

1 **ESB 5816** - H AMD

2 By Representative Koster

3 On page 1, strike everything after the enacting clause and insert:

4 **Sec. 1.** RCW 58.17.010 and 1981 c 293 s 1 are each amended to  
5 read as follows:

6 The legislature finds that the process by which land is divided is  
7 a matter of state concern and should be administered in a uniform  
8 manner by cities, towns, and counties throughout the state. The  
9 purpose of this chapter is to regulate the subdivision of land and to  
10 promote the public health((~~7~~)) and safety ((~~and general welfare~~)) in  
11 accordance with standards established by the state to prevent the  
12 overcrowding of land; to lessen congestion in the streets and highways;  
13 to promote effective use of land; to promote safe and convenient travel  
14 by the public on streets and highways; to provide for adequate light  
15 and air; to facilitate adequate provision for water((~~7~~)) and  
16 sewerage((~~, parks and recreation areas, sites for schools and~~  
17 ~~schoolgrounds and other public requirements~~)); to provide for proper  
18 ingress and egress; to provide for the expeditious review and approval  
19 of proposed subdivisions which conform to zoning standards ((~~and local~~  
20 ~~plans and policies~~)); to adequately provide for the housing and  
21 commercial needs of the citizens of the state; and to require uniform  
22 monumenting of land subdivisions and conveyancing by accurate legal  
23 description.

24 **Sec. 2.** RCW 58.17.020 and 1995 c 32 s 2 are each amended to read  
25 as follows:

26 As used in this chapter, unless the context or subject matter  
27 clearly requires otherwise, the words or phrases defined in this  
28 section shall have the indicated meanings.

29 (1) "Subdivision" is the division or redivision of land into  
30 ((~~five~~)) ten or more lots, tracts, parcels, sites or divisions for the  
31 purpose of sale, lease, or transfer of ownership, except as provided in  
32 subsection (6) of this section.

1 (2) "Plat" is a map or representation of a subdivision, showing  
2 thereon the division of a tract or parcel of land into lots, blocks,  
3 streets and alleys or other divisions and dedications.

4 (3) "Dedication" is the deliberate appropriation of land by an  
5 owner for any general and public uses, reserving to himself no other  
6 rights than such as are compatible with the full exercise and enjoyment  
7 of the public uses to which the property has been devoted. The  
8 intention to dedicate shall be evidenced by the owner by the  
9 presentment for filing of a final plat or short plat showing the  
10 dedication thereon; and, the acceptance by the public shall be  
11 evidenced by the approval of such plat for filing by the appropriate  
12 governmental unit.

13 A dedication of an area of less than two acres for use as a public  
14 park may include a designation of a name for the park, in honor of a  
15 deceased individual of good character.

16 (4) "Preliminary plat" is a neat and approximate drawing of a  
17 proposed subdivision showing the general layout of streets and alleys,  
18 lots, blocks, and other elements of a subdivision consistent with the  
19 requirements of this chapter. The preliminary plat shall be the basis  
20 for the approval or disapproval of the general layout of a subdivision.

21 (5) "Final plat" is the final drawing of the subdivision and  
22 dedication prepared for filing for record with the county auditor and  
23 containing all elements and requirements set forth in this chapter  
24 (~~and in local regulations adopted under this chapter~~)).

25 (6) "Short subdivision" is the division or redivision of land into  
26 (~~four~~) nine or fewer lots, tracts, parcels, sites or divisions for  
27 the purpose of sale, lease, or transfer of ownership(~~(:—PROVIDED,~~  
28 ~~That)~~). The legislative authority of ((any)) every county, city, or  
29 town ((may)) shall by local ordinance increase to nine the number of  
30 lots, tracts, or parcels to be regulated as short subdivisions (~~to a~~  
31 ~~maximum of nine~~)).

32 (7) "Binding site plan" means a drawing to a scale specified by  
33 local ordinance which: (a) Identifies and shows the areas and  
34 locations of all streets, roads, improvements, utilities, open spaces,  
35 and any other matters specified by local regulations; (b) contains  
36 inscriptions or attachments setting forth such appropriate limitations  
37 and conditions for the use of the land as are established by the local  
38 government body having authority to approve the site plan; and (c)

1 contains provisions making any development be in conformity with the  
2 site plan.

3 (8) "Short plat" is the map or representation of a short  
4 subdivision.

5 (9) "Lot" is a fractional part of divided lands having fixed  
6 boundaries, being of sufficient area and dimension to meet minimum  
7 zoning requirements for width and area. The term shall include tracts  
8 or parcels.

