

or private motor vehicles carrying not less than a specified number of passengers when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days.

NEW SECTION. Sec. 3. There is added to chapter 47.52 RCW a new section to read as follows:

(1) The state highway commission may adopt regulations for the control of vehicles entering any state limited access highway as it deems necessary (a) for the efficient or safe flow of traffic traveling upon any part of the highway or connections therewith or (b) to avoid exceeding federal, state, or regional air pollution standards either along the highway corridor or within an urban area served by the highway.

(2) Regulations adopted by the highway commission pursuant to subsection (1) of this section may provide for the closure of highway ramps or the metering of vehicles entering highway ramps or the restriction of certain classes of vehicles entering highway ramps (including vehicles with less than a specified number of passengers), and any such restrictions may vary at different times as necessary to achieve the purposes mentioned in subsection (1) of this section.

(3) Restrictions of vehicles authorized by regulations adopted pursuant to this section shall be effective when proper notice thereof is given by any police officer or by appropriate signals, signs, or other traffic control devices.

Passed the Senate February 5, 1974.
Passed the House February 12, 1974.
Approved by the Governor February 19, 1974.
Filed in Office of Secretary of State February 19, 1974.

CHAPTER 134
[Second Substitute House Bill No. 383]
PLATS AND SUBDIVISIONS

AN ACT Relating to plats and subdivisions; amending section 3, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.030; amending section 4, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.040; amending section 6, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.060; amending section 9, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.090; amending section 11, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.110; amending section 12, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.120; amending section 13, chapter 271, Laws of 1969

ex. sess. and RCW 58.17.130; amending section 14, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.140; amending section 20, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.200; and amending section 21, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.210; amending section 24, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.240; adding new sections to chapter 271, Laws of 1969 ex. sess. and to chapter 58.17 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 3, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.030 are each amended to read as follows:

Every subdivision shall comply with the provisions of this chapter. Every short subdivision as defined in this chapter shall comply with the provisions of any local regulation ((as may be)) adopted pursuant to RCW 58.17.060.

Sec. 2. Section 4, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.040 are each amended to read as follows:

The provisions of this chapter shall not apply to:

(1) Cemeteries and other burial plots while used for that purpose;

(2) Divisions of land into lots or tracts ((where the smallest lot is twenty acres or more and not containing a dedication of a public right-of-way;

~~(3) Divisions of land into lots or tracts none) each of which is ((are smaller than)) one-one hundred twenty-eighth of a section of land or larger, or five acres or larger ((and not containing a dedication)) if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have ((by ordinance provided otherwise;~~

~~(4)) adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;~~

~~(3) Divisions made by testamentary provisions, or the laws of descent((7 or upon court order));~~

V- (4) Divisions made by court order: PROVIDED, That this exemption shall not apply to land divided pursuant to dissolution or partition proceedings of a corporation, partnership, limited partnership, joint venture, or trust, unless the local government wherein the land is located is made a party to the proceedings and

has rendered its advice to the court in respect of the division proposed to be included within such order;

(5) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land and a local government has approved a binding site plan for the use of the land in accordance with local regulations. The term "site plan" means a drawing to a scale specified by local ordinance and which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; and (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan. A site plan approved by a local government body shall not be "binding" under this subsection unless development in conformity to the site plan is enforceable under a local ordinance.

Sec. 3. Section 6, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.060 are each amended to read as follows:

(Unless) The legislative body of a city, town, or county shall adopt((s)) regulations and procedures, and appoint((s)) administrative personnel for the summary approval of short plats and short subdivisions, ((the provisions of this chapter shall not apply to short subdivisions)) or revision thereof. Such regulations shall be adopted by ordinance and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions ((but shall not)) and may require surveys and monumentations and ((a)) shall require filing of a short plat for record in the office of the county auditor ((unless there is a dedication)): PROVIDED, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

Sec. 4. Section 9, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.090 are each amended to read as follows:

Upon receipt of an application for preliminary plat approval the administrative officer charged by ordinance with responsibility for administration of regulations pertaining to platting and subdivisions shall set a date for a public hearing. Notice of such hearing shall be given by publication of at least one notice not less than ten days prior to the hearing in a newspaper of general circulation within the county. Additional notice of such hearing

((may)) shall be given by ((mail)) at least one other method which may include mailing to adjacent landowners, posting on the property, or in any manner local authorities deem necessary to notify adjacent landowners and the public. All hearings shall be public. All hearing notices shall include a legal description of the location of the proposed subdivision and either a vicinity location sketch or a location description in nonlegal language.

