Thank you for the opportunity to share concerns on SB480 with the Committee this morning.

The proposed increase in the number of parcels from 4 to 20 proposed in the amendment to Subsection 2(a) of the bill creates numerous problems. These problems, in my opinion, add a burden to local units of government and likely increase litigation surrounding how local units administer the Act. These issues stem from the limited aspect of what Subsection 2 addresses.

Subsection 2 only applies to "parent parcels." Parent parcels in the Act are defined explicitly as those "*lawfully in existence on the effective date of the amendatory act that added this subdivision*." That date is March 31, 1997. This means that the additional divisions authorized by this amendment would only apply to those parcels and would not apply to any parcels created out of a division of parent parcels since the effective date in 1997.

This creates several problems. Foremost among those problems is placing local units of government in the position to determine who is the rightful owner of the new additional splits based on property ownership from nearly twenty-seven years ago. This is especially problematic for parent parcels, which have been fully divided and sold since 1997. Suddenly granting that parent parcel an additional 16 divisions will place local units of government in a position of having to arbitrate who is the rightful heir under the Act.

This is further complicated as deeds frequently include a clause that lists a specific number of splits that can be made under the Act. In a case where that deed language listed the right to make future divisions as "zero" or "none," local governments will be tasked with determining whether those deed restrictions apply to the amended Act. There already exists a significant burden to maintain accurate records dating back to 1997 to track parent parcels; this proposed amendment would increase that burden and add an extra layer of administering the Act on local government units.

Increasing the number of allowed splits on the first 10 acres of a parent parcel will also increase instances where there is conflict on the minimum parcel size allowed in a community's zoning ordinance. Take as an example a five-acre parent parcel. If that is divided into 20 equal-sized new parcels, the parcel size would be ¼ acre. If the local zoning code mandates a new minimum parcel size of ½ acre, which Act will govern the size of the new parcels? Amending the Act in this manner may cause local governments to face a takings challenge in Circuit Court due to granting a lesser number of splits than allowed under the Act in order to comply with their local zoning. Avoiding a conflict between the Land Division Act and the Zoning Enabling Act should not be ignored, nor should it be left to the courts to settle which Act has authority over new parcel sizes.

Concerning the proposed amendment creating a new Subsection 6, the amendment proposed to Subsection 2(a) does not appear necessary. That is not to say that the proposed Subsection 6 is without issue. Once again, there is an issue with the definitions in the Act that should be addressed. The proposed amendment creates the ability for increased divisions based on the "standards set forth in an ordinance of the municipality." The keyword to highlight is "municipality." Under the Act, a municipality does not include counties. Only cities, villages, and townships are classified as municipality in the current text of the Act.

This creates a problem for townships that rely on their respective counties for zoning. This scenario will result in townships being asked to approve additional splits based on the parcel standards of their county's zoning ordinance, yet technically having no authority under the Act unless they adopt their own township land division ordinance.

Opportunities to increase the number of divisions do exist without the increase proposed in Subsection 2(a). Those include the following:

- Subsection 3 allows for what are commonly called "bonus" divisions. In order to get 2 additional splits, a parcel must meet either the standard of paragraph (a) or (b).

  One suggestion is to amend Subsection 3 to allow bonus divisions to be awarded for both paragraphs (a) and (b). The number of bonus divisions could also be increased to a number greater than 2. An additional amendment could also be made reducing the size of the remaining parent parcel in paragraph (b) from 60% to 40%, allowing more land to be divided through the use of bonus divisions.

  Increasing the number of bonus splits allowed under paragraph (a) would make sense as the number of divisions need to be sufficient to cover the cost of the newly created road based on today's construction costs.
- Presently, Subsection 5 of the Act allows for the re-division of a parcel after ten years. These are commonly called "child" parcels. With the effective date of the Act being nearly twenty-seven years ago, a change that could be made and be consistent with the Act would be a second round of re-division after a second ten-year period. This would effectively create "grandchild" parcels. Also, the number of allowed child, or grandchild parcels allowed could be increased in the Act. The simplest amendment would allow for the continued re-division every ten years, which would eliminate the need for the legislature to revisit years down the road.

Thank you again for the opportunity to testify today. I have attached a sample language reflecting today's comments and suggestions. I believe amends to the Land Division Act can be part of a larger statewide strategy to increase housing opportunities. It is critical that the Act be amended in a manner that allows greater local control while also ensuring that local units do not face litigation due to having to administer that Act as amended.

Sincerely,

Tim Wolff, AICP

Lake Isabella Village Manager

989.644.8654

tim@lakeisabellami.org

Recommended change #1:

Remove the increase proposed in Subsection 2(a).

Recommended change #2:

Amend Subsection three in the following manner:

(3) For a parent parcel or parent tract ~~of not less than 20 acres~~, the division may result in a total of **2, 4, or** ~~2~~ **6 additional** parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:

(a) **4 additional parcels may be created due to** ~~Because of~~ the establishment of 1 or more new roads**, resulting in** no new driveway access**ing**~~es to~~ an existing public road for any of the resulting parcels under subsection (2) or this subsection ~~are created or required~~.

(b) **2 additional parcels may be created if** ~~One~~ **1** of the resulting parcels under subsection (2) and this subsection comprises not less than ~~60%~~ **40%** of the area of the parent parcel or parent tract.

Recommended change #3:

Amend Subsection five in the following manner:

(5) A parcel or tract created by an exempt split**, division,** ~~or a~~ **or re-**division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this Act if all of the following requirements are met:

(a) Not less than 10 years have elapsed since the parcel or tract was recorded.

(b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:

(i) ~~Two~~ **Four** parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole ~~10~~ **5** acres in excess of the first 10 acres in the parcel or tract.

(ii) ~~Seven parcels or 10~~ **Ten** parcels if one of the resulting parcels under this subsection comprises not less than ~~60%~~ **40%** of the area of the parcel or tract being partitioned or split.

(c) The partitioning or splitting satisfies the requirements of section 109.

Recommended change #4:

Amend the proposed new subsection 6 to read as follows:

(6) A parcel or tract may be partitioned or split into a greater number of parcels or tracts otherwise authorized by this section if the partitioning or splitting is authorized by and complies with **the parcel** standards set forth in an ordinance of the municipality where the land is located. **In the event that the municipality is subject to county zoning, the parcel standards of the county zoning ordinance shall apply unless the municipality adopts an ordinance opting out of this subsection, or adopts an ordinance enacting parcel standards specific to that municipality.**