

This act is effective on the day following final enactment. This act is effective in respect to applications for independent telephone company rate changes pending before the commission on the effective date of this act and no refunds of increased independent telephone company rates ordered after the effective date of this act shall be necessary, unless the independent telephone company elects to be subject to rate regulation on or before 60 days after the effective date of this act.

Approved April 23, 1984

CHAPTER 452 — S.F.No. 1504

An act relating to commerce; providing various definitions applicable to the regulation of sales of subdivided lands; providing for the registration of subdivided lands; requiring the use of public offering statements; providing certain exemptions to the subdivided land statutes; providing for the rescission of subdivided land sales contracts; regulating the filing of subdivided land documents; prohibiting the publishing of false, misleading, or deceptive advertising regarding subdivided lands; providing the filing of annual reports; regulating supplemental subdivided land reports; providing for the revocation or suspension of a subdivided land registration; regulating service of process on subdivided land registration applicants; establishing prohibited practices; prescribing penalties; amending Minnesota Statutes 1982, sections 83.20, subdivisions 1, 5, 11, and by adding subdivisions; 83.21; 83.23; 83.24; 83.25, subdivision 1; 83.26; 83.27; 83.28; 83.29, by adding subdivisions; 83.30; 83.31; 83.33, subdivisions 1 and 2; 83.34, subdivision 1; 83.35; 83.36; 83.37; 83.38, subdivision 2; 83.39; 83.40; 83.41; 83.42; proposing new law coded in Minnesota Statutes, chapter 83; repealing Minnesota Statutes 1982, section 83.33, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 83.20, subdivision 1, is amended to read:

Subdivision 1. (a) "Advertising" shall include the publication or causing to be published of any information offering for sale or for the purpose of causing or inducing any other person to purchase or to acquire an interest in the title to subdivided lands, including the land sales contract to be used and any photographs or drawings or artist's representations of physical conditions or facilities on the property existing or to exist by means of any:

- (1) Newspaper or periodical;
- (2) Radio or television broadcast;
- (3) Written, printed or photographic matter; or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(4) Material used in connection with the disposition or offer of subdivided lands by radio, television, telephone or any other electronic means.

(b) "Advertising" shall further include material used by subdividers to induce prospective purchasers to visit a subdivision, or travel to this state or elsewhere, including vacation certificates which require the holders of such certificates to attend or submit to a sales presentation by a subdivider or its agents.

(c) "Advertising" shall further include the entire promotional plan for the disposition of the subdivided lands including promotional displays at public or private events, and parties, dinners or other meetings at which prospective purchasers may be shown or presented with other advertising as defined in (a) and (b) above.

(d) "Advertising" shall not be deemed to include: Stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, and the like; prospectuses, property reports, offering statements, or other documents required to be delivered to a prospective purchaser by an agency of any other state or the federal government; communications addressed to and relating to the account of any persons who have previously executed a contract for the purchase of the subdivider's lands except when directed to the sale of additional lands "Advertisement" means any written or printed communication or any communication by telephone or transmitted on radio, television, electronic means or similar communications media published in connection with the offer or sale of subdivided lands or any communication made to induce prospective purchasers to visit or attend an offer or sales presentation.

Sec. 2. Minnesota Statutes 1982, section 83.20, subdivision 5, is amended to read:

Subd. 5. "Disposition" includes sale, lease, option, assignment, license, award by lottery or as a prize or any offer or solicitation of an offer to do any of the foregoing concerning a subdivision or any part of a subdivision "Sale" or "sell" means every contract or agreement to convey an interest, including a leasehold interest, in subdivided land for value.

Sec. 3. Minnesota Statutes 1982, section 83.20, subdivision 11, is amended to read:

Subd. 11. "Subdivision" and or "subdivided land" means any land real estate, wherever located, improved or unimproved, whether adjacent or not, which is divided or proposed to be divided for the purpose of disposition pursuant to a common promotional scheme or plan of advertising and disposition by a single subdivider or a group of subdividers. If the land is designated or advertised as a common unit or by a common name the land shall be presumed, without regard to the number of lots covered by each individual offering, as being

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

offered for disposition as part of a common promotional plan sale or lease, including sales or leases of any time-share interest, housing cooperative, condominium, or similar interest in real estate.

Sec. 4. Minnesota Statutes 1982, section 83.20, is amended by adding a subdivision to read:

Subd. 13. "Time-share interest" means a right to occupy a unit or any of several units during intermittent time periods over a period of at least three years, including renewal options, whether or not coupled with a freehold estate or an estate for years.

Sec. 5. Minnesota Statutes 1982, section 83.20, is amended by adding a subdivision to read:

Subd. 14. "Improved lots" means lots which have or will have within a two-year period from the date of purchase, a permanent residential structure thereon, and are not devoted to or used as a time share interest, cooperative apartment corporation, condominium, or similar interest in real estate.

Sec. 6. Minnesota Statutes 1982, section 83.21, is amended to read:

83.21 COMMISSIONER OF SECURITIES AND REAL ESTATE TO ADMINISTER.

Sections 83.20 to 83.42, and sections 28 and 29 shall be administered by the commissioner of securities and real estate of the Minnesota department of commerce.

Sec. 7. Minnesota Statutes 1982, section 83.23, is amended to read:

83.23 APPLICATION FOR REGISTRATION; FILING FEE REQUIREMENT.

Subdivision 1. **REGISTRATION.** Unless the subdivided land or the transaction is exempt by sections 83.20 to 83.42, a person may not offer or dispose in this state of any It is unlawful for any person to offer or sell an interest in subdivided lands in this state unless the subdivided lands are interest is registered in accordance with sections 83.20 to 83.42 under this section or the subdivided land or the transaction is exempt under section 83.26.

Subd. 2. **NOTIFICATION.** A filing fee of \$250 shall accompany the application for registration plus an additional \$1 for each lot unit, parcel or interest included in the offering. The maximum filing fee shall in no event be more than \$2,500 Unless the method of offer or sale is adopted for the purpose of evasion of sections 83.20 to 83.42 and sections 28 and 29, subdivided lands may be registered by notification provided that all of the following requirements have been met:

Changes or additions are indicated by underline, deletions by strikeout.

