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P.L. 2007, CHAPTER 292, *approved January 13, 2008*
Senate, No. 2879 (*First Reprint*)

1 AN ACT concerning certain real estate offerings and amending and
2 supplementing P.L.1989, c.239.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 6 of P.L.1989, c.239 (C.45:15-16.32) shall be
8 amended to read as follows:

9 6. a. Unless the method of disposition is adopted for the
10 purpose of evasion of this act, the provisions of this act are not
11 applicable to offers or dispositions of an interest in a subdivision:

12 (1) By an owner for his own account in a single or isolated
13 transaction;

14 (2) Wholly for industrial or commercial purposes;

15 (3) Pursuant to court order;

16 (4) By any governmental agency;

17 (5) As cemetery lots or interests;

18 (6) Of less than 100 lots, parcels, units or interests **];** but, this
19 exemption shall not apply to condominiums, cooperatives,
20 retirement communities and offers or dispositions by entities
21 comprised of or acting on behalf of the owners of other units in the
22 subdivision, including, but not limited to entities designated as
23 homeowners associations, regardless of the number of lots, parcels,
24 units or interests offered or disposed of];

25 (7) Where the common elements or interests, which would
26 otherwise subject the offering to this act, are limited to the
27 provision of unimproved, unencumbered open space, except where
28 registration is required by the "Interstate Land Sales Full Disclosure
29 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of
30 Interstate Land Sales Registration, in the Department of Housing
31 and Urban Development; **[or]** ¹or¹

32 (8) In a development comprised wholly of rental units, where
33 the relationship created is one of landlord and tenant ¹**];** or

34 (9) Involving land on which there is a residential, commercial, or
35 industrial building, or as to which there is a contract obligating the
36 seller or lessor to erect such a building on the land within a period
37 of not more than two years from the date of the offer or
38 disposition]¹ .

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

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

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted December 3, 2007.

- 1 (1) Offers or dispositions of evidences of indebtedness secured
2 by a mortgage or deed of trust of real estate;
- 3 (2) Offers or dispositions of securities or units of interest issued
4 by a real estate investment trust regulated under any State or federal
5 statute;
- 6 (3) Offers or dispositions of securities currently registered with
7 the Bureau of Securities in the Department of Law and Public
8 Safety; or
- 9 (4) Offers or dispositions of any interest in oil, gas or other
10 minerals or any royalty interest therein if the offers or dispositions
11 of such interests are regulated as securities by federal law or by the
12 State Bureau of Securities.

13 c. The commission may, from time to time, pursuant to any rules
14 and regulations promulgated pursuant to this act, exempt from any
15 of the provisions of this act any subdivision or any lots in a
16 subdivision, if it finds that the enforcement of this act with respect
17 to that subdivision or the lots therein, is not necessary in the public
18 interest, or required for the protection of purchasers, by reason of
19 the small amount involved or the limited character of the offering.

20 ¹d. A subdivider or developer who qualifies for and completes
21 secondary registration pursuant to section 2 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) shall be exempt from
23 the registration requirements of section 4 of P.L.1989, c.239
24 (C.45:15-16.30).¹
25 (cf: P.L.2006, c.63, s.38)

26

27 2. (New section) a. ¹【Prior to execution of a contract for the sale
28 of property to, and acceptance of any depository funds from, a
29 purchaser who is a New Jersey resident for an interest in subdivided
30 lands located outside this State upon which there is a completed
31 residential unit or as to which there is a contract obligating the
32 construction and delivery of a completed residential unit, a
33 subdivider who is not registered and whose subdivision qualifies for
34 an exemption pursuant to paragraph (9) of subsection a. of section 6
35 of P.L.1989, c.239 (C.45:15-16.32), shall apply for and receive a
36 notice of completion of a secondary registration of the subdivided
37 lands by providing to the commission:

38 (1) A completed application for secondary registration on a form
39 acceptable to the commission, which shall contain】 A subdivider or
40 developer who owns subdivided land upon which there is a
41 completed residential unit, or for which there is a contract to
42 construct and deliver a completed residential unit by the subdivider
43 or developer or an affiliated or related entity within two years from
44 the date of the offer or disposition, may register as a secondary
45 registration subdivider under this section provided that:

