

enforceable by other lot owners or lessees in the subdivision, and adverse claims which are applicable to the lot to be purchased or leased, and (ii) good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot;

(F) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the State in which the purchaser or lessee resides; and

(G) the developer executes a written affirmation to the effect that he has complied with the provisions of this paragraph, such affirmation to be given on a form provided by the Director, which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; an affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale or lease; and the signature of the developer.

(c) Rules and regulations

The Director may from time to time, pursuant to rules and regulations issued by him, exempt from any of the provisions of this chapter any subdivision or any lots in a subdivision, if he finds that the enforcement of this chapter with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason or the small amount involved or the limited character of the public offering.

(Pub. L. 90-448, title XIV, §1403, Aug. 1, 1968, 82 Stat. 590; Pub. L. 91-152, title IV, §411, Dec. 24, 1969, 83 Stat. 398; Pub. L. 93-383, title VIII, §812(b), Aug. 22, 1974, 88 Stat. 736; Pub. L. 95-557, title IX, §907, Oct. 31, 1978, 92 Stat. 2127; Pub. L. 96-153, title IV, §402, Dec. 21, 1979, 93 Stat. 1123; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (b)(2), probably means the effective date of title IV of Pub. L. 96-153, section 402 of which amended subsec. (b) of this section generally. For the effective date of title IV, see section 410 of Pub. L. 96-153, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

AMENDMENTS

2010—Subsecs. (b)(2), (8)(B), (G), (c). Pub. L. 111-203 substituted “Director” for “Secretary”.

1979—Subsec. (a). Pub. L. 96-153 revised existing provisions formerly set out as pars. (1) to (11) into pars. (1) to (8) and, as so revised, substituted provisions relating to sale or lease of lots in a subdivision containing less than twenty-five lots, etc., for provisions relating to sale or lease of real estate not pursuant to a common promotional plan to offer or sell fifty or more lots in a subdivision, etc.

Subsec. (b). Pub. L. 96-153 revised existing provisions formerly set out as pars. (1) to (7) into pars. (1) to (8) and, as so revised, substituted provisions setting forth criteria respecting sale or lease of lots subject to other statutory registration and disclosure requirements, for

provisions setting forth criteria respecting sale or lease of lots in municipality or county with minimum standards.

1978—Subsec. (a)(3). Pub. L. 95-557, §907(a)(1), inserted “condominium” after “commercial”.

Subsec. (a)(10). Pub. L. 95-557, §907(a)(2), inserted “United States land patents or Federal grants and reservations similar to United States land patents, not to” after “do not refer to”.

Subsec. (a)(11). Pub. L. 95-557, §907(a)(3), inserted “or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located” before “when”.

Subsecs. (b), (c). Pub. L. 95-557, §907(b)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (a)(11). Pub. L. 93-383 added par. (11).

1969—Subsec. (a)(10). Pub. L. 91-152 substituted provisions requiring a personal on-the-lot inspection of the real estate for provisions requiring a personal inspection of the lot and restricted definition of terms “liens”, “encumbrances”, and “adverse claims” so as not to include taxes and assessments imposed by a State, a public body having authority to assess and tax property, or a property owners’ association, which, under the applicable law, constitute liens before they are due and payable, and so as not to include beneficial property restrictions enforceable by other lot owners or lessees in the subdivision under the specified conditions.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, except that subsec. (b)(7) shall be effective on Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

§ 1703. Requirements respecting sale or lease of lots

(a) Prohibited activities

It shall be unlawful for any developer or agent, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce, or of the mails—

(1) with respect to the sale or lease of any lot not exempt under section 1702 of this title—

(A) to sell or lease any lot unless a statement of record with respect to such lot is in effect in accordance with section 1706 of this title;

(B) to sell or lease any lot unless a printed property report, meeting the requirements of section 1707 of this title, has been furnished to the purchaser or lessee in advance of the signing of any contract or agreement by such purchaser or lessee;

