

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 93 (as enrolled)
Sponsor: Senator Leon Stille
Committee: Local, Urban and State Affairs

Date Completed: 2-7-97

RATIONALE

Public Act 591 of 1996 made several changes to the Land Division Act (which is currently named the Subdivision Control Act). Because the Legislature did not give Public Act 591 immediate effect, it will not take effect until March 31, 1997. Among other things, the Act changes the number and type of land splits allowed to occur outside of the platting process. Specifically, the Act establishes the maximum number of parcels that may result from a division, "together with any previous divisions of the same parent parcel or parent tract", if the division is to be exempt from the law's platting requirements. Because the term "parent parcel" or "parent tract" is defined as a parcel or tract in existence on the effective date of Public Act 591, this apparently creates a possible situation in which landowners could divide their land under the provisions of the current Land Division Act and then could split their land again after Public Act 591 takes effect. Therefore, some people believe that certain provisions of Public Act 591 should take effect sooner than the Act's March 31 effective date to prevent landowners from double-splitting their land.

CONTENT

The bill would amend the Land Division Act, as amended by Public Act 591 of 1996, to specify that the term "parent parcel" or "parent tract" would mean a parcel or tract in existence on January 22, 1997, rather than on the effective date of Public Act 591. (Public Act 591 was filed with the Secretary of State on January 22, 1997, and will take effect on March 31, 1997.)

Under the bill, a parcel or tract created after January 22, 1997, but before March 31, 1997, by the lawful partitioning or splitting, other than by subdivision, of a parcel or tract would be a division for purposes of Section 108 of the Act. (Section

108 exempts a division from the Act's platting requirements, and establishes the maximum number of parcels that may result from a division together with any previous divisions of the same parent parcel or parent tract.) Any remaining right to partition or split the land after the bill's effective date and exempt from the Act's platting requirements would attach to the remainder of the parent parcel or tract retained by the grantor unless the deed contained a statement that the grantor granted to the grantee the right to make some or all of these partitions or splits.

The bill also specifies that the amended Act's definitions of "division", "exempt split", "subdivide" or "subdivision", "accessible", and "development site" would not apply before March 31, 1997. The current definition of "subdivide" or "subdivision" would not apply after March 30, 1997.

MCL 560.102

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 would accelerate from March 31, 1997, to January 22, 1997, the effective date of provisions concerning a parent parcel or parent tract of land under Public Act 591. If this window of time is not closed, there may be situations in which landowners and developers split their land twice, once under the current provisions of the Land Division Act and again after Public Act 591 takes effect. Unless the law is changed, this scenario will multiply the number of divisions that may be made outside the platting process, because of the increased number of "parent parcels" that will exist when Public Act 591 takes effect. The bill would

make it clear that splits made during the window period would count toward the number of parcels allowed under Section 108.

The bill also would make it clear that, after the bill's effective date, the right to make future splits of property divided during the window period would be allocated to the owner of the remainder of the parent parcel, unless a deed provided otherwise. Under current law, if a grantor retains part of a parent parcel, divisions made by the grantee may count toward the number allowed for the original parent parcel. Although Public Act 591 requires every deed of unplatted land to state whether the right to make further exempt divisions is conveyed, that requirement will not take effect until March 31. The bill would address the right to make additional divisions of property split during the window period.

Response: Concerns have been raised about the constitutionality of changing the effective date of certain provisions of Public Act 591, making them take effect retroactive to the date the Governor signed that legislation.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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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.