



Sub. S.B. 115
125th General Assembly
(As Passed by the General Assembly)

Sen. Robert Gardner

Reps. Combs, Daniels, Flowers, Schmidt, Wolpert

Effective date: *

ACT SUMMARY

- Permits a planning authority to provide by rule for approval without plat of certain divisions of land into parcels of a set size range of between four and 20 acres, but not for parcels to be used only for agricultural or personal recreational purposes.
- Permits planning authorities to exempt from the definition of "subdivision" in the Subdivision Law parcels in the size range delineated in the rules mentioned above if the authorities exempt any parcel that is four acres or more.
- Changes the procedure for the approval of plats by county or regional planning commissions.
- Provides different methods for implementing the statute authorizing the approval of certain subdivisions without the submission of a plat.
- Makes other changes in platting and subdivision statutes.
- Authorizes the payment of compensation to the appointive members of county or regional planning commissions.
- Permits townships to contract with other townships for the administration and enforcement of building regulations.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Authorizes the conveyance of certain state-owned land in Summit County to a purchaser.

TABLE OF CONTENTS

Platting and subdivisions	2
Background--Subdivision Law.....	2
Land covered by the Subdivision Law	2
Review of larger divisions of land	3
Plat approval by county or regional planning commissions	5
Exemption from platting requirement	6
Compensation to members of county or regional planning commissions.....	7
County planning commissions.....	7
Regional planning commissions	7
Township building regulations	8
Conveyance of state-owned real estate in Summit County to a purchaser	8

CONTENT AND OPERATION

Platting and subdivisions

Background--Subdivision Law

The Subdivision Law (R.C. Chapter 711.) provides in continuing law 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. (R.C. 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 (R.C. 711.40).

Land covered by the Subdivision Law

Former law. Formerly, the Subdivision Law generally covered the following situations (R.C. 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 (a) parcels of more than *five* acres not involving

any new streets or easements or (b) a sale or exchange of parcels between adjoining lot owners that does not create additional building sites;

(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 improvement of one or more parcels of land for residential, commercial, or industrial structures involving the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities.

Continuing 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. (R.C. 711.001 and 711.01.)

Changes made by the act. The act retains the definition of "subdivision" explained above except that it provides (a) that the Subdivision Law applies to divisions or allocations of land for the opening, widening, or extension of any *public or private* street (except, as under former law, private streets serving industrial structures) or as easements for the extension and maintenance of *private* (as well as public) sewer, water, storm drainage, or other similar facilities and (b) that, if a local planning authority adopts rules for larger lots under provisions in the act (see "**Review of larger divisions of land**," below), it may exempt from the five-acre provisions of (1) above parcels in the size range delineated in the rules if the rules exempt from that portion of the definition of a "subdivision" any parcel of land that is *four acres or more* (R.C. 711.001(B)(1)(c) and (2)).

Review of larger divisions of land

Rules. The act permits a planning authority to adopt rules extending the review of divisions of land to larger-sized parcels. Under the new provisions, the planning authority may require a proposed division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving the establishment of any lot that meets the acreage requirement established in the rules, to be submitted to the authority for *approval without plat* if the authority finds that the proposed division is not contrary to any applicable zoning, health, sanitary, or access management regulations, surface or subsurface drainage (including household sewage disposal system) regulations, or the regulations mentioned in the second paragraph below. If so approved, upon presentation of a conveyance of the parcel, the conveyance must be stamped "approved by (planning authority); no plat required." (R.C. 711.133(A).)

The rules must exempt from the approval requirements any parcels to be used only for agricultural or personal recreational purposes. Upon presentation of a conveyance of such an exempted parcel, the planning authority's representative must stamp the conveyance "no approval or plat required under R.C. 711.133; for agricultural or personal recreational use only." This exemption of a parcel does not, however, exclude it from the provisions of the Subdivision Law in relation to any future divisions or partitions of it. And, when an exempt parcel is subsequently used for other than agricultural or personal recreational purposes, the planning authority must first determine that the parcel complies with the authority's rules adopted under the act's new provisions. (R.C. 711.133(C).)

The rules may regulate lot frontage and width to depth ratios for parcels to be approved in compliance with the act's new provisions, but these regulations only can apply to a parcel if there is no applicable zoning regulation for lot frontage or width to depth ratios. And, the rules may require the submission of a sketch and other information pertinent to the planning authority's determination. (R.C. 711.133(D) and (E).)

