



2013 ASSEMBLY BILL 663

January 24, 2014 – Introduced by Representatives HUTTON, TITTL, KULP, KAHL, STRACHOTA, STEINEKE and KAPENGA, cosponsored by Senators LASEE, GUDEX, CARPENTER and OLSEN. Referred to Committee on Housing and Real Estate.

1 **AN ACT to renumber** 236.02 (12) (b) and 236.34 (1) (a) to (f); **to renumber and**
2 **amend** 236.02 (12) (intro.), 236.02 (12) (a) and 236.34 (1) (intro.); **to amend**
3 77.25 (2r), 236.03 (1), 236.31 (2), 236.34 (2) (a) and 236.34 (2) (b) 2.; **to repeal**
4 **and recreate** 236.34 (1) (title); and **to create** 236.02 (12) (bm) and 236.34 (1)
5 (ar) of the statutes; **relating to:** authorizing ordinances and resolutions that
6 specify a greater number of parcels into which certified survey maps may divide
7 land.

Analysis by the Legislative Reference Bureau

Under current law, a subdivision is a division of a lot, parcel, or tract of land that creates five or more parcels or building sites of one and one-half acres each or less, and includes such a division if it occurs by successive divisions within five years. Current law provides that a certified survey map may be used to change the boundaries of lots and outlots within a recorded plat (the map of a subdivision), a recorded assessor's plat, or a recorded certified survey map if the reconfiguration does not result in a subdivision. Under current law, a certified survey map of not more than four parcels of land may be recorded in the office of the register of deeds of the county where the land is located.

This bill authorizes an incorporated city or village (municipality), town, or county that has established a planning agency to enact an ordinance or adopt a

ASSEMBLY BILL 663

resolution that allows a certified survey map to divide land located in the municipality, town, or county into more than four parcels (certified survey map ordinance or resolution) without the division being a subdivision and, therefore, without all of the attendant requirements that apply to subdivisions. The certified survey map ordinance or resolution must specify the maximum number of parcels that land may be divided into by a certified survey map. Before enacting or adopting a certified survey map ordinance or resolution, the governing body of the municipality, town, or county must get the recommendation of its planning agency and hold a public hearing.

The bill provides that a municipality may enact or adopt a certified survey map ordinance or resolution that affects land in its extraterritorial plat approval jurisdiction if it has the authority to approve or object to plats within that area. Extraterritorial plat approval jurisdiction is defined in current law as land in the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and one-half miles of a fourth class city or village. Under the bill, if more than one governing body has authority to enact or adopt a certified survey map ordinance or resolution that affects the same land, which could occur if a municipality enacts or adopts a certified survey map ordinance or resolution affecting land in its extraterritorial plat approval jurisdiction, and the certified survey map ordinances or resolutions have conflicting provisions, any certified survey map that affects that land must comply with the most restrictive provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 77.25 (2r) of the statutes is amended to read:

2 77.25 **(2r)** Under s. 236.29 (1) or (2) or 236.34 ~~(1)~~ (1m) (e) or for the purpose of
3 a road, street, or highway, to the United States or to this state or to any
4 instrumentality, agency, or subdivision of either.

5 **SECTION 2.** 236.02 (12) (intro.) of the statutes is renumbered 236.02 (12) (am)
6 (intro.) and amended to read:

7 236.02 **(12)** (am) (intro.) “~~Subdivision~~” is Except as provided in par. (bm),
8 “subdivision” means a division of a lot, parcel, or tract of land by the owner thereof
9 or the owner’s agent for the purpose of sale or of building development, ~~where~~ and
10 to which any of the following applies:

ASSEMBLY BILL 663

1 **SECTION 3.** 236.02 (12) (a) of the statutes is renumbered 236.02 (12) (am) 1. and
2 amended to read:

3 236.02 **(12)** (am) 1. The act of division creates 5 or more parcels or building sites
4 of 1 1/2 acres each or less in area; ~~or,~~

5 **SECTION 4.** 236.02 (12) (b) of the statutes is renumbered 236.02 (12) (am) 2.

6 **SECTION 5.** 236.02 (12) (bm) of the statutes is created to read:

7 236.02 **(12)** (bm) “Subdivision” does not include a division of land by certified
8 survey map under s. 236.34, regardless of the number of parcels or building sites
9 created by the division, the size of the parcels or building sites, or the length of time
10 over which the division occurs.

