

HOUSE BILL No. 5698

December 15, 2009, Introduced by Reps. Barnett, Donigan, Stanley, Constan, Liss, Haugh and Kennedy and referred to the Committee on Intergovernmental and Regional Affairs.

A bill to amend 1967 PA 288, entitled "Land division act," by amending sections 102, 151, 172, 173, 198, 210, 224a, 229, 242, 244, 255b, 256, 257, and 290 (MCL 560.102, 560.151, 560.172, 560.173, 560.198, 560.210, 560.224a, 560.229, 560.242, 560.244, 560.255b, 560.256, 560.257, and 560.290), section 102 as amended by 1996 PA 591 and section 224a as amended by 1996 PA 219.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

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

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

4 (c) "Preliminary plat" means a map showing the salient
5 features of a proposed subdivision submitted to an approving

1 authority for purposes of preliminary consideration.

2 (d) "Division" means the partitioning or splitting of a parcel
3 or tract of land by the proprietor thereof or by his or her heirs,
4 executors, administrators, legal representatives, successors, or
5 assigns for the purpose of sale, or lease of more than 1 year, or
6 of building development that results in 1 or more parcels of less
7 than 40 acres or the equivalent, and that satisfies the
8 requirements of sections 108 and 109. Division does not include a
9 property transfer between 2 or more adjacent parcels, if the
10 property taken from 1 parcel is added to an adjacent parcel; and
11 any resulting parcel shall not be considered a building site unless
12 the parcel conforms to the requirements of this act or the
13 requirements of an applicable local ordinance.

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

24 (f) "Subdivide" or "subdivision" means the partitioning or
25 splitting of a parcel or tract of land by the proprietor thereof or
26 by his or her heirs, executors, administrators, legal
27 representatives, successors, or assigns for the purpose of sale, or

1 lease of more than 1 year, or of building development that results
2 in 1 or more parcels of less than 40 acres or the equivalent, and
3 that is not exempted from the platting requirements of this act by
4 sections 108 and 109. "Subdivide" or "subdivision" does not include
5 a property transfer between 2 or more adjacent parcels, if the
6 property taken from 1 parcel is added to an adjacent parcel; and
7 any resulting parcel shall not be considered a building site unless
8 the parcel conforms to the requirements of this act or the
9 requirements of an applicable local ordinance.

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

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

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

17 (j) "Accessible", in reference to a parcel, means that the
18 parcel meets 1 or both of the following requirements:

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

27 (ii) Is served by an existing easement that provides vehicular

1 access to an existing road or street and that meets all applicable
2 location standards of the state transportation department or county
3 road commission under ~~Act No. 200 of the Public Acts of 1969~~ **1969**
4 **PA 200, MCL 247.321 TO 247.329**, and of the city or village, or can
5 be served by a proposed easement that will provide vehicular access
6 to an existing road or street and that will meet all such
7 applicable location standards.

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

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

18 (ii) Forestry use involving the planting, management, or
19 harvesting of timber.

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

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

25 (n) "Outlot", when included within the boundary of a recorded
26 plat, means a lot set aside for purposes other than a development
27 site, park, or other land dedicated to public use or reserved to

1 private use.

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

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

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

8 (r) "County plat board" means the register of deeds, who shall
9 act as chairperson, the county clerk, who shall act as secretary,
10 and the county treasurer. If the offices of county clerk and
11 register of deeds have been combined, the chairperson of the board
12 of supervisors shall be a member of the plat board and shall act as
13 chairperson. In a county where a board of auditors is authorized by
14 law such board may elect to serve on the county plat board by
15 adopting a resolution so ordering. A copy of the recorded
16 resolution shall be sent to the ~~state treasurer~~ **DIRECTOR OF THE**
17 **DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.**

18 (s) "Public utility" means all persons, firms, corporations,
19 copartnerships, or municipal or other public authority providing
20 gas, electricity, water, steam, telephone, sewer, or other services
21 of a similar nature.

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

24 (u) "Replat" means the process of changing, or the map or plat
25 which changes, the boundaries of a recorded subdivision plat or
26 part thereof. The legal dividing of an outlot within a recorded
27 subdivision plat without changing the exterior boundaries of the

1 outlot is not a replat.

