

HOUSE BILL REPORT

HB 2679

*As Reported By House Committee on:
Judiciary*

Title: An act relating to property divisions.

Brief Description: Preventing the otherwise unlawful subdivision of property by testamentary means.

Sponsor(s): Representatives R. Johnson, Spanel and Fraser.

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DP.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass.* Signed by 11 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris, Assistant Ranking Minority Member; Belcher; Broback; Inslee; R. Meyers; H. Myers; Riley; Scott; and D. Sommers.

Minority Report: *Do not pass.* Signed by 6 members: Representatives Padden, Ranking Minority Member; Forner; Hargrove; Mielke; Tate; and Vance.

Staff: Bill Perry (786-7123).

Background: The platting and subdivision law generally regulates the division of a parcel of land into smaller pieces. A proposed division of property for purposes of sale, lease, or transfer of ownership must be reviewed and approved by the county, city or town within which the land is located if the smallest resulting lot would be less than five acres. Local jurisdictions may increase the five-acre minimum lot size threshold.

The platting and subdivision law contains procedural requirements for obtaining approval of a proposed division of land. Local government hearings and review processes are provided. Several factors are listed that a local government is to consider in approving or denying an application. Those factors include whether the proposed division makes appropriate provisions for the public health, safety, and general welfare, and for open spaces, drainage ways, streets, alleys, other public ways, water supplies,

sanitary wastes, parks, playgrounds, sites for schools and school grounds. In addition, a local government must consider a proposed division of property in light of possible flooding conditions in the area, and may require the construction of protective improvements.

Certain divisions of property are exempt from the review and approval process of the platting and subdivision law. In addition to divisions resulting in lots of more than five acres each, the following divisions are also exempt:

1. Creation of burial plots;
2. Creation of lots classified for industrial or commercial use, lots for the exclusive purpose of locating mobile homes, or lots for the construction of condominiums, if the local jurisdiction has approved a binding site plan for the lots;
3. A division to adjust boundary lines which does not create additional lots and does not create any substandard lots; and
4. Divisions made by testamentary provisions or by the laws of descent.

Some communities, particularly some attempting to preserve larger tracts of agricultural land, have expressed concern that the exemption for testamentary or intestate division of property can frustrate local land use decisions.

Summary of Bill: The exemption from the platting and subdivision law for divisions of land by will or through intestacy is removed. Divisions of land made through a person's will or through inheritance by intestacy are subject to the platting and subdivision law.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The current exemption allows persons to do by testamentary disposition after their deaths what they are forbidden to do while alive. The bill will further community decisions about preserving open spaces and promoting orderly development.

Testimony Against: None.

Witnesses: Prime sponsor.