9 (10) "Block" is a group of lots, tracts, or parcels within well  
10 defined and fixed boundaries.

11 (11) "County treasurer" shall be as defined in chapter 36.29 RCW  
12 or the office or person assigned such duties under a county charter.

13 (12) "County auditor" shall be as defined in chapter 36.22 RCW or  
14 the office or person assigned such duties under a county charter.

15 (13) "County road engineer" shall be as defined in chapter 36.40  
16 RCW or the office or person assigned such duties under a county  
17 charter.

18 (14) "Planning commission" means that body as defined in chapters  
19 36.70, 35.63, or 35A.63 RCW as designated by the legislative body to  
20 perform a planning function or that body assigned such duties and  
21 responsibilities under a city or county charter.

22 (15) "County commissioner" shall be as defined in chapter 36.32  
23 RCW or the body assigned such duties under a county charter.

24 **Sec. 3.** RCW 58.17.030 and 1974 ex.s. c 134 s 1 are each amended  
25 to read as follows:

26 Every subdivision shall comply with the provisions of this  
27 chapter. Every short subdivision as defined in this chapter shall  
28 comply with (~~the provisions of any local regulation adopted pursuant~~  
29 ~~to~~) RCW 58.17.060.

30 **Sec. 4.** RCW 58.17.033 and 1987 c 104 s 2 are each amended to read  
31 as follows:

32 (1) A proposed division of land, as defined in RCW 58.17.020,  
33 shall be considered under the subdivision or short subdivision  
34 (~~ordinance~~) and zoning (~~or other land use control~~) ordinances(~~(7)~~)  
35 in effect on the land at the time a fully completed application for  
36 preliminary plat approval of the subdivision, or short plat approval of

1 the short subdivision, has been submitted to the appropriate county,  
2 city, or town official.

3 (2) The requirements for a fully completed application (~~shall be~~  
4 ~~defined~~) adopted by local ordinance are limited to submission  
5 procedures.

6 (3) The limitations imposed by this section shall not restrict  
7 conditions imposed under chapter 43.21C RCW.

8 **Sec. 5.** RCW 58.17.035 and 1987 c 354 s 2 are each amended to read  
9 as follows:

10 A city, town, or county may adopt by ordinance procedures for the  
11 divisions of land by use of a binding site plan as an alternative to  
12 the procedures required by this chapter. The ordinance shall be  
13 limited and only apply to one or more of the following: (1) The use of  
14 a binding site plan to divisions for sale or lease of commercially or  
15 industrially zoned property as provided in RCW 58.17.040(4); (2)  
16 divisions of property for lease as provided for in RCW 58.17.040(5);  
17 and (3) divisions of property as provided for in RCW 58.17.040(7).  
18 Such ordinance may apply the same or different requirements and  
19 procedures to each of the three types of divisions and shall provide  
20 for the alteration or vacation of the binding site plan, and may  
21 provide for the administrative approval of the binding site plan.  
22 However, such an ordinance may not impose requirements or procedures  
23 that are inconsistent with the provisions of RCW 58.17.040 (4), (5), or  
24 (7). Such an ordinance is not necessary for divisions of property as  
25 provided for in RCW 58.17.040(7)(d) (i) or (ii).

26 The ordinance shall provide that after approval of the general  
27 binding site plan for industrial or commercial divisions subject to a  
28 binding site plan, the approval for improvements and finalization of  
29 specific individual commercial or industrial lots shall be done by  
30 administrative approval.

31 The binding site plan, after approval, and/or when specific lots  
32 are administratively approved, shall be filed with the county auditor  
33 with a record of survey. However, when a binding site plan has been  
34 approved pursuant to RCW 58.17.040(7)(d) (i) or (ii), then no further  
35 administrative approval of these lots and no record of survey is  
36 required other than the survey map and plans required under chapter  
37 64.32 or 64.34 RCW. Lots, parcels, or tracts created through the

1 binding site plan procedure shall be legal lots of record. Except for  
2 divisions made under RCW 58.17.040(7), the number of lots, tracts,  
3 parcels, sites, or divisions shall not exceed the number of lots  
4 allowed by the local zoning ordinances.

5 All provisions, conditions, and requirements of the binding site  
6 plan shall be legally enforceable on the purchaser or any other person  
7 acquiring a lease or other ownership interest of any lot, parcel, or  
8 tract created pursuant to the binding site plan.

