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BUSINESS AND PROFESSIONS CODE - BPC

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

PART 2. REGULATION OF TRANSACTIONS [11000 - 11288] (*Part 2 added by Stats. 1943, Ch. 127.*)

CHAPTER 1. Subdivided Lands [11000 - 11200] (*Chapter 1 added by Stats. 1943, Ch. 127.*)

ARTICLE 1. General Provisions [11000 - 11008] (*Article 1 added by Stats. 1943, Ch. 127.*)

11000. (a) "Subdivided lands" and "subdivision" refer to improved or unimproved land or lands, wherever situated within California, divided or proposed to be divided for the purpose of sale or lease or financing, whether immediate or future, into five or more lots or parcels. However, land or lands sold by lots or parcels of not less than 160 acres which are designated by lot or parcel description by government surveys and appear as such on the current assessment roll of the county in which the land or lands are situated shall not be deemed to be "subdivided lands" or "a subdivision" within the meaning of this section, unless the land or lands are divided or proposed to be divided for the purpose of sale for oil and gas purposes, in which case the land or lands shall be deemed to be "subdivided lands" or "a subdivision" within the meaning of this section. This chapter also does not apply to the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, commercial building, or mobilehome park, as defined under Section 18214 of the Health and Safety Code, except that the offering of leases for a term in excess of five years to tenants within a mobilehome park as a mandatory requirement and prerequisite to tenancy within the mobilehome park shall be subject to the provisions of this chapter. The leasing of apartments in a community apartment project, as defined in Section 11004 in an apartment or similar space within a commercial building or complex, shall be subject to the provisions of this chapter.

(b) Nothing in this section shall in any way modify or affect any of the provisions of Section 66424 of the Government Code.

(c) Subdivisions, as defined in Section 10249.1, which are located entirely outside California shall be exempt from the provisions of this part.

(*Amended by Stats. 2004, Ch. 697, Sec. 2. Effective January 1, 2005.*)

11000.1. (a) "Subdivided lands" and "subdivision," as defined by Sections 11000 and 11004.5, also include improved or unimproved land or lands, a lot or lots, or a parcel or parcels, of any size, in which, for the purpose of sale or lease or financing, whether immediate or future, five or more undivided interests are created or are proposed to be created.

(b) This section does not apply to the creation or proposed creation of undivided interests in land if any one of the following conditions exists:

(1) The undivided interests are held or to be held by persons related one to the other by blood or marriage.

(2) The undivided interests are to be purchased and owned solely by persons who present evidence satisfactory to the Real Estate Commissioner that they are knowledgeable and experienced investors who comprehend the nature and extent of the risks involved in the ownership of these interests. The Real Estate Commissioner shall grant an exemption from this part if the undivided interests are to be purchased by no more than 10 persons, each of whom furnishes a signed statement to the commissioner that the person (A) is fully informed concerning the real property to be acquired and the person's interest in that property including the risks involved in ownership of undivided interests, (B) is purchasing the interest or interests for the person's own account and with no present intention to resell or otherwise dispose of the interest for value, and (C) expressly waives protections afforded to a purchaser by this part.

(3) The undivided interests are created as the result of a foreclosure sale.

(4) The undivided interests are created by a valid order or decree of a court.

(5) The offering and sale of the undivided interests have been expressly qualified by the issuance of a permit from the Commissioner of Financial Protection and Innovation pursuant to the Corporate Securities Law of 1968 (Division 1 (commencing

with Section 25000) of Title 4 of the Corporations Code).

(Amended by Stats. 2022, Ch. 452, Sec. 11. (SB 1498) Effective January 1, 2023.)

11000.2. (a) A person who has made an offer to purchase an interest in an undivided-interest subdivision specified in subdivision (a) of, and not exempted by subdivision (b) of, Section 11000.1 shall have the right to rescind any contract resulting from the acceptance of that offer until midnight of the third calendar day following the day on which the prospective purchaser executed the offer to purchase.

(b) The owner of a subdivision subject to this section or his or her agent shall, in accordance with regulations adopted by the Real Estate Commissioner, clearly and conspicuously disclose to all prospective purchasers of undivided interests the right of rescission provided for in subdivision (a), and shall furnish to each offeror a form, as prescribed by regulations of the commissioner, for the exercise of the right of rescission.

(c) Any certificate bearing the signature of the purchaser of an interest in an undivided-interest subdivision subject to this section which contains an adequate description of the interest or interests sold and a statement by the purchaser that he or she has not exercised the right of rescission within the time limit set forth in subdivision (a) shall constitute conclusive evidence that the right of rescission has not been exercised in any matter involving the rights of a third party who has acted in good faith in reliance upon representations in the certificate.

(Added by Stats. 1988, Ch. 434, Sec. 2.)

11001. The Real Estate Commissioner (hereafter referred to in this chapter as the commissioner) may adopt, amend, or repeal such rules and regulations as are reasonably necessary for the enforcement of this chapter. He may issue any order, permit, decision, demand or requirement to effect this purpose. Such rules, regulations, and orders shall be adopted pursuant to the provisions of the Administrative Procedure Act.

(Amended by Stats. 1957, Ch. 1750.)

11003. "Planned development" has the same meaning as specified in Section 4175 or 6562 of the Civil Code.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 4) by Stats. 2013, Ch. 605, Sec. 2. (SB 752) Effective January 1, 2014.)

11003.2. "Stock cooperative" has the same meaning as specified in Section 4190 or 6566 of the Civil Code, except that, as used in this chapter, a "stock cooperative" does not include a limited-equity housing cooperative.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 5) by Stats. 2013, Ch. 605, Sec. 3. (SB 752) Effective January 1, 2014.)

11003.4. (a) A "limited-equity housing cooperative" or a "workforce housing cooperative trust" is a corporation that meets the criteria of Section 11003.2 and that also meets the criteria of Sections 817 and 817.1 of the Civil Code, as applicable. Except as provided in subdivision (b), a limited-equity housing or workforce housing cooperative trust shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative or a workforce housing cooