

United States Statutes

Title 15. COMMERCE AND TRADE

Chapter 42. INTERSTATE LAND SALES

§ 1702. Exemptions

(a) **Sale or lease of lots generally**

Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions of this chapter shall not apply to-

- (1) the sale or lease of lots in a subdivision containing less than twenty-five lots;
- (2) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;
- (3) the sale of evidence of indebtedness secured by a mortgage or deed of trust on real estate;
- (4) the sale of securities issued by a real estate investment trust;
- (5) the sale or lease of real estate by any government or government agency;
- (6) the sale or lease of cemetery lots;
- (7) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or
- (8) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located, when-
 - (A) local authorities have approved access from such real estate to a public street or highway;
 - (B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;
 - (C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;
 - (D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either

- (i) is purchasing or leasing such real estate substantially for its own use, or
 - (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and
- (E) a policy of title insurance or a title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but
 - (i) nothing herein shall be construed as requiring the recordation of a lease, and
 - (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

(b) Sale or lease of lots subject to other statutory registration and disclosure requirements

Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions requiring registration and disclosure (as specified in section 1703 (a)(1) of this title and sections 1704 through 1707 of this title) shall not apply to-

- (1) the sale or lease of lots in a subdivision containing fewer than one hundred lots which are not exempt under subsection (a) of this section;
- (2) the sale or lease of lots in a subdivision if, within the twelve-month period commencing on the date of the first sale or lease of a lot in such subdivision after the effective date of this subsection, or on such other date within that twelve-month period as the Director may prescribe, not more than twelve lots are sold or leased, and the sale or lease of the first twelve lots in such subdivision in any subsequent twelve-month period, if not more than twelve lots have been sold or leased in any preceding twelve-month period after the effective date of this subsection;
- (3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than twenty lots, and if the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;
- (4) the sale or lease of lots in a subdivision in which each of the lots is at least twenty acres (inclusive of easements for ingress and egress or public utilities);

- (5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when-
- (A)
 - (i) the subdivision meets all local codes and standards, and
 - (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;
 - (B)
 - (i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and
 - (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except that, in any case in which a homeowners association has accepted or is obligated to accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;
 - (C) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within one hundred and eighty days, and, for subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;
 - (D) the contract of sale requires delivery of a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant which warrants that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him) to the purchaser within one hundred and

eighty days after the signing of the sales contract;

- (E) at the time of closing, a title insurance binder or a title opinion reflecting the condition of the title shall be in existence and issued or presented to the purchaser or lessee showing that, subject only to such exceptions as may be approved in writing by the purchaser or lessee at the time of closing, marketable title to the lot is vested in the seller or lessor;
 - (F) the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease; and
 - (G) there are no offers, by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot;
- (6) the sale or lease of a lot, if a mobile home is to be erected or placed thereon as a residence, where the lot is sold as a homesite by one party and the home by another, under contracts that obligate such sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected or placed on the completed homesite within a period of two years, and provide for all funds received by the sellers to be deposited in escrow accounts (controlled by parties independent of the sellers) until the transactions are completed, and further provide that such funds shall be released to the buyer on demand without prejudice if the land with the mobile home erected or placed thereon is not conveyed within such two-year period. Such homesite must conform to all local codes and standards for mobile home subdivisions, if any, must provide potable water, sanitary sewage disposal, electricity, access by roads, the purchaser must receive marketable title to the lot, and where common facilities are to be provided, they must be completed or fully funded;
- (7) (A) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if-
- (i) the lot is free and clear of all liens, encumbrances, and adverse claims;
 - (ii) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;
 - (iii) each purchase or lease agreement contains-
 - (I) a clear and specific statement describing a good faith estimate of the year of completion of, and the party responsible for, providing and maintaining the roads, water facilities, sewer facilities and any existing or

promised amenities; and

(II) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws; and

(iv) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing the receipt of a written statement by the developer containing good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot.

(B) As used in subparagraph (A)(i) of this paragraph, the terms "liens", "encumbrances", and "adverse claims" do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if-

(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such liens, reservations, taxes, assessments and restrictions which are applicable to the lot to be purchased or leased; and

(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee.

(C) For the purpose of this paragraph, a sales operation is "intrastate in nature" if the developer is subject to the laws of the State in which the land is located, and each lot in the subdivision, other than those which are exempt under subsection (a), (b)(6), or (b)(8) of this section, is sold or leased to residents of the State in which the land is located; ~~or~~

(8) the sale or lease of a lot in a subdivision containing fewer than three hundred lots if-

(A) the principal residence of the purchaser or lessee is within the same standard metropolitan statistical area, as defined by the Office of Management and Budget, as the lot purchased

or leased;

- (B) the lot is free and clear of liens (such as mortgages, deeds of trust, tax liens, mechanics liens, or judgments) at the time of the signing of the contract or agreement and until a deed is delivered to the purchaser or the lease expires. As used in this subparagraph, the term "liens" does not include
 - (i) United States land patents and similar Federal grants or reservations,
 - (ii) property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed,
 - (iii) taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, or
 - (iv) other interests described in regulations prescribed by the Director;
- (C) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;
- (D) each purchase or lease agreement contains
 - (i) a clear and specific statement describing a good faith estimate of the year of completion of and the party responsible for providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and
 - (ii) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws;
- (E) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing receipt of a written statement by the developer setting forth
 - (i) in descriptive and concise terms all liens, reservations, taxes, assessments, beneficial property restrictions which

would be enforceable by other lot owners or lessees in the subdivision, and adverse claims which are applicable to the lot to be purchased or leased, and

- (ii) good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot;
- (F) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the State in which the purchaser or lessee resides; and
- (G) the developer executes a written affirmation to the effect that he has complied with the provisions of this paragraph, such affirmation to be given on a form provided by the Director, which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; an affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale or lease; and the signature of the developer;

or:-

(9) the sale or lease of a condominium unit that is not exempt under subsection (a).

(c) Rules and regulations

The Director may from time to time, pursuant to rules and regulations issued by him, exempt from any of the provisions of this chapter any subdivision or any lots in a subdivision, if he finds that the enforcement of this chapter with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason or the small amount involved or the limited character of the public offering.

(d) For purposes of subsection (b), the term “condominium unit” means a unit of residential or commercial property to be designated for separate ownership pursuant to a condominium plan or declaration provided that upon conveyance—

- (1) The owner of such unit will have sole ownership of the unit and an undivided interest in the common elements appurtenant to the unit; and**
- (2) The unit will be an improved lot.**