

Legislative Analysis



REPEAL LAND SALES ACT

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House Bills 5200 & 5201 as introduced

Sponsor: Rep. Harold Haugh

Committee: Regulatory Reform

First Analysis (10-26-09)

BRIEF SUMMARY: House Bill 5201 would repeal the Land Sales Act, which regulates the disposition of lots in subdivisions located in other states that are offered for sale to Michigan residents. House Bill 5200 would delete a provision of the Occupational Code pertaining to promotional sales in Michigan of property located out of state.

FISCAL IMPACT: Ending the Land Sales Act programs would result in some administrative savings for the Department of Energy, Labor, and Economic Growth--Bureau of Commercial Services. For FY 2009 (Year-to-Date), Land Sales Act fees generated \$14,600 in revenue, while expenditures for the program totaled approximately \$35,100. The remaining program costs were supported by Licensing and Regulation fees, which are imposed on the various occupations licensed or registered by the bureau (accountants, architects, ophthalmologists, etc).

THE APPARENT PROBLEM:

The Land Sales Act regulates the disposition of lots in subdivisions located in other states that are offered for sale to Michigan residents. According to the Department of Energy, Labor, and Economic Growth, the department gets inundated with boxes and boxes of documentation required to be submitted by developers. For example, a copy of every advertisement for the sale of the property must be submitted, along with many other types of information. Apparently, the submissions required by the act are redundant, from a regulatory standpoint, as the same type of information must be submitted under federal law to a federal agency. Moreover, revenue generated by the act does not cover the department's costs to administer the program and continued budget shortfalls have left the department too understaffed to provide the regulatory oversight required by the act. The department has requested that the act, and a provision in the Occupational Code relating to in-state sales of out-of-state property, be repealed.

THE CONTENT OF THE BILLS:

House Bill 5201 would repeal the Land Sales Act (MCL 565.801-565.835). The act deals with the disposition of lots, parcels, units, or interests in land from subdivisions, including a provision that requires the owner of subdivided land being offered for sale to include in a property report certain information about the property and submit the report to prospective buyers.

House Bill 5200 would amend the Occupational Code (MCL 339.2511) to eliminate a provision pertaining to promotional sales in Michigan of property located outside of the state. Currently, under the provision, a real estate broker who proposes to engage in sales of a promotional nature of out-of-state property must submit a description of the property and the proposed terms of sale to the Department of Energy, Labor, and Economic Growth. The department's costs of investigating the property and the proposed sale are borne by the real estate broker. Further, a real estate broker or salesperson is prohibited from referring to DELEG's Corporation and Securities Commission when selling, offering for sale, advertising, or otherwise promoting the sale, mortgage, or lease of property, or from making a representation that the property had been inspected or approved or otherwise passed upon by the department, or by a state official, department, or employee.

BACKGROUND INFORMATION:

The bill is identical to House Bills 6390 and 6391 of the 2007-2008 legislative session. Those bills were passed by the House but failed to see Senate action.

ARGUMENTS:

For:

According to representatives of the Department of Energy, Labor, and Economic Growth, federal regulators collect and review the same documents from developers of subdivisions that the department is required to do under the state Land Sales Act and a provision in the Occupational Code. They maintain that not only is this redundant and a burden on business owners who must file duplicate documents with state and federal agencies, but it also overburdens the department, which continues to struggle under staff shortages due to the continued slow state economy and resultant budget constraints. Reportedly, an average submittal can fill several boxes or file drawers. Elimination of this duty on the department would allow staff to attend to other oversight functions that they alone can fulfill. However, repeal of these provisions will not leave consumers unprotected. Federal regulators will still oversee the out-of-state sales of undeveloped plots in subdivisions, thus mitigating or preventing the likelihood of a Michigan resident buying the infamous "swampland" from an unscrupulous developer.

POSITIONS:

The Department of Energy, Labor, and Economic Growth supports the bills. (10-21-09)

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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.