



S.B. 69

123rd General Assembly
(As Introduced)

Sen. Gardner

BILL SUMMARY

- Changes the procedure for the approval of plats by county or regional planning commissions.
- Provides that the statute authorizing the approval of certain subdivisions without the submission of a plat applies only to parcels of no more than 20 acres in size.
- Authorizes the payment of compensation to members of county planning commissions.

CONTENT AND OPERATION

Background

The Subdivision Law (Revised Code Chapter 711.) provides that the division of some tracts of land must be platted (mapped) and is subject to regulations adopted by a local government for securing and providing for (1) the coordination of the streets within a subdivision with existing streets, roads, or highways, (2) the proper amount of open spaces for traffic, circulation, utilities, access of fire-fighting apparatus, recreation, light, and air, and (3) the avoidance of future congestion of population detrimental to the public health, safety, or welfare. Proof of compliance with local zoning ordinances and comments by the health commissioner also may be required. (Secs. 711.05, 711.09, and 711.10.) Only land located in areas where subdivision regulations as described above have been adopted is subject to the Subdivision Law (sec. 711.40).

Land covered by the Subdivision Law

Generally, the Subdivision Law covers the following situations (sec. 711.001):

(1) The division, for the purpose of immediate or future transfer of ownership, of any parcel of land into two or more parcels, any one of which is less than five acres, but not including parcels of more than five acres not involving any new streets or easements;

(2) The improvement of one or more parcels of land for residential, commercial, or industrial structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, except private streets that serve industrial structures;

(3) The division or allocation of land as open spaces for common use by owners, occupants, or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities.

Ohio law requires the preparation and recording of a plat whenever a subdivision is laid out. Local authorities may adopt rules governing the approval of plats for property under their jurisdiction. (Secs. 711.001 and 711.01.)

Plat approval by county or regional planning commissions

Existing law

One local authority having plat approval authority is a county planning commission or regional planning commission. Whenever a county or regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of land under its jurisdiction generally can be recorded until it is approved and written approval of the commission is endorsed on the plat. Under existing law, within five days after the submission of a plat for approval, the commission must schedule a meeting to consider the plat. The meeting must occur within 30 days after submission of the plat, but at least seven days must pass after written notice of the meeting is sent to the appropriate board of township trustees before the meeting can be held. The approval of the commission or its refusal to approve generally must be endorsed on the plat within 30 days after submission of the plat for approval. (Sec. 711.10.)

A county or regional planning commission is not permitted to require a person submitting the plat to alter the plat or any part of it as a condition for approval. If approval is refused, the ground of refusal, including citation of or reference to the rule violated by the plat, must be stated on the record of the commission. Within 60 days after a refusal of approval, the person submitting the plat may petition the court of common pleas and subsequently may appeal the court's decision on questions of law as in other civil cases. (Sec. 711.10.)

Changes proposed by the bill

The bill changes the approval procedure of regional or county planning commissions by authorizing those commissions to require the submission of a *preliminary* plan for each plat sought to be recorded. If a commission requires this submission, it must provide for a review process for the preliminary plan. Under the review process, the planning commission must give its approval, its approval with conditions, or its disapproval of each preliminary plan. The commission's decision must be in writing, must be under the signature of the secretary of the commission, and must be issued within 45 working days after submission of the preliminary plan to the commission. The disapproval of a preliminary plan must state the reasons for the disapproval. A decision of the commission under this provision of the bill is preliminary to and separate from the commission's decision to approve, conditionally approve, or refuse to approve a plat after a final review process. (Sec. 711.10(B).)

Under the bill, within five days after the submission of a plat for *final review*, a meeting to consider the plat must be scheduled to take place within 45 working days after submission of the plat. The bill authorizes a commission to give conditional approval as well as approval or refusal of a plat and to endorse its decision on the plat within 45 working days after its submission. The bill authorizes a commission to grant conditional approval by requiring a person submitting the plat to alter the plat or any part of it within a specified period after the end of the 45 working days as a condition for final approval. Once all the conditions have been met within the specified time period, the commission must cause its final approval to be endorsed on the plat. No plat can be recorded until it is endorsed with the commission's final or unconditional approval under the provision for final review. (Sec. 711.10(C).)

Exemption from platting requirement

Existing law

Under existing law, even if the division of land meets the criteria described above for being subject to the Subdivision Law, an exemption is made for divisions of land into fewer than six lots under certain circumstances (see the following paragraph). The local subdivision authority must approve a conveyance of the land that meets this exemption without a plat if it finds that the division is not contrary to applicable platting, subdivision, or zoning regulations, although it may require submission of a sketch or other pertinent information. (Sec. 711.131.)

The exemption is for any proposed division of a *parcel* of land along an existing public street that (1) does not involve the opening, widening, or extension

of any street or road and (2) involves no more than five lots after the *original tract* has been *completely subdivided*. The Revised Code gives little guidance in interpreting the terms used in this exemption. The Attorney General has defined some terms in order to interpret this law. An Opinion of the Attorney General has defined "tract" as "a contiguous quantity of land (regardless of size) undivided by lot lines"; "original" tract as "a tract which has not been divided under its present ownership"; and "completely subdivided" as "a tract that is divided into as many lots as the subdivider intends for the tract." 1984 Op. Att'y Gen. No. 73. Thus, under this Opinion, even though not all the divisions occur at the same time, if the same owner or owners divide a tract of property into more than five lots, at that time when more than five lots result from the original tract, the entire original tract must be platted, even if some lots have been previously transferred.

Changes proposed by the bill

Under the bill, the exemption will pertain to a proposed division of a "parcel of land of no more than 20 acres." But, it is not clear whether the exemption for a division of a *parcel* of no more than 20 acres in size is intended for the "original tract" or a subsequent division of a resulting parcel. Since the size limitation is on a parcel and not the original tract, it appears that the exemption from platting only arises when a parcel of no more than 20 acres in size is divided and that division and any others preceding it of the original tract result in no more than five lots. It appears that, if an original tract is divided (into two lots, for example) and one parcel resulting from that division is larger than 20 acres and at least one lot is less than five acres in size, the exemption from platting would not apply even if there are no more than five lots after the entire original tract is completely subdivided. It also appears that the exemption applies only if one parcel of 20 acres or less is divided and there are no more than five lots total after the original tract (not necessarily the 20-acre parcel) is completely subdivided. (Sec. 711.131.)

Compensation to members of county planning commissions

Under current law, county planning commissions consist of the board of county commissioners and eight citizen members appointed by the board of county commissioners. Appointive members serve for three-year terms without compensation. The bill provides that "members" of a county planning commission (perhaps meaning only the appointive members but possibly including all members) may be allowed their actual and necessary expenses and the compensation that the board of county commissioners determines to be appropriate. (Sec. 713.22.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-17-99	p. 137

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