

45:15-16.3 to 16.26

"Land Sale Full Disclosure Act"

LEGISLATIVE HISTORY CHECKLIST

NJSA 45:15-16.3 to 16.26

Laws of 1975 Chapter 235

Bill No. S 909

Sponsor(s) Fay

Date Introduced March 18, 1974

Committee: Assembly Commerce, Industry & Professions; Conference

Senate Labor, Industry & Professions

Amended during passage Yes ~~XX~~

Date of passage: Assembly April 21, 1975

Senate November 25, 1974

Date of approval October 24, 1975

Following statements are attached if available:

Sponsor statement ~~XX~~ No

Committee Statement: Assembly Yes ~~XX~~

Senate Yes ~~XX~~

Fiscal Note Yes ~~XX~~

Veto message ~~XX~~ No

Message on signing ~~XX~~ No

Following were printed:

Reports ~~XX~~ No

Hearings ~~XX~~ No

DEPOSITORY COPY

Do Not Remove From Library

10/4/76

[THIRD OFFICIAL COPY REPRINT]

SENATE, No. 909

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1974

By Senator FAY

Referred to Committee on Labor, Industry and Professions

AN ACT regulating the disposition of land in subdivisions, repealing section 1 of P. L. 1948, c. 155 and making an appropriation.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Land Sales
2 Full Disclosure Act."

1 2. As used in this act:

2 a. "Disposition" means and includes sale, lease, assignment,
3 award by lottery, or any other transaction concerning a subdivision,
4 if undertaken for gain or profit;

5 b. "Offer" means and includes every inducement, solicitation or
6 attempt to encourage a person to acquire an interest in a subdivision
7 if undertaken for gain or profit;

8 c. "Person" means an individual, corporation, government, or
9 governmental subdivision or agency, business trust, estate, trust,
10 partnership, unincorporated association, two or more of any of the
11 foregoing having a joint or common interest, or any other legal
12 or commercial entity;

13 d. "Purchaser" means a person who acquires or attempts to
14 acquire or succeeds to an interest in a subdivision;

15 e. "Subdivider" means any owner of subdivided land or the
16 agent of such owner who offers it for disposition;

17 f. "Subdivision" and "subdivided lands" mean any land situ-
18 ated ****[within or]**** outside of the State of New Jersey whether
19 contiguous or not, if ****[10]**** *one* or more lots, parcels, units
20 or interests are offered as a part of a common promotional plan of
21 advertising and sale and expressly mean and include such units or
22 interests commonly referred to as a "condominium," as said term

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

23 is defined in the Condominium Act (P. L. 1969, c. 257, C. 46:8B-1
 24 et seq.). Where subdivided land is offered by a single developer or
 25 a group of developers acting in concert, and such land is contiguous
 26 or is known, designated or advertised as a common unit or by a
 27 common name, such land shall be presumed, without regard to the
 28 number of lots covered by each individual offering, as being offered
 29 for sale or lease as part of a common promotional plan;

30 g. "Commission" means the New Jersey Real Estate
 31 Commission;

32 h. "Salesman" means any person who within the State as an
 33 agent or employee performs on behalf of a subdivider any one or
 34 more of the services or acts as set forth in this act, and includes
 35 any New Jersey licensed real estate broker or salesman or any
 36 person who purports to act in any such capacity;

37 i. "Notice" means a communication by mail from the commis-
 38 sion executed by its secretary or other duly authorized officer.
 39 Notice to subdividers shall be deemed complete when mailed to
 40 the subdivider's address currently on file with the commission;

41 j. "Blanket encumbrance" means a trust deed, mortgage, judg-
 42 ment, or any other lien or encumbrance, including an option or
 43 contract to sell or a trust agreement, affecting a subdivision or
 44 affecting more than one lot offered within a subdivision except
 45 that such term shall not include any lien or other encumbrance
 46 arising as the result of the imposition of any tax assessment by
 47 any public authority;

48 k. "Advertising" means and includes the publication or causing
 49 to be published of any information offering for sale or for the
 50 purpose of causing or inducing any other person to purchase or
 51 to acquire an interest in the title to subdivided lands, including
 52 the land sales contract to be used and any photographs or drawings
 53 or artist's representations of physical conditions or facilities on
 54 the property existing or to exist by means of any:

- 55 (1) Newspaper or periodical;
- 56 (2) Radio or television broadcast;
- 57 (3) Written or printed or photographic matter produced by any
 58 duplicating process producing 10 copies or more;
- 59 (4) Material used in connection with the disposition or offer of
 60 subdivided lands by radio, television, telephone or any other elec-
 61 tronic means; or
- 62 (5) Material used by subdividers or their agents to induce pros-
 63 pective purchasers to visit the subdivision; particularly vacation
 64 certificates which require the holders of such certificates to attend
 65 or submit to a sales presentation by a subdivider or its agents.

