EXHIBIT 4
DATE 3-24-09
SB SB 306

Amendments to Senate Bill No. 306
3rd Reading Copy

Requested by Senator John Esp

For the House Local Government Committee

Prepared by Tammy McGill
March 24, 2009 (2:32pm)

1. Page 1, line 10 through page 2, line 8.
Strike: section 1 in its entirety
Insert: "Section 1. Creation of remainder. (1) (a) A governing body may pass an ordinance or resolution that allows the use of remainders in the governing body's jurisdictional area.

(b) Only one remainder may be created on a subdivision plat or a certificate of survey depicting an exemption under 76-3-201 or 76-3-207.

(c) A remainder may be created through the use of an exemption under 76-3-201 or 76-3-207. A parcel created pursuant to 76-3-209 is not a remainder under this section.

(2) A remainder:

(a) may not be created for the purpose of sale, lease, or creating a security interest under 76-3-201(1)(b);

(b) must be retained by the landowner for a minimum of 18 months following the filing of the final plat of the subdivision or certificate of survey depicting the exemption unless the remainder is further divided pursuant to the requirements of this chapter; and

(c) is subject to applicable zoning regulations adopted pursuant to Title 76, chapter 2.

(3) (a) The governing body or its designated agent shall determine whether a proposed remainder meets the requirements of this section during:

(i) the preapplication process established pursuant to 76-3-504(1)(q);

(ii) the review procedure for a minor subdivision pursuant to 76-3-609; or

(iii) the procedure used to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter pursuant to criteria adopted under 76-3-504(1)(p).

(b) The determination must be based on a demonstration by the applicant that one or more of the following criteria are met:

(i) the remainder is 160 acres or larger in size or can be described as a one-quarter aliquot part of a United States government section;

(ii) the applicant's primary residence is on the remainder;

(iii) the proposed remainder is taxed for agricultural

purposes under 15-7-202 or as forest land under Title 15, chapter 44, part 1. A remainder created by a subdivision under this subsection (3)(b)(iii) may not be developed until it has been reviewed and approved as a subdivision under parts 5 and 6 of this chapter. A remainder created by an exemption under this subsection (3)(b)(iii) may be developed with one single-family residence following the filing of a survey under part 4 of this chapter and review under chapter 4.

(iv) the remainder is part of a phased development plan for which an application has been submitted under parts 5 and 6 of this chapter. A remainder under this subsection (3)(b)(iv) does not become effective until a final plat for the phased subdivision has been filed pursuant to the requirements of this chapter. A remainder created under this subsection (3)(b)(iv) may not be developed until it has been reviewed and approved as a subdivision under parts 5 and 6 of this chapter.

(4) If the determination in subsection (3) is made by a designated agent of the governing body, the applicant may appeal the decision to the governing body. If an appeal is submitted, the governing body shall make a final determination using the criteria in subsection (3).

(5) Prior to the transfer or conveyance of an unsurveyed remainder, the parcel must be surveyed and the survey must be filed with the county clerk and recorder unless the remainder can be described as an aliquot part of a United States government section."

2. Page 3, line 18.
Following: "created"
Strike: "by the segregation of a subdivision from"
Insert: "when a subdivision plat is filed for part of"

3. Page 3, line 19.
Following: "76-3-207"
Insert: "pursuant to [section 1]"

4. Page 9.
Following: line 25
Insert: "<u>COORDINATION SECTION.</u> **Section 7. Coordination instruction.** If House Bill No. 522 is passed and approved, then any reference in [this act] to 76-3-201(1)(b) must be replaced by a reference to [section 1 of House Bill 522]."

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