(a) The subdivision consists of not more than 100 separate lots, units, parcels, or interests;

(b) At least 20 days prior to any offer pursuant to this subdivision, the subdivider must supply the commissioner, on forms which the commissioner may by rule prescribe, at least the following information:

(1) The name and address of the subdivider and the form and date of its organization if other than an individual;

(2) The location and legal description of the subdivision and the total number of lots, parcels, units, or interests;

(3) Either a title opinion prepared and signed by an attorney licensed to practice law in the state wherein the subdivided land is situated; or a certificate of title insurance or its equivalent acceptable to the commissioner;

(4) A copy of each instrument which will be delivered to a purchaser to evidence his interest in the subdivided lands and a copy of each contract or other agreement which a purchaser will be required to agree to or sign, together with the range of selling prices, rates, or rentals at which it is proposed to offer the lots, units, parcels, or interests in the subdivision, a list of fees the purchaser may be required to pay for amenities or membership in groups including, but not limited to, homeowners' associations, country clubs, golf courses, and other community organizations; and

(5) A copy of a signed and approved plat map or its equivalent;

(c) A filing fee of \$100 has been paid;

(d) The subdivider is in compliance with the service of process provisions of section 83.39.

The commissioner may by rule or order withdraw or further condition registration by notification or increase or decrease the number of lots, units, parcels, or interests in subdivided lands permitted for registration by notification. If no stop order is in effect, no proceeding is pending, and no order has been issued under subdivision 4, a registration statement under this section automatically becomes effective at 5:00 in the afternoon on the 20th full business day after the filing of the registration statement or the last amendment, or at such earlier time as the commissioner by order determines.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 3. **QUALIFICATION.** The application for registration of Subdivided lands shall be filed with the commissioner as prescribed by rule. The application shall be signed and sworn to by the subdivider and shall include, but not be limited to the following documents and information may be registered by qualification provided all of the following requirements have been met:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) An irrevocable appointment of the commissioner to receive service of any lawful process in any civil proceeding arising under sections 83.20 to 83.42 against the subdivider, or his personal representative;

(2) A legal description of the subdivided lands offered for registration verified by affidavit of an independent professional land surveyor, a statement of the topography and a topographical map, together with a map showing the division proposed or made, the dimensions of the lots, parcels, units, or interests and the relation of the subdivided lands to existing streets, roads, and other off site improvements;

(3) The states or jurisdictions in which an application for registration or similar document has been filed and any adverse order, judgment, or decree entered in connection with the subdivided lands by any regulatory authority in any jurisdiction or by any court;

(4) The subdivider's name and address, and the form, date of organization and jurisdiction of its organization; and the name and address of each of its offices and agents in this state;

(5) The name, address and principal occupation for the past five years of every director, officer, and partner of the subdivider, every person occupying a similar status or performing similar functions, and each owner of ten percent or more of the subdivider; the extent and nature of his interest in the subdivider or the subdivided lands as of a specified date within 30 days prior to the filing of the application;

(6) A statement in a form acceptable to the commissioner of the condition of the title to the subdivided lands including all encumbrances, deed restrictions and covenants applicable thereto with data as to recording, as of a specified date within 30 days prior to the date of application by a title opinion of a licensed attorney, not a salaried employee, partner, officer, or director of the subdivider or of its agent, or by other evidence of title acceptable to the commissioner;

(7) Copies of instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts or other agreements which a purchaser will be required to agree to or sign, together with the range of selling prices, rates or rentals at which it is proposed to dispose of the lots, units, parcels or interests in the subdivisions, and a list of mandatory fees the purchaser may be required to pay for membership in groups including, but not limited to, homeowners associations, country clubs, golf courses and other community organizations;

(8) Copies of the instruments by which the interest in the subdivided lands was acquired or at the option of the commissioner, proof of marketable title to the subdivided lands;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(9) If there is a lien or encumbrance affecting the subdivision or any portion thereof, a legal description of the lien or encumbrance, a statement by the subdivider of his efforts to remove such lien or encumbrance, and a statement of the consequences and the steps, if any, taken to protect the purchaser in case of failure to discharge the lien or encumbrance;

(10) Copies of instruments creating, altering or removing easements, restrictions or other encumbrances affecting the subdivided lands;

(11) A statement of, and evidence showing compliance with, the zoning and other governmental laws, ordinances and regulations affecting the use of these subdivided lands and adjacent properties, together with dates of the most recent zoning changes stating the nature of such changes, and any proposed changes now pending, and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;

(12) A statement of the existing provisions of access to the subdivision, the availability of sewage disposal facilities and other public utilities, including but not limited to water, electricity, gas and telephone facilities in the subdivision, the proximity in miles of the subdivision to nearby municipalities, the availability and scope of community fire and police protection, and the location of primary and secondary schools; a statement of the improvements to be installed, including off site and on site community and recreational facilities, by whom they are to be installed, maintained, and paid and an estimated schedule for completion; assurance that the planned improvements will be completed by filing a bond, irrevocable letter of credit, depositing funds in an escrow, or such other provision as the commissioner may by order require, to cover all lots or parcels of a subdivision on which money is paid or advanced by a purchaser, as required by the regulations of the commissioner;

(13) A narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material which has been prepared for public distribution. Such advertising shall be considered as approved by the commissioner if no action has been taken after 30 days from the date received by the commissioner. Advertising material pictorial in nature shall be limited to a depiction of the actual on site condition of the subdivided lands or other areas that are material to the offer or sale of subdivided land pursuant to this registration;

(14) The proposed public offering statement;

(15) A financial statement of the subdivider as of the end of the subdivider's most recent fiscal year, audited by an independent certified public accountant; and, if the fiscal year end of the subdivider is in excess of 90 days prior to the date of filing the application, a financial statement, which may be unaudited, as of a date within 90 days of the date of application. The commissioner may by rule prescribe the form and content of financial statements required under this

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

clause and the circumstances under which consolidated financial statements may or shall be filed;

(16) A description of the land as it existed in its natural state, prior to development, and any changes that have occurred due to the subdivider's actions, current to the date of registration;

(17) A statement asserting that the subdivision is in compliance with federal, state and local environmental quality standards. If the subdivision is not in compliance, a listing of the steps to be taken, if any, to insure compliance;

(18) A statement of the permits required to be obtained from various federal, state and local agencies, stating which have been obtained, and which have been applied for. If any permit has been refused, the reasons for the refusal and the effect such refusal will have on subsequent development of the subdivision;

(19) A statement indicating whether or not the subdivider or any of its officers, directors, partners, principals or agents has been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past ten years or has been subject to any injunction or administrative order entered within the past ten years enjoining or restraining any promotional plan involving land dispositions. If either of the above has occurred, the name of the person involved, jurisdiction, offense and date of the offense shall be listed;

(20) A statement that the subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer and when appropriate, that release clauses, conveyances in trust or other safeguards have been provided;

(21) Any additional information which the commissioner may by rule require for the protection of purchasers.

(a) An application for registration has been filed with the commissioner in a format which the commissioner may by rule prescribe;

(b) The commissioner has been furnished a proposed public offering statement complying with section 83.24;

(c) A filing fee of \$250 plus an additional registration fee of \$1 for each lot, unit, parcel, or interest included in the offering accompanies the application. The maximum combined filing and registration fees shall in no event be more than \$2,500;

(d) The subdivider is in compliance with service of process provisions of section 83.39;

(e) The commissioner has been furnished a financial statement of the subdivider's most recent fiscal year, audited by an independent certified public

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

account; and, if the fiscal year of the subdivider is more than 90 days prior to the date of filing the application, a financial statement, which may be unaudited, as of a date within 90 days of the date of application.

Subdivisions in which all the improvements are complete and paid for by the developer, and for which clear title can be given the purchaser at the closing, are exempt from providing independently certified financial statements.

An application for registration under this section becomes effective when the commissioner so orders.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 4. **CONSOLIDATED REGISTRATION.** If additional subdivided lands of the same subdivider are subsequently to be offered for disposition sale, the registration thereof may be consolidated with any earlier registration offering subdivided lands for disposition under the same promotional plan, sale if the additional subdivided lands are adjacent contiguous to those previously registered. An application for consolidation shall be accompanied by an amendment a consolidation fee of \$50. The filing fee requirements of subdivision 2 shall apply unless the maximum filing fee has been previously paid. If the registration is pursuant to subdivision 3, an additional registration fee of \$1 shall be submitted for each lot, unit, parcel, or interest included in the consolidation if the maximum fees have not already been paid.

Sec. 8. Minnesota Statutes 1982, section 83.24, is amended to read:

83.24 PUBLIC OFFERING STATEMENT.

Subdivision 1. **DELIVERY.** A person may not dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser at the expense of the subdivider or his agent, and the purchaser is afforded a reasonable opportunity to examine, and is permitted to retain the public offering statement prior to the offer or disposition. A public offering statement shall be delivered to each person to whom an offer is made before or concurrently with (a) the first written offer other than offer by means of a public advertisement, or (b) any payment pursuant to a sale, whichever occurs first. Each person to whom an offer is made must be afforded a reasonable opportunity to examine the public offering statement and must be permitted to retain the statement. The subdivider or his agent shall obtain a receipt, signed by the purchaser person, acknowledging that he has received a copy of the public offering statement prior to the execution by the purchaser of a any contract or agreement for the disposition of any lot or parcel in a subdivision, which receipt to purchase any lot, unit, parcel, or interest in subdivided lands. All receipts shall be kept in files which are in the possession of the subdivider or his agent, subject to inspection by the commissioner, for a period of three years from the date of the receipt is taken.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **FULL DISCLOSURE.** A public offering statement shall disclose fully and accurately the physical and climatic characteristics of the subdivided lands being offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. A proposed public offering statement submitted to the commissioner shall be in a form prescribed by rule and shall include the following:

(1) The name, principal address and telephone number of the subdivider and of its offices and agents in this state;

(2) A general description of the subdivided lands stating the total number of lots, parcels, units or interests to be offered;

(3) A statement whether the subdivider holds any options to purchase adjacent properties, and if so, a description of such options and the location and zoning of the adjacent properties;

(4) A statement of the assistance, if any, that the subdivider or his agent will provide to the purchaser in the resale of the property and whether or not the subdivider or his agent will be in competition in the event of resale;

(5) The material terms of any encumbrances, easements, liens, and restrictions including zoning and other regulations affecting the subdivided lands and each unit or lot, a statement of the subdivider's efforts to remove such lien or encumbrance, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

(6) A statement of the use for which the property is to be offered;

(7) Information concerning existing or proposed improvements, including but not limited to streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal systems and customary utilities and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any lot, unit, parcel or interest in subdivided lands;

(8) A financial statement of the subdivider as of the end of the subdivider's most recent fiscal year, audited by an independent certified public accountant; and, if the fiscal year end of the subdivider is in excess of 90 days prior to the date of filing the application, a financial statement, which may be unaudited, as of a date within 90 days of the date of application;

(9) Such additional information as may be required by the commissioner to assure full and fair disclosure to prospective purchasers.

Subd. 3. **FORM.** The A public offering statement shall not be used for any promotional purpose before registration of the subdivided lands and afterwards it shall be used only in its entirety. A person may not advertise or represent that the commissioner has approved or recommended the subdivided

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

lands or disposition thereof. A portion of the public offering statement may not be underscored, italicized or printed in larger or heavier or different color type than the remainder of the statement unless required or approved by the commissioner in a format prescribed by rule and shall include the following:

(a) The name, principal address, and telephone number of the subdivider and of its officers and agents in this state;

(b) A general description of the subdivided lands stating the total number of lots, parcels, units, or interests to be offered;

(c) A statement which discloses whether the subdivider owns any rights or options to acquire an interest in adjacent properties, and if so, a description of the options and the locations and zoning status of the adjacent properties;

(d) A statement of the assistance, if any, that the subdivider or his agent will provide to the purchaser in the resale of the property and whether or not the subdivider or his agent will be in competition in the event of resale;

(e) The material terms of any restrictions affecting the subdivided lands and each unit or lot, including, but not limited to, any encumbrances, easements, liens, and zoning status; a statement of the subdivider's efforts to remove the restrictions; and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

(f) A statement of the use for which the property is to be offered;

(g) Information concerning existing or proposed improvements and amenities and the completion dates thereof; and

(h) Additional information as may be required at the discretion of the commissioner to assure full and fair disclosure to prospective purchasers.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 4. PERMITTED USE. The commissioner may require the subdivider or his agent to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers shall not be used for any promotional purpose before registration of the subdivided lands and after registration shall be used only in its entirety. A person may not advertise or represent that the commissioner has approved or recommended the subdivided lands or sale thereof. A portion of the public offering statement may not be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless required or approved by the commissioner.

