

in subdivision 3, except that the value of the improvements on the land must be appraised separately. The conveyance must be in a form approved by the attorney general.

Subd. 2. CONDITIONS OF SALE. (a) If at the sale of the land Wilbur C. Nemitz, Robert W. Nemitz, and Marlene Kadrie are the purchasers, they are not required to pay for the improvements on furnishing an affidavit showing that the improvements were paid by any or all of them.

(b) If a person other than Wilbur C. Nemitz, Robert W. Nemitz, and Marlene Kadrie purchases the land, the purchaser shall pay in cash to the state at the time of sale, in addition to all required payments, the full amount for which improvements are appraised. The amount received by the state for the improvements must be paid by the commissioner of natural resources, with the approval of the commissioner of finance, to Wilbur C. Nemitz, Robert W. Nemitz, and Marlene Kadrie or their successors in interest as compensation for the improvements. The money required for the payment is appropriated from the fund to which the sale proceeds are credited to the commissioner of natural resources for this purpose.

Subd. 3. LAND DESCRIPTION. The commissioner may offer for sale and sell the land described as: the north 100.00 feet of government lot 4 of Section 10, Township 62 North, Range 1 East, Cook county, Minnesota, lying easterly of the centerline of the existing United States Forest Service road.

Subd. 4. REASON FOR SALE. A cabin was inadvertently built on this state property and has been owned, occupied, and improved since it was built.

Sec. 3. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved April 12, 1988

CHAPTER 493—H.F.No. 2546

An act relating to commerce; regulating preparation of certain information for membership camping contract applications and subdivider qualification statements; prohibiting certain misleading and deceptive practices; prohibiting advance payments relating to resale of time share property interests; amending Minnesota Statutes 1986, sections 83.29, subdivisions 2 and 5; and 83.44; Minnesota Statutes 1987 Supplement, sections 82A.04, subdivision 2; 82A.09, subdivision 3; and 83.23, subdivision 3; repealing Minnesota Statutes 1986, section 82A.09, subdivision 1.

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

Section 1. Minnesota Statutes 1987 Supplement, section 82A.04, subdivision 2, is amended to read:

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Subd. 2. **APPLICATION CONTENTS.** The application for registration shall include:

(1) an irrevocable appointment of the commissioner to receive service of any lawful process as required by section 82A.22, subdivision 1;

(2) the name of the campground, the membership camping operator's name and the address of its principal place of business, the form, date of organization, and jurisdiction of its organization; and the name and address of each of its offices in this state;

(3) a copy of the membership camping operator's articles of incorporation, partnership agreement, or joint venture agreement as contemplated or currently in effect;

(4) the name, address, and principal occupation for the past five years of the membership camping operator and of each controlling person of the membership camping operator, and the extent and nature of each such person's interest in the membership camping operator as of a specified date within 30 days prior to the filing of the application;

(5) a statement indicating whether or not the membership camping operator, or any of the persons identified in clause (4), within the past ten years has been:

(i) convicted of a felony; or

(ii) enjoined or received any adverse administrative order relating to the sale of securities, land, or campgrounds or based on violations of any consumer protection statutes. If any of the above has occurred, the name of the person involved, the jurisdiction, offense, and date of the offense shall be listed;

(6) a legal description of each campground owned or operated in this state by the membership camping operator which is represented to be available for use by purchasers, and a map or maps showing the location of all campgrounds, wherever located, which are owned or operated by the membership camping operator and represented to be available for use by purchasers, and a statement identifying the existing amenities at each such campground and the planned amenities represented as to be available for use by purchasers in the future at each such campground;

(7) the states or jurisdictions in which an application for registration or similar document has been filed by the membership camping operator pursuant to any statute similar to this chapter regulating membership camping contracts and any adverse order, judgment, or decree entered against the operator in connection with membership camping contracts by any regulatory authority in any jurisdiction or by any court;

(8) a statement of the condition of the title to the campground owned or operated in this state by the membership camping operator and represented to

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be available for use by purchasers, 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 or by a title insurance policy, naming the operator or lender as beneficiaries and issued by an insurance company authorized to do business in this state, or by any evidence of title acceptable to the commissioner;

(9) copies of the instruments by which the membership camping operator's interest in the campgrounds in this state was acquired;

(10) copies of all recorded or unrecorded instruments, known to the membership campground operator, that evidence blanket encumbrances that materially adversely affect the campgrounds in this state;

(11) if there is a blanket encumbrance which materially adversely affects the campgrounds located in this state, a legal description of the encumbrance, and a description of the steps taken to protect purchasers, in accordance with section 82A.14, clause (1), in case of failure to discharge the lien or encumbrance;

