

AMENDMENTS

1970—Par. (5). Pub. L. 91-609 required the statement of record to contain a statement of the existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developer.

§ 1706. Effective date of statements of record and amendments thereto

(a) Thirtieth day after filing or such earlier date as determined by Secretary; consolidation of subsequent statement with earlier recording

Except as hereinafter provided, the effective date of a statement of record, or any amendment thereto, shall be the thirtieth day after the filing thereof or such earlier date as the Secretary may determine, having due regard to the public interest and the protection of purchasers. If any amendment to any such statement is filed prior to the effective date of the statement, the statement shall be deemed to have been filed when such amendment was filed; except that such an amendment filed with the consent of the Secretary, or filed pursuant to an order of the Secretary, shall be treated as being filed as of the date of the filing of the statement of record. When a developer records additional lands to be offered for disposition, he may consolidate the subsequent statement of record with any earlier recording offering subdivided land for disposition under the same promotional plan. At the time of consolidation the developer shall include in the consolidated statement of record any material changes in the information contained in the earlier statement.

(b) Incomplete or inaccurate statements of record

If it appears to the Secretary that a statement of record, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the Secretary shall so advise the developer within a reasonable time after the filing of the statement or the amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement or the amendment until thirty days after the developer files such additional information as the Secretary shall require. Any developer, upon receipt of such notice, may request a hearing, and such hearing shall be held within twenty days of receipt of such request by the Secretary.

(c) Amendment of statement of record

If, at any time subsequent to the effective date of a statement of record, a change shall occur affecting any material fact required to be contained in the statement, the developer shall promptly file an amendment thereto. Upon receipt of any such amendment, the Secretary may, if he determines such action to be necessary or appropriate in the public interest or for the protection of purchasers, suspend the statement of record until the amendment becomes effective.

(d) Suspension of statement of record containing untrue statement or omission to state material fact; notice and hearing; termination of order of suspension

If it appears to the Secretary at any time that a statement of record, which is in effect, in-

cludes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Secretary may, after notice, and after opportunity for hearing (at a time fixed by the Secretary) within fifteen days after such notice, issue an order suspending the statement of record. When such statement has been amended in accordance with such order, the Secretary shall so declare and thereupon the order shall cease to be effective.

(e) Examination to determine issuance of order; access to records; order suspending statement of record upon failure to cooperate

The Secretary is hereby empowered to make an examination in any case to determine whether an order should issue under subsection (d) of this section. In making such examination, the Secretary or anyone designated by him shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the developer, any agents or any other person, in respect of any matter relevant to the examination. If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the statement of record.

(f) Service of notices

Any notice required under this section shall be sent to or served on the developer or his authorized agent.

(Pub. L. 90-448, title XIV, §1407, Aug. 1, 1968, 82 Stat. 593.)

§ 1707. Property report

(a) Contents of report

A property report relating to the lots in a subdivision shall contain such of the information contained in the statement of record, and any amendments thereto, as the Secretary may deem necessary, but need not include the documents referred to in paragraphs (7) to (11), inclusive, of section 1705 of this title. A property report shall also contain such other information as the Secretary may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of purchasers.

(b) Promotional use

The property report shall not be used for any promotional purposes before the statement of record becomes effective and then only if it is used in its entirety. No person may advertise or represent that the Secretary approves or recommends the subdivision or the sale or lease of lots therein. No portion of the property report shall be underscored, italicized, or printed in larger or bolder type than the balance of the statement unless the Secretary requires or permits it.

(Pub. L. 90-448, title XIV, §1408, Aug. 1, 1968, 82 Stat. 594.)

§ 1708. Certification of substantially equivalent State law

(a) Criteria; request by State

(1) A State shall be certified if the Secretary determines—

(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1702 of this title require the seller or lessor of such lots to disclose information which is at least substantially equivalent to the information required to be disclosed by section 1707 of this title; and

(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that such information is accurate.

(2) In the case of any State which is not certified under paragraph (1), such State shall be certified if the Secretary determines—

(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1702 of this title provide sufficient protection for purchasers and lessees with respect to the matters for which information is required to be disclosed by section 1707 of this title but which is not required to be disclosed by such State's laws and regulations; and

(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that (i) information required to be disclosed by such laws and regulations is accurate, and (ii) sufficient protection for purchasers and lessees is made available with respect to the matters for which information is not required to be disclosed.

(3) Any State requesting certification must agree to accept a property report covering land located in another certified State but offered for sale or lease in the State requesting certification if the property report has been approved by the other certified State. Such property report shall be the only property report required by the State with respect to the sale or lease of such land.

(b) Filing of State disclosure materials and related documentation for purposes of Federal statement of record and property report requirements; acceptance by Secretary

After the Secretary has certified a State under subsection (a) of this section, the Secretary shall accept for filing under sections 1704 through 1707 of this title (and declare effective as the Federal statement of record and property report which shall be used in all States in which the lots are offered for sale or lease) disclosure materials found acceptable, and any related documentation required, by State authorities in connection with the sale or lease of lots located within the State. The Secretary may accept for such filing, and declare effective as the Federal statement of record and property report, such materials and documentation found acceptable by the State in connection with the sale or lease of lots located outside that State. Nothing in this subsection shall preclude the Secretary from exercising the authority conferred by subsections (d) and (e) of section 1706 of this title.

(c) Notice to State upon failure to meet requirements and remedial action necessary for certification

If a State fails to meet the standards for certification pursuant to subsection (a) of this section, the Secretary shall notify the State in writing of the changes in State law, regulation, or administration that are needed in order to obtain certification.

(d) Periodic review of certified States' laws, regulations, and administration; withdrawal of certification

The Secretary shall periodically review the laws and regulations, and the administration thereof, of States certified under subsection (a) of this section, and may withdraw such certification upon a determination that such laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of subsection (a) of this section.

(e) State and local governmental authorities affected; cooperation with State authorities

Nothing in this chapter may be construed to prevent or limit the authority of any State or local government to enact and enforce with regard to the sale of land any law, ordinance, or code not in conflict with this chapter. In administering this chapter, the Secretary shall cooperate with State authorities charged with the responsibility of regulating the sale or lease of lots which are subject to this chapter.

(Pub. L. 90-448, title XIV, §1409, Aug. 1, 1968, 82 Stat. 594; Pub. L. 96-153, title IV, §404, Dec. 21, 1979, 93 Stat. 1129.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-153 substituted provisions setting forth criteria for determinations respecting certifications of substantially equivalent State law for purposes of disclosure requirements of this chapter, for provisions relating to cooperation with State authorities in administering this chapter.

Subsec. (b). Pub. L. 96-153 substituted provisions relating to filing requirements for State disclosure materials and related documentation for purposes of Federal statement of record and property report requirements, for provisions relating to the jurisdiction of the particular State real estate commission or similar body.

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

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.

§ 1709. Civil liabilities

(a) Violations; relief recoverable

A purchaser or lessee may bring an action at law or in equity against a developer or agent if the sale or lease was made in violation of section 1703(a) of this title. In a suit authorized by this subsection, the court may order damages, specific performance, or such other relief as the court deems fair, just, and equitable. In determining such relief the court may take into account, but not be limited to, the following factors: the contract price of the lot or leasehold;