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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 4. REAL ESTATE [10000 - 11506] (*Division 4 added by Stats. 1943, Ch. 127.*)

PART 1. LICENSING OF PERSONS [10000 - 10580] (*Part 1 added by Stats. 1943, Ch. 127.*)

CHAPTER 3. Real Estate Regulations [10130 - 10249.93] (*Chapter 3 added by Stats. 1943, Ch. 127.*)

ARTICLE 8. Out-of-State Land Promotions [10249 - 10249.93] (*Article 8 added by Stats, 1963, Ch. 1819.*)

10249. (a) A person acting as a principal or agent who intends, in this state, to sell or lease or offer for sale or lease lots, parcels, or interests in a subdivision, as defined in Section 10249.1, situated outside of this state but within the United States, shall, prior to a sale, lease, or offer, register the subdivision with the commissioner. An application for registration shall be made on a form acceptable to the commissioner and include, together with a fee, a description of the offering, certification by the applicant that the subdivision is in compliance with all applicable requirements of the state or states wherein the project is located, evidence of this compliance, if applicable, and a consent to service as described in Section 10249.92.

(b) The commissioner, within 10 days of receipt of an application of registration, shall provide the applicant with notice of the completion of the registration or a notice of deficiency. If the department does not provide a notice within 10 days, the registration shall be deemed complete.

(Amended by Stats. 1996, Ch. 587, Sec. 8. Effective January 1, 1997.)

10249.1. "Subdivision," as used in Section 10249, includes all of the following:

(a) Improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels.

(b) Improved or unimproved land or lands in which, for the purpose of sale or lease, whether immediate or future, five or more undivided interests are created or proposed to be created.

(c) "Subdivision," as defined in Section 11004.5, excluding "subdivision" as defined in subdivision (e) of that section.

(Amended by Stats. 1995, Ch. 723, Sec. 3.5. Effective January 1, 1996.)

10249.3. (a) The commissioner may by regulation prescribe filing fees in connection with registrations with the department pursuant to the provisions of this article that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this article. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed. At this hearing, the department shall report on the financial status of the department, including the revenues, expenditures, and reserves as of the end of the previous fiscal year. The department shall post a hearing notice 15 days in advance of the hearing that includes the required information about the financial status of the department.

(b) The filing fee for an application for a registration with the department pursuant to the provisions of this article shall be set at the amount prescribed below and shall not exceed the maximum specified for each subdivision or phase of the subdivision in which interests are to be offered for sale or lease:

(1) An application for an original registration: One hundred dollars (\$100), not to exceed one hundred thirty dollars (\$130).

(2) An application for a renewal registration: One hundred dollars (\$100), not to exceed one hundred thirty dollars (\$130).

(3) An application for an amended registration: One hundred dollars (\$100), not to exceed one hundred thirty dollars (\$130).

(c) All fees collected by the Department of Real Estate under authority of this article shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. All fees received by the department pursuant to the provisions of this

article shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as a result of mistake or inadvertence.

(Amended by Stats. 2024, Ch. 41, Sec. 14. (SB 164) Effective June 29, 2024.)

10249.8. (a) Notwithstanding any provision to the contrary in Section 10249 or 11000, it is unlawful for a person, in this state, to sell or lease or offer for sale or lease lots, parcels, or interests in a subdivision, as defined in Section 10249.1, entirely located outside of this state but within the United States, unless any printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in at least 10-point type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT INSPECTED, EXAMINED, OR QUALIFIED THIS OFFERING.

(b) If an offer on property described in subdivision (a) is not initially made in writing, the disclaimer set forth in subdivision (c) shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(c) If a California resident is presented with an agreement or contract to lease or purchase any property described in subdivision (a), when an offer to lease or purchase that property was made to that resident in California, a copy of the disclaimer set forth in this subdivision shall be inserted in at least 10-point type at the top of the first page of that agreement or contract and shall be initialed by that California resident.

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT QUALIFIED, INSPECTED, OR EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE STATE WHERE THIS SUBDIVISION IS SITUATED.

(Amended by Stats. 2021, Ch. 431, Sec. 26. (SB 800) Effective January 1, 2022.)

10249.9. (a) Notwithstanding any provision to the contrary in Section 10249 or 11000, it is unlawful for a person, in this state, to sell or lease or offer for sale or lease a lot, parcel, or interest in a subdivision, located outside the United States, unless the printed material, literature, advertising, or invitation in this state relating to that sale, lease, or offer clearly and conspicuously contains the following disclaimer in at least 10-point capital type:

WARNING: THE CALIFORNIA DEPARTMENT OF REAL ESTATE HAS NOT EXAMINED THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE PROJECT COMPLETION, ESCROW PRACTICES, CONTROL OVER PROJECT MANAGEMENT, RACIALLY DISCRIMINATORY PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE FOR YOU TO CONSULT AN ATTORNEY OR OTHER KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE AND DEVELOPMENT LAW IN THE COUNTRY WHERE THIS SUBDIVISION IS SITUATED.

(b) If an offer on property described in subdivision (a) is not initially made in writing, the foregoing disclaimer shall be received by the offeree in writing prior to a visit to a location, sales presentation, or contact with a person representing the offeror, when the visit or contact was scheduled or arranged by the offeror or its representative. The deposit of the disclaimer in the United States mail, addressed to the offeree and with first-class postage prepaid, at least five days prior to the scheduled or arranged visit or contact, shall be deemed to constitute delivery for purposes of this section.

(c) If any California resident is presented with an agreement or contract to lease or purchase a property described in subdivision (a), when an offer to lease or purchase that property was made to that resident in California, a copy of the disclaimer set forth in

subdivision (a) shall be inserted in at least 10-point type at the top of the first page of that agreement or contract and shall be initialed by that California resident.

(Amended by Stats. 2021, Ch. 431, Sec. 27. (SB 800) Effective January 1, 2022.)

10249.91. The term of a registration issued pursuant to this article shall be one year, unless the commissioner by regulation prescribes a longer term.

(Amended by Stats. 1995, Ch. 723, Sec. 12. Effective January 1, 1996.)

10249.92. A registration application pursuant to the provisions of this article shall be accompanied by an irrevocable consent stating that if in any action commenced against the applicant in this state personal service of process upon the applicant cannot be made after the exercise of due diligence, a valid service may thereupon be made upon the applicant by delivering the process to the Secretary of State.

Insofar as possible, the provisions of Section 1018 of the Code of Civil Procedure relating to service of process on the Secretary of State are applicable to this section.

(Amended by Stats. 1995, Ch. 723, Sec. 13. Effective January 1, 1996.)

10249.93. (a) If the commissioner finds, based on available evidence, that a person is violating any provision of this article or a regulation of the commissioner adopted to implement a provision of this article, the commissioner may order the person to cease and desist from committing the violation or to cease and desist from the further sale or lease of an interest in the subdivision until the violation is corrected.

(b) A person to whom an order is directed shall, upon receipt of the order, immediately cease the activity described in the order.

(c) The person to whom the order is directed may request a hearing in accordance with subdivision (c) of Section 11019.

(Added by Stats. 1996, Ch. 587, Sec. 9. Effective January 1, 1997.)