46 (1) the registration is made prior to execution of a contract with,
47 or acceptance of any deposit from, a purchaser of an interest in
48 those lands who is a New Jersey resident;

1 (2) the subdivider is not already registered pursuant to P.L.1989,
2 c. 239 (C.45:15-16.27 et seq.); and
3 (3) the subdivision does not qualify for an exemption pursuant
4 to subsection a. of section 6 of P.L.1989, c.239 (C.45:15-16.32).
5 b. The commission shall establish the format and forms for
6 registration pursuant to this section. The application form shall
7 require at a minimum:
8 (1)¹ the name and address of the property **'[.]** ;
9 (2)¹ the name and address of the 'secondary registration'
10 subdivider **'[.]** ;
11 (3)¹ a description of the particulars of the offering, and a
12 certification by the 'secondary registration' subdivider that: (a) the
13 offering is in compliance with all applicable requirements of
14 governmental agencies having jurisdiction over the offering; (b) the
15 deposit moneys of purchasers who are New Jersey residents will be
16 held in an escrow account, or protected in some other manner
17 acceptable to the commission, until closing of title and delivery of
18 the residential unit; and (c) the 'secondary registration' subdivider
19 can convey, or cause to be conveyed, title to the interest in the
20 offering **'[.]** ;¹
21 **'[(2) Copies]** (4) copies¹ of all forms of conveyance to be used
22 in selling the property to the purchaser, which forms shall include a
23 seven day right of rescission as required by subsection **'[f.] g.'** of
24 this section **'[.]** ;¹
25 **'[(3) Unless]** (5) unless¹ included as part of the forms of
26 conveyance provided pursuant to paragraph **'[(2)] (4)'** of this
27 subsection, a disclosure statement detailing the **'[assessments,]**¹
28 common **'[elements, and]** property, if any, of the community,¹
29 obligations of **'[any applicable homeowners]** the owners and the
30 assessments of a homeowners'¹ association 'formed to manage
31 common property, if any'¹, mandatory club membership, and special
32 taxing district affecting the property being offered. The commission
33 may accept disclosure statements approved for use in the
34 jurisdiction where the property is located **'[.]** ;¹
35 **'[(4) A]** (6) a¹ certification that the 'secondary registration'
36 subdivider has not, or if a corporation, its officers, directors, and
37 principals have not, been convicted of a crime or civil offense
38 involving land dispositions or any aspect of the land sales business
39 in this State, the United States, or any other state or foreign country;
40 and that the **'[developer]** secondary registration subdivider'¹ has not
41 been subject to any permanent injunction or final administrative
42 order restraining a false and misleading promotional plan involving
43 real property dispositions, the seriousness of which in the opinion
44 of the commission warrants the denial of secondary registration **'[.]**
45 ;¹

1 '[(5) A] (7) a' consent to service of process and jurisdiction of
2 the Courts of the State of New Jersey as provided in section 19 of
3 P.L.1989, c.239 (C.45:16-16.45) '[] ; and'

4 '[(6) A] (8) a' filing fee as prescribed in section 8 of P.L.1989,
5 c.239 (C.45:15-16.34).

6 '[b.] c.' The commission shall, within 30 days of receipt of a
7 substantially completed application, including all filing fees,
8 provide the '[applicant] secondary registration subdivider' with a
9 notice of completion of the secondary registration or a notice of
10 deficiency. If the commission does not provide a notice of
11 completion or deficiency within 30 days, the secondary registration
12 shall be deemed complete.

13 '[c.] d.' A 'secondary registration' subdivider who files an
14 application for secondary registration under this section shall
15 immediately report any material changes in the application or the
16 offering, but shall be exempt from the annual reporting
17 requirements under section 14 of P.L.1989, c.239 (C.45:15-16.40).

18 '[d.] e.' Prior to filing an application for secondary registration
19 under this section and up to the time of the issuance of a notice of
20 completion or the secondary registration is deemed complete
21 pursuant to subsection '[b.] c.' of this section, a 'secondary
22 registration' subdivider with an interest in subdivided lands
23 described in subsection a. of this section, may respond to inquiries
24 'initiated' by New Jersey residents in response to the '[applicant's]
25 secondary registration subdivider's website or' multi-state
26 advertising by providing 'general' information about the subdivided
27 lands being offered, including '[, without limitation,]' sales prices
28 ', and by forwarding advertising materials'. However, until a notice
29 of completion for the subdivided land is issued, or the secondary
30 registration is deemed complete pursuant to subsection '[b.] c.' of
31 this section, a 'secondary registration' subdivider shall not engage
32 in the following acts in this State concerning the subdivided lands:
33 (1) '[sign] offer' a contract; (2) collect deposit moneys; 'or' (3)
34 '[send unsolicited direct mail containing advertising; or (4)
35 maintain a booth at a trade show, convention, or similar exhibition]
36 subsidize travel to the subdivided property. Except as permitted by
37 this section, a secondary registration subdivider shall not otherwise
38 offer, dispose, or participate in this State in the disposition, of
39 subdivided land or of any interest in subdivided land and shall not
40 direct such an offer or disposition into the State'.

41 '[e.] f.' Prior to the execution of a contract for sale of
42 subdivided lands described in subsection a. of this section, a
43 'secondary registration' subdivider shall, unless included as part of
44 the forms of conveyance provided pursuant to paragraph '[(2)] (4)'
45 of subsection '[a.] b.' of this section, provide to a purchaser a

1 copy of the disclosure statement described in paragraph ~~'[(3)] (5)'~~
2 of subsection ~~'[a.] b.'~~ of this section, and obtain a signed receipt
3 from the purchaser stating that the disclosure statement has been
4 received.

5 ~~'[f.] g.'~~ A contract for the purchase of subdivided lands
6 described in subsection a. of this section may be rescinded by the
7 purchaser without cause of any kind by sending or delivering
8 written notice of cancellation by midnight of the seventh calendar
9 day following the day on which the purchaser has executed the
10 contract, or the day the purchaser receives notification from the
11 'secondary registration' subdivider that the 'secondary registration'
12 subdivider has completed secondary registration in accordance with
13 this section, whichever is later.

14 ~~'[g.] h.'~~ Any person who violates any provision of this section
15 or who, in the application for secondary registration, makes any
16 untrue statement of a material fact or omits to state a material fact,
17 shall be fined as provided in section 20 of P.L.1989, c.239
18 (C.45:16-16.46).

19 ~~'[h.] i.'~~ The provisions of this section shall not apply to the
20 offering of subdivided lands in situations in which registration is
21 required by the "Interstate Land Sales Full Disclosure Act," Pub. L.
22 90-448 (15 U.S.C. s.1701 et seq.) with the Office of Interstate Land
23 Sales Registration, in the Department of Housing and Urban
24 Development.

25

26 3. This act shall take effect immediately.

27

28

29

30

31 Requires secondary registration for certain out-of-State
32 properties to be advertised to New Jersey residents.

SENATE, No. 2879

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED NOVEMBER 8, 2007

Sponsored by:
Senator JOHN H. ADLER
District 6 (Camden)

SYNOPSIS

Modifies real estate sales registration requirements for certain properties.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain real estate offerings and amending and
2 supplementing P.L.1989, c.239.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 6 of P.L.1989, c.239 (C.45:15-16.32) shall be
8 amended to read as follows:

9 6. a. Unless the method of disposition is adopted for the
10 purpose of evasion of this act, the provisions of this act are not
11 applicable to offers or dispositions of an interest in a subdivision:

12 (1) By an owner for his own account in a single or isolated
13 transaction;

14 (2) Wholly for industrial or commercial purposes;

15 (3) Pursuant to court order;

16 (4) By any governmental agency;

17 (5) As cemetery lots or interests;

18 (6) Of less than 100 lots, parcels, units or interests **];** but, this
19 exemption shall not apply to condominiums, cooperatives,
20 retirement communities and offers or dispositions by entities
21 comprised of or acting on behalf of the owners of other units in the
22 subdivision, including, but not limited to entities designated as
23 homeowners associations, regardless of the number of lots, parcels,
24 units or interests offered or disposed of**];**

25 (7) Where the common elements or interests, which would
26 otherwise subject the offering to this act, are limited to the
27 provision of unimproved, unencumbered open space, except where
28 registration is required by the "Interstate Land Sales Full Disclosure
29 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of
30 Interstate Land Sales Registration, in the Department of Housing
31 and Urban Development; **[or]**

32 (8) In a development comprised wholly of rental units, where
33 the relationship created is one of landlord and tenant **;or**

34 (9) Involving land on which there is a residential, commercial,
35 or industrial building, or as to which there is a contract obligating
36 the seller or lessor to erect such a building on the land within a
37 period of not more than two years from the date of the offer or
38 disposition.

