an improvement could require the proprietor to furnish security and to be held after completion of the improvement equal to not more than 10% of the approving authority's estimated cost for the improvement. The security would have to be of a type described in the bill or a maintenance bond for repair of latent defect. This deposit would have to be returned one year after completion of the improvement minus the cost to the authority to correct any latent defect in the improvement that was discovered within that time.

#### Assessor's Plat

Under the bill, an assessing officer would have to certify that the municipality had acquired the title to the roads, alleys, and public places shown on the assessor's plat by means of purchase, dedication, condemnation, or adverse possession for public use. If there were land to which the municipality had not acquired title, the extent of that land's use would have to be stated plainly in the certificate and noted on the plat. The plat would have to be signed and acknowledged by the assessing officer.

Currently, when completed, an assessor's plat must be filed with the clerk of the governing body that ordered the plat. Under the bill, after the filing or after a required approval by the county road commission, the clerk would have to forward the assessor's plat to the county plat board for approval. After approval, the plat review

committee would have to return the plat to the clerk. The Act requires the plat to remain on file in the clerk's office for 30 days after the first publication. Under the bill, after the 30-day period, the governing body would have to consider the assessor's plat for approval. The bill would delete provisions concerning bringing a suit to have a plat corrected.

After approval by the governing body, the municipal clerk would have to file a petition with the circuit court for the purpose of quieting title to the property located within the assessor's plat. The clerk would have to notify all of the following of the petition's filing: owners of record title of each lot or parcel included within the assessor's plat; owners of record title of property abutting the assessor's plat; the State administrator; the Director of the State Transportation Department if the assessor's plat included or abutted a State highway; the county drain commissioner and the chairperson of the board of county road commissioners having jurisdiction over any of the lands included in the plat; and, each public utility that was known to serve the area. Unless the property owners noted above totaled more than 20, service of process would have to be made in accordance with general rules governing service in civil actions. If these parties totaled more than 20, they could be served by registered mail. If the circuit court ordered the quieting of title as provided in the assessor's plat, the clerk of the municipality would have to send the assessor's plat and the applicable fee to the State administrator for a review of compliance with the court order.

#### Duplicate Plat

If a register of deeds were aware that a plat recorded in the office of the register of deeds was torn, mutilated, or likely to become illegible for some other reason, the register of deeds would have to ascertain the facts in relation to the plat. If the register considered it necessary to preserve a plat from further deterioration, he or she would have to employ a surveyor to transcribe and draw a duplicate of the original plat.

A duplicate would have to be as near as possible a complete transcription of the original plat. The surveyor and register of deeds would have to certify that the duplicate was a complete transcription of the original plat. The duplicate plat and certificates would have to be recorded in the same manner as other plats. The register of deeds would have to note on the original plat the

book and page in which the duplicate plat was recorded and on the duplicate plat the book and page in which the original plat was recorded. The register of deeds would have to send copies of the recorded duplicate plat and certificates to the State administrator.

A duplicate plat would have to be considered the same as the original plat recorded in the register of deeds office for all purposes. The duplicate plat would be prima facie evidence of the making and recording of the original plat and of the facts contained in the duplicate plat.

### Recorded Plat Revisions

Currently, upon trial and hearing of an action, a court may order a recorded plat or any part of it to be vacated, corrected, or revised, except under certain circumstances. Under the bill, if a reasonable objection were made to vacating, correcting, or revising a recorded plat, the court could not take this action unless it were necessary for the health, safety, or welfare of the public. In addition to the current exceptions, the court could not vacate, correct, or revise a part of a public walkway, park, public square, or other land that was dedicated to the use of the public for a purpose other than a road or alley and that was under the jurisdiction of a municipality, unless, before entry of a judgment or order, the governing body of the municipality consented by resolution to the vacation, correction, or revision or vacated by the resolution the land involved.