66 "Advertising" does not mean and shall not be deemed to include:
67 Stockholder communications such as annual reports and interim
68 financial reports, proxy materials, registration statements, securi-
69 ties prospectuses, applications for listing securities on stock
70 exchanges, and the like; prospectuses, property reports, offering
71 statements, or other documents required to be delivered to a pros-
72 pective purchaser by an agency of any other state or the Federal
73 Government; all communications addressed to and relating to the
74 account of any person who has previously executed a contract for
75 the purchase of the subdivider's lands except when directed to
76 the sale of additional lands.

1 3. There is hereby established a Bureau of Subdivided Land
2 Sales Control within the Division of the New Jersey Real Estate
3 Commission in the Department of Insurance.

1 4. a. Unless the method of disposition is adopted for the purpose
2 of evasion of this act, the provisions of this act are not applicable
3 to offers of dispositions of an interest in land:

- 4 (1) By a purchaser of subdivided lands for his own account in
5 a single or isolated transaction;
- 6 (2) Pursuant to court order;
- 7 (3) By any governmental agency;
- 8 (4) As cemetery lots or interests.

9 b. Unless the method of disposition is adopted for the purpose
10 of evasion of this act, the provisions of this act are not applicable to:

- 11 (1) Offers or dispositions of evidences of indebtedness secured
12 by a mortgage or deed of trust of real estate;
- 13 (2) Offers or dispositions of securities or units of interest issued
14 by a real estate investment trust regulated under any State or
15 Federal statute;
- 16 (3) Offers or dispositions of securities currently registered with
17 the Bureau of Securities in the Department of Law and Public
18 Safety;
- 19 (4) Offers or dispositions of any interest in oil, gas or other
20 minerals or any royalty interest therein if the offers or dispositions
21 of such interests are regulated as securities by the United States
22 or by the State Bureau of Securities.

23 c. The commission may from time to time, pursuant to its rules
24 and regulations, exempt from any of the provisions of this act any
25 subdivision or any lots in a subdivision, if it finds that the enforce-
26 ment of this act with respect to such subdivision or the lots therein,
27 is not necessary in the public interest or required for the protection
28 of purchasers by reason of the small amount involved or the limited
29 character of the offering.

1 5. a. Upon the filing of an application for registration at the
 2 offices of the New Jersey Real Estate Commission, naming the
 3 New Jersey real estate broker or brokers who are the authorized
 4 representatives of the subdivider, and accompanied by the proper
 5 registration fee in the proper form, and a statement of record
 6 as provided for in section 8 the commission shall issue a notice
 7 of filing to the applicant. Within 60 days from the date of the
 8 notice of filing, the commission shall enter an order registering
 9 the subdivision or subdivided lands or rejecting the registration. If
 10 no order of rejection is entered within 60 days from the date of
 11 notice of filing, the land shall be deemed registered unless the appli-
 12 cant has consented in writing to a delay.

13 b. If the commission affirmatively determines upon inquiry and
 14 examination, that the requirements of section 7 have been met,
 15 it shall enter an order registering the subdivision or subdivided
 16 lands and shall designate the form of the public offering statement.

17 c. If the commission determines upon inquiry and examination
 18 that any of the requirements of section 7 have not been met, the
 19 commission shall notify the applicant that the application for
 20 registration must be corrected in the particulars specified within
 21 30 days from the date such notice is received by the applicant. Said
 22 findings shall be the result of the commission's preliminary inquiry
 23 and examination and no *****[new]***** hearing shall be required as
 24 the basis for such findings. The receipt of such request shall stay
 25 the order of rejection until such hearing has been held and a de-
 26 termination has been made.