9 Any sale, transfer, or lease of any lot, tract, or parcel created  
10 pursuant to the binding site plan, that does not conform to the  
11 requirements of the binding site plan or without binding site plan  
12 approval, shall be considered a violation of chapter 58.17 RCW and  
13 shall be restrained by injunctive action and be illegal as provided in  
14 chapter 58.17 RCW.

15 **Sec. 6.** RCW 58.17.040 and 1992 c 220 s 27 are each amended to  
16 read as follows:

17 The provisions of this chapter shall not apply to:

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

19 (2) Divisions of land into lots or tracts each of which is one-one  
20 hundred twenty-eighth of a section of land or larger, or five acres or  
21 larger if the land is not capable of description as a fraction of a  
22 section of land, unless the governing authority of the city, town, or  
23 county in which the land is situated shall have adopted a subdivision  
24 ordinance requiring plat approval of such divisions: PROVIDED, That  
25 for purposes of computing the size of any lot under this item which  
26 borders on a street or road, the lot size shall be expanded to include  
27 that area which would be bounded by the center line of the road or  
28 street and the side lot lines of the lot running perpendicular to such  
29 center line;

30 (3) Divisions made by testamentary provisions, or the laws of  
31 descent;

32 (4) Divisions of land into lots or tracts classified for  
33 industrial or commercial use when the city, town, or county has  
34 approved a binding site plan for the use of the land in accordance with  
35 local regulations;

36 (5) A division for the purpose of lease when no residential  
37 structure other than mobile homes or travel trailers are permitted to

1 be placed upon the land when the city, town, or county has approved a  
2 binding site plan for the use of the land in accordance with local  
3 regulations;

4 (6) A division made for the purpose of alteration by adjusting  
5 boundary lines, between platted or unplatted lots or both, which does  
6 not create any additional lot, tract, parcel, site, or division nor  
7 create any lot, tract, parcel, site, or division which contains  
8 insufficient area and dimension to meet minimum requirements for width  
9 and area for a building site; and

10 (7) Divisions of land into lots or tracts if: (a) Such division  
11 is the result of subjecting a portion of a parcel or tract of land to  
12 either chapter 64.32 or 64.34 RCW subsequent to the recording of a  
13 binding site plan for all such land; (b) ~~((the improvements constructed  
14 or to be constructed thereon are required by the provisions of the  
15 binding site plan to be included in one or more condominiums or owned  
16 by an association or other legal entity in which the owners of units  
17 therein or their owners' associations have a membership or other legal  
18 or beneficial interest; (c)))~~ a city, town, or county has approved the  
19 binding site plan for all such land; ~~((d)))~~ (c) such approved binding  
20 site plan is recorded in the county or counties in which such land is  
21 located; and ~~((e)))~~ (d) the binding site plan contains thereon the  
22 following statement: "All development and use of the land described  
23 herein shall be in accordance with this binding site plan, as it may be  
24 amended with the approval of the city, town, or county having  
25 jurisdiction over the development of such land, and in accordance with  
26 such other governmental permits, approvals, regulations, requirements,  
27 and restrictions that may be imposed upon such land and the development  
28 and use thereof. ~~((Upon completion, the improvements on the land shall  
29 be included in one or more condominiums or owned by an association or  
30 other legal entity in which the owners of units therein or their  
31 owners' associations have a membership or other legal or beneficial  
32 interest.))~~ This binding site plan shall be binding upon all now or  
33 hereafter having any interest in the land described herein." The  
34 ~~((binding site plan may, but need not,))~~ owner of the land against  
35 which a binding site plan will be recorded may elect, but cannot be  
36 required by a city, town, or county, to depict or describe on the  
37 binding site plan the boundaries of the lots or tracts resulting from  
38 subjecting a portion of ((the)) a parcel or tract of land to either

1 chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been  
2 approved as a binding site plan for purposes of this subsection, and  
3 shall not be subject to further review or approval, if the site plan  
4 was approved by a city, town, or county: (i) In connection with the  
5 final approval of a subdivision plat ~~((or))~~, planned unit development,  
6 rezone, or other land use approval process with respect to all of such  
7 land; or (ii) in connection with the issuance of building permits or  
8 final certificates of occupancy with respect to all of such land; or  
9 (iii) if not approved pursuant to (i) ~~((and))~~ or (ii) of this  
10 subsection (7)~~((+e))~~ (d), then pursuant to such other procedures as  
11 such city, town, or county may have established for the approval of a  
12 binding site plan pursuant to this subsection, which procedures may  
13 include the review and approval of the site plan before recording.