A judgment or order granting a complaint filed under the Act would have to state that a reasonable objection had not been made to the vacation, correction, or revision. If a reasonable objection were made, a judgment or order granting a complaint would have to state the basis on which the court determined that the vacation, correction, or revision was necessary for the health, welfare, or safety of the public. A judgment or order denying a complaint would have to state the reasonable objection and the basis on which the court determined that the vacation, correction, or revision was not necessary for the health, welfare, or safety of the public.

### Fees

Under the Act, beginning October 1, 1998, when a final plat is submitted to the clerk of the governing body of the municipality, the proprietor must deposit a plat filing and recording fee of \$20. This fee is to be sent to the clerk of the county plat

board who must deposit the fee in the county's trust and agency fund to be used for subsequent payments of \$10 to the State, upon county approval of the plat, and \$10 to the county register of deeds upon proof that the plat has been duly recorded. The bill would delete these payments, and require instead that the county register of deeds be paid \$20 for the first plat sheet and \$5 for each additional sheet upon the recording of the plat.

The bill would delete provisions on filing and recording fees and the State plat review fee that apply until October 1, 1998. The bill also would require that when a final plat was filed with the State administrator, the proprietor deposit with the plat the required review fee, which would be separate from any other fee. The amount of the plat review fee would be \$150, plus \$15 for each lot over four lots included in the plat. Currently, this fee must be deposited in a fund in the State Treasury. The bill specifies that the fund would have to be used for the administration of the Act, which could include, but would not be limited to, one or both of the following: providing approving authorities and potential land dividers, and their professional consultants, with information education, and training materials; and/or preparing model land division ordinances.

The bill would delete current provisions permitting a municipality's governing body to adopt a reasonable schedule of fees, which is in addition to the filing and recording fee. Under the bill, an approving authority could establish a reasonable fee schedule by a published State rule, land division ordinance, or resolution, as applicable. The fees could not exceed the necessary and actual cost for each of the following: review of a preliminary plat, improvement plan, or final plat; inspection of a subdivision or an improvement; and review of a division. An approving authority would not have to begin a review or inspection until the proper review or inspection fees had been paid. A time limit for approval could not begin to run until the proper fee had been paid.

The preliminary plat submittal to the DEQ would have to be accompanied by a \$500 fee to cover the administrative cost of the DEQ's preliminary plat review. If the Department determined that engineering computations were required to establish the limits of the floodplain on a preliminary plat, the DEQ would have to assess an additional fee of \$1,500 to cover the cost of establishing those limits. Fees assessed by the Department under this provision would be subject



to permit application fees established in the Natural Resources and Environmental Protection Act. The DEQ would have to forward fees collected under this provision to the State Treasurer for deposit in the Land and Water Management Permit Fee Fund created in the Natural Resources and Environmental Protection Act.

If an approving authority rejected a plat and the proprietor filed a revised plat with the approving authority, that authority could charge a fee for the review of the revised plat.

#### Public Land

Beginning on the date a plat was recorded, a municipality would be conclusively presumed to have accepted, on behalf of the public, land that lay within the boundaries of that municipality dedicated in the plat to the public's use.

An outlot could not be used for a park, building site, or any other public or private purpose until replatted. If outlots were permitted for future road purposes by the municipality, the developer would be required to convey to the municipality or the developer adjacent that was required to serve and the adjacent developer would have to acquire the property and replat it.

If land were vacated as public land, title would vest as follows:

- Title to a part of a plat vacated by municipal action, other than a road or alley, would vest in the rightful owner of that part. Title to a road or alley the full width of which was vacated by municipal action would vest in the rightful owners of the lots, within the subdivision covered by the plat, abutting the road or alley.
- If the lots abutting the vacated road or alley on both sides belonged to the same owner, title to a vacated road or alley would vest in that owner. If the lots on opposite sides of a vacated road or alley belonged to different owners, title up to the center line of the vacated road or alley would vest in the respective owners of the abutting lots on each side.
- If only part of the width of a road or alley, not extending beyond the center line, were vacated, title to the vacated part would vest in the owner of the lots abutting the vacated part.