Subd. 5. OTHER LAW. Any public offering statement which complies with the requirements of any federal law or the laws of any other state requiring substantially the same disclosure of information as is required by this section,

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

may by rule or order of the commissioner be deemed to be in full or partial compliance with this section.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Sec. 9. Minnesota Statutes 1982, section 83.25, subdivision 1, is amended to read:

Subdivision 1. No person shall offer or ~~dispose~~ sell in this state of any interest in subdivided lands until:

(1) He has obtained a license under chapter 82; and

(2) He has obtained an additional license to offer or dispose of subdivided lands. This license may be obtained by submitting an application in writing to the commissioner upon forms prepared and furnished by the commissioner. Each application shall be signed and sworn to by the applicant and accompanied by a license fee of \$10. The commissioner may also require an additional examination for this license.

Sec. 10. Minnesota Statutes 1982, section 83.26, is amended to read:

83.26 EXEMPTIONS.

Subdivision 1. **GENERALLY; LANDS.** Unless the method of ~~disposi-~~ tion offer or sale is adopted for the purpose of evasion of sections 83.20 to 83.42, ~~sections 83.20 to 83.42 do not apply to offers or dispositions of interests in land and sections 28 and 29, the following subdivided lands are exempted from sections 83.20 to 83.42:~~

(a) ~~By a purchaser of subdivided lands for his own account in a single or isolated transaction Any lands offered or sold by the United States, any state, any political subdivision of a state, or any other corporate instrumentality of one of the above;~~

(b) ~~To any person who acquires such land for the purpose of engaging in and who does use such land to engage in the business of constructing residential, commercial or industrial buildings thereon for the purpose of resale or constructing commercial or industrial buildings for his own use Leases of apartments, stores, offices, or similar space;~~

(c) ~~Pursuant to an order of a court of competent jurisdiction of this state Leases of rooms or space in hotels, motels, or similar space for a period of less than three years, including renewal options;~~

(d) ~~As Cemetery lots or interests therein;~~

(e) ~~If they are leases of apartments, stores, offices, or similar space in a building Mortgages or deeds of trust of real estate securing evidences of indebtedness;~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(f) ~~If they are mortgages or deeds of trust of real estate securing evidences of indebtedness. Subdivided lands which are registered as securities pursuant to the provisions of chapter 80A; and~~

(g) If the land is located within the corporate limits of a municipality as defined in section 462.352, subdivision 2, or within any subdivision located within a town or municipality located within 20 miles of the city limits of a city of the first class or within three miles of the city limits of a city of the second class, or within two miles of the city limits of a city of the third or fourth class in this state. The commissioner may, by written rule or order, suspend, wholly revoke, or further condition this exemption, or may require, prior to the first disposition of subdivided lands, such further information with respect thereto as may be necessary for the protection of purchasers consistent with the provisions hereof Other subdivided lands not within the intent of this chapter which the commissioner may by rule or order exempt.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 2. **GENERALLY; TRANSACTIONS.** The provisions of sections 83.23 and 83.24 with respect to the registration of subdivided lands and the public offering statement, shall not apply to offers or dispositions of interests in land Unless the method of offer or sale is adopted for the purpose of evasion of sections 83.20 to 83.42, and sections 28 and 29, the following transactions are exempt from sections 83.23, 83.24, 83.25, 83.28, 83.29, and 83.30:

(a) If fewer than ten separate lots, parcels, units or interests in subdivided lands are offered or to be offered in any period of 12 consecutive months The offer or sale of an interest in subdivided land by an owner, other than the subdivider, acting as principal in a single or isolated transaction;

(b) Involving the offering of not more than 50 separate lots, parcels, units or interests within any period of 12 consecutive months, if the subdivider or his agent shall have furnished to the commissioner, not less than 20 days prior to the consummation of any such disposition, a filing fee of \$10 and a statement of the subdivider on forms prescribed by the commissioner containing the following information:

(1) The subdivider's name and address, and the form, date of organization and jurisdiction of its organization; and the name and address of each of its offices and agents in this state;

(2) A general description of the subdivided lands stating the total number of lots, parcels, units or interests to be offered;

(3) A statement in a form acceptable to the commissioner of the condition of the title to the subdivided lands including all encumbrances, deed restrictions and covenants applicable thereto;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(4) Copies of instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts or other agreements which a purchaser will be required to agree to or sign, together with the range of selling prices, rates or rentals at which it is proposed to dispose of the lots, units, parcels or interests in the subdivisions, and a list of mandatory fees the purchaser may be required to pay for membership in groups including but not limited to home owners' associations, country clubs, golf courses and other community organizations;

(5) A statement of and evidence showing compliance with zoning and other governmental laws, ordinances and regulations affecting the use of the subdivided lands and adjacent properties;

(6) A statement asserting that the subdivision is in compliance with federal, state and local environmental quality standards. If the subdivision is not in compliance, a listing of the steps to be taken, if any, to insure compliance;

(7) A statement of the permits required to be obtained from various federal, state and local agencies stating which have been obtained and which have been applied for. If any permit has been refused, the reasons for the refusal and the effect such refusal will have on subsequent development of the subdivision;

(8) A statement of the existing provisions of access to the subdivision, the availability of sewage disposal facilities and other public utilities including but not limited to water, electricity, gas and telephone facilities in the subdivision, the proximity in miles of the subdivision to nearby municipalities, the availability and scope of community fire and police protection, and the location of primary and secondary schools; a statement of the improvements to be installed, including off-site and on-site community and recreational facilities, by whom they are to be installed, maintained and paid and an estimated schedule for completion;

Provided, however, that the commissioner may by rule or order, as to the offer or disposition of any subdivided lands, withdraw or further condition this exemption, or require additional information, or increase or decrease the number of lots, parcels, units or interests in subdivided lands permitted The offer or sale of all of the subdivided lands within a subdivision in a single transaction to any person;

(c) The offer or sale of subdivided land pursuant to an order of competent jurisdiction, other than a court of bankruptcy;

(d) The offer or sale of subdivided land consisting of not more than ten separate lots, units, parcels, or interests in the aggregate;

(e) The offer or sale of subdivided lands which have been registered under section 83.23, subdivision 2, if there are no more than ten separate lots, units, parcels, or interests remaining to be sold and no material change has occurred in the information on file with the commissioner;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(f) The offer and sale of subdivided land located within the corporate limits of a municipality as defined in section 462.352, subdivision 2, which municipality has adopted subdivision regulations as defined in section 462.352, except those lands described in section 83.20, subdivisions 13, 14, and 15;

