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Senate Bill 23 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Kevin Hertel

Committee: Local Government

Date Completed: 3-31-25

### **RATIONALE**

The current system for dividing parcels requires legal solutions that make the process of building houses more expensive. Plats, site condominiums (see **BACKGROUND**), and judicial litigation are all commonly used strategies for developing already-divided parcels, and these strategies require time or money. According to testimony before the Senate Committee on Local Government, allowing more splits to occur could decrease the cost of lots if the lots have already made all their legal splits under current statute. This could incentivize more construction of affordable housing depending on the local ordinance governing the build site.

### **CONTENT**

**The bill would amend Section 108 of the Land Division Act to do the following:**

- Increase, from four to 10, the number of parcels that the first 10 acres of a parent parcel or tract could be divided into.**
- Allow a parent parcel or tract to be divided into up to 10 parcels of 1.5 acres each if the remainder of the resulting parcels were three acres or larger, instead of following existing requirements.**
- Allow a municipality to authorize the further partitioning of land into more parcels or tracts than allowed under Section 108 if the land met standards established by the municipality.**

The bill would take effect one year after its enactment.

Section 108 of the Land Division Act prescribes requirements for divisions of parcels or tracts of land. Among other division requirements, Section 108 requires that the first 10 acres or fraction thereof of a parent parcel or parent tract (a parcel or tract before it is split) be divided into four or fewer separate parcels. Under the bill, the first 10 acres of a parent parcel or tract or fraction thereof could be divided into 10 or fewer separate parcels.

The bill also would allow a division to result in up to 10 parcels of 1.5 acres each if the remainder of the resulting parcels were three acres or larger.

(The Act defines "parcel" as a contiguous area or acreage of land. "Tract" means two or more parcels that share a common property line and are under the same ownership. "Plat" means a map or chart of a subdivision of land.)

Currently, a parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of the Act if not less than 10 years have elapsed since the parcel or tract was recorded, among other requirements. The bill would add that this requirement would not apply to a parcel created by an exempt split.

("Exempt split" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in one or more parcels of less than 40 acres or the equivalent.)

Finally, the bill would allow a municipality or county that had authority to approve the division under Section 109 to authorize by ordinance the further partitioning or splitting of a parcel or tract into a greater number of parcels or tracts than otherwise authorized by Section 108. A parcel or tract created by an ordinance as described above could not be further partitioned or split without being subject to the platting requirements of the Act.

(Section 109 describes the criteria that must be met to approve an application for a proposed division. Generally, these requirements include an accurate legal description of the parcel, size requirements for the parcel, that the resulting parcel be accessible, that each resulting parcel has adequate easements for public utilities, and that fees are paid.)

MCL 560.108

## **BACKGROUND**

"Site condominium" is not defined in the Condominium Act. The term is used to describe condominium development with single-family detached housing instead of two or more housing units in one structure.<sup>1</sup> The type of review that the development project is subject to depends on the local government's ordinances.<sup>2</sup> A site condominium development is functionally like a subdivision developed in accordance with the Land Division Act.<sup>3</sup>

## **PREVIOUS LEGISLATION**

*(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)*

The bill is similar to Senate Bill 480 of the 2023-2024 Legislative Session, which passed the Senate and was reported from the House Committee on Local Government and Municipal Finance but received no further action.

## **ARGUMENTS**

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

### **Supporting Argument**

The bill could improve local governments' control over housing affordability and density. According to testimony before the Senate Committee on Local Government during the 2023-2024 Legislative Session, municipalities commonly use site condominiums instead of plats to achieve basically the same legal result of dividing real estate into separate residential building sites without spending as much time or money as the platting process. Reportedly, local governments favor the site condominium approach over platting because the site condominium approach also presents better control of market timing. Under the bill, municipalities could grant the split of a parent parcel or tract by changing its ordinance to better align with the site condominium approach. Therefore, the bill would offer a method of working within the platting system to achieve the same goal that local governments can achieve today using the site condominium system.

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<sup>1</sup> Michigan Department of Licensing and Regulatory Affairs, The Condominium Buyer's Handbook, October 2018.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

### **Opposing Argument**

The bill would not enact any protections against excessive splitting of a parent parcel or tract. The only protections then would come from a local ordinance, and if the local ordinance allowed for it, a developer could divide an existing parent parcel or tract into a 10-house subdivision in an area without infrastructure, water, or sewer. In other words, the bill would provide no guarantee that lots enabled by the bill would go toward making more affordable housing. Any cheaper lots enabled by the bill also could be used for expanding residential neighborhoods at housing costs that would not be considered affordable. The bill should not be enacted without protections against excessive splitting.

### **Opposing Argument**

The bill could create a gap in the oversight of proper planning for new housing construction. By allowing splits that were exempt from State platting requirements and instead subject to local ordinances, the requirement to survey, address environmental considerations like floodplains and wetlands, and manage stormwater would be governed by ordinances of the local government in which the division occurred. According to testimony before the Senate Committee on Local Government, not all local governments require surveying or evaluation of stormwater runoff in ordinances governing the splitting of parcels. Exempting splits from State platting requirements in municipalities without similar requirements could place burdensome surveying costs on the first buyer of a home and lead to a denial of homeowner's insurance or mortgage. It also could lead to construction in an unknown wetland or floodplain or poor management of stormwater resulting in residential flooding. Without State platting laws requiring a new parcel's survey and management of environmental considerations and stormwater, the bill could lead to poorly planned and unaffordable home construction.

Legislative Analyst: Alex Krabill

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the State and local governmental units. The bill would increase the parceling of property. If these individual parcels generated more tax revenue collectively than as part of the original parcel this would lead to a positive fiscal impact for the State and the local government unit; however, if individually the parcels generated less tax revenue collectively than as part of the original parcel this would lead to a negative fiscal impact for the State and the local governmental unit.

Fiscal Analyst: Bobby Canell

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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.