1 6. a. The following fees are imposed upon applicants for regis-
 2 tration of subdivisions *****[whether located without the State]*****:

3 (1) As to an initial registration, \$250.00 for a subdivision con-
 4 taining less than 100 lots, parcels, units or interests, plus \$1.00 for
 5 each lot, parcel, unit or interest in excess of 100 with a maximum
 6 fee of \$1,000.00. The initial registration shall be valid for a period
 7 of 1 year from the date of approval of the registration; ****provided*
 7A *that any registration filed with and approved by the commission*
 7B *prior to the date of enactment of this act shall be exempt from*
 7C *initial registration under this act;****

8 (2) An annual renewal registration fee of \$150.00 for a sub-
 9 division which originally contained less than 50 lots, parcels, units
 10 or interests, and otherwise \$250.00 for each year in which the sub-
 11 divider continues to offer lots, parcels, units or interests in the
 12 subdivision under the original or a consolidated registration;

13 (3) Such fees as the commission shall prescribe for substitution
14 of, or additional New Jersey broker or brokers as authorized rep-
15 resentatives of the subdivider.

16 b. Failure to pay a renewal registration fee shall authorize can-
17 cellation of the registration by the commission.

18 c. The application for registration shall be made on forms pre-
19 scribed by the commission and shall be accompanied by the appro-
20 priate filing fee. In the event that the commission at its discretion
21 shall determine that an on-site inspection ****[outside the State]**** is
22 required, the commission shall advise the registrant of the amount
23 which it shall deem as equivalent to the cost of travel from New
24 Jersey to the location of the subdivided lands and return and any
25 additional expenses of any such inspection which shall be the
26 amount of the inspection fee. Said inspection fees shall be accounted
27 for to the applicant.

28 d. The fee for a consolidated filing, pursuant to section 11, shall
29 be the same as set forth in subsection a. of this section, provided
30 however that the renewal fee set forth in subsection a. shall apply
31 only to original filings and shall not be applicable to subsequent
32 consolidated filings.

1 7. Upon receipt of an application for registration in proper form,
2 accompanied by a statement of record, the commission shall forth-
3 with initiate an examination to determine that:

4 a. The subdivider can convey or cause to be conveyed the interest
5 in subdivided lands offered for disposition if the purchaser com-
6 plies with the terms of the offer, and when appropriate, that release
7 clauses, conveyances in trust or other safeguards have been
8 provided;

9 b. There is reasonable assurance that all proposed improvements
10 will be completed as represented;

11 c. The advertising material and the general promotional plan
12 are not false, misleading, or discriminatory and comply with the
13 standards prescribed by the commission in its rules and afford
14 full and fair disclosure;

15 d. The vacation certificates or any similar visitor campaigns
16 contain a full disclosure of such pertinent information as is required
17 by the commission, including, but not limited to, the terms and
18 conditions of any such offer and the fact and extent of participation
19 in any such campaign by a subdivider and that the obligations
20 incurred by a subdivider or its agents in such a certificate program
21 can be met;

22 e. Such subdivider has not, or if a corporation, its officers,
23 directors, and principals have not, been convicted of a crime or
24 ***[other like]**** ***civil*** offense involving land dispositions
25 or any aspect of the land sales business in this State, the United
26 States, or any other state or foreign country, and there are no
27 reasonable grounds to believe that the subdivider is contemplating
28 a false or misleading promotional plan of disposition;

29 f. The public offering statement requirements of this act have
30 been satisfied.

1 8. The statement of record shall contain the information and be
2 accompanied by the documents specified hereinafter in this section:

3 a. The name and address of each person having an interest in
4 the lots in the subdivision to be covered by the statement of record
5 and the extent of such interest;

6 b. A legal description of, and a statement of the total area
7 included in, the subdivision and a statement of the topography
8 thereof, together with a map showing the division proposed and the
9 dimensions of the lots to be covered by the statement of record and
10 their relation to existing streets and roads;

11 c. A statement of the condition of the title to the land comprising
12 the subdivision, including all encumbrances and deed restrictions
13 and covenants applicable thereto;

14 d. A statement of the general terms and conditions, including the
15 range of selling prices or rents at which it is proposed to dispose
16 of the lots in the subdivision;

17 e. A statement of the present condition of access to the sub-
18 division, the existence of any unusual conditions relating to noise
19 or safety, which affect the subdivision and are known ***or should
20 reasonably be known*** to the developer, the availability of sewage
21 disposal facilities and other public utilities including water, elec-
22 tricity, gas, and telephone facilities in the subdivision to nearby
23 municipalities, and the nature of any miprovements to be installed
24 by the developer and his estimated schedule for completion;

