

## CHAPTER 252—H.F.No. 1506

*An act relating to commerce; regulating certain rentals of real property, membership camping practices, and subdivided land sales; amending Minnesota Statutes 1988, sections 82A.02, by adding a subdivision; 82A.04, subdivision 2; 82A.13, subdivision 2; 83.20, by adding a subdivision; and 83.30, subdivision 1.*

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

Section 1. Minnesota Statutes 1988, section 82A.02, is amended by adding a subdivision to read:

Subd. 1a. ADVANCED PAYMENT. "Advanced payment" means any money paid in advance regardless of its descriptive nomenclature, including, but not limited to, a management fee, listing, security, or advance fee or payment.

Sec. 2. Minnesota Statutes 1988, section 82A.04, subdivision 2, is amended to read:

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;

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(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 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;

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(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;

(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) 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;

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

(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;

(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;

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(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;

(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;

(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;

(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

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

Sec. 3. Minnesota Statutes 1988, section 82A.13, subdivision 2, is amended to read:

Subd. 2. **FRAUD.** No person shall, in connection with the offer or sale of any membership camping contract, directly or indirectly:

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

(2) make any untrue statement of a material fact, or 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

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

(4) accept an advance payment for services rendered by an agent in connection with the resale of a membership camping contract.

Sec. 4. Minnesota Statutes 1988, section 83.20, is amended by adding a subdivision to read:

Subd. 15. "Advance payment" means any money paid in advance regardless of its descriptive nomenclature, including but not limited to, management fee, listing, security, or advance fee or payment in connection with the resale of a timeshare interest.

Sec. 5. Minnesota Statutes 1988, section 83.30, subdivision 1, is amended to read:

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Subdivision 1. **FORM; DUE DATE.** During the period a registration is effective, the subdivider shall file an annual report in a format the commissioner may by rule prescribe. The report must include a financial statement of the subdivider's most recent fiscal year, prepared by an accountant and certified by the subdivider. An audited financial statement shall not be required. Every annual report shall be 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 emergency rulemaking authority pursuant to chapter 14.

**Sec. 6. EFFECTIVE DATE.**

Sections 1 to 4 are effective the day following final enactment. Section 5 is effective retroactive to January 1, 1989, and applies to any report due on or after that date.

Presented to the governor May 22, 1989

Signed by the governor May 23, 1989, 7:17 a.m.

**CHAPTER 253—H.F.No. 193**

*An act relating to crimes; providing that an offender may not demand execution of sentence except under certain circumstances; requiring the board of pardons to meet at least twice each year; amending Minnesota Statutes 1988, sections 609.135, by adding a subdivision; and 638.04.*

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

Section 1. Minnesota Statutes 1988, section 609.135, is amended by adding a subdivision to read:

Subd. 7. DEMAND OF EXECUTION OF SENTENCE. An offender may not demand execution of sentence in lieu of a stay of imposition or execution of sentence if the offender will serve less than nine months at the state institution. This subdivision does not apply to an offender who will be serving the sentence consecutively or concurrently with a previously imposed executed felony sentence.

Sec. 2. Minnesota Statutes 1988, section 638.04, is amended to read:

**638.04 MEETINGS.**

The board of pardons shall hold regular meetings ~~on the second Monday in January, April, July, and October,~~ of at least twice each year, and such other meetings as it shall deem expedient, and all shall be held in the executive chamber in the state capitol, or at such other place as may be ordered by the board.

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