

2810.3100 FRAUDULENT, DECEPTIVE, MISLEADING, OR UNFAIR AND INEQUITABLE ACTS.

Subpart 1. **Presumption; penalty.** The methods, acts, and practices contained herein or similar thereto shall be presumed fraudulent, deceptive, misleading, or unfair and inequitable if engaged in by the subdivider or an agent of the subdivider and shall constitute grounds for denial, suspension, or revocation of the license of the subdivider or agent.

Subp. 2. **Approvals and memberships.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent that the subdivider, or agents, servants, employees, or others acting on behalf of the subdivider, have sponsorship, approval, or certification they do not have;

B. represent that land has been inspected by the commissioner and/or received approval;

C. represent the necessity, desirability, or the advantage of dealing with a subdivider, such as false or alleged connection with or endorsement by the government, nationally known organization, or membership in a professional association.

Subp. 3. **Availability of land and utilities.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent the availability of land without clearly and conspicuously disclosing in immediate conjunction therewith any limitation on location, including location in relationship to amenities, and quantity;

B. represent or give the impression that a prospective purchaser has to act quickly to purchase specific or choice lots, units, parcels, or interests in land because of purported scarcity of such land or reasons similar thereto;

C. represent a utility service as "available" or a similar representation, unless such utility service is installed and ready for use, or use is assured under financial arrangements made for installation and approved by the commissioner, and such arrangements are disclosed.

Subp. 4. **Access to subdivisions.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent or suggest that a subdivision is restricted to owners, purchasers, or their families by means of guards or private roads or facilities unless it is true;

B. represent that a prospective purchaser must pay a refundable or nonrefundable temporary membership fee in order to visit, tour, or inspect a subdivision for the reasons that such is restricted to members only, when in fact such offer is made systematically and on a regular basis to all persons solicited for purchase.

Subp. 5. **Visits and free goods and services.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. fail to reveal in an offer to induce a person to visit, inspect, or tour a subdivision all terms, conditions, or prerequisites that must be met by any person;

B. offer or represent that goods or services are "free" without clearly or conspicuously disclosing in immediate conjunction with the offer or representation all terms, conditions, or prerequisites to the receipt, retention, or use of the goods or services.

Subp. 6. **Price, value, and credit.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent or imply that a prospective purchaser has to act quickly to purchase land at a savings by reason of an imminent price increase, unless the increase is valid and a copy of the proposed new price schedule and the date of the price increase is furnished to the prospective purchaser;

B. represent the price of land has been discounted or reduced unless in fact the original price was the customary price for a reasonable period of time;

C. represent or suggest that the price of land is less when compared to other land sold by competitors unless such other land has the same characteristics, attributes, and qualities of the offered or advertised land and such prices are not fictitious;

D. represent or suggest that credit is readily available when in fact it is not;

E. represent or suggest that the terms of such credit are liberal or lenient when in fact they are not.

Subp. 7. **Repurchases, refunds, consideration for referrals.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent that the subdivider will buy back, resell, list, or otherwise dispose of purchased property unless the terms are set forth in the contract, purchase agreement, or other similar instrument, and the commissioner has been furnished a copy of the buyback or resale agreement;

B. induce a person to buy land, execute a contract, agreement, option for consideration, or other evidence of indebtedness for the purchase of land upon the representation to the person that a refund will be made if not satisfied, unless such representation is set forth in the contract, purchase agreement, or other similar instruments.

Subp. 8. **Promotion schemes, documents.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent that a subdivider, salesperson, agent, servant, employee, or other person acting on behalf of a subdivider is conducting a survey, contest, poll, or other similar inquiry, when such representation is a systematic marketing approach to sell property;

B. represent to a person that they have been specially selected;

C. obtain the execution of a contract or similar instrument by representing that it is only a reservation, receipt, temporary membership certificate, or other nonbinding agreement;

D. fail to clearly and conspicuously inform a purchaser that a contract, promissory note, evidence of indebtedness, or other similar instrument is assignable.

Subp. 9. **Contracts, agreements, deeds, options, and dispositions.** It shall be presumed to be unfair for a person to use a contract, agreement, deed, option, or other evidence of disposition of lands under the act that contains provisions whereby a purchaser or prospective purchaser agrees, without knowing, intelligent, and voluntary consent thereto:

A. to waive a right or privilege afforded by the act; the Interstate Land Sales Full Disclosure Act (82 Stat. 590; United States Code, title 15, sections 1701 et seq.); or the Consumer Credit Protection Act commonly known as the Federal Truth-in-Lending Act, and any rules or federal regulations promulgated thereunder, or any laws governing the transaction;

B. to assume all risk of loss to the property without title passing to the purchaser or actual possession being in the purchaser;

C. to a subsequent sale of the optioned or purchased property;

D. to waive as against an assignee of the subdivider, a mortgagee, or subsequent holder a claim or defense arising out of the transaction that the purchaser would have against the subdivider;

E. to lose possession of the property without notice of and a prior hearing in a court of competent jurisdiction;

F. to waive a right to redeem the property after default;

G. that an assignee, mortgagee, or subsequent holder of the subdivider is not obligated to convey title as to the purchaser.

Subp. 10. **Execution and alteration.** It is unfair for a subdivider, or agents, servants, employees, or others acting on behalf of the subdivider:

A. to offer to or induce a purchaser to execute a document, paper, or other instrument without all spaces filled in or inapplicable spaces clearly stricken;

B. to alter or deface a document, paper, or other instrument without the consent of the parties thereto.

Subp. 11. **Rebates.** It is unfair for a person to use a method of rebate of interest, or finance charge which requires or results in a purchaser paying a greater amount of interest or finance charge upon prepayment than would have been paid if the purchaser had financed for that shorter period up to the time of prepayment.

Subp. 12. **Promises, revelations, and substitutions.** It is unfair for a subdivider, or agents, servants, employees, or others acting on behalf of the subdivider:

A. to make a promise with no present intent to perform it;

B. to fail to reveal to a purchaser or prospective purchaser all terms, conditions, notices, and amounts of any contract, agreement, option, deed, property report, evidence of indebtedness, or other similar instrument; or

C. to substitute another lot, unit, parcel, or interest in land for that purchased or optioned without the consent of the purchaser.

Subp. 13. **Rights; privileges.** It is unfair for a subdivider to fail to afford to a purchaser all rights, privileges, or advantages that are represented or implied as being available to a purchaser as the result of the purchase.

Subp. 14. **Offers; comparisons; bait and switch.** It is presumed fraudulent, deceptive, misleading, or unfair and inequitable to:

A. represent the necessity, desirability, or advantage to a prospective purchaser of dealing with a subdivider such as representing a subdivider's alleged advantages of size;

B. offer or represent to sell or lease lots, units, parcels, or interests in land that in truth the subdivider does not intend or desire to sell or lease;

C. engage in activities commonly referred to as "bait and switch" activities;

D. fail to clearly and conspicuously disclose the use, if any, to which surrounding land has been put where the disclosure is material;

E. make false, misleading, or irrelevant comparisons of land values; or

F. engage in any other method, act, or practice that has or may have the tendency to deceive.

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