(g) The offer and sale of apartments or condominiums as defined in chapters 515 and 515A;

(h) The offer and sale of subdivided lands used primarily for agricultural purposes provided each parcel is at least ten acres in size;

(i) The offer or sale of improved lots if:

(1) the subdivider has filed with the commissioner, no later than ten business days prior to the date of the first sale, a written notice of its intention to offer or sell improved lots, which notice shall be accompanied by a fee of \$50, together with a copy of the public offering statement accepted by the situs state and the standard purchase agreement which documents are required to be supplied by the subdivider to the purchaser; and

(2) the subdivider deposits all downpayments in an escrow account until all obligations of the subdivider to the purchaser, which are pursuant to the terms of the purchase agreement to be performed prior to the closing, have been performed. The subdivider shall provide the purchaser with a purchase receipt for the downpayment paid, a copy of the escrow agreement and the name, address, and telephone number of the escrow agent. The escrow agent shall be a bank located in Minnesota. All downpayments shall be deposited in the escrow account within two business days after receipt.

The commissioner may by rule or order suspend, revoke, or further condition the exemptions contained in clauses (f), (g), (h), and (i) or may require such further information as may be necessary for the protection of purchasers.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 3. **EXEMPTION; BURDEN.** The commissioner may by order exempt from the provisions of sections 83.20 to 83.42 interests in subdivided lands which are registered as securities pursuant to the provisions of chapter 80. The burden of proving an exemption or an exception from a definition is upon the person claiming it.

Sec. 11. Minnesota Statutes 1982, section 83.27, is amended to read:

83.27 INQUIRY AND EXAMINATION.

The commissioner may investigate any subdivision required to be registered under sections 83.20 to 83.42, and sections 28 and 29 for the purpose of verifying statements contained in the application for registration and or the public

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

offering statement. For the purpose of such investigation, the commissioner may:

(a) Use and rely upon any relevant information or data concerning a subdivision obtained by him from the federal housing administration, the United States veterans administration, or any state or federal agency having supervisory duties over real estate subdivisions which are comparable to those of the commissioner;

(b) Require the subdivider to submit reports prepared by an independent licensed or registered engineer concerning any hazard to which, in the opinion of the commissioner, any subdivision offered for disposition is subject, or concerning any other factor which affects the utility of lots, units, parcels, or interests within the subdivision and may require evidence of compliance to remove or minimize all hazards stated by competent engineering reports;

(c) Conduct an on-site inspection of each subdivision. The subdivider shall defray all actual and necessary expenses incurred by the inspector in the course of the inspection;

(d) Conduct an annual on-site reinspection of each subdivision for each of the three years after registration and thereafter make periodic on site inspections. The developer shall defray all actual and necessary expenses incurred by the inspector in the course of such inspection;

(e) Require the subdivider to deposit the expenses to be incurred in any inspection or reinspection, in advance, based upon an estimate by the commissioner of the expenses likely to be incurred. All such deposits shall be paid into the state treasury and credited to the commissioner's investigation fund, from which fund the commissioner shall have power to make disbursements to pay such expenses. Any unexpended portion shall be refunded. On field examinations made by the commissioner or his employee away from the office of the commissioner a per diem of \$10 for each such person may be charged in addition to the actual expenses. Where additional technical, expert, or special services are used, the actual cost of such services may be charged in addition to actual expenses;

(f) Where an on-site inspection of any subdivision has been made under sections 83.20 to 83.42, and sections 28 and 29, an inspection of ~~adjacent~~ additional subdivided lands for which a subsequent application for registration is filed ~~may be waived and an inspection thereof may be made at the time of the next succeeding on site inspection.~~

Sec. 12. Minnesota Statutes 1982, section 83.28, is amended to read:

83.28 SALES CONTRACT; RESCISSION.

Subdivision 1. **CONTRACT; FORM RESTRICTIONS.** Every contract for ~~disposition~~ sale relating to subdivided land shall (1) state clearly the legal

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

description of the lot, unit, parcel, or interest disposed of ~~and shall~~; (2) contain the disclosure substantially similar to that required by the federal truth in lending act, and the rules promulgated thereunder; and (3) be in recordable form.

Subd. 2. **VOIDABLE.** Any contract or agreement for the disposition sale of a lot, parcel, unit, or interest in a subdivision not exempt under section 83.26, is voidable at the discretion of the purchaser, for a period of three years from the date of the contract or agreement, notwithstanding the delivery of a deed to the purchaser, if the subdivision was not registered under sections 83.20 to 83.42, and sections 28 and 29 at the time of the offer or disposition sale, or if a current public offering statement was not given to the purchaser in accordance with section 83.24, unless subsequently thereto the subdivision is registered under this chapter and in connection therewith, the purchaser has received a written offer to repurchase the lot, parcel, unit, or interest for cash payable on closing of the repurchase, together with interest thereon from the date of purchase at the legal rate or at the rate charged on any lien paid by the purchaser, whichever is higher, less the amount of any income received from the lot, parcel, unit, or interest, and the purchaser has failed to accept the offer in writing within 30 days of its receipt. No offer of repurchase shall be effective unless a duplicate copy thereof has been filed with the commissioner at least 20 days prior to its delivery to the offeree and the commissioner has not objected to the offer within that time. The offer of repurchase shall be in the form and contain the information the commissioner by rule or order prescribes. If the purchaser no longer owns the lot, parcel, unit, or interest, the purchaser shall be entitled to maintain an action at law, and the damages shall be the consideration paid for the lot, parcel, unit, or interest together with interest thereon as specified above from the date of acquisition to the date of disposition, plus costs and reasonable attorney's fees, less the value received for the lot, parcel, unit, or interest at the date of disposition.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 3. **RESCISSION.** A purchaser has an unconditional right to rescind any contract, agreement, or other evidence of indebtedness, or revoke any offer, at any time prior to or within five days after the date the purchaser actually receives a legible copy of the binding contract, agreement, or other evidence of indebtedness or offer and the public offering statement as provided in section 83.24. Predating of a document does not affect the time in which the right to rescind may be exercised. The burden of proving that the document was not predated is upon the subdivider or lender.