14 NEW SECTION. Sec. 7. A new section is added to chapter 58.17 RCW  
15 to read as follows:

16 This chapter does not apply to the creation of a condominium  
17 pursuant to either chapter 64.32 or 64.34 RCW unless a division of land  
18 will result from subjecting a portion of a parcel or tract of land to  
19 chapter 64.32 or 64.34 RCW, in which event this chapter only applies to  
20 the division of land into the portions being made and not being made a  
21 part of the condominium, and shall not apply to the creation of a  
22 condominium within any such portion. In the event of any conflict  
23 between the provisions of this chapter and chapter 64.32 or 64.34 RCW,  
24 then chapter 64.32 or 64.34 RCW controls. "Subjecting a portion of a  
25 parcel or tract of land to chapter 64.32 or 64.34 RCW" means:  
26 Recording pursuant to either chapter 64.32 or 64.34 RCW a condominium  
27 declaration and survey map and plans in which the land being made a  
28 part of the condominium upon such recording is a portion of such parcel  
29 or tract and the remaining portion of such parcel or tract is not being  
30 made a part of the condominium upon such recording; as a result of such  
31 recording, such a parcel or tract is divided into a portion being made,  
32 and a portion not being made a part of the condominium; such portions  
33 of the parcel or tract could not each legally be sold, transferred, or  
34 leased to two different transferees without such division first having  
35 satisfied the requirements of this chapter. This section applies to  
36 all condominiums created under either chapter 64.32 or 64.34 RCW  
37 regardless of the date on which the condominium was created.

1           **Sec. 8.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each  
2 amended to read as follows:

3           (1) The legislative body of a city, town, or county shall adopt  
4 ~~((regulations—and))~~ procedures~~((7))~~ and appoint administrative  
5 personnel for the summary approval of short plats and short  
6 subdivisions or alteration or vacation thereof. When an alteration or  
7 vacation involves a public dedication, the alteration or vacation shall  
8 be processed as provided in RCW 58.17.212 or 58.17.215. Such  
9 ~~((regulations))~~ procedures shall be adopted by ordinance and shall  
10 provide that a short plat and short subdivision may be approved only if  
11 written findings that are appropriate, as provided in RCW 58.17.110,  
12 are made ~~((by the administrative personnel, and may contain wholly  
13 different requirements than those governing the approval of preliminary  
14 and final plats of subdivisions))~~, and may require surveys and  
15 monumentations and shall require filing of a short plat, or alteration  
16 or vacation thereof, for record in the office of the county auditor:  
17 PROVIDED, That ~~((such regulations must contain a requirement that))~~  
18 land in short subdivisions may not be further divided in any manner  
19 within a period of five years without the filing of a final plat,  
20 except that when the short plat contains fewer than ~~((four))~~ nine  
21 parcels, nothing in this section shall prevent the owner who filed the  
22 short plat from filing an alteration within the five-year period to  
23 create up to a total of ~~((four))~~ nine lots within the original short  
24 plat boundaries: PROVIDED FURTHER, That such ~~((regulations))~~  
25 procedures are not required to contain a penalty clause as provided in  
26 RCW 36.32.120 and may provide for wholly injunctive relief.

27           An ordinance requiring a survey shall require that the survey be  
28 completed and filed with the application for approval of the short  
29 subdivision.

30           (2) Cities, towns, and counties shall include in their short plat  
31 ~~((regulations—and))~~ procedures pursuant to subsection (1) of this  
32 section provisions for considering sidewalks and other planning  
33 features that assure safe walking conditions for students who walk to  
34 and from school.

35           **Sec. 9.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read  
36 as follows:



1 (1) The city, town, or county legislative body shall inquire into  
2 the public use and interest proposed to be served by the establishment  
3 of the subdivision (~~and dedication~~). It shall determine: (a) If  
4 appropriate provisions are made for (~~but not limited to~~) the public  
5 health(~~)~~ and safety, (~~and general welfare~~) for (~~open spaces~~)  
6 drainage ways, streets or roads, alleys, other public ways, transit  
7 stops, potable water supplies, and sanitary wastes, (~~parks and~~  
8 ~~recreation, playgrounds, schools and schoolgrounds~~) and shall  
9 consider (~~all other relevant facts, including~~) sidewalks and other  
10 planning features that assure safe walking conditions for students who  
11 only walk to and from school; and (b) whether the public interest will  
12 be served by the subdivision (~~and dedication~~).

