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§ 1701. Definitions

For the purposes of this chapter, the term—

(1) “Director” means the Director of the Bureau of Consumer Financial Protection;

(2) “person” means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate;

(3) “subdivision” means any land which is located in any State or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan;

(4) “common promotional plan” means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is offered for sale by such a developer or group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan;

(5) “developer” means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision;

(6) “agent” means any person who represents, or acts for or on behalf of, a developer in selling or leasing, or offering to sell or lease, any lot or lots in a subdivision; but shall not include an attorney at law whose representation of another person consists solely of rendering legal services;

(7) “blanket encumbrance” means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority;

(8) “interstate commerce” means trade or commerce among the several States or between any foreign country and any State;

(9) “State” includes the several States, the District of Columbia, the Commonwealth of

Puerto Rico, and the territories and possessions of the United States;

(10) “purchaser” means an actual or prospective purchaser or lessee of any lot in a subdivision;

(11) “offer” includes any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision; and

(12) “Bureau” means the Bureau of Consumer Financial Protection.

(Pub. L. 90-448, title XIV, §1402, Aug. 1, 1968, 82 Stat. 590; Pub. L. 93-383, title VIII, §812(a), Aug. 22, 1974, 88 Stat. 736; Pub. L. 96-153, title IV, §401, Dec. 21, 1979, 93 Stat. 1122; Pub. L. 100-628, title X, §1089(a), Nov. 7, 1988, 102 Stat. 3283; Pub. L. 111-203, title X, §1098A(4), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Par. (1). Pub. L. 111-203, §1098A(4)(A), added par. (1) and struck out former par. (1) which read as follows: “‘Secretary’ means the Secretary of Housing and Urban Development;”.

Par. (12). Pub. L. 111-203, §1098A(4)(B)-(D), added par. (12).

1988—Par. (10). Pub. L. 100-628 inserted “and” after semicolon.

1979—Par. (3). Pub. L. 96-153 substituted provisions defining “subdivision” as the division or proposed division of land into lots for the purpose of sale or lease as part of a common promotional plan, for provisions defining “subdivision” as the division or proposed division of land into fifty or more lots for the purpose of sale or lease as part of a common promotional plan and presumptions respecting activities as being deemed part of such common promotional plan.

Pars. (4) to (11). Pub. L. 96-153 added par. (4) and redesignated former pars. (4) to (10) as (5) to (11), respectively.

1974—Par. (3). Pub. L. 93-383, §812(a)(1), inserted “, located in any State or in a foreign country” after “any land”.

Par. (7). Pub. L. 93-383, §812(a)(2), inserted “or between any foreign country and any State” after “States”.

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

Pub. L. 96-153, title IV, §410, Dec. 21, 1979, 93 Stat. 1132, provided that: “The amendments made by this title [enacting section 1719a of this title and amending this section and sections 1702, 1703, 1708, 1709, 1711, 1715, and 1717 of this title] shall become effective on the effective date of regulations implementing such amendments, but in no case later than six months following the date of enactment of this Act [Dec. 21, 1979], except that section 1403(b)(7) of the Interstate Land Sales Full Disclosure Act [section 1702(b)(7) of this title], contained in the amendment made by section 402, shall become effective on the date of enactment.”

EFFECTIVE DATE

Pub. L. 90-448, title XIV, §1423, formerly §1422, Aug. 1, 1968, 82 Stat. 599, as renumbered by Pub. L. 96-153, title IV, §409, Dec. 21, 1979, 93 Stat. 1132, provided that: “This title [enacting this chapter] shall take effect upon the expiration of two hundred and seventy days after the date of its enactment [Aug. 1, 1968].”

SHORT TITLE

Pub. L. 90-448, title XIV, §1401, Aug. 1, 1968, 82 Stat. 590, provided that: “This title [enacting this chapter]

may be cited as the 'Interstate Land Sales Full Disclosure Act.'

§ 1702. Exemptions

(a) Sale or lease of lots generally

Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions of this chapter shall not apply to—

(1) the sale or lease of lots in a subdivision containing less than twenty-five lots;

(2) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;

(3) the sale of evidence of indebtedness secured by a mortgage or deed of trust on real estate;

(4) the sale of securities issued by a real estate investment trust;

(5) the sale or lease of real estate by any government or government agency;

(6) the sale or lease of cemetery lots;

(7) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or

(8) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development 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, when—

(A) local authorities have approved access from such real estate to a public street or highway;

(B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;

(C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;

(D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing such real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and

(E) a policy of title insurance or a title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document,

the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

(b) Sale or lease of lots subject to other statutory registration and disclosure requirements

Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions requiring registration and disclosure (as specified in section 1703(a)(1) of this title and sections 1704 through 1707 of this title) shall not apply to—

(1) the sale or lease of lots in a subdivision containing fewer than one hundred lots which are not exempt under subsection (a);

(2) the sale or lease of lots in a subdivision if, within the twelve-month period commencing on the date of the first sale or lease of a lot in such subdivision after the effective date of this subsection, or on such other date within that twelve-month period as the Director may prescribe, not more than twelve lots are sold or leased, and the sale or lease of the first twelve lots in such subdivision in any subsequent twelve-month period, if not more than twelve lots have been sold or leased in any preceding twelve-month period after the effective date of this subsection;

(3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than twenty lots, and if the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;

(4) the sale or lease of lots in a subdivision in which each of the lots is at least twenty acres (inclusive of easements for ingress and egress or public utilities);

(5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

(A)(i) the subdivision meets all local codes and standards, and (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

(B)(i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except that, in any case in which a homeowners association has accepted or is obligated to accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;