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

42 (1) Offers or dispositions of evidences of indebtedness secured
43 by a mortgage or deed of trust of real estate;

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

Matter underlined thus is new matter.

1 (2) Offers or dispositions of securities or units of interest issued
2 by a real estate investment trust regulated under any State or federal
3 statute;

4 (3) Offers or dispositions of securities currently registered with
5 the Bureau of Securities in the Department of Law and Public
6 Safety; or

7 (4) Offers or dispositions of any interest in oil, gas or other
8 minerals or any royalty interest therein if the offers or dispositions
9 of such interests are regulated as securities by federal law or by the
10 State Bureau of Securities.

11 c. The commission may, from time to time, pursuant to any
12 rules and regulations promulgated pursuant to this act, exempt from
13 any of the provisions of this act any subdivision or any lots in a
14 subdivision, if it finds that the enforcement of this act with respect
15 to that subdivision or the lots therein, is not necessary in the public
16 interest, or required for the protection of purchasers, by reason of
17 the small amount involved or the limited character of the offering.

18 (cf: P.L.2006, c.63, s.38)

19

20 2. (New section) a. Prior to execution of a contract for the sale of
21 property to, and acceptance of any depository funds from, a purchaser
22 who is a New Jersey resident for an interest in subdivided lands
23 located outside this State upon which there is a completed residential
24 unit or as to which there is a contract obligating the construction and
25 delivery of a completed residential unit, a subdivider who is not
26 registered and whose subdivision qualifies for an exemption pursuant
27 to paragraph (9) of subsection a. of section 6 of P.L.1989, c.239
28 (C.45:15-16.32), shall apply for and receive a notice of completion of
29 a secondary registration of the subdivided lands by providing to the
30 commission:

31 (1) A completed application for secondary registration on a form
32 acceptable to the commission, which shall contain the name and
33 address of the property, the name and address of the subdivider, a
34 description of the particulars of the offering, and a certification by the
35 subdivider that: (a) the offering is in compliance with all applicable
36 requirements of governmental agencies having jurisdiction over the
37 offering; (b) the deposit moneys of purchasers who are New Jersey
38 residents will be held in an escrow account, or protected in some other
39 manner acceptable to the commission, until closing of title and
40 delivery of the residential unit; and (c) the subdivider can convey, or
41 cause to be conveyed, title to the interest in the offering.

42 (2) Copies of all forms of conveyance to be used in selling the
43 property to the purchaser, which forms shall include a seven day right
44 of rescission as required by subsection f. of this section.

45 (3) Unless included as part of the forms of conveyance provided
46 pursuant to paragraph (2) of this subsection, a disclosure statement
47 detailing the assessments, common elements, and obligations of any
48 applicable homeowners association, mandatory club membership, and

1 special taxing district affecting the property being offered. The
2 commission may accept disclosure statements approved for use in the
3 jurisdiction where the property is located.

4 (4) A certification that the subdivider has not, or if a corporation,
5 its officers, directors, and principals have not, been convicted of a
6 crime or civil offense involving land dispositions or any aspect of the
7 land sales business in this State, the United States, or any other state or
8 foreign country; and that the developer has not been subject to any
9 permanent injunction or final administrative order restraining a false
10 and misleading promotional plan involving real property dispositions,
11 the seriousness of which in the opinion of the commission warrants the
12 denial of secondary registration.

13 (5) A consent to service of process and jurisdiction of the Courts of
14 the State of New Jersey as provided in section 19 of P.L.1989, c.239
15 (C.45:16-16.45).

16 (6) A filing fee as prescribed in section 8 of P.L.1989, c.239
17 (C.45:15-16.34).