13 (2) A proposed subdivision (~~and dedication~~) shall not be  
14 approved unless the city, town, or county legislative body makes  
15 written findings that: (a) Appropriate provisions are made for the  
16 public health(~~)~~ and safety(~~and general welfare~~) and for such  
17 (~~open spaces~~) drainage ways, streets or roads, alleys, other public  
18 ways, transit stops, potable water supplies, sanitary wastes, (~~parks~~  
19 ~~and recreation, playgrounds, schools and schoolgrounds~~) and (~~all~~  
20 ~~other relevant facts, including~~) sidewalks and other planning features  
21 that assure safe walking conditions for students who only walk to and  
22 from school; and (b) the public use and interest will be served by the  
23 platting of such subdivision (~~and dedication~~). If it finds that the  
24 proposed subdivision (~~and dedication~~) makes such appropriate  
25 provisions and that the public use and interest will be served, then  
26 the legislative body shall approve the proposed subdivision (~~and~~  
27 ~~dedication~~). (~~Dedication of land to any public body~~) Provision of  
28 public improvements to serve the subdivision(~~and/or impact fees~~  
29 ~~imposed under RCW 82.02.050 through 82.02.090~~) may be required as a  
30 condition of subdivision approval. Dedications shall be clearly shown  
31 on the final plat. No dedication(~~)~~ or provision of public  
32 improvements(~~or impact fees imposed under RCW 82.02.050 through~~  
33 ~~82.02.090~~) shall be allowed that constitutes an unconstitutional  
34 taking of private property. The legislative body shall not as a  
35 condition to the approval of any subdivision require a release from  
36 damages to be procured from other property owners.

37 (3) If the preliminary plat includes a dedication of a public park  
38 with an area of less than two acres and the donor has designated that

1 the park be named in honor of a deceased individual of good character,  
2 the city, town, or county legislative body must adopt the designated  
3 name.

4 **Sec. 10.** RCW 58.17.150 and 1983 c 121 s 4 are each amended to  
5 read as follows:

6 Each preliminary plat submitted for final approval of the  
7 legislative body shall be accompanied by the following agencies'  
8 recommendations for approval or disapproval:

9 (1) Local health department or other agency furnishing sewage  
10 disposal and supplying water as to the adequacy of the proposed means  
11 of sewage disposal and water supply;

12 (2) Local planning agency or commission, charged with the  
13 responsibility of reviewing plats and subdivisions, as to compliance  
14 with all terms of the preliminary approval of the proposed plat  
15 subdivision (~~(or dedication)~~);

16 (3) City, town or county engineer.

17 Except as provided in RCW 58.17.140, an agency or person issuing  
18 a recommendation for subsequent approval under subsections (1) and (3)  
19 of this section shall not modify the terms of its recommendations  
20 without the consent of the applicant.

21 **Sec. 11.** RCW 58.17.195 and 1981 c 293 s 14 are each amended to  
22 read as follows:

23 No plat or short plat may be approved unless the city, town, or  
24 county makes a formal written finding of fact that the proposed  
25 subdivision or proposed short subdivision is in conformity with any  
26 applicable zoning ordinance (~~(or other land use controls which may~~  
27 ~~exist)~~).

28 **Sec. 12.** RCW 58.17.200 and 1969 ex.s. c 271 s 20 are each amended  
29 to read as follows:

30 Whenever any parcel of land is divided into five or more lots,  
31 tracts, or parcels of land and any person, firm, or corporation or any  
32 agent of any of them sells or transfers, or offers or advertises for  
33 sale or transfer, any such lot, tract, or parcel without having a final  
34 plat of such subdivision or a short plat or short subdivision filed for  
35 record, the prosecuting attorney shall commence an action to restrain

1 and enjoin further subdivisions or sales, or transfers, or offers of  
2 sale or transfer and compel compliance with all provisions of this  
3 chapter. The costs of such action shall be taxed against the person,  
4 firm, corporation, or agent selling or transferring the property.

5 **Sec. 13.** RCW 58.17.900 and 1969 ex.s. c 271 s 33 are each amended  
6 to read as follows:

7 All ordinances and resolutions enacted at a time prior to the  
8 passage of this chapter by the legislative bodies of cities, towns, and  
9 counties and which are in substantial compliance with the provisions of  
10 this chapter, shall be construed as valid and (~~may~~) shall be further  
11 amended to include new provisions and standards as are authorized in  
12 general law.-

**EFFECT:** Converts the RCW chapter governing subdivisions into a procedural, rather than regulatory, process; revises condominium binding ste plan provisions; removes dedication from the subdivision approval process; limits issues a local jurisdiction can consider when reviewing a subdivision approval; defines short plats as a division into nine or fewer units; and eliminates dedication and impact fees as a condition of subdivision approval.