Sec. 5. Section 11, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.110 are each amended to read as follows:

The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine if appropriate provisions are made ((in the subdivision)) for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds, and shall consider all other relevant facts and determine whether the public interest will be served by the subdivision and dedication. If it finds that the proposed plat makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds and that the public use and interest will be served by the platting of such subdivision, then it shall be approved. If it finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the legislative body may disapprove the proposed plat. Dedication of land to any public body, may be required as a condition of subdivision approval and shall be clearly shown on the final plat. The legislative body shall not as a condition to the approval of any plat require a release from damages to be procured from other property owners.

Sec. 6. Section 12, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.120 are each amended to read as follows:

The city, town, or county legislative body shall consider the physical characteristics of a proposed subdivision site and may disapprove a proposed plat because of flood, inundation, or swamp conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat.

No plat shall be approved by any city, town, or county legislative authority covering any land situated in a flood control zone as provided in chapter 86.16 RCW without the prior written

approval of the department of ((water resources;)) ecology of the state of Washington.

Sec. 7. Section 13, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.130 are each amended to read as follows:

Local regulations ((may)) shall provide that in lieu of the completion of the actual construction of any required improvements prior to the approval of a final plat, the city, town, or county legislative body may accept a bond, in an amount and with surety and conditions satisfactory to it, or other secure method, providing for and securing to the municipality the actual construction and installation of such improvements within a period specified by the city, town, or county legislative body and expressed in the bonds((; and)). In addition, local regulations may provide for methods of security, including the posting of a bond securing to the municipality the successful operation of improvements for an appropriate period of time up to two years after final approval. The municipality is hereby granted the power to enforce ((such)) bonds authorized under this section by all appropriate legal and equitable remedies. Such local regulations may provide that the improvements such as structures, sewers, and water systems shall be designed and certified by or under the supervision of a registered civil engineer prior to the acceptance of such improvements.

Sec. 8. Section 14, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.140 are each amended to read as follows:

Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ((sixty)) ninety days from date of filing thereof unless the applicant consents to an extension of such time period : PROVIDED, That if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency. Final plats and short plats shall be approved, disapproved, or returned to the applicant within thirty days from the date of filing thereof, unless the applicant consents to an extension of such time period. Ordinances may provide for the expiration of approval given to any preliminary plats.

Sec. 9. Section 20, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.200 are each amended to read as follows:

Whenever any parcel of land is divided into five or more lots, tracts, or parcels of land and any person, firm, or corporation or any agent of any of them sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat of such subdivision filed for record, the prosecuting

v attorney, or the attorney general if the prosecuting attorney shall fail to act, shall commence an action to restrain and enjoin further subdivisions or sales, or transfers, or offers of sale or transfer and compel compliance with all provisions of this chapter.

In addition, when a parcel of land is divided into five or more lots without having a final plat of such subdivision filed for record, an action may be initiated on behalf of any city, town or county to recover the damages, occasioned by failure to comply with all the provisions of this chapter, to the city, town or county, or to any innocent purchaser for value without actual notice that the parcel of land is divided without compliance with all the provisions of this chapter. Any damages recovered and collected for such an innocent purchaser under this section shall be paid to the innocent purchaser by the city, town or county: PROVIDED, That actual costs need not be incurred as a prerequisite to the maintenance of this action. The costs of such actions shall be taxed against the person, firm, corporation, or agent selling or transferring the property.

Sec. 10. Section 21, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.210 are each amended to read as follows:

No building permit, septic tank permit, or other development permit, shall be issued for any lot, tract, or parcel of land divided in violation of this chapter or local regulations adopted pursuant thereto unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All ~~((other))~~ purchasers' or transferees' property shall comply with provisions of this chapter and ~~((such))~~ each purchaser or transferee may recover his damages from any person, firm, corporation, or agent selling or transferring land in violation of this chapter or local regulations adopted pursuant thereto, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming his property to these requirements, rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned thereby.