(C) to sell or lease any lot where any part of the statement of record or the property report contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein pursuant to sections 1704 through 1707 of this title or any regulations thereunder; or

(D) to display or deliver to prospective purchasers or lessees advertising and pro-

motional material which is inconsistent with information required to be disclosed in the property report; or

(2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1702(a) of this title—

(A) to employ any device, scheme, or artifice to defraud;

(B) to obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or subdivision;

(C) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser; or

(D) to represent that roads, sewers, water, gas, or electric service, or recreational amenities will be provided or completed by the developer without stipulating in the contract of sale or lease that such services or amenities will be provided or completed.

(b) Revocation of nonexempt contract or agreement at option of purchaser or lessee; time limit

Any contract or agreement for the sale or lease of a lot not exempt under section 1702 of this title may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws, and such contract or agreement shall clearly provide this right.

(c) Revocation of contract or agreement at option of purchaser or lessee where required property report not supplied

In the case of any contract or agreement for the sale or lease of a lot for which a property report is required by this chapter and the property report has not been given to the purchaser or lessee in advance of his or her signing such contract or agreement, such contract or agreement may be revoked at the option of the purchaser or lessee within two years from the date of such signing, and such contract or agreement shall clearly provide this right.

(d) Additional authority for revocation of non-exempt contract or agreement at option of purchaser or lessee; time limit; applicability

Any contract or agreement which is for the sale or lease of a lot not exempt under section 1702 of this title and which does not provide—

(1) a description of the lot which makes such lot clearly identifiable and which is in a form acceptable for recording by the appropriate public official responsible for maintaining land records in the jurisdiction in which the lot is located;

(2) that, in the event of a default or breach of the contract or agreement by the purchaser or lessee, the seller or lessor (or successor thereof) will provide the purchaser or lessee with written notice of such default or breach

and of the opportunity, which shall be given such purchaser or lessee, to remedy such default or breach within twenty days after the date of the receipt of such notice; and

(3) that, if the purchaser or lessee loses rights and interest in the lot as a result of a default or breach of the contract or agreement which occurs after the purchaser or lessee has paid 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, the seller or lessor (or successor thereof) shall refund to such purchaser or lessee any amount which remains after subtracting (A) 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, or the amount of damages incurred by the seller or lessor (or successor thereof) as a result of such breach, whichever is greater, from (B) the amount paid by the purchaser or lessee with respect to the purchase price of the lot, excluding any interest paid under the contract or agreement,

may be revoked at the option of the purchaser or lessee for two years from the date of the signing of such contract or agreement. This subsection shall not apply to the sale of a lot for which, within one hundred and eighty days after the signing of the sales contract, the purchaser receives a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him or her).

(e) Repayment of purchaser or lessee upon revocation of all money paid under contract or agreement to seller or lessor

If a contract or agreement is revoked pursuant to subsection (b), (c), or (d) of this section, if the purchaser or lessee tenders to the seller or lessor (or successor thereof) an instrument conveying his or her rights and interests in the lot, and if the rights and interests and the lot are in a condition which is substantially similar to the condition in which they were conveyed or purported to be conveyed to the purchaser or lessee, such purchaser or lessee shall be entitled to all money paid by him or her under such contract or agreement.

(Pub. L. 90-448, title XIV, §1404, Aug. 1, 1968, 82 Stat. 591; Pub. L. 93-383, title VIII, §812(c)(1), Aug. 22, 1974, 88 Stat. 737; Pub. L. 96-153, title IV, §403, Dec. 21, 1979, 93 Stat. 1127.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-153 substituted provisions setting forth criteria in par. (1) with respect to the sale or lease of any lot not exempt under section 1702 of this title, for provisions relating to the sale or lease of any lot in any subdivision with accompanying required statement of record and printed property report, and in par. (2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1702(a) of this title, for provisions relating to the sale or lease, or offer to sell or lease, any lot in a subdivision through the use of specified prohibited activities.