Subd. 4. **DOCUMENT LABELING.** Each contract, agreement, or other evidence of indebtedness shall be prominently labeled and captioned that it is a document taken in connection with a sale or other disposition of lands under sections 83.20 to 83.42, and sections 28 and 29.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **NOTICE TO PURCHASER.** Each such The first contract, agreement, or other evidence of indebtedness shall prominently contain upon its face the following notice printed in at least 16 point bold type, which shall be at least 4 point type larger than the body of the document, stating, in one of the following forms:

“Notice to Purchaser

You are entitled to rescind this agreement at any time if you have not received the public offering statement in advance of your signing of this agreement. In addition, you are entitled to rescind this agreement for any reason within five days from the day you actually receive a legible copy of this document signed by all parties. Such rescission must be in writing, and mailed to the subdivider or his agent or the lender at the address stated in this document. Upon rescission, you will receive a refund of all moneys paid.”

(a) Registration by notification: “Notice to Purchaser” — “You are entitled to rescind this agreement for any reason within five days from the date you actually received a legible copy of this document signed by all parties. The rescission must be in writing and mailed to the subdivider or his agent or the lender at the address stated in this document. Upon rescission you will receive a refund of all money paid.” or;

(b) Registration by qualification: “Notice to Purchaser” — “You are entitled to rescind this agreement for any reason within five days from the date you actually received a legible copy of this document signed by all parties and a public offering statement. The rescission must be in writing and mailed to the subdivider or his agent or the lender at the address stated in this document. Upon rescission you will receive a refund of all money paid.”

The contract, agreement, or other evidence of indebtedness shall contain sufficient space upon its face in immediate proximity to the above notice for the signature of each purchaser obligated under such instrument, acknowledging that such purchaser has read the notice.

Subd. 6. **RESCISSION NOTICE.** Rescission occurs when the purchaser gives written notice of rescission to the subdivider or his agent or the lender at the address stated in the contract, agreement, or other evidence of indebtedness. Notice of rescission, if given by mail is effective when it is deposited in a mailbox properly addressed and postage prepaid. A notice of rescission given by the purchaser need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the purchaser not to be bound by the contract, agreement, or other evidence of indebtedness.

Subd. 7. **WAIVER PROHIBITED.** No act of a purchaser shall be effective to waive the right to rescind as provided in this section.

Changes or additions are indicated by underline, deletions by strikeout.

Sec. 13. Minnesota Statutes 1982, section 83.29, is amended by adding a subdivision to read:

Subd. 4. A document is filed when it is received by the commissioner and the proper fee is paid.

Sec. 14. Minnesota Statutes 1982, section 83.29, is amended by adding a subdivision to read:

Subd. 5. No person shall publish or cause to be published in this state any advertisement offering subdivided lands subject to the registration requirements of section 83.23 which is false, misleading, or deceptive. The commissioner has 15 days in which to deny the advertising.

Sec. 15. Minnesota Statutes 1982, section 83.30, is amended to read:

83.30 ANNUAL REPORT.

Subdivision 1. **FORM; DUE DATE.** Within 120 days after the fiscal year end of the subdivider During the period a registration is effective, the subdivider shall file a an annual report in the form prescribed by rule of a format the commissioner may by rule prescribe. Every annual report shall be accompanied by a fee of \$100 due by the 120th day following the end of the subdivider's fiscal year, unless extended in writing by the commissioner for good cause.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 2. **FEE.** The commissioner may permit the filing of annual reports within 30 days after the annual anniversary date of a consolidated registration in lieu of the annual anniversary date of the original registration Every annual report filed pursuant to section 83.23, subdivision 2, shall be accompanied by a fee of \$50. Every annual report filed pursuant to section 83.23, subdivision 3, shall be accompanied by a fee of \$100.

Subd. 3. **FAILURE TO FILE; EFFECT.** Failure to file the annual report shall constitute be cause for cancellation of the registration. In the event of such cancellation, If canceled, the registration may be reinstated at a subsequent date following a the filing of the report and payment of the appropriate fees.

Sec. 16. Minnesota Statutes 1982, section 83.31, is amended to read:

83.31 CHANGES SUBSEQUENT TO REGISTRATION.

Subdivision 1. **REPORT OF SALES.** All advertising not accompanying the original application shall be submitted to and approved by the commissioner prior to its use in this state The commissioner may by rule or order require the subdivider or his agent to submit reports of sales.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 2. **REPORT OF MATERIAL CHANGES.** The A subdivider or his agent shall immediately within 30 days report any material changes in the information contained in an the application for registration or the exhibits appended thereto on file with the commissioner by submitting an application to amend accompanied by an amendment fee of \$25.

Subd. 3. **RULES; FORM OF AMENDMENT.** The commissioner may by rule define what shall be considered a material change and prescribe the format for an application to amend. The amendment shall become effective when ordered by the commissioner.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Sec. 17. Minnesota Statutes 1982, section 83.33, subdivision 1, is amended to read:

Subdivision 1. **COMPLIANCE WITH RULES.** A person may not sell lots, units, parcels, or interests within a subdivision subject to a blanket encumbrance unless he has complied with such rules as the commissioner may promulgate concerning such sales, which rules shall be specific requirements for the protection of the purchaser.

Sec. 18. Minnesota Statutes 1982, section 83.33, subdivision 2, is amended to read:

Subd. 2. **USE OF PROHIBITED PRACTICE.** The act, use, or employment by any person of any ~~fraud, false pretense, false promise, or misrepresentation~~ prohibited practice as set forth in section 8, with the intent that others rely thereon in connection with the ~~disposition offer or sale~~ of subdivided lands not excepted from sections 83.20 to 83.42, and sections 28 and 29 is a violation of sections 83.20 to 83.42, and sections 28 and 29, whether or not any person has in fact been misled, deceived, or damaged thereby.

Sec. 19. Minnesota Statutes 1982, section 83.34, subdivision 1, is amended to read:

Subdivision 1. The commissioner may make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate sections 83.20 to 83.42, and sections 28 and 29 or any rule or order hereunder or to aid in the enforcement of sections 83.20 to 83.42, and sections 28 and 29 or in the prescribing of rules and forms hereunder.