25 f. A statement by a licensed civil engineer that the offsite and
26 onsite measures, including the overall design of the entire sub-
27 division, are adequate to prevent damage to property by reason of
28 flooding, erosion and other natural occurrences which are usual or
29 predictable for the area;

30 g. In the case of any subdivision or portion thereof against which
31 there exists a blanket encumbrance, a statement of the consequences
32 for an individual purchaser of a failure, by the person or persons
33 bound, to fulfill obligations under the instrument or instruments

34 creating such encumbrances and the steps, if any, taken to protect
35 the purchaser in such eventuality;

36 h. (1) Copy of its articles of incorporation, with all amend-
37 ments thereto, if the developer is a corporation; (2) copies of all
38 instruments by which the trust is created or declared, if the devel-
39 oper is a trust; (3) copies of its articles of partnership or
40 association and all other papers pertaining to its organization, if
41 the developer is a partnership, unincorporated association, joint
42 stock company, or any other form of organization; and (4) if the
43 purported holder of legal title is a person other than developer,
44 copies of the above documents for such person;

45 i. Copies of the deed or other instrument establishing title to the
46 subdivision in the developer or other person and copies of any
47 instrument creating a lien or encumbrance upon the title of devel-
48 oper or other person or copies of the opinion or opinions of counsel
49 in respect to the title to the subdivision in the developer or other
50 person or copies of the title insurance policy guaranteeing such
51 title;

52 j. Copies of all forms of conveyance to be used in selling or
53 leasing lots to purchasers;

54 k. Copies of instruments creating easements or other restrictions;

55 l. Such certified and uncertified financial statements of the
56 developer as the commission may require; and

57 m. Such other information and such other documents and certifi-
58 cation as the commission may require as being reasonably necessary
59 or appropriate for the protection of purchasers.

1 9. The information contained in any statement of record and
2 additions or corrections required thereto shall be made avail-
3 able to the public under such regulations as the commission may
4 prescribe and copies thereof shall be furnished to every applicant
5 at such reasonable charge as the commission may prescribe.

1 10. a. A public offering statement shall disclose fully and accu-
2 rately the physical characteristics of the subdivided lands offered
3 and shall make known to prospective purchasers all unusual and
4 material circumstances or features affecting such lands. The pro-
5 posed public offering statement submitted to the commission shall
6 be in a form prescribed by its rules and shall include the following:

7 (1) The name and principal address of the developer and his
8 authorized New Jersey representative who shall be a licensed New
9 Jersey real estate broker licensed to maintain offices within this
10 State;

11 (2) A general description of the subdivision or subdivided lands
12 stating the total number of lots, parcels, units, or interests in the
13 offering;

14 (3) The significant terms of any encumbrances, easements, liens
15 and restrictions, including zoning and other regulations affecting
16 such lands and each unit or lot, and a statement of all existing taxes
17 and existing or proposed special taxes or assessments which affect
18 such lands;

19 (4) A statement of the use for which the property is offered;
20 including but not limited to:

21 (a) Information concerning improvements, including hos-
22 pitals, health and recreational facilities of any kind, streets,
23 water supply, levees, drainage control systems, irrigation sys-
24 tems, sewage disposal facilities and customary utilities; and

25 (b) the estimated cost, date of completion and responsibility
26 for construction and maintenance of existing and proposed
27 improvements which are referred to in connection with the
28 offering or disposition of any interest in the subdivision or
29 subdivided lands;

30 (5) Additional information required by the commission to assure
31 full and fair disclosure to prospective purchasers.

32 b. The public offering statement shall not be used for any pro-
33 motional purposes before registration of the subdivided lands and
34 afterwards only if it is used in its entirety. No person may ad-
35 vertise or represent that the commission approves or recommends
36 the subdivided lands or the disposition thereof. No portion of the
37 public offering statement may be underscored, italicized, or printed
38 in larger or heavier or different color type than the remainder of
39 the statement unless the commission requires or permits it.

40 c. The commission may require the subdivider to alter or amend
41 the proposed public offering statement in order to assure full and
42 fair disclosure to prospective purchasers, and no change in the
43 substance of the promotional plan or plan of disposition or de-
44 velopment of the subdivision may be made after registration with-
45 out notifying the commission and without making an appropriate
46 amendment to the public offering statement. A public offering
47 statement is not current unless all amendments are incorporated.