Subsec. (b). Pub. L. 96-153 substituted provisions relating to revocation of contracts or agreements for the

sale or lease of a lot not exempt under section 1702 of this title, for provisions relating to voidability of contracts or agreements for the purchase or lease of lots in subdivisions covered by this chapter.

Subsecs. (c) to (e). Pub. L. 96-153 added subsecs. (c) to (e).

1974—Subsec. (b). Pub. L. 383 substituted “until midnight of the third business day following the consummation of the transaction” for “within forty-eight hours” and struck out provisions relating to exceptions of contracts or agreements stipulating to the nonapplicability of the revocation authority to certain purchasers.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 812(c)(2) of Pub. L. 93-383 provided that: “The amendments made by paragraph (1) [amending this section] shall be effective sixty days after the date of the enactment of this Act [Aug. 22, 1974].”

§ 1704. Registration of subdivisions

(a) Filing of statement of record

A subdivision may be registered by filing with the Director a statement of record, meeting the requirements of this chapter and such rules and regulations as may be prescribed by the Director in furtherance of the provisions of this chapter. A statement of record shall be deemed effective only as to the lots specified therein.

(b) Payment of fees; use by Director

At the time of filing a statement of record, or any amendment thereto, the developer shall pay to the Director a fee, not in excess of \$1,000, in accordance with a schedule to be fixed by the regulations of the Director, which fees may be used by the Director to cover all or part of the cost of rendering services under this chapter, and such expenses as are paid from such fees shall be considered nonadministrative.

(c) Filing deemed to have taken place upon receipt of statement of record accompanied by fee

The filing with the Director of a statement of record, or of an amendment thereto, shall be deemed to have taken place upon the receipt thereof, accompanied by payment of the fee required by subsection (b) of this section.

(d) Availability of information to public

The information contained in or filed with any statement of record shall be made available to the public under such regulations as the Director may prescribe and copies thereof shall be furnished to every applicant at such reasonable charge as the Director may prescribe.

(Pub. L. 90-448, title XIV, § 1405, Aug. 1, 1968, 82 Stat. 592; Pub. L. 111-203, title X, § 1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” wherever appearing.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L.

111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 1705. Information required in statement of record

The statement of record shall contain the information and be accompanied by the documents specified hereinafter in this section—

(1) the name and address of each person having an interest in the lots in the subdivision to be covered by the statement of record and the extent of such interest;

(2) a legal description of, and a statement of the total area included in, the subdivision and a statement of the topography thereof, together with a map showing the division proposed and the dimensions of the lots to be covered by the statement of record and their relation to existing streets and roads;

(3) a statement of the condition of the title to the land comprising the subdivision, including all encumbrances and deed restrictions and covenants applicable thereto;

(4) a statement of the general terms and conditions, including the range of selling prices or rents at which it is proposed to dispose of the lots in the subdivision;

(5) a statement of the present condition of access to the subdivision, the existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developer, the availability of sewage disposal facilities and other public utilities (including water, electricity, gas, and telephone facilities) in the subdivision, the proximity in miles of the subdivision to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(6) in the case of any subdivision or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrance and the steps, if any, taken to protect the purchaser in such eventuality;

(7)(A) copy of its articles of incorporation, with all amendments thereto, if the developer is a corporation; (B) copies of all instruments by which the trust is created or declared, if the developer is a trust; (C) copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and (D) if the purported holder of legal title is a person other than developer, copies of the above documents for such person;

(8) copies of the deed or other instrument establishing title to the subdivision in the developer or other person and copies of any instrument creating a lien or encumbrance upon the title of developer or other person or copies of the opinion or opinions of counsel in respect to the title to the subdivision in the developer or other person or copies of the title insurance policy guaranteeing such title;

(9) copies of all forms of conveyance to be used in selling or leasing lots to purchasers;