18 b. The commission shall, within 30 days of receipt of a
19 substantially completed application, including all filing fees, provide
20 the applicant with a notice of completion of the secondary registration
21 or a notice of deficiency. If the commission does not provide a notice
22 of completion or deficiency within 30 days, the secondary registration
23 shall be deemed complete.

24 c. A subdivider who files an application for secondary
25 registration under this section shall immediately report any material
26 changes in the application or the offering, but shall be exempt from the
27 annual reporting requirements under section 14 of P.L.1989, c.239
28 (C.45:15-16.40).

29 d. Prior to filing an application for secondary registration under
30 this section and up to the time of the issuance of a notice of completion
31 or the secondary registration is deemed complete pursuant to
32 subsection b. of this section, a subdivider with an interest in
33 subdivided lands described in subsection a. of this section, may
34 respond to inquiries by New Jersey residents in response to the
35 applicant's multi-state advertising by providing information about the
36 subdivided lands being offered, including, without limitation, sales
37 prices. However, until a notice of completion for the subdivided land
38 is issued, or the secondary registration is deemed complete pursuant to
39 subsection b. of this section, a subdivider shall not engage in the
40 following acts in this State concerning the subdivided lands: (1) sign a
41 contract; (2) collect deposit moneys; (3) send unsolicited direct mail
42 containing advertising; or (4) maintain a booth at a trade show,
43 convention, or similar exhibition.

44 e. Prior to the execution of a contract for sale of subdivided lands
45 described in subsection a. of this section, a subdivider shall, unless
46 included as part of the forms of conveyance provided pursuant to
47 paragraph (2) of subsection a. of this section, provide to a purchaser a
48 copy of the disclosure statement described in paragraph (3) of

1 subsection a. of this section, and obtain a signed receipt from the
2 purchaser stating that the disclosure statement has been received.

3 f. A contract for the purchase of subdivided lands described in
4 subsection a. of this section may be rescinded by the purchaser
5 without cause of any kind by sending or delivering written notice of
6 cancellation by midnight of the seventh calendar day following the
7 day on which the purchaser has executed the contract, or the day the
8 purchaser receives notification from the subdivider that the
9 subdivider has completed secondary registration in accordance with
10 this section, whichever is later.

11 g. Any person who violates any provision of this section or
12 who, in the application for secondary registration, makes any untrue
13 statement of a material fact or omits to state a material fact, shall be
14 fined as provided in section 20 of P.L.1989, c.239 (C.45:16-16.46).

15 h. The provisions of this section shall not apply to the offering of
16 subdivided lands in situations in which registration is required by the
17 "Interstate Land Sales Full Disclosure Act," Pub. L. 90-448 (15 U.S.C.
18 s.1701 et seq.) with the Office of Interstate Land Sales Registration, in
19 the Department of Housing and Urban Development.

20

21 3. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill amends the "Real Estate Sales Full Disclosure Act,"
27 P.L.1989, c.239 (C.45:15-16.27 et seq.), to exempt certain
28 subdivided properties located out-of-State from the act's
29 registration requirements. The act currently requires developers to
30 register out-of-state subdivided properties with the New Jersey Real
31 Estate Commission and to comply with certain disclosure
32 requirements prior to their advertisement, sale, or lease within the
33 State. The bill also provides a secondary registration requirement
34 for certain transactions that are otherwise exempt from the act's
35 registration requirements.

36 The bill exempts from the act out-of-State subdivided land on
37 which there is a residential, commercial, or industrial building or
38 which is under a contract obligating the seller or lessor to erect such
39 a building on the land within a period of two years. By exempting
40 these properties from the act, the bill is intended to provide New
41 Jersey consumers with greater opportunities to obtain information
42 from developers about out-of-State properties that are already
43 developed or that are subject to contractual protections that ensure
44 that they will be developed, as these types of properties present less
45 risk that they will not be developed in accordance with the
46 consumer's expectations.

47 In addition, the bill requires subdividers to comply with a
48 secondary registration requirement, prior to execution of a contract

1 for the sale of property to, and acceptance of any depository funds
2 from, a purchaser who is a New Jersey resident for an interest in
3 subdivided lands located outside this State upon which there is a
4 completed residential unit or as to which there is a contract obligating
5 the construction and delivery of a completed residential unit.