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

6 (w) "Engineer" means a civil engineer who is a professional
7 engineer licensed under article 20 of the occupational code, ~~Act~~
8 ~~No. 299 of the Public Acts of 1980, being sections 339.2001 to~~
9 ~~339.2014 of the Michigan Compiled Laws 1980 PA 299, MCL 339.2001 TO~~
10 ~~339.2014.~~

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

13 (y) "Michigan coordinate system" means the system defined in
14 ~~Act No. 9 of the Public Acts of 1964, being sections 54.231 to~~
15 ~~54.239 of the Michigan Compiled Laws 1964 PA 9, MCL 54.231 TO~~
16 ~~54.239.~~

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

20 (aa) "Health department" means the department of environmental
21 quality, a city health department, a county health department, or a
22 district health department, whichever has jurisdiction.

23 (bb) "Public sewer" means a sewerage system as defined in
24 section 4101 of ~~part 41 (sewerage systems) of the natural resources~~
25 ~~and environmental protection act, Act No. 451 of the Public Acts of~~
26 ~~1994, being section 324.4101 of the Michigan Compiled Laws 1994 PA~~
27 ~~451, MCL 324.4101.~~

1 (cc) "Public water" means a system of pipes and structures
2 through which water is obtained and distributed to the public,
3 including wells and well structures, intakes, and cribs, pumping
4 stations, treatment plants, reservoirs, storage tanks and
5 appurtenances, collectively or severally, actually used or intended
6 for use for the purpose of furnishing water to the public for
7 household or drinking purposes.

8 (dd) "Topographical map" means a map showing existing physical
9 characteristics, with contour lines at sufficient intervals to
10 permit determination of proposed grades and drainage.

11 (ee) "Flood plain" means that area of land adjoining the
12 channel of a river, stream, water course, lake, or other similar
13 body of water which will be inundated by a flood which can
14 reasonably be expected for that region.

15 Sec. 151. (1) A certificate shall be signed and dated by the
16 ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND**
17 **ECONOMIC GROWTH**, or may be signed and dated for him by an officer
18 of the department of ~~treasury~~ **ENERGY, LABOR, AND ECONOMIC GROWTH**,
19 if authorized by the ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF**
20 **ENERGY, LABOR, AND ECONOMIC GROWTH**.

21 (2) The certificate shall signify that:

22 (a) The plat conforms, in his **OR HER** opinion, to all of the
23 requirements of this act and to the published rules and regulations
24 of the department of ~~treasury~~ **ENERGY, LABOR, AND ECONOMIC GROWTH**,
25 relative to plats.

26 (b) The plat has the ~~state treasurer's~~ approval **OF THE**
27 **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**.

1 Sec. 172. Upon receipt of the plat from the ~~state treasurer~~
2 **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**
3 the register of deeds shall:

4 (a) Certify on the plat the time of recording and the book and
5 page where recorded. He **OR SHE** shall not accept a plat for
6 recording unless it is sent to him **OR HER** by the ~~state treasurer~~
7 **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**
8 and bears ~~his~~**A** certificate of approval **OF THE DIRECTOR OF THE**
9 **DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.**

10 (b) Note on the record the time when made.

11 (c) Record the book and page number of any building
12 restrictions noted on or filed with the plat.

13 (d) Certify and promptly forward to the ~~state treasurer~~
14 **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH** on
15 a form specified by him **OR HER** that the plat has been recorded.

16 Sec. 173. When notification of recording of 1 copy of plat has
17 been received by the ~~state treasurer~~**DIRECTOR OF THE DEPARTMENT OF**
18 **ENERGY, LABOR, AND ECONOMIC GROWTH**, he **OR SHE** shall:

19 (a) Transcribe the certificate of recording on all other
20 copies.

21 (b) Retain 1 copy for his **OR HER** files.

22 (c) Mail 1 copy of the plat to the county treasurer, 1 copy to
23 the clerk of the municipality in which the plat is located, 1 copy
24 to the county road commission or the city planning commission, and
25 1 copy to the proprietor if he has submitted an extra copy for
26 certification and mailing.

27 Sec. 198. Subject to review and approval at a meeting of the

1 county plat board of the county in which the subdivision is
2 located, an affidavit by the surveyor who certified the plat may be
3 recorded in the office of the register of deeds in which the plat
4 is recorded but only for the purpose of correcting minor and
5 typographical errors in distances, angles, directions, bearings,
6 chords, lot numbers, street numbers or other details shown on a
7 recorded plat as follows:

8 (a) The affidavit shall explain the purpose, exact nature, and
9 details of the correction.

