

HOUSE BILL No. 4971

July 16, 2003, Introduced by Reps. Kolb, Tobocman, Rivet, Minore, Jamnick, Bieda, Gielegem, Lipsey and Sak and referred to the Committee on Land Use and Environment.

A bill to amend 1967 PA 288, entitled
"Land division act,"
by amending sections 108 and 109 (MCL 560.108 and 560.109),
section 108 as added by 1996 PA 591 and section 109 as amended by
1997 PA 87.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 108. (1) A division is not subject to the platting
2 requirements of this act.

3 (2) Subject to subsection (3), the division, together with
4 any previous divisions of the same parent parcel or parent tract,
5 shall result in a number of parcels not more than the sum of the
6 following, as applicable:

7 (a) For the first 10 acres or fraction thereof in the parent
8 parcel or parent tract, 4 parcels.

9 (b) For each whole 10 acres in excess of the first 10 acres

1 in the parent parcel or parent tract, 1 additional parcel, for up
2 to a maximum of 11 additional parcels.

3 (c) For each whole 40 acres in excess of the first 120 acres
4 in the parent parcel or parent tract, 1 additional parcel.

5 (3) For a parent parcel or parent tract of not less than 20
6 acres, the division may result in a total of 2 parcels in
7 addition to those permitted by subsection (2) if 1 or both of the
8 following apply:

9 (a) Because of the establishment of 1 or more new roads, no
10 new driveway accesses to an existing public road for any of the
11 resulting parcels under subsection (2) or this subsection are
12 created or required.

13 (b) One of the resulting parcels under subsection (2) and
14 this subsection comprises not less than 60% of the area of the
15 parent parcel or parent tract.

16 (4) A parcel of 40 acres or more created by the division of a
17 parent parcel or parent tract shall not be counted toward the
18 number of parcels permitted under subsections (2) and (3) and is
19 not subject to section 109, if the parcel is accessible.

20 ~~(5) A parcel or tract created by an exempt split or a~~
21 ~~division is not a new parent parcel or parent tract and may be~~
22 ~~further partitioned or split without being subject to the~~
23 ~~platting requirements of this act if all of the following~~
24 ~~requirements are met:~~

25 ~~—— (a) Not less than 10 years have elapsed since the parcel or~~
26 ~~tract was recorded.~~

27 ~~—— (b) The partitioning or splitting results in not more than~~

1 ~~the following number of parcels, whichever is less:~~

2 ~~—— (i) Two parcels for the first 10 acres or fraction thereof in~~
3 ~~the parcel or tract plus 1 additional parcel for each whole 10~~
4 ~~acres in excess of the first 10 acres in the parcel or tract.~~

5 ~~—— (ii) Seven parcels or 10 parcels if one of the resulting~~
6 ~~parcels under this subsection comprises not less than 60% of the~~
7 ~~area of the parcel or tract being partitioned or split.~~

8 ~~—— (c) The partitioning or splitting satisfies the requirements~~
9 ~~of section 109.~~

10 ~~—— (6) A parcel or tract created under the provisions of~~
11 ~~subsection (5) may not be further partitioned or split without~~
12 ~~being subject to the platting requirements of this act, except in~~
13 ~~accordance with the provisions of subsection (5).~~

14 Sec. 109. (1) A municipality shall approve or disapprove a
15 proposed division within 45 days after the filing of a complete
16 application for the proposed division with the assessor or other
17 municipally designated official. However, a municipality with a
18 population of 2,500 or less may enter into an agreement with a
19 county to transfer to the county authority to approve or
20 disapprove a division. An application is complete if it contains
21 information necessary to ascertain whether the requirements of
22 section 108 and this section are met. The assessor or other
23 municipally designated official, or the county official, having
24 authority to approve or disapprove a proposed division, shall
25 provide the person who filed the application written notice
26 whether the application is approved or disapproved and, if
27 disapproved, all the reasons for disapproval. A complete

1 application for a proposed division shall be approved if, in
2 addition to the requirements of section 108, all of the following
3 requirements are met:

4 (a) Each resulting parcel has an adequate and accurate legal
5 description and is included in a tentative parcel map showing
6 area, parcel lines, public utility easements, accessibility, and
7 other requirements of this section and section 108. The
8 tentative parcel map shall be a scale drawing showing the
9 approximate dimensions of the parcels.

