

Legislative Analysis



LAND PRESERVATION & DIVISION

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House Bill 4052 without amendment

Sponsor: Rep. Joe Hune

Committee: Intergovernmental, Urban, and Regional Affairs

First Analysis (6-6-07)

BRIEF SUMMARY: The bill specifies that if a parcel of land will perpetually remain a "green space" (that is, undeveloped under a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land) then that parcel would *not* be counted as a "split" under the Land Division Act.

FISCAL IMPACT: Because it is not known to what degree the exemption will be used, or its impact on land development, it is not possible to determine a fiscal impact.

THE APPARENT PROBLEM:

Recently in Livingston County, a landholder expressed interest in designating a portion of his farmland as green space in perpetuity by obtaining a conservation easement, and then dividing the remaining land into parcels (sometimes called "splits") for residential development.

In an effort to slow development and preserve open land, the Land Division Act of 1967 limits the number of parcels into which a piece of land having a specific acreage can be split. All parcels—whether reserved as green space or developed—are tallied when making a determination as to the total number of "splits" allowed under the law.

Among the 10 tenets of smart growth proposed by the Michigan Land Use Leadership Council is to "preserve open space, farmland, natural beauty, and critical environmental areas." To that end, the Council in its June 2003 final report has recommended that the Michigan legislature initiate a comprehensive revision of the Land Division Act to, among other things, preserve green space and encourage compact development. (See [Background Information](#).)

Legislation has been introduced that would not count a parcel in the total number of allowable "splits," if that parcel were legally dedicated as green space.

THE CONTENT OF THE BILL:

House Bill 4052 would amend the Land Division Act to exempt land that is preserved from development by conservation easements and similar legal means from the limit on the number of parcels that are allowed to result from a "division" under the act.

The Land Division Act, generally, says that a "division" of land is not subject to the act's platting requirements but is subject instead to other restrictions. Under the act, a division, together with any previous division of the same parent parcel or tract, must result in a number of parcels not exceeding the sum of the following:

- Four parcels for the first 10 acres or fraction of ten acres in the parent parcel or tract.
- One additional parcel, up to a maximum of 11 additional parcels, for each whole 10 acres in excess of the first 10 acres in the parent parcel or tract.
- One additional parcel for each whole 40 acres in excess of the first 120 acres in the parent parcel or tract.

For a parent parcel or parent tract of 20 acres or more, the division could result in up to two parcels in addition to those allowed above if one or both of the following applied: (1) because of the establishment of one or more new roads, no new driveway accesses to an existing public road would be created or required; and (2) one of the resulting parcels constituted at least 60 percent of the area of the parent parcel or parent tract.

House Bill 4052 would amend the act (MCL 560.108) to specify that if a parcel will remain perpetually in an undeveloped state under a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, under a zoning ordinance provision adopted under, or described in, the Michigan Zoning Enabling Act, then that parcel would not be counted toward the number of parcels permitted under the provisions limiting the number of parcels that can result from divisions.

[“Division” in the act 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 for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of sections 108 and 109.* (Sections 108 and 109 contain the restrictions on parcels cited earlier.)]

BACKGROUND INFORMATION:

To review the final report entitled *Michigan's Land, Michigan's Future: Final Report of the Michigan Land Use Leadership Council*, visit
http://www.michigan.gov/documents/MLULC_FINAL_REPORT_0803_77503_7.pdf

The website for the Michigan Land Use Institute is <http://www.mlui.org>

The website for the Michigan Land Use Leadership Council is:
<http://www.michiganlanduse.org>

ARGUMENTS:

For:

This bill should be enacted because it creates and protects green space. The Michigan Land Use Leadership Council has recommended that the legislature initiate a comprehensive revision of the Land Division Act to meet five goals: shorten the plat review and approval time; greatly reduce the number of non-platted land divisions; eliminate the 10-year re-division process; *encourage compact development*; and require applicants to submit plat requests to the appropriate state and local departments simultaneously for review (as opposed to sequentially). House Bill 4052 addresses one of these goals since it encourages *compact development*. For example, if a 10-acre parcel in a 40-acre site is dedicated as green space in perpetuity, only the remaining 30 acres will remain to be developed as splits. This has the effect of compressing development on a smaller site, and creating small islands of green space.

POSITIONS:

The Michigan Environmental Council supports the bill. (6-6-07)

The Michigan Association of Realtors supports the bill. (6-6-07)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.