If title to a part of a vacated road or alley vested in an abutting owner, a future legal description of the abutting lot or lots would have to include a legal description of that part of the vacated road or alley. Vacation under this section of land dedicated to the public in a subdivision would not affect the rights of lot owners within that subdivision to use the land for the purposes for which it was dedicated. These rights would be terminable only by entry of a judgment specifically terminating these rights in accordance with Act's provisions on violations.

#### Coordinating Committee

Two or more approving authorities or one or more approving authorities and a county could establish a coordinating committee for the purposes of simultaneous consideration and discussion of a preliminary plat, improvement plan, or final plat by approving authorities and authorizing a procedure to convene, receive copies of a preliminary plat, improvement plan, or final plat, receive and distribute fees, and conduct business. A coordinating committee would not be an approving authority, and its function would be limited to coordinating and expediting review of approving authorities.

#### Land Sale Prohibition

Currently, a person may not sell any lot in a recorded plat or a parcel of unplatted land in an unincorporated area if it abuts a street or road that has not been accepted as public unless the seller first informs the purchaser in writing that the street or road is private and is not required to be maintained by the county board of road commissioners. The bill would add that a person could not sell a lot or parcel, as specified above, if the lot or parcel abutted a road that had been dedicated but was not maintained at public expense, unless the seller first informed the purchaser in writing that the road was not maintained at public expense.

A person could not sell a lot in a recorded plat or a parcel of unplatted land unless the seller first provided the purchaser in writing with a notice, as specified in the bill, concerning the property's location in the vicinity of a farm or farm operation.

#### Violations

If a purchase agreement required that the sale could not be consummated until a plat or division

was recorded, if required by the Act, a purchase agreement for the sale of land to a purchaser who was a residential builder licensed under the Occupational Code would not be a violation of the Act.

A person owning or in possession of a parcel created in violation of the Act could be joined as a party in an action to enjoin a violation of the Act. A purchaser of a parcel created in violation of the Act could bring an action in the purchaser's name for injunctive relief, damages, and attorney fees. The action would have to be brought in the county in which the land was located or in which the defendant resided or had a principal place of business.

#### Previous Plat Approvals

A preliminary plat that had been approved by a municipality before the bill's effective date could be processed under the law in effect at the time of that approval until the date two years after the bill's effective date. A plat that did not have preliminary plat approval from a municipality before the bill's effective date, or a plat that had this approval but that was not a recorded plat before the date two years after the bill's effective date, would have to comply with the Act's requirements.

#### Repealers

The bill would repeal the Act's provisions on: definitions (MCL 560.102); county road commissioner's and county drain commissioner's approval, Department of State Highways rejection or approval, Conservation Department rejection or approval, water resources commission rejection or approval, and health department rejection or approval (MCL 560.113-560.118); certificate required for recording, surveyor's certificate, proprietor's certificate, county treasurer's certificate, county road commissioner's certificate, municipality governing board's certificate, county plat board's certificate, and State highway commission certificate (MCL 560.142-560.150); number of copies for drain commissioner (MCL 560.162); submission of plat to board of county road commissioners (MCL 560.164); transmission to county plat board (MCL 560.168); transmission of approved plat to State administrator (MCL 560.169a); State Treasurer procedures upon receiving plat (MCL 560.170); requirements for

streets, alleys, roads and highways shown on a final plat (MCL 560.181); county road commission requirements for highways and streets on a final plat (MCL 560.183); county road commission fees (MCL 560.248); board of supervisors fees (MCL 560.249); and the Act's effective date (MCL 560.293).

MCL 560.101 et al.

Legislative Analyst: L. Arasim

#### **FISCAL IMPACT**

Counties would incur costs associated with the county reviews of land divisions. The fees included in the bill would cover most costs.

This bill would have no State fiscal impact.

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

#### S9596\S112SA

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.