48 d. Any contract or agreement for the purchase or the leasing of
49 a lot may be rescinded by the purchaser without cause of any kind
50 by sending or delivering written notice of *****[rescission]*****
51 *****cancellation***** by midnight of the ****[fourteenth]**** ****sev-**
52 **enth**** calendar day following the day on which the purchaser has

53 executed such contract or agreement. Every such contract or agree-
 54 ment shall in writing, contain the follownig notice in 10-point bold
 55 type or larger, directly above the space provided for the signature
 55A of the purchaser or lessee.

56 NOTICE to PURCHASER or LESSEE you are entitled to
 57 the right ***[of rescission of]*** ****to cancel**** this contract
 58 by midnight of the **[fourteenth]** ****seventh**** calendar day
 59 following the day on which you have executed this contract
 59A or agreement.

1 11. A subdivider may register additional subdivided lands pur-
 2 suant to the same common promotional plan as those previously
 3 registered by submitting another filing providing such additional
 4 information as may be necessary to register the additional lots,
 5 parcels, units or interests are incorporated in such additional filing,
 6 which shall be known as a consolidated filing.

1 12. Within 30 days after each annual anniversary date of an
 2 order registering subdivided lands, or on or before a date set by
 3 the commission, the subdivider of such lands shall file a report in
 4 the form prescribed by the rules of the commission. The report
 5 shall reflect any material changes in information contained in the
 6 original application for registration***; *provided, however, that*
 7 *with respect to any registration filed with and approved by the*
 8 *commission prior to the date of enactment of this act, no additional*
 9 *information shall be required on the subdivided lands covered by*
 10 *such regitsration other than that necessary to indicate any material*
 11 *changes in information contained in the original application for*
 12 *registration***.*

1 13. The commission may:

2 a. Accept registrations filed in other states or with the Federal
 3 Government;

4 b. Grant exemptions if allowed by rules promulgated under sec-
 5 tion 4 c.;

6 c. Contract with similar commissions in this State or other juris-
 7 dictions to perform investigative functions;

8 d. Accept grants in aid from any source;

9 e. The commission may cooperate with similar commissions in
 10 other jurisdictions to establish uniform filing procedures, state-
 11 ments of record and forms, uniform public offering statements,
 12 advertising standards, rules and common administrative practices.

1 14. The commission may:

2 a. Make necessary public or private investigations **[within or
 3 outside of this State]** to determine whether any person has
 4 violated or is about to violate this act or any rule or order here-

5 under, or to aid in the enforcement of this act or in the prescribing
6 of rules and forms hereunder;

7 b. Require or permit any person to file a statement in writing,
8 under oath or otherwise, as the commission determines, as to all
9 the facts and circumstances concerning the matter to be investi-
10 gated;

11 c. For the purpose of any investigation or proceeding under this
12 act, the commission or any officer designated by rule, may admin-
13 ister oaths or affirmations, and upon its own motion or upon request
14 of any party shall subpoena witnesses, compel their attendance, take
15 evidence, and require the production of any matter which is relevant
16 to the investigation, including the existence, description, nature,
17 custody, condition, and location of any books, documents, or other
18 tangible things and the identity and location of persons having
19 knowledge or relevant facts of any other matter reasonably calcu-
20 lated to lead to the discovery of material evidence;

21 d. Upon failure to obey a subpoena or to answer questions pro-
22 pounded by the investigating officer and upon reasonable notice to
23 all persons affected thereby, the commission may apply to the
24 Superior Court for an order compelling compliance.

1 15. a. If the commission determines after notice and hearing that
2 a person has:

3 (1) Violated any provision of this act;

4 (2) Directly or through an agent or employee *****[knowingly]*****
5 engaged in any false, deceptive, or misleading advertising, promo-
6 tional, or sales methods in the State of New Jersey to offer or dis-
7 pose of an interest in the subdivision or subdivided lands;

8 (3) Made any substantial change in the plan of disposition and
9 development of the subdivision or subdivided lands subsequent to
10 the order of registration without obtaining prior written approval
11 from the commission;

12 (4) Disposed of any subdivision or subdivided lands *****[in the**
13 **State of New Jersey]***** which have not been registered with the
14 commission; or

15 (5) Violated any lawful order or rule of the commission;
16 the commission may issue an order requiring the person to cease
17 and desist from the unlawful practice and to take such affirmative
18 action as in the judgment of the commission will carry out the
19 purposes of this act.

20 b. If the commission makes a finding of fact in writing that the
21 public interest will be irreparably harmed by delay in issuing an
22 order, it may issue a temporary cease and desist order. Prior to

23 issuing a temporary cease and desist order, the commission, when-
 24 ever possible by telephone or otherwise, shall give notice to the
 25 subdivider or his agent of the proposal to issue a temporary cease
 26 and desist order. Every temporary cease and desist order shall
 27 include in its terms a provision that upon request a hearing will
 28 be held within *****[45]*** ****15**** days of the receipt of such
 29 request.**

1 16. a. A registration may be revoked after notice and hearing
 2 upon a written finding of fact that the subdivider has:

3 (1) Failed to comply with the terms of a cease and desist order;

4 (2) Been convicted in any court subsequent to the filing of the
 5 application for registration for a crime ****or civil offense**** in-
 6 volving fraud, deception, false pretenses, misrepresentation, false
 7 advertising, dishonest dealing, or other like offense;

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

10 (4) Failed faithfully to perform any stipulation or agreement
 11 made with the commission as an inducement to grant any registra-
 12 tion, to reinstate any registration, or to approve any promotional
 13 plan or public offering statement;

14 (5) Advertised his lands or responded to applications for his
 15 lands in a manner which was discriminatory on the basis of marital
 16 status, sex, race, creed, or national origin; or

17 (6) Made intentional misrepresentation or concealed material
 18 facts in an application for registration filed for registration. Find-
 19 ings of fact, if set forth in statutory language, shall be accompanied
 20 by a concise and explicit statement of the underlying facts support-
 21 ing the findings.

22 b. If the commission finds, after notice and hearing, that the
 23 subdivider has been guilty of a violation for which revocation could
 24 be ordered, it may in lieu thereof issue a cease and desist order.

1 17. a. The commission shall adopt, amend, or repeal such rules
 2 and regulations as are reasonably necessary for the enforcement
 3 of the provisions of this act in accordance with the provisions of
 4 the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B-1
 5 et seq.). The rules *****[may]*** ****shall**** provide for adequate
 6 bonding or *****[access to some fund within this State to insure**
 7 compliance with the provisions of this act and to compensate con-
 8 sumer for failure to registrant to perform in accordance with the
 8A terms of a contract**]****** such other security arrangement as*
 8B *approved by the commissioner* *****[to insure compliance with the**
 8C *provisions of this act]******, such as, but not limited to, requirements****

8D *that such bond or such other security arrangements, shall assure*
8E *that all proposed improvements shall be completed as represented*
8F *by the subdivider***.*

9 b. If it appears that a person has engaged or is about to engage
10 in an act or practice constituting a violation of a provision of this
11 act, or a rule or order hereunder, the commission, with or without
12 prior administrative proceedings, may bring an action in the
13 Superior Court to enjoin the acts or practices and to enforce com-
14 pliance with this act or any rule or order hereunder. Upon proper
15 showing, injunctive relief or temporary restraining orders shall
16 be granted, and a receiver may be appointed. The commission is
17 not required to post a bond in any court proceeding.

18 c. The commission may intervene in a suit involving subdivisions
19 or subdivided lands covered by this act. In any suit, by or against
20 a subdivider involving subdivided lands which may materially
21 affect the rights of purchasers, the subdivider shall promptly
22 furnish the commission notice of the suit and copies of all pleadings.

1 18. a. For purposes of this act, an application for registration
2 submitted to the commission shall be deemed as submission, by the
3 applicant, to the jurisdiction of the New Jersey Courts.

4 b. In addition to the methods of service provided for in the
5 rules governing the New Jersey Courts, service may be made by
6 delivering a copy of the process to the person in charge of the
7 office of the commission at its office, but such service shall not be
8 effective unless the plaintiff, which may be the commission in a
9 proceeding instituted by it:

10 (1) Forthwith sends a copy of the process and of the pleading
11 by certified mail to the defendant or respondent at his last known
12 address; and

13 (2) The plaintiff's affidavit of compliance with this section is
14 filed in the case on or before the return day of the process, if any,
15 or within such further time as the court allows.