11 **SECTION 6.** 236.03 (1) of the statutes is amended to read:

12 236.03 **(1)** Any division of land which ~~which~~ that results in a subdivision as defined
13 in s. 236.02 (12) ~~(a)~~ (am) 1. shall be, and any other division may be, surveyed and a
14 plat thereof approved and recorded as required by this chapter. No map or survey
15 purporting to create divisions of land or intending to clarify metes and bounds
16 descriptions may be recorded except as provided by this chapter.

17 **SECTION 7.** 236.31 (2) of the statutes is amended to read:

18 236.31 **(2)** Any municipality, town, county, or state agency with subdivision
19 review authority may institute injunction or other appropriate action or proceeding
20 to enjoin a violation of any provision of this chapter, an ordinance, or a rule adopted
21 pursuant to under this chapter. Any such municipality, town, or county may impose
22 a forfeiture for violation of any such ordinance, and order an assessor’s plat to be
23 made under s. 70.27 at the expense of the subdivider or the subdivider’s agent when
24 a subdivision is created under s. 236.02 (12) ~~(b)~~ (am) 2. by successive divisions.

25 **SECTION 8.** 236.34 (1) (title) of the statutes is repealed and recreated to read:

ASSEMBLY BILL 663

1 236.34 (1) (title) DESCRIPTION AND USES.

2 **SECTION 9.** 236.34 (1) (intro.) of the statutes is renumbered 236.34 (1) (am) and
3 amended to read:

4 236.34 (1) (am) A certified survey map of not more than 4 parcels of land, or
5 such greater maximum number specified by an ordinance enacted or resolution
6 adopted under par. (ar) 1., consisting of lots or outlots may be recorded in the office
7 of the register of deeds of the county in which the land is situated.

8 **(bm)** A certified survey map may be used to change the boundaries of lots and
9 outlots within a recorded plat, recorded assessor's plat under s. 70.27, or recorded,
10 certified survey map if the reconfiguration does not ~~result in a subdivision or violate~~
11 a local ~~subdivision regulation ordinance~~.

12 **(cm)** A certified survey map may not alter areas previously dedicated to the
13 public or a restriction placed on the platted land by covenant, by grant of an
14 easement, or by any other manner.

15 **(dm)** A certified survey map that crosses the exterior boundary of a recorded
16 plat or assessor's plat shall apply to the reconfiguration of ~~fewer than 5 parcels~~ not
17 more than 4 parcels, or such greater maximum number specified by an ordinance
18 enacted or resolution adopted under par. (ar) 1., by a single owner, or if no additional
19 parcels are created. Such a certified survey map must be approved in the same
20 manner as a final plat of a subdivision must be approved under s. 236.10, must be
21 monumented in accordance with s. 236.15 (1), and shall contain owners' and
22 mortgagees' certificates that are in substantially the same form as required under
23 s. 236.21 (2) (a).

24 **(1m) PREPARATION.** A certified survey must meet the following requirements:

ASSEMBLY BILL 663

1 **SECTION 10.** 236.34 (1) (a) to (f) of the statutes are renumbered 236.34 (1m) (a)
2 to (f).

3 **SECTION 11.** 236.34 (1) (ar) of the statutes is created to read:

4 236.34 (1) (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality,
5 town, or county that has established a planning agency may enact an ordinance or
6 adopt a resolution that specifies a maximum number of parcels into which land
7 situated in the municipality, town, or county may be divided by certified survey map
8 that is greater than 4.

9 2. Before the enactment of an ordinance or the adoption of a resolution under
10 subd. 1., the governing body of the municipality, town, or county shall receive the
11 recommendation of its planning agency and shall hold a public hearing on the
12 ordinance or resolution. Notice of the hearing shall be given by publication of a class
13 2 notice, under ch. 985. Any ordinance enacted or resolution adopted shall be
14 published in a form suitable for public distribution.

15 3. Notwithstanding subd. 1., an ordinance enacted or resolution adopted under
16 subd. 1. by a municipality may specify the number of parcels into which land within
17 the extraterritorial plat approval jurisdiction of the municipality, as well as land
18 within the corporate limits of the municipality, may be divided by certified survey
19 map if the municipality has the right to approve or object to plats within that area
20 under s. 236.10 (1) (b) 2. and (2).

21 4. If more than one governing body has authority to enact an ordinance or adopt
22 a resolution under subd. 1. with respect to the same land and those governing bodies
23 enact ordinances or adopt resolutions with conflicting provisions, any certified
24 survey map affecting that land must comply with the most restrictive provisions.

25 **SECTION 12.** 236.34 (2) (a) of the statutes is amended to read:

