

## CHAPTER 292

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

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

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

C.45:15-16.32 Inapplicability to offers, dispositions of an interest in a subdivision.

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

- (1) By an owner for his own account in a single or isolated transaction;
- (2) Wholly for industrial or commercial purposes;
- (3) Pursuant to court order;
- (4) By any governmental agency;
- (5) As cemetery lots or interests;
- (6) Of less than 100 lots, parcels, units or interests;
- (7) Where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space, except where registration is required by the "Interstate Land Sales Full Disclosure Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of Interstate Land Sales Registration, in the Department of Housing and Urban Development; or
- (8) In a development comprised wholly of rental units, where the relationship created is one of landlord and tenant.

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

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

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

d. A subdivider or developer who qualifies for and completes secondary registration pursuant to section 2 of P.L.2007, c.292 (C.45:15-16.30a) shall be exempt from the registration requirements of section 4 of P.L.1989, c.239 (C.45:15-16.30).

C.45:15-16.30a Registration as secondary registration subdivider.

2. a. A subdivider or developer who owns subdivided land upon which there is a completed residential unit, or for which there is a contract to construct and deliver a

completed residential unit by the subdivider or developer or an affiliated or related entity within two years from the date of the offer or disposition, may register as a secondary registration subdivider under this section provided that:

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

(2) the subdivider is not already registered pursuant to P.L.1989, c.239 (C.45:15-16.27 et seq.); and

(3) the subdivision does not qualify for an exemption pursuant to subsection a. of section 6 of P.L.1989, c.239 (C.45:15-16.32).

b. The commission shall establish the format and forms for registration pursuant to this section. The application form shall require at a minimum:

(1) the name and address of the property;

(2) the name and address of the secondary registration subdivider;

(3) a description of the particulars of the offering, and a certification by the secondary registration subdivider that: (a) the offering is in compliance with all applicable requirements of governmental agencies having jurisdiction over the offering; (b) the deposit moneys of purchasers who are New Jersey residents will be held in an escrow account, or protected in some other manner acceptable to the commission, until closing of title and delivery of the residential unit; and (c) the secondary registration subdivider can convey, or cause to be conveyed, title to the interest in the offering;

(4) copies of all forms of conveyance to be used in selling the property to the purchaser, which forms shall include a seven day right of rescission as required by subsection g. of this section;

(5) unless included as part of the forms of conveyance provided pursuant to paragraph (4) of this subsection, a disclosure statement detailing the common property, if any, of the community, obligations of the owners and the assessments of a homeowners' association formed to manage common property, if any, mandatory club membership, and special taxing district affecting the property being offered. The commission may accept disclosure statements approved for use in the jurisdiction where the property is located;

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

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

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

c. The commission shall, within 30 days of receipt of a substantially completed application, including all filing fees, provide the secondary registration subdivider with a notice of completion of the secondary registration or a notice of deficiency. If the commission does not provide a notice of completion or deficiency within 30 days, the secondary registration shall be deemed complete.

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

e. Prior to filing an application for secondary registration under this section and up to the time of the issuance of a notice of completion or the secondary registration is deemed complete pursuant to subsection c. of this section, a secondary registration subdivider with an interest in subdivided lands described in subsection a. of this section, may respond to inquiries initiated by New Jersey residents in response to the secondary registration subdivider's website or multi-state advertising by providing general information about the subdivided lands being offered, including sales prices, and by forwarding advertising materials. However, until a notice of completion for the subdivided land is issued, or the secondary registration is deemed complete pursuant to subsection c. of this section, a secondary registration subdivider shall not engage in the following acts in this State concerning the subdivided lands: (1) offer a contract; (2) collect deposit moneys; or (3) subsidize travel to the subdivided property. Except as permitted by this section, a secondary registration subdivider shall not otherwise offer, dispose, or participate in this State in the disposition, of subdivided land or of any interest in subdivided land and shall not direct such an offer or disposition into the State.

f. Prior to the execution of a contract for sale of subdivided lands described in subsection a. of this section, a secondary registration subdivider shall, unless included as part of the forms of conveyance provided pursuant to paragraph (4) of subsection b. of this section, provide to a purchaser a copy of the disclosure statement described in paragraph (5) of subsection b. of this section, and obtain a signed receipt from the purchaser stating that the disclosure statement has been received.

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

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

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

3. This act shall take effect immediately.

Approved January 13, 2008.