6 In these circumstances, a subdivider who is not registered under
7 the act and whose subdivision qualifies for the exemption provided by
8 this bill, as described above, must apply for and receive a notice of
9 completion of a secondary registration of the subdivided lands by
10 providing certain documents to the commission.

11 These documents include: a completed secondary registration
12 application; copies of all conveyance forms; a disclosure statement
13 indicating certain specified information about the property; a
14 certification that the subdivider has not been convicted of a crime or
15 been subject to certain other restraints; a consent to service of process
16 in the State; and a filing fee. The commission must take action on the
17 application within 30 days, or else the application is deemed complete.

18 The bill also provides that prior to receiving a notice of completion
19 of the secondary registration, a subdivider may respond to inquiries
20 about the property from New Jersey residents, but shall not engage in
21 certain acts with respect to the land, related to contracting and
22 advertising. The bill also provides a seven-day right of rescission to
23 the purchaser to cancel the contract for any reason within that time.
24 Finally, the bill requires the subdivider to provide the purchaser, prior
25 to execution of a contract, a copy of the disclosure statement filed with
26 the commission.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2879

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2007

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2879.

As amended, this bill amends the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.), by making changes to registration requirements for real estate sales of certain properties. The bill removes the registration exemption for condominiums, cooperatives and retirement communities, and offers or dispositions by homeowners associations, with less than 100 units. The bill exempts certain subdivided properties located out-of-State from the act's current registration requirements if the owners register as secondary registration subdividers. The act currently requires developers to register out-of-State subdivided properties with the New Jersey Real Estate Commission ("commission") and to comply with certain disclosure requirements prior to their advertisement, sale, or lease within the State.

The amended bill creates the secondary registration requirement for owners of out-of-State subdivided land on which there is a completed residential unit or which is under a contract obligating the completion of a residential unit by the subdivider or developer within a period of two years from the date of offer or disposition. By exempting these properties from the current registration requirements, the bill is intended to provide New Jersey consumers with greater opportunities to obtain information from developers about out-of-State properties that are already developed or that are subject to contractual protections that ensure that they will be developed, as these types of properties present less risk that they will not be developed in accordance with the consumer's expectations.

The amended bill requires subdividers to comply with a secondary registration requirement prior to execution of a contract for the sale to, and acceptance of any depository funds from, a purchaser who is a New Jersey resident of an interest in subdivided lands located outside this State upon which there is a completed residential unit or as to which there is a contract obligating the construction and delivery of a completed residential unit.

In these circumstances, a “secondary registration subdivider” who is not registered under the act and whose subdivision qualifies for the exemption provided by this bill, as described above, must apply for and receive a notice of completion of a secondary registration of the subdivided lands by providing certain documents to the commission.

These documents include: a completed secondary registration application; copies of all conveyance forms; a disclosure statement indicating certain specified information about the property; a certification that the subdivider has not been convicted of a crime or been subject to certain other restraints; a consent to service of process in the State; and a filing fee. The commission must take action on the application within 30 days, or else the application is deemed complete.

The amended bill also provides that prior to receiving a notice of completion of the secondary registration, a secondary registration subdivider may respond to inquiries about the property initiated by New Jersey residents in response to the subdivider’s website or multi-state advertising by providing general information about the land and by forwarding advertising materials, but may not otherwise direct offers or dispositions into the State. The bill also specifies certain practices that the subdivider must not engage in until the secondary registration is completed: offering a contract, collecting deposit moneys, and subsidizing travel to the property. The bill also provides a seven-day right of rescission to the purchaser to cancel the contract for any reason within that time. Finally, the bill requires the subdivider to provide the purchaser, prior to execution of a contract, a copy of the disclosure statement filed with the commission.

The committee amended the bill to remove the exemption from the bill for out-of-State subdivided land on which there is a residential, commercial, or industrial building, and revise the secondary registration requirement for a subdivider who is not already registered and who does not qualify for certain registration exemptions.

The amendments also clarify that a “secondary registration subdivider” must register prior to a sale to a New Jersey resident of out-of-State subdivided land on which there is a completed residential unit or for a residential unit which is under a contract for completion within a period of two years from the date of offer or disposition.