Sec. 20. Minnesota Statutes 1982, section 83.35, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

83.35 ENFORCEMENT; POWERS OF COMMISSIONER.

Subdivision 1. **REGISTRATION; REVOCATION OR SUSPENSION.** After notice and hearing, the commissioner may suspend or revoke a registration, and may issue a ~~cease and desist order to any subdivider or other person~~ if he finds that the subdivider or person has:

(1) Violated any provision of sections 83.20 to 83.42, and sections 28 and 29 or any lawful order or rule of the commissioner;

(2) Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional or sales methods to offer to dispose of an interest in subdivided lands;

(3) Made any material change in the advertising, plan of disposition, or development of the subdivided lands subsequent to the order of registration without obtaining prior approval from the commissioner;

(4) Offered or ~~disposed of~~ sold any subdivided lands which have not been registered with the commissioner unless the subdivided lands or ~~dispositions~~ sales thereof are exempt from registration pursuant to section 83.26;

(5) Been convicted, or if any of the subdivider's officers, directors, partners, principals, or agents has been convicted, of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions, subsequent to the time of the filing of the application for registration;

(6) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

(7) Failed faithfully to perform any stipulation or agreement made with the commissioner as an inducement to grant any registration, to reinstate any registration, or to permit any promotional plan or public offering statement;

(8) Made misrepresentations or concealed material facts in an application for registration;

(9) Permanently or temporarily been enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of land sales; or

(10) Failed to pay any filing or inspection fee required by sections 83.20 to 83.42, and sections 28 and 29.

Subd. 2. **SERVICE OF PROCESS.** When initiating a proceeding under subdivision 1, the commissioner shall serve upon the subdivider or other person by personal service or by certified mail, a written notice of hearing setting the date, time, and place of the hearing and a statement of the allegations upon which the ~~cease and desist order~~, suspension or revocation will be based.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **CEASE AND DESIST ORDER.** If the commissioner determines that the public interest may be harmed by delay in issuing an order under this section, he may issue a temporary cease and desist order or a temporary order suspending the registration. Prior to issuing such an order, the commissioner shall whenever possible by telephone or otherwise give notice to the subdivider or other person of his intention to issue the order. The commissioner is empowered to issue and cause to be served an order requiring a person to cease and desist from violations of sections 83.20 to 83.42, and sections 28 and 29. The order shall state the reasons for its issuance and shall either order a hearing, which shall be set for no later than 20 days from the date of the order, or specify that upon the written request of the applicant, the matter will be set for hearing within 15 days after receipt of the request, provided that upon the request of the applicant a hearing may be held subsequent to the expiration of either period specified herein. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, he shall be deemed in default, and the proceeding may be determined against him upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If no hearing is requested within 30 days, the order will become final. All hearings must be conducted in accordance with chapter 14.

Subd. 4. **AMENDMENT; REGISTRATION SUSPENSION.** If at any time subsequent to the issuance of the order of registration, a change occurs affecting any material fact required to be contained in the application, the subdivider shall file an amendment thereto within 30 days. Upon receipt of any amendment an application to amend or other information indicating such a material change in the information on file with the commissioner, and, if the commissioner determines such action to be necessary or appropriate in the public interest or for the protection of purchasers, he may, by order, suspend the registration until such time as he is satisfied that the subdivider or his agent has made the proper changes in the public offering statement, advertising, and promotional plan to provide full and fair disclosure of the material change to the public.

Subd. 5. **HEARING.** In the event the commissioner issues an order under subdivision 3 or 4, the order shall include in its terms a provision for a hearing within 10 days of the date of the order, specifying a date, time, and place for the hearing. Unless otherwise agreed, within ~~10~~ 20 days of the close of the hearing record, the commissioner shall issue an order either vacating, modifying, or continuing the temporary order. If the temporary order is continued or modified he shall state his reasons therefor.

Sec. 21. Minnesota Statutes 1982, section 83.36, is amended to read:
83.36 INJUNCTIONS; RECEIVERS.

If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of sections 83.20 to 83.42, and sections 28 and 29

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

or a rule or order hereunder, the commissioner, with or without prior administrative proceedings, may bring an action in district court to enjoin the acts or practices and to enforce compliance with sections 83.20 to 83.42, and sections 28 and 29 or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted and a receiver or conservator may be appointed. The commissioner is not required to post a bond in any court proceedings.

Sec. 22. Minnesota Statutes 1982, section 83.37, is amended to read:

83.37 PENALTIES; CIVIL REMEDIES.

Subdivision 1. **CIVIL FINE.** Any person who ~~knowingly authorizes, directs, or aids in the publication, advertisement, distribution, or circularization of any false statement or representation concerning any subdivided lands required to be registered under sections 83.20 to 83.42 and every such person who, with knowledge that any advertisement, pamphlet, prospectus, or letter concerning any such lands contains any written statement that is false or fraudulent, issues, circulates, publishes, or distributes the same, or shall cause the same to be issued, circulated, published or distributed, shall be guilty of a gross misdemeanor~~ violates section 83.23, 83.24, 83.28, 83.29, or section 29 shall be subject to a fine of not more than \$1,000 for each violation. A fine authorized by this subdivision may be imposed in a civil action brought by the attorney general on behalf of the state of Minnesota, and shall be deposited in the state treasury. Every person, agent, or employee of a person who materially aids in the act or transaction constituting the violation shall be liable jointly and severally with and to the same extent as the person.

Subd. 2. **MISDEMEANOR PENALTY.** Any violation of sections 83.20 to 83.42 and any failure to comply with any provisions of sections 83.20 to 83.42 not enumerated in subdivision 1 shall be a misdemeanor.

Subd. 3. **FAILURE TO PAY FEES.** Any person who fails to pay the filing or inspection fees required by sections 83.20 to 83.42, and sections 28 and 29, and continues to dispose of or offers to dispose of subdivided lands, is liable civilly in an action brought by the attorney general on behalf of the commissioner for a penalty in an amount equal to treble the unpaid fees.

Subd. 4. **PROHIBITED PRACTICES; REMEDIES.** In the event of any ~~fraud, false pretense, false promise, misrepresentation, unfair or deceptive acts prohibited practice as set forth in section 29~~, in addition to any other remedies, and whether or not the purchaser has in fact been misled, deceived or damaged thereby, the purchaser may recover the consideration paid for the lot, parcel, unit, or interest in subdivided lands together with interest ~~thereon~~ at the legal rate of six percent per year from the date of payment, property taxes paid, costs, and reasonable attorneys fees, less the amount of any income received from the subdivided lands, upon tender of appropriate instruments of reconveyance. If

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance, less the value of the land when disposed of and less interest at the legal rate of six percent per year on that amount from the date of disposition sale.

(a) A tender of reconveyance may be made at any time before the entry of judgment.

(b) Every person who directly or indirectly controls a subdivider who may be liable under sections 83.20 to 83.42, and sections 28 and 29, every general partner, officer, or director of a subdivider, every person occupying a similar status or performing a similar function, every employee of the subdivider who materially aids in the disposition, and every agent who materially aids in the disposition is also liable jointly and severally with and to the same extent as the subdivider, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.