Sec. 11. Section 24, chapter 271, Laws of 1969 ex. sess. and RCW 58.17.240 are each amended to read as follows:

Except for subdivisions excluded under the provisions of RCW 58.17.040, as now or hereafter amended, permanent control monuments shall be established at each and every controlling corner on the boundaries of the parcel of land being subdivided. The local

authority shall determine the number and location of permanent control monuments within the plat, if any.

NEW SECTION. Sec. 12. There is added to chapter 271, Laws of 1969 ex. sess. and to chapter 58.17 RCW a new section to read as follows:

Each short plat and short subdivision granted pursuant to local regulations after July 1, 1974, shall be filed with the county auditor and shall not be deemed "approved" until so filed.

NEW SECTION. Sec. 13. There is added to chapter 271, Laws of 1969 ex. sess. and to chapter 58.17 RCW a new section to read as follows:

Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of this chapter, any provision of the local subdivision regulations, or any term or condition of plat approval prescribed for the plat by the local government, then the prosecuting attorney, or the attorney general if the prosecuting attorney shall fail to act, may commence an action to restrain and enjoin such use and compel compliance with the provisions of this chapter or the local regulations, or with such terms or conditions. The costs of such action may be taxed against the violator.

NEW SECTION. Sec. 14. There is added to chapter 271, Laws of 1969 ex. sess. and to chapter 58.17 RCW a new section to read as follows:

(1) The provisions of this 1974 amendatory act shall become effective July 1, 1974.

(2) The provisions of this 1974 amendatory act shall not apply to any plat which has been granted preliminary approval prior to July 1, 1974, but shall apply to any proposed plat granted preliminary approval on or after July 1, 1974.

Passed the House February 13, 1974.
Passed the Senate February 13, 1974.
Approved by the Governor February 19, 1974, with the exception of certain items which are vetoed.
Filed in Office of Secretary of State February 26, 1974.
Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to certain items House Bill No. 383 entitled:

"AN ACT Relating to plats and subdivisions."

Veto
Message

In House Bill No. 383 as originally introduced certain subdivisions were exempted from the bill when made pursuant to a court order if (a) such division were exempted under another portion of the bill; or (b) prior to the court order the division had been granted final plat approval; or (c) the court order was conditioned on the division receiving final plat approval. Subsequently, the language of the bill was amended so that language in the bill presented to me provided that the exemption should not apply "unless the local government wherein the land is located is made a party to the proceedings and has rendered its advice to the court in respect

of the division proposed to be included within such order." Veto
Message

Under present legislation some developers who have subdivided without receiving an approved plat have gone to court, asked for and received a dissolution and have thus been able to subdivide without any action by the county in which the land is located. The language in the original version of HB 383 would have prevented this practice. The language in section 2, subsection 4 of the bill now before me would put the county in an advisory capacity only and would afford no real protection against the kind of land development practices which are so destructive of county land use planning. Accordingly, I have vetoed that item.

Section 9 of the bill provides that when a parcel of land is divided into five or more lots without having a final plat of such subdivision filed for record, an action may be initiated on behalf of any city, town or county to recover damages occasioned by the failure to comply with all provisions of RCW 58.17.200. In addition, however, section 9 provides that in such a lawsuit damages to any innocent purchaser for value without actual notice may also be recovered, and if any damages are recovered and collected for such innocent purchaser they shall be paid to the innocent purchaser by the city, town or county.

Local governments have expressed concern that this provision would unnecessarily put them in the collection business for private purchasers since such purchasers can always hire their own attorneys to bring a lawsuit for damages. Furthermore, the concern has been expressed that if a successful action is pursued by the prosecuting attorney a question would arise as to how the recovery would be shared by the local government that installed the sewers, drainage, roads or other necessary improvements and the innocent purchaser for damages incurred. Because of the uncertainty raised by this language and because I do not believe local government should be in a position of taking legal action for damages on behalf of private persons, I have determined to veto section 9.

With the foregoing exceptions, the remainder of House Bill No. 383 is approved."

CHAPTER 135

[Substitute House Bill No. 473]

GAMBLING

[Veto override: See chapter 155, infra.]

AN ACT Relating to gambling; amending section 1, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.010; amending section 2, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.020; amending section 3, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.030; amending section 7, chapter 218, Laws of 1973 1st ex. sess. as amended by section 4, chapter 41, Laws of 1973 2nd ex. sess. and RCW 9.46.070; amending section 8, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.080; amending section 11, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.110; amending section 20, chapter 218, Laws of