The amendments provide that a secondary registration subdivider may respond to inquiries about the property initiated by New Jersey residents in response to the subdivider’s website or multi-state advertising by providing general information about the land and by forwarding advertising materials, but may not otherwise direct offers or dispositions into the State. The amendments also specify certain practices that the subdivider must not engage in until the secondary registration is completed: offering a contract, collecting deposit moneys, and subsidizing travel to the property.

As amended, this bill is identical to Assembly Bill No. 4033 (1R), amended and reported by the Assembly Housing and Local Government Committee on November 19, 2007.

ASSEMBLY, No. 4033

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 26, 2007

Sponsored by:

Assemblyman MICHAEL J. PANTER

District 12 (Mercer and Monmouth)

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

SYNOPSIS

Exempts certain properties from real estate sales registration requirements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/9/2007)

1 AN ACT concerning certain real estate offerings and amending
2 P.L.1989, c.239.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
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10 purpose of evasion of this act, the provisions of this act are not
11 applicable to offers or dispositions of an interest in a subdivision:

12 (1) By an owner for his own account in a single or isolated
13 transaction;

14 (2) Wholly for industrial or commercial purposes;

15 (3) Pursuant to court order;

16 (4) By any governmental agency;

17 (5) As cemetery lots or interests;

18 (6) Of less than 100 lots, parcels, units or interests; but, this
19 exemption shall not apply to condominiums, cooperatives,
20 retirement communities and offers or dispositions by entities
21 comprised of or acting on behalf of the owners of other units in the
22 subdivision, including, but not limited to entities designated as
23 homeowners associations, regardless of the number of lots, parcels,
24 units or interests offered or disposed of;

25 (7) Where the common elements or interests, which would
26 otherwise subject the offering to this act, are limited to the
27 provision of unimproved, unencumbered open space, except where
28 registration is required by the "Interstate Land Sales Full Disclosure
29 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of
30 Interstate Land Sales Registration, in the Department of Housing
31 and Urban Development; **[or]**

32 (8) In a development comprised wholly of rental units, where
33 the relationship created is one of landlord and tenant ; or

34 (9) Involving land on which there is a residential, commercial,
35 or industrial building, or as to which there is a contract obligating
36 the seller or lessor to erect such a building on the land within a
37 period of not more than two years from the date of the offer or
38 disposition.

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

42 (1) Offers or dispositions of evidences of indebtedness secured
43 by a mortgage or deed of trust of real estate;

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

Matter underlined thus is new matter.

1 (2) Offers or dispositions of securities or units of interest issued
2 by a real estate investment trust regulated under any State or federal
3 statute;

4 (3) Offers or dispositions of securities currently registered with
5 the Bureau of Securities in the Department of Law and Public
6 Safety; or

7 (4) Offers or dispositions of any interest in oil, gas or other
8 minerals or any royalty interest therein if the offers or dispositions
9 of such interests are regulated as securities by federal law or by the
10 State Bureau of Securities.

11 c. The commission may, from time to time, pursuant to any
12 rules and regulations promulgated pursuant to this act, exempt from
13 any of the provisions of this act any subdivision or any lots in a
14 subdivision, if it finds that the enforcement of this act with respect
15 to that subdivision or the lots therein, is not necessary in the public
16 interest, or required for the protection of purchasers, by reason of
17 the small amount involved or the limited character of the offering.

18 (cf: P.L.2006, c.63, s.38)

19

20 2. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill amends the “Real Estate Sales Full Disclosure Act,”
26 P.L.1989, c.239 (C.45:15-16.27 et seq.), to exempt certain
27 subdivided properties located out of state from the act’s
28 requirements. The act currently requires developers to register out-
29 of-state subdivided properties with the New Jersey Real Estate
30 Commission and to comply with certain disclosure requirements
31 prior to their advertisement, sale, or lease within the State.

32 The bill exempts from the act out-of-state subdivided land on
33 which there is a residential, commercial, or industrial building or
34 which is under a contract obligating the seller or lessor to erect such
35 a building on the land within a period of two years. By exempting
36 these properties from the act, the bill is intended to provide New
37 Jersey consumers with greater opportunities to obtain information
38 from developers about out-of-state properties that are already
39 developed or that are subject to contractual protections that ensure
40 that they will be developed, as these types of properties present less
41 risk that they will not be developed in accordance with the
42 consumer’s expectations.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4033

STATE OF NEW JERSEY

DATED: MAY 17, 2007

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 4033.