(c) Every person whose name or occupation gives authority to a statement which with his consent has been used in an application for registration, public offering statement, or advertising, if he is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in his statement and only if it is proved he knew or reasonably should have known of the existence of the true facts by reason of which the liability is alleged to exist.

(d) An action shall not be commenced pursuant to this subdivision later than three years from the date the person discovers ~~the omission, fraud, false pretense, false promise, misrepresentation, or unfair or deceptive act~~ any prohibited practice set forth in section 29.

Subd. 5. OTHER REMEDIES. The rights and remedies provided by this chapter shall be in addition to any and all other rights and remedies that may exist at law or in equity.

Sec. 23. Minnesota Statutes 1982, section 83.38, subdivision 2, is amended to read:

Subd. 2. The commissioner may, upon request and upon the payment of the sum of ~~\$20~~ \$50, grant a request for a written opinion concerning the availability of any exemption in section 83.26 or interpreting any provisions of sections 83.20 to 83.42, and sections 28 and 29.

Sec. 24. Minnesota Statutes 1982, section 83.39, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

83.39 SERVICE OF PROCESS.

Subdivision 1. **PROCEDURE.** In addition to the methods of service provided for in any other provision of law, service may be made by delivering a copy of the process to the office of the commissioner if the plaintiff, which may be the commissioner in a proceeding instituted by him, does both of the following:

(a) Sends a copy of the process and of the pleading or order by certified mail to the defendant or respondent at his last known address.

(b) Files with the court an affidavit of compliance with this section at the time of the filing of the complaint or other pleading or order Every applicant for registration under sections 83.20 to 83.42, and sections 28 and 29 shall file with the commissioner, in a format as by rule may be prescribed, an irrevocable consent appointing the commissioner or commissioner's successor to be the applicant's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or his or her successor, executor, or administrator which arises under sections 83.20 to 83.42, and sections 28 and 29 or any rule or order thereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless (a) the plaintiff, who may be commissioner in a suit, action, or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his or her last address on file with the commissioner, and (b) the plaintiff's affidavit of compliance with this subdivision is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

The rulemaking authority in this subdivision does not include temporary rulemaking authority pursuant to chapter 14.

Subd. 2. **SERVICE ON COMMISSIONER.** If When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 83.20 to 83.42, and sections 28 and 29, or any rule or order hereunder thereunder, and the person has not filed a consent to service of process under subdivision 1 and personal jurisdiction over him this person cannot otherwise be obtained in this state, the that conduct authorizes the shall be considered equivalent to the person's appointment of the commissioner to receive service of or the commissioner's successor to be the person's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him the commissioner or his the commissioner's successor, executor, or administrator which grows out of the that conduct and which is brought under sections 83.20 to 83.42, and sections 28 and 29 or any rule or order hereunder thereunder, with the same force and validity as if served on him the person personally. Notice shall be given as provided in subdivision 1 Service may be

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

made by leaving a copy of the process in the office of the commissioner, and it is not effective unless (a) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and (b) the plaintiff's affidavit of compliance with this subdivision is filed in the the case on or before the return day of the process, if any, or within such further time as the court allows.

Subd. 3. CONTINUANCE. When process is served under this section, the court, or the commissioner in a proceeding before him, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 25. Minnesota Statutes 1982, section 83.40, is amended to read:

83.40 SCOPE OF SECTIONS 83.20 TO 83.42, AND SECTIONS 28 AND 29.

Subdivision 1. **IN-STATE OFFER OR SALE.** The provisions of sections 83.20 to 83.42, and sections 28 and 29 concerning offers and dispositions sales of subdivided lands apply when an offer or disposition sale is made in this state.

Subd. 2. **IN-STATE OFFER OR SALE DEFINED.** For the purpose of sections 83.20 to 83.42, and sections 28 and 29, an offer or disposition sale is made in this state, whether or not either party is then present in this state, when:

- (a) The offer originates from this state, or
- (b) The offer is directed by the offeror to this state and received by the offeree in this state, or
- (c) The subdivided lands are located in this state.

Subd. 3. **EXCLUSIONS.** An offer or disposition sale is not made in this state when the a publisher circulates or there is circulated in on his behalf in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or a radio or television program originating outside this state is received in this state.

Subd. 4. **LIEN OF MORTGAGE.** Notwithstanding any provision of sections 83.20 to 83.42, and sections 28 and 29 to the contrary, sections 83.20 to 83.42, and sections 28 and 29 do not apply to or invalidate the lien of a mortgagee, nonaffiliated with the subdivider, when said lien attaches to land pledged as collateral in a transaction negotiated directly with the purchaser.

Sec. 26. Minnesota Statutes 1982, section 83.41, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

83.41 INTERSTATE RENDITION.

In the proceedings for extradition of a person charged with a crime under sections 83.20 to 83.42, and sections 28 and 29, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

Sec. 27. Minnesota Statutes 1982, section 83.42, is amended to read:

83.42 STATUTE OF LIMITATIONS.

The statute of limitations for actions arising under this chapter shall be three years and shall not begin to run with respect to any civil or criminal cause of action arising out of the disposition of a lot or parcel in violation of sections 83.20 to 83.42 under this chapter, other than those set forth in section 83.37, subdivision 4, clause (d), until a conveyance describing such lot or parcel is recorded with the appropriate recording authority. This section does not prohibit the maintenance of any action before the recording of such conveyance.

Sec. 28. [83.43] CRIMINAL PENALTIES.

Any person who willfully violates any provision of section 83.23 or section 29 or any order of the commissioner under sections 83.20 to 83.42, this section, and section 29 of which he has notice, may be fined not more than \$5,000 or imprisoned not more than five years or both. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of the offenses shall not bar prosecution or conviction for any other offense.

Sec. 29. [83.44] PROHIBITED PRACTICES.

It is unlawful for any person, in connection with the offer or sale of any subdivided land or interests therein, directly or indirectly:

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

(b) to make any untrue statement of a material fact or to omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

Sec. 30. REPEALER.

Minnesota Statutes 1982, section 83.33, subdivision 3, is repealed.

Sec. 31. EFFECTIVE DATE.

Sections 1 to 30 are effective September 1, 1984.

Approved April 19, 1984

Changes or additions are indicated by underline, deletions by ~~strikeout~~.