10 (b) If the county plat board rejects the request for recording
11 of the affidavit, it shall give its reasons in writing.

12 (c) The register of deeds, after approval of the county plat
13 board, shall note on the plat a reference to the book and page in
14 which the affidavit is recorded and shall send a certified copy to
15 the ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR,**
16 **AND ECONOMIC GROWTH**, who shall note or reference it on his copy of
17 the plat. The ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY,**
18 **LABOR, AND ECONOMIC GROWTH** shall send copies to all agencies which
19 received a copy of the plat.

20 (d) A recorded affidavit, or a certified copy thereof, shall
21 be prima facie evidence of the facts therein stated.

22 (e) Affidavits of correction may not be used to change the
23 boundaries or shape of lots, outlots or parcels of land in a
24 subdivision.

25 Sec. 210. The plat, when completed and certified as provided
26 in this act with the exception of the certification by the county
27 plat board and when approved by the governing body and in

1 unincorporated areas by the board of county road commissioners,
2 shall be acknowledged by the clerk thereof. When so approved and
3 acknowledged, all copies of the plat shall be forwarded to the
4 ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND**
5 **ECONOMIC GROWTH** together with the recording fee specified in this
6 act for all plats. The ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT**
7 **OF ENERGY, LABOR, AND ECONOMIC GROWTH** shall review the plat for
8 adherence to the provisions of this act, or may reject it giving
9 his **OR HER** reasons in writing. Upon approval, the ~~state treasurer~~
10 **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**
11 shall forward the plat to the register of deeds for recording. On
12 return of the proof of recording the required recording fee shall
13 be sent to the register of deeds and the ~~state treasurer~~ **DIRECTOR**
14 **OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH** shall
15 distribute the copies as required for all other final plats.

16 Sec. 224a. (1) The plaintiff shall join as parties defendant
17 each of the following:

18 (a) The owners of record title of each lot or parcel of land
19 included in or located within 300 feet of the lands described in
20 the petition and persons of record claiming under those owners.

21 (b) The municipality in which the subdivision covered by the
22 plat is located.

23 (c) The ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY,**
24 **LABOR, AND ECONOMIC GROWTH.**

25 (d) The drain commissioner and the chairperson of the board of
26 county road commissioners having jurisdiction over any of the land
27 included in the plat.

1 (e) Each public utility which is known to the plaintiff to
2 have installations or equipment in the subdivision or which has a
3 recorded easement or franchise right which would be affected by the
4 proceedings.

5 (f) The director of the state transportation department and
6 the director of the department of natural resources if any of the
7 subdivision includes or borders a state highway or federal aid
8 road.

9 (g) If the requested action may result in a public highway or
10 a portion of a public highway that borders upon, crosses, is
11 adjacent to, or ends at a lake or the general course of a stream
12 being vacated or altered in such a manner as would result in the
13 loss of public access, the director of the department of natural
14 resources and, if the subdivision is located in a township, the
15 township. The department of natural resources and, if applicable,
16 the township shall review the application and determine within 30
17 days whether the property should be retained by the state or
18 township as an ingress and egress point, and shall convey that
19 decision to the court.

20 (2) Service of process upon the joined parties defendant shall
21 be made in accord with the general rules governing service of
22 process in civil actions except that the parties defendant
23 specified in subsection (1)(b), (f), or (g) may be served by
24 registered mail and the parties defendant specified in subsection
25 (1)(a) may be served by registered mail if there are more than 20
26 persons that must be joined pursuant to subsection (1)(a).

27 Sec. 229. (1) If the court orders a plat to be vacated,

1 corrected, or revised in whole or in part, the court shall also
2 direct plaintiff to prepare, in the form required by this act for a
3 final plat, either a new plat of the part of the subdivision
4 affected by the judgment or a new plat of the entire subdivision if
5 the court's judgment affects a major part of the subdivision.

6 (2) Five true copies of the new plat, accompanied by a copy of
7 the court's judgment, shall be filed with the ~~state treasurer~~
8 **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**.
9 The caption of the new plat shall include a statement that it is a
10 corrected or revised plat of all or part of the same subdivision
11 covered by the original plat.