The rules adopted under the act's new provisions are not effective until they are approved, after a public hearing, by the legislative authority associated with the planning authority (R.C. 711.132).

Timeframe for approval. The planning authority must approve divisions of land under the rules within the following timeframes (R.C. 711.133(F)):

- (1) A proposed division into not more than six separate parcels, within seven calendar days after submission;
- (2) A proposed division into more than six separate parcels but less than 15 separate parcels, within 14 calendar days after submission;
- (3) A proposed division into 15 parcels or more, within 21 calendar days after submission.

Designation of parcel size. In adopting its rules, the planning authority must designate the parcel size subject to approval without plat under the act's new provisions. The parcels may be in a range of not less than four acres and not more than 20 acres. If the board designates a range that includes any parcels of four to five acres in size, it must state in the rules that the proposed division is not to be considered a subdivision for purposes of the definition of a "subdivision" in the Platting Law, and need only be approved under the act's new provisions. (R.C. 711.001(B)(1)(c) and 711.133(B).)

Plat approval by county or regional planning commissions

Former and continuing law. One local authority having plat approval authority is a county planning commission or regional planning commission. Under continuing law, 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 former law, within five days after the submission of a plat for approval, the commission had to schedule a meeting to consider the plat. The meeting had to occur within 30 days after submission of the plat, but at least seven days had to pass after written notice of the meeting was sent to the appropriate board of township trustees before the meeting could be held. The approval of the commission or its refusal to approve generally had to be endorsed on the plat within 30 days after submission of the plat for approval. (R.C. 711.10.)

Under former law, a county or regional planning commission was 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 was refused, the ground of refusal, including citation of or reference to the rule violated by the plat, was to be stated on the record of the commission. Within 60 days after a refusal of approval, the person submitting the plat could petition the court of common pleas and subsequently could appeal the court's decision on questions of law as in other civil cases. (R.C. 711.10.)

Changes made by the act. The act changes the approval procedure of county or regional planning commissions by authorizing them 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 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 35 business 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 act 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. (R.C. 711.10(B) and (D).)

Under the act, within five calendar days after the submission of a plat for *final review*, a meeting to consider the plat must be scheduled to take place within 30 calendar days after the submission. The act authorizes a commission to give conditional approval as well as approval or refusal of a plat and requires it to endorse its decision on the plat within 30 calendar days after its submission. The

act 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 30 calendar days as a condition for final approval; but, it provides that a commission cannot require a person submitting a plat to make alterations if the plat complies with the commission's platting and subdivision rules in effect at the time the plat was submitted. Once all of the alteration conditions have been met within the specified 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. (R.C. 711.10(C).)

Finally, under the act, before adopting its general rules governing plats and subdivisions or amendments to those rules, a commission must give at least 30 *business* days notice of the required public hearing on the rules or amendments to all townships in the county or region by regular or electronic mail. This contrasts with 30 (calendar) days under former law. (R.C. 711.10(C) and (D).)

Exemption from platting requirement

Continuing law. Under continuing law, even if the division of land meets the criteria 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). Under prior law expanded upon by the act (see below), the local subdivision authority had to approve a conveyance of the land without a plat if it found that the exemption conditions were met and that the division was not contrary to applicable platting, subdivision, zoning, or access management regulations or regulations pertaining to existing surface or subsurface drainage, although it could require submission of a sketch or other pertinent information. (R.C. 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 Attorney General opinion 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 of 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 made by the act. Under the act, the exemption of continuing law may be used unless the planning authority amends its general rules within the two-year period after the act's effective date to limit its approval authority to no more than five lots without a plat from an original tract as that original tract exists on the effective date of the amendment to the general rules. If the planning authority so amends its rules, it must make the required findings and approve a proposed division in generally the same manner as under the continuing law. (R.C. 711.131(A) and (B).)

In addition to the requirement of continuing law that the planning authority find a proposed division is not contrary to applicable platting, subdivision, zoning, or access management regulations or regulations pertaining to existing surface or subsurface drainage, the act requires the authority to find it is not contrary to applicable health and sanitary regulations, and it specifically includes rules governing household sewage disposal systems for one-, two-, or three-family dwellings as a type of surface or subsurface drainage regulation for this purpose. If the planning authority makes these findings, it must approve the proposed division within seven business days after its submission. (R.C. 711.131(A) and (D).)