(12) evidence showing compliance with the zoning and other applicable environmental or land use laws, ordinances, and rules affecting the use of the campgrounds located in this state;

(13) a statement of the existing and planned provisions for the following with respect to campgrounds located in this state:

(i) purchasers' access to the campgrounds;

(ii) the availability of sewage disposal facilities and other public utilities, including but not limited to water, electricity, gas, and telephone facilities in the campgrounds;

(iii) the proximity of community fire and police protection;

(iv) a statement of the amenities which will be represented to purchasers as guaranteed to be constructed or installed, whether the operator will be responsible for their cost, installation and maintenance and an estimated cost of and schedule for completion of the same; provided that the estimated completion dates need not be more precise than the year in which completion is estimated to occur, and may be extended for the period of any delays caused by or deferred due to the occurrence of events such as acts of God, strikes, and other causes outside the reasonable control of the membership camping operator; and assurance that such amenities will be completed by filing a bond or irrevocable letter of credit, depositing funds in an escrow account, or such other provision as the commissioner may by order allow. The amount of the bond or escrow account shall be reduced monthly in proportion to the amount paid for completion of the amenities during such period. The bond, letter of credit, or escrow account shall be issued or held by a bank or insurance or surety company authorized to do business in this state;

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(v) a statement of the amenities to be represented to purchasers as planned for construction and installation, but not guaranteed, whether the operator will be responsible for their costs, installation, and maintenance, and an estimated cost of and schedule for completion of the same; provided that the estimated completion dates need not be more precise than the year in which completion is estimated to occur and may be extended for the period of any delays caused by or deferred due to the occurrence of events such as acts of God, strikes, and other causes outside the reasonable control of the membership camping operator;

(14) ~~a copy of each item of advertising materials which has been prepared for public distribution in this state after January 1, 1986. Advertising material for off-site distribution which is pictorial in nature, other than site and conceptual plans which are labeled as such, shall be limited to a depiction of the actual on-site condition of the campgrounds or other areas that are material to the offer or sale of membership camping contracts pursuant to this registration; site and conceptual plans shall disclose which facilities are and are not currently in existence;~~

(15) the proposed disclosure statement as required by section 82A.05, subdivision 1, and the proposed separate disclosure, if applicable, as required by section 82A.05, subdivision 6;

(16) (15) a financial statement of the membership camping operator as of the end of the membership camping operator's most recent fiscal year, ~~audited~~ prepared by an independent certified public accountant and certified by the camping operator; and, if the fiscal year end of the membership camping operator is in excess of ~~120~~ 180 days prior to the date of filing the application, a financial statement, which may be unaudited, as of a date within ~~120~~ 180 days of the date of application;

(17) (16) a statement of the applicable material permits, other than building permits, not yet obtained but required to be obtained from various federal, state, and local agencies to operate the membership campground in this state, stating which have been applied for. If any permit has been refused, the reasons for the refusal and the effect the refusal will have on subsequent development of the campgrounds must be disclosed;

(18) (17) a copy of each type of membership camping contract to be sold in this state, the purchase price of each type and, if the price varies, the reason for the variance;

(19) (18) the number of membership camping contracts proposed to be sold at each campground located in this state and a statement describing the method used to determine the number;

(20) (19) rules of general applicability governing use and occupancy of the campgrounds; but not including any temporary or emergency rules, or any rules adopted in response to unique local or immediate needs;

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~~(21)~~ (20) copies of applications for and contracts with any reciprocal program entity in which the membership camping operator is to participate and represents as available for use by purchasers;

~~(22)~~ (21) information concerning purchase or lease costs, rules, forms, and any fees, other than the initial membership fee and annual dues, which are required for purchaser usage of in-park trailers, recreational vehicles, tents, or other overnight accommodations, provided by or through the membership camping operator, for purchasers as an alternative to using the purchaser's own mobile accommodations; and

~~(23)~~ (22) any additional information the commissioner reasonably deems appropriate to administer the provisions of this chapter.

Sec. 2. Minnesota Statutes 1987 Supplement, section 82A.09, subdivision 3, is amended to read:

Subd. 3. **SPECIFIC PROHIBITIONS.** The following devices or sales presentations, and the use of those devices or presentations, are deceptive or misleading practices:

(1) An advertisement that offers travel, accommodations, gifts, meals, or entertainment published to induce prospective purchasers to visit a campground or attend a sales presentation and that:

(i) does not prominently set forth all eligibility requirements;

(ii) describes offers of travel, accommodations, gifts, meals, or entertainment as "prizes," "awards," or by words of similar import or describes prospective purchasers as "winners" or by words of similar import;

(iii) contains the words "free" or "no obligation" or similar terms unless the offer is unequivocally without conditions;