10 (b) Each resulting parcel has a depth of not more than 4
11 times the width or, if an ordinance referred to in subsection (5)
12 requires a smaller depth to width ratio, a depth to width ratio
13 as required by the ordinance. The municipality or county having
14 authority to review proposed divisions may allow a greater depth
15 to width ratio than that otherwise required by this subdivision
16 or an ordinance referred to in subsection (5). The greater depth
17 to width ratio shall be based on standards set forth in the
18 ordinance referred to in subsection (5). The standards may
19 include, but are not required to include and need not be limited
20 to, exceptional topographic or physical conditions with respect
21 to the parcel and compatibility with surrounding lands. The
22 depth to width ratio requirements of this subdivision do not
23 apply to a parcel larger than 10 acres, unless an ordinance
24 referred to in subsection (5) provides otherwise, and do not
25 apply to the remainder of the parent parcel or parent tract
26 retained by the proprietor.

27 (c) Each resulting parcel has a width not less than that

1 required by an ordinance referred to in subsection (5).

2 (d) Each resulting parcel has an area not less than that
3 required by an ordinance referred to in subsection (5).

4 (e) Each resulting parcel is accessible.

5 (f) The division meets all of the requirements of section
6 108.

7 (g) Each resulting parcel that is a development site has
8 adequate easements for public utilities from the parcel to
9 existing public utility facilities.

10 (2) The right to make divisions exempt from the platting
11 requirements of this act under section 108 and this section can
12 be transferred, but only from a parent parcel or parent tract to
13 a parcel created from that parent parcel or parent tract. A
14 proprietor transferring the right to make a division pursuant to
15 this subsection shall within 45 days give written notice of the
16 transfer to the assessor of the city or township where the
17 property is located on the form prescribed by the state tax
18 commission under section 27a of the general property tax act,
19 1893 PA 206, MCL 211.27a. The state tax commission shall revise
20 the form to include substantially the following questions in the
21 mandatory information portion of the form:

22 (a) "Did the parent parcel or parent tract have any
23 unallocated divisions under the land division act, 1967 PA 288,
24 MCL 560.101 to 560.293? If so, how many?"

25 (b) "Were any unallocated divisions transferred to the newly
26 created parcel? If so, how many?"

27 (3) A person shall not sell a parcel of unplatted land unless

1 the deed contains a statement as to whether the right to make
2 further divisions exempt from the platting requirements of this
3 act under this section and section 108 is proposed to be
4 conveyed. The statement shall be in substantially the following
5 form: "The grantor grants to the grantee the right to make
6 [insert number] division(s) under section 108 of the land
7 division act, Act No. 288 of the Public Acts of 1967." In the
8 absence of a statement conforming to the requirements of this
9 subsection, the right to make divisions under section ~~108(2),~~
10 ~~(3), and (4)~~ **108** stays with the remainder of the parent tract or
11 parent parcel retained by the grantor.

12 (4) All deeds for parcels of unplatted land within the state
13 of Michigan after the effective date of this act shall contain
14 the following statement: "This property may be located within
15 the vicinity of farm land or a farm operation. Generally
16 accepted agricultural and management practices which may generate
17 noise, dust, odors, and other associated conditions may be used
18 and are protected by the Michigan right to farm act.".

19 (5) The governing body of a municipality or the county board
20 of commissioners of a county having authority to approve or
21 disapprove a division may adopt an ordinance setting forth the
22 standards in ~~section 109(1)(b)~~ **subsection (1)(b)**, (c), and
23 (d). The ordinance may establish a fee for reviews under this
24 section and section 108. The fee shall not exceed the reasonable
25 costs of providing the services for which the fee is charged.

26 (6) Approval of a division is not a determination that the
27 resulting parcels comply with other ordinances or regulations.