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ENGROSSED SUBSTITUTE SENATE BILL 6140

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State of Washington

58th Legislature

2004 Regular Session

**By** Senate Committee on Land Use & Planning (originally sponsored by Senators Morton, Fraser, Mulliken and Winsley)

READ FIRST TIME 01/23/04.

1 AN ACT Relating to exempting uninhabited electric utility  
2 facilities from short plats and subdivision requirements; and amending  
3 RCW 58.17.040.

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

5 **Sec. 1.** RCW 58.17.040 and 2002 c 44 s 1 are each amended to read  
6 as follows:

7 The provisions of this chapter shall not apply to:

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

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

1 (3) Divisions made by testamentary provisions, or the laws of  
2 descent;

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

6 (5) A division for the purpose of lease when no residential  
7 structure other than mobile homes or travel trailers are permitted to  
8 be placed upon the land when the city, town, or county has approved a  
9 binding site plan for the use of the land in accordance with local  
10 regulations;

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

17 (7) Divisions of land into lots or tracts if: (a) Such division is  
18 the result of subjecting a portion of a parcel or tract of land to  
19 either chapter 64.32 or 64.34 RCW subsequent to the recording of a  
20 binding site plan for all such land; (b) the improvements constructed  
21 or to be constructed thereon are required by the provisions of the  
22 binding site plan to be included in one or more condominiums or owned  
23 by an association or other legal entity in which the owners of units  
24 therein or their owners' associations have a membership or other legal  
25 or beneficial interest; (c) a city, town, or county has approved the  
26 binding site plan for all such land; (d) such approved binding site  
27 plan is recorded in the county or counties in which such land is  
28 located; and (e) the binding site plan contains thereon the following  
29 statement: "All development and use of the land described herein shall  
30 be in accordance with this binding site plan, as it may be amended with  
31 the approval of the city, town, or county having jurisdiction over the  
32 development of such land, and in accordance with such other  
33 governmental permits, approvals, regulations, requirements, and  
34 restrictions that may be imposed upon such land and the development and  
35 use thereof. Upon completion, the improvements on the land shall be  
36 included in one or more condominiums or owned by an association or  
37 other legal entity in which the owners of units therein or their  
38 owners' associations have a membership or other legal or beneficial

1 interest. This binding site plan shall be binding upon all now or  
2 hereafter having any interest in the land described herein." The  
3 binding site plan may, but need not, depict or describe the boundaries  
4 of the lots or tracts resulting from subjecting a portion of the land  
5 to either chapter 64.32 or 64.34 RCW. A site plan shall be deemed to  
6 have been approved if the site plan was approved by a city, town, or  
7 county: (i) In connection with the final approval of a subdivision  
8 plat or planned unit development with respect to all of such land; or  
9 (ii) in connection with the issuance of building permits or final  
10 certificates of occupancy with respect to all of such land; or (iii) if  
11 not approved pursuant to (i) and (ii) of this subsection (7)(e), then  
12 pursuant to such other procedures as such city, town, or county may  
13 have established for the approval of a binding site plan; (~~and~~)

14 (8) A division for the purpose of leasing land for facilities  
15 providing personal wireless services while used for that purpose.  
16 "Personal wireless services" means any federally licensed personal  
17 wireless service. "Facilities" means unstaffed facilities that are  
18 used for the transmission or reception, or both, of wireless  
19 communication services including, but not necessarily limited to,  
20 antenna arrays, transmission cables, equipment shelters, and support  
21 structures; and

22 (9) A division of land into less than three acres for the purpose  
23 of creating a site to be used solely for a consumer-owned or investor-  
24 owned electric utility facility, so long as a survey is recorded in  
25 accordance with chapter 58.09 RCW. For the purposes of this  
26 subsection, "electric utility facility" means an automated facility  
27 that does not require potable water or sewer service and is used for,  
28 in connection with, or to facilitate the transmission, distribution,  
29 sale, or furnishing of electricity, including electric power  
30 substations and switching stations. This subsection does not exempt a  
31 division of land from the zoning and permitting ordinances and  
32 regulations approved by the legislative body of a city, town, county,  
33 or municipal corporation, and does not apply to an electric utility  
34 facility intended for the primary purpose of extending electric service  
35 or facilities to an existing customer or customers of another electric  
36 utility without that utility's agreement.

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