(iv) states or implies that prospective purchasers have been specially selected;

(v) does not specifically state that gifts will be provided at the time the prospective purchaser visits the campground or attends the sales presentation;

(vi) does not disclose on its face page the retail market value of the travel, accommodations, gifts, meals, or entertainment provided. For purposes of this subclause, "retail market value" means: the retail price the item sells for in Minnesota; or if the item is not sold in Minnesota, the retail price the item sells for in states contiguous to Minnesota; or if the item is not sold in Minnesota or in a state contiguous to this state, the retail price the item sells for anywhere in the United States;

(vii) does not specifically and prominently disclose that the purpose of the offer of travel, accommodations, gifts, meals, or entertainment is to induce prospective purchasers to visit a campground or attend a sales presentation where they will be encouraged to purchase a membership camping contract;

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(viii) does not completely disclose rules and procedures if travel, accommodations, gifts, meals, or entertainment are offered through a "sweepstakes," "give-away," or similar contest;

(ix) does not specifically disclose the odds, as a fraction, using a common denominator, of a prospective purchaser's receiving each gift if the gift is offered through a "sweepstakes," "giveaway," or similar contest; or

(x) does not clearly and prominently state that gifts may be given to persons outside the state if the advertisement is part of a national advertising campaign.

(2) An advertisement that does not prominently disclose the name, address, and phone number of the membership camping operator on whose behalf the advertisement is distributed.

(3) An advertisement prepared on the stationery of a person other than the membership camping operator that creates a likelihood of confusion, misunderstanding, or deception.

(4) Site and conceptual plans which do not disclose which facilities are and are not currently in existence.

(5) Pictorial advertising material for off-site distribution, other than site and conceptual plans which are labeled as such, which depicts more than the actual on-site condition of the campgrounds or other areas that are material to the offer or sale of membership camping contracts.

Sec. 3. Minnesota Statutes 1987 Supplement, section 83.23, subdivision 3, is amended to read:

Subd. 3. **QUALIFICATION.** Subdivided lands may be registered by qualification provided all of the following requirements have been met:

(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 \$400 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 \$3,500;

(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 prepared~~ certified public accountant and certified by the subdivider; and, if the fiscal year of the

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subdivider is more than ~~90~~ 180 days prior to the date of filing the application, a financial statement, which may be unaudited, as of a date within ~~90~~ 180 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 prepared by an independent accountant.

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

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

Sec. 4. Minnesota Statutes 1986, section 83.29, subdivision 2, is amended to read:

Subd. 2. If the commissioner determines upon inquiry and examination:

(1) That any of the requirements of sections 83.20 to 83.42 or the rules promulgated pursuant to sections 83.20 to 83.42 have not been met;

(2) That the proposed promotional plan ~~or advertising~~ is or tends to be fraudulent, deceptive or misleading;

(3) That the sales of the lands would work or tend to work a fraud or deception on the purchasers thereof;

(4) That the sales of the lands would be unfair or inequitable to the purchasers thereof;

(5) That the subdivider has violated any of the provisions of sections 83.20 to 83.42 or any order or rule of the commissioner;

(6) That the subdivider is not in compliance with federal, state or local environmental quality standards;

the commissioner may issue an order denying the application for registration; provided, however, that nothing in this section shall authorize the commissioner to deny an application based solely on the proposed sale price of the lands. The order shall state the reasons for denial. Every person whose application for registration has been denied shall have the right to a hearing provided a request for such hearing is filed with the commissioner within 30 days of the receipt of the order of denial. The order of denial shall inform the applicant of the right to this hearing.

Sec. 5. Minnesota Statutes 1986, section 83.29, subdivision 5, is amended to read:

Subd. 5. No person shall publish or cause to be published in this state any

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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. 6. Minnesota Statutes 1986, section 83.44, is amended to read:

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; or

(d) to accept an advance payment for services rendered by an agent in connection with the resale of a time share interest.

Sec. 7. REPEALER.

Minnesota Statutes 1986, section 82A.09, subdivision 1, is repealed.

Sec. 8. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved April 12, 1988

CHAPTER 494—H.F.No. 2551

An act relating to state lands; authorizing private conveyance of tax-forfeited land in St. Louis county.

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

Section 1. TAX-FORFEITED LAND CONVEYANCE; ST. LOUIS COUNTY.

Notwithstanding Minnesota Statutes, chapter 282, section 92.45, or any other law, the commissioner of revenue may sell certain tax-forfeited land in St. Louis county described in this section by private sale to Mr. William R. Steger, Jr.

The conveyance must be in a form approved by the attorney general for a consideration of the amount of taxes due on the property.

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