16 c. If any person, including any nonresident of this State, en-
17 gaged in conduct prohibited by this act or any rule or order here-
18 under, and has not filed a consent to service of process and personal
19 jurisdiction over him cannot otherwise be obtained in this State,
20 that conduct authorizes the commission to receive service of pro-
21 cess in any noncriminal proceeding against him or his successor
22 which grows out of that conduct and which is brought under this
23 act or any rule or order hereunder, with the same force and validity
24 as if served on him personally. Notice shall be given as provided
25 in subsection a.

1 19. a. Unless the subdivided lands or the transaction is exempt
2 by section 4:

3 (1) No person may offer, dispose or participate ***in this State***
4 in the disposition of subdivided lands ***[in this State]*** ***or***
5 of any interest in subdivided lands ***[within or without this*
6 *State]*** ***unless*** in accordance with ***[subsection f. of section*
6A *2]*** ***the provisions of this act***.

7 (2) No person may dispose or participate in the disposition of
8 any interest in subdivided lands unless a current public offering
9 statement is delivered to the purchaser and the purchaser is af-
10 forded a reasonable opportunity to examine the public offering
11 statement prior to the disposition. Failure to deliver such public
12 offering statement shall result in automatic rescission of any con-
13 tract entered into at the discretion of the purchaser.

1 20. ****a.**** Any person who violates any provision of this act
2 or of a rule adopted under it or any person who in an application for
3 registration filed for registration makes any untrue statement of a
4 material fact or omits to state a material fact shall be guilty of
5 a misdemeanor and shall be fined not less than \$500.00 or double
6 the amount of gain from the transaction, whichever is the larger
7 but not more than \$50,000.00; or he may be imprisoned for not
8 more than 1 year; or both. Any real estate broker or salesman
9 who violates any of the provisions of this act shall, in addition to
10 the penalties set forth herein, be subject to the penalties as set
11 forth in R. S. 45:15-17.

12 ****b. In addition to the assessment of any of the foregoing pen-*
13 *alties, the commission may, after a finding of an unlawful practice*
14 *under this act, order that any moneys which have been acquired by*
15 *means of such unlawful practice be restored to any person in in-*
16 *terest.*

1 21. a. *Any person who suffers any ascertainable loss of moneys*
2 *as a result of the failure of another to comply fully with the terms*
3 *of this act, may bring an action or assert a counterclaim therefor*
4 *in any court of competent jurisdiction. In any action under this*
5 *section in which a defendant is found to have knowingly engaged*
6 *in any false, deceptive, misleading* ****promotional or sales methods*
7 *or discriminatory advertising on the basis of race, sex, creed, color*
8 *or religion,*** *or discriminatory advertising, ***[promotional*
9 *or sales methods,]*** *concealed or* ****fraudulently**** *diverted any*
10 *funds or assets so as to defeat the rights of subdivision purchasers,*
11 *made an intentional misrepresentation or concealed a material fact*
12 *in an application for registration, or disposed of any subdivision*

13 *or subdivided lands required to be registered hereunder which are*
 14 *not so registered, the court shall, in addition to any other appro-*
 15 *prate legal or equitable remedy, award double the damages*
 16 *sustained by any person in interest. In all actions under this section*
 16A *the court shall also award reasonable attorney's fees, filing fees*
 16B *and reasonable costs of suit.*

17 *b. Any party to an action asserting a claim, counterclaim or*
 18 *defense based upon violation of this act shall mail a copy of the*
 19 *initial or responsive pleading containing the claim, counterclaim*
 20 *or defense to the commission within 10 days of the filing of such*
 21 *pleading with the court. Upon application to the court wherein*
 22 *the matter is pending, the commission shall be permitted to inter-*
 23 *vene or to appear in any status appropriate to the matter.****

1 ***[21.]*** **22.** Dispositions of subdivision or subdivided
 2 lands are subject to this act if:

3 **[a. The subdivider's principal office is located in this State;

4 b.]** **a.** Any offer or disposition of subdivided lands is made
 5 in this State; **or**

6 **[c. The subdivision is located in this State; or

7 d.]** **b.** Any offer of subdivided land originating outside this
 8 State is directed by the subdivider or his agent to a person or
 9 resident within this State ***[and received by the person to whom
 9A it is directed]***.

10 In the proceedings for extradition of a person charged with a
 11 **[crime under]** **violation of any of the provisions of** this
 12 act, it need not be shown that the person whose surrender is de-
 13 manded has fled from justice or at the time of the commission of
 13A the **[crime]** **violation** was in the demanding or other state.