Finally, the act clarifies that both continuing law's exemption described above and the potential exemption as a result of rules amendment under the act do not apply to parcels subject to review under rules adopted for larger divisions of land as described under "**Review of larger divisions of land,**" above (R.C. 711.131(C)).

Compensation to members of county or regional planning commissions

County planning commissions

Under continuing law, county planning commissions consist of the board of county commissioners (or their alternates) and eight citizen members appointed by the board of county commissioners (or their alternates). Appointive members serve three-year terms without compensation. The act provides that the appointive members of a county planning commission may be allowed their actual and necessary expenses and the compensation that the board of county commissioners determines to be appropriate. (R.C. 713.22.)

Regional planning commissions

Under continuing law, the planning commissions of one or more municipal corporations, any board of township trustees, and the board of county commissioners of any county in which the municipal corporations are located or of any adjoining county may cooperate in the creation of a regional planning commission for any region defined as agreed upon by them, exclusive of any

territory within the limits of a municipal corporation not having a planning commission. After the regional planning commission's creation, school districts and other units of local government may participate in it, upon the terms agreed upon by the planning commissions and boards. The number of members of a regional planning commission, their method of appointment, and the proportions of the *costs* of regional planning to be borne respectively by the various municipal corporations, townships, and counties in the region and by other participating units of local government must be determined by a majority of the planning commissions and boards. (R.C. 713.21.)

The act specifies that costs of regional planning may include, but are not limited to, the compensation of and the actual and necessary expenses incurred by the appointive members of the regional planning commission who are not also holding another public office to which they were elected (R.C. 713.21).

Township building regulations

Under continuing law, a board of township trustees may adopt, administer, and enforce a standard building code within the unincorporated territory of the township for single-family, two-family, and three-family dwellings. The board also may contract with any municipal corporation or a board of county commissioners for the administration and enforcement of its building regulations, and any municipal corporation or board of county commissioners may contract with a board of township trustees for the administration and enforcement of building regulations within the municipal corporation or county. (R.C. 505.75.)¹

The act additionally permits a board of township trustees to contract with another township for the administration and enforcement of its building regulations (R.C. 505.75(D)). (Again, see Footnote 1.)

Conveyance of state-owned real estate in Summit County to a purchaser

The act authorizes the Governor to execute a deed in the name of the state conveying to a purchaser, and the purchaser's heirs and assigns or successors and assigns, all of the state's right, title, and interest in specified real estate located in the village and township of Richfield in Summit County (Section 3(A)). The Attorney General must have the real estate appraised by a state certified or licensed appraiser (Section 3(B)). And, the consideration for the conveyance is a purchase price that is at least two-thirds of the appraised value and acceptable to the Attorney General (Section 3(C)).

¹ *The reader should consult the Legislative Service Commission's Final Analysis of Am. Sub. H.B. 175 of the 125th General Assembly as that act substantively modifies R.C. 505.75 at some point in time in the near future.*

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate upon the payment of the purchase price (Section 3(D)). The purchaser must pay all advertising costs, appraisal fees, and other costs of the sale of the real estate (Section 3(E)).

The net proceeds of the sale of the real estate must be deposited into the state treasury as follows: 62% to the credit of the Fund 4Z2, appropriation item 055-609, BCI Asset Forfeiture & Cost Reimbursement, and 38% to the credit of the General Revenue Fund (Section 3(F)).

These land conveyance provisions expire three years after the act's effective date (Section 3(G)).²

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-31-03	p. 942
Reported, S. State & Local Gov't & Veterans Affairs	02-05-04	p. 1515
Passed Senate (33-0)	02-18-04	pp. 1559-1560
Reported, H. County & Township Gov't	05-26-04	pp. 1999-2000
Passed House (83-14)	12-08-04	pp. 2481-2482
Senate concurred in House amendments (27-2)	12-08-04	pp. 2752-2753

04-sb115-125.doc/jc

² This same land conveyance was authorized by Section 23 of Am. Sub. S.B. 234 of the 125th General Assembly, the effective date of that act being unknown at the time of the preparation of this final analysis and possibly being different than the effective date of this act.