This bill amends the “Real Estate Sales Full Disclosure Act,” P.L.1989, c.239 (C.45:15-16.27 et seq.), to exempt certain subdivided properties located out of state from the act’s requirements. The act currently requires developers to register out-of-state subdivided properties with the New Jersey Real Estate Commission and to comply with certain disclosure requirements prior to their advertisement, sale, or lease within the State.

The bill exempts from the act out-of-state subdivided land on which there is a residential, commercial, or industrial building or which is under a contract obligating the seller or lessor to erect such a building on the land within a period of two years. By exempting these properties from the act, the bill is intended to provide New Jersey consumers with greater opportunities to obtain information from developers about out-of-state properties that are already developed or that are subject to contractual protections that ensure that they will be developed, as these types of properties present less risk that they will not be developed in accordance with the consumer’s expectations.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4033

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 19, 2007

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 4033 with committee amendments.

This bill makes changes to registration requirements for real estate sales of certain properties. The bill removes the registration exemption for condominiums, cooperatives and retirement communities, and offers or dispositions by homeowners associations, with less than 100 units.

As amended, this bill amends the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.), to exempt certain subdivided properties located out-of-State from the act's current registration requirements if the owners register as secondary registration subdividers. The act currently requires developers to register out-of-State subdivided properties with the New Jersey Real Estate Commission ("commission") and to comply with certain disclosure requirements prior to their advertisement, sale, or lease within the State.

The amended bill creates the secondary registration requirement for owners of out-of-State subdivided land on which there is a completed residential unit or which is under a contract obligating the completion of a residential unit by the subdivider or developer within a period of two years from the date of offer or disposition. By exempting these properties from the current registration requirements, the bill is intended to provide New Jersey consumers with greater opportunities to obtain information from developers about out-of-State properties that are already developed or that are subject to contractual protections that ensure that they will be developed, as these types of properties present less risk that they will not be developed in accordance with the consumer's expectations.

The amended bill requires subdividers to comply with a secondary registration requirement prior to execution of a contract for the sale to, and acceptance of any depository funds from, a purchaser who is a New Jersey resident of an interest in subdivided lands located outside this State upon which there is a completed residential unit or as to

which there is a contract obligating the construction and delivery of a completed residential unit.

In these circumstances, a subdivider who is not registered under the act and whose subdivision qualifies for the exemption provided by this bill, as described above, must apply for and receive a notice of completion of a secondary registration of the subdivided lands by providing certain documents to the commission.

These documents include: a completed secondary registration application; copies of all conveyance forms; a disclosure statement indicating certain specified information about the property; a certification that the subdivider has not been convicted of a crime or been subject to certain other restraints; a consent to service of process in the State; and a filing fee. The commission must take action on the application within 30 days, or else the application is deemed complete.

The amended bill also provides that prior to receiving a notice of completion of the secondary registration, a subdivider may respond to inquiries about the property from New Jersey residents, but shall not engage in certain acts with respect to the land, related to contracting and advertising. The bill also provides a seven-day right of rescission to the purchaser to cancel the contract for any reason within that time. Finally, the bill requires the subdivider to provide the purchaser, prior to execution of a contract, a copy of the disclosure statement filed with the commission.

COMMITTEE AMENDMENTS:

The committee amendments remove the exemption from the act for out-of-State subdivided land on which there is a residential, commercial or industrial building, and replaces it with a new secondary registration requirement for a subdivider who is not already registered and who does not qualify for certain registration exemptions. The subdivider must register prior to a sale to a New Jersey resident of out-of-State subdivided land on which there is a completed residential unit or for a residential unit which is under a contract for completion within a period of two years from the date of offer or disposition.

Such subdivider must complete an application including information about the property and offering, submit other documents including disclosure statements and consent to service of process by the court, and pay a filing fee.

The amendments provide that a subdivider who is not registered under the act may respond to inquiries about a property by New Jersey residents, but may not advertise or enter into contracts for the property. The amendments state that the subdivider may provide the purchaser with the disclosure statements. Finally, the amendments also create a seven day right of rescission to the purchaser to cancel the contract.