12 (3) After the ~~state treasurer~~**DIRECTOR OF THE DEPARTMENT OF**
13 **ENERGY, LABOR, AND ECONOMIC GROWTH** has examined the new or amended
14 plat for compliance with the court judgment and the provisions of
15 this act for the making and filing of original final plats and has
16 approved the new or amended plat, the ~~state treasurer~~**DIRECTOR OF**
17 **THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH** shall
18 distribute 1 copy each to the register of deeds, clerk of the
19 municipality, county treasurer, and county road commission. One
20 copy shall be filed in the office of the ~~state treasurer~~**DIRECTOR**
21 **OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**.

22 (4) Fees for recording and filing documents as required by
23 this section shall be the same as for an original final plat.

24 Sec. 242. (1) The ~~state treasurer~~**DIRECTOR OF THE DEPARTMENT**
25 **OF ENERGY, LABOR, AND ECONOMIC GROWTH** shall maintain a permanent
26 file of plats and the index shall contain all pertinent information
27 necessary to facilitate reference.

1 (2) A fee established by the ~~state treasurer~~ **DIRECTOR OF THE**
2 **DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH** shall be collected
3 for copies of plats.

4 Sec. 244. (1) If the proprietor of a subdivision desires to
5 retain a copy of the final plat, he **OR SHE** shall forward a sixth
6 copy of it to the ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF**
7 **ENERGY, LABOR, AND ECONOMIC GROWTH** for certification as an exact
8 copy of the approved and recorded plat.

9 (2) The true copy requested may be made upon tracing linen or
10 some similar material.

11 (3) No charge shall be made for certification of the sixth
12 copy.

13 Sec. 255b. (1) Ten years after the date the plat is first
14 recorded, land dedicated to the use of the public in or upon the
15 plat shall be presumed to have been accepted on behalf of the
16 public by the municipality within whose boundaries the land lies.

17 (2) The presumption prescribed in subsection (1) shall be
18 conclusive of an acceptance of dedication unless rebutted by
19 competent evidence before the circuit court in which the land is
20 located, establishing either of the following:

21 (a) That the dedication, before the effective date of this act
22 and before acceptance, was withdrawn by the plat proprietor.

23 (b) That notice of the withdrawal of the dedication is
24 recorded by the plat proprietor with the office of the register of
25 deeds for the county in which the land is located and a copy of the
26 notice was forwarded to the ~~state treasurer~~ **DIRECTOR OF THE**
27 **DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**, within 10 years

1 after the date the plat of the land was first recorded and before
2 acceptance of the dedicated lands.

3 Sec. 256. Subject to the restrictions prescribed in section
4 255a, when the governing body of a municipality by resolution or
5 ordinance opens or vacates a street or alley or a portion of a
6 street or alley, or extends, widens, or changes the name of an
7 existing street or alley, the clerk of the municipality within 30
8 days shall record a certified copy with the register of deeds,
9 giving the name of the plat or plats affected, and shall send a
10 copy to the ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY,**
11 **LABOR, AND ECONOMIC GROWTH.** Until recorded, the ordinance or
12 resolution shall not have force or effect.

13 Sec. 257. (1) Subject to the restrictions prescribed in
14 section 255a, when the governing body of a municipality determines
15 that it is necessary for the health, welfare, comfort, and safety
16 of the people of the municipality to discontinue an existing
17 street, alley, or other public land shown on a plat, by resolution
18 or ordinance, the governing body may reserve an easement in the
19 street, alley, or land for public utility purposes and other public
20 purposes within the right of way of the street, alley, or other
21 public land vacated.

22 (2) The resolution or ordinance shall be recorded within 30
23 days with the register of deeds and a copy shall be sent to the
24 ~~state treasurer~~ **DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND**
25 **ECONOMIC GROWTH.**

26 Sec. 290. The employee in direct charge of the plat section in
27 the ~~office of the state treasurer which~~ **DEPARTMENT OF ENERGY,**

1 **LABOR, AND ECONOMIC GROWTH THAT** performs services for the state
2 ~~treasurer~~**DIRECTOR OF THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC**
3 **GROWTH** under this act, and ~~such~~**THAT** employee's chief assistant,
4 shall **EACH** be a registered land surveyor registered in this state.