1 ***[22.]*** **23.** If any provision of this act or the appli-
 2 cation thereof to any person or ***[circumstances are]*** **cir-
 3 cumstance is*** held invalid, the invalidity ***[does]***
 4 ***shall*** not affect other provisions or applications of the act
 5 which can be given effect without the invalid provisions or appli-
 6 cation, and to this end the provisions of this act are severable.

1 ***[23.]*** **24.** Any broker's registration of a promo-
 2 tional real estate sale filed with the commission by P. L. 1948, c. 155
 3 (C. 45:15-16.1), repealed by this act, shall remain in force and
 4 effect for the remainder of the 12-month period for which it was
 5 issued ***or for any renewal thereof***.

1 ***[24.]*** **25.** P. L. 1948, c. 155, s. 1 (C. 45:15-16.1) is
 2 repealed.

1 ***[25.]*** ***26.*** For the purpose of administering the pro-
2 visions of this act until June 30, 1975 there is appropriated to the
3 Department of Insurance, Division of the New Jersey Real Estate
4 Commission the sum of *[\$100,000.00]* **[\$125,000.00]**
5 **\$27,000.00**.

1 ***[26.]*** ***27.*** This act shall take effect **[180]**
2 ***[**90**]*** ***60*** days after enactment ** **[, *exclusive*
3 *of any registration filed with and approved by the commission*
4 *prior to the effective date of this act**]****.

ASSEMBLY COMMERCE, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
SENATE, No. 909
[2ND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1975

This bill, entitled the "Land Sales Full Disclosure Act," provides for the regulation of the disposition of subdivided lands situated outside the State of New Jersey. It provides for the filing of an application for registration, imposes fees for the registration of subdivisions, and establishes a Bureau of Subdivided Land Sales Control within the Division of the New Jersey Real Estate Commission in the Department of Insurance to administer provisions of this act.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
SENATE, No. 909

STATE OF NEW JERSEY

DATED: APRIL 16, 1974

The "Land Sales Full Disclosure Act" regulates the offering and disposition of subdivided and of ten or more lots both within and outside of the State of New Jersey. It establishes a Bureau of Subdivided Land Sales Control within the Division of the New Jersey Real Estate Commission in the Department of Insurance to administer the act and appropriates it a sum of \$125,000 until June 30, 1975. The purpose of the act is to regulate the offering and sale of subdivided land in order to prevent abuses and protect the public interest. It requires a subdivider to register at the commission's office, naming the New Jersey real estate broker acting as its authorized representative. The commission shall examine applications to assure that advertising and promotional activity is not false, misleading or discriminatory; that there is full disclosure of pertinent information regarding such items as selling price, availability of water, gas, electric, sewage, and telephone facilities, or the physical characteristics of subdivided lands; that the subdivider has not been convicted of previous offenses involving land dispositions. Within 60 days from the date of filing, the commission shall either approve or reject the application to register the subdivision. Initial and annual renewal fees will be imposed upon both in-state and out-of-state applicants. Failure to pay a renewal registration fee shall lead to cancellation of registration. The commission shall determine whether on-site inspection outside the State is required and the applicant will be responsible for such inspection fees. The purchaser or lessee is entitled to the right of rescission of the contract by midnight of the fourteenth calendar day following the day the contract was executed. If one commission determines after notice and hearing that a person has violated provisions of the act, registration may be revoked or action may be brought before the Superior Court to enforce compliance with the act.

This act repeals P. L. 1948, c. 155 s. 1 (C. 45:15-16.1) which concerns out-of-state land sales. It shall take effect 180 days after enactment.

FISCAL NOTE TO
SENATE, No. 909
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1974

The Official Copy Reprint of Senate Bill No. 909 regulates the disposition of land in subdivisions.

The Department of Insurance estimates that enactment of this legislation would produce a net surplus revenue of \$51,220.00 in fiscal 1975-76, the first full year of operation, and a net surplus revenue of \$76,220.00 in fiscal 1976-77. When the Department made the above estimates in August 1974, it was also estimated that were this legislation enacted expeditiously, there would be a deficit of \$17,800.00 for the operative period of time remaining in fiscal 1974-75. However, since the act in its present form does not take effect until 180 days after enactment this portion of the estimate would appear to be academic.

If the bill were now amended to be effective at an earlier date, an appropriation for the period of time prior to July 1, 1975 would be required.

The fiscal note is based on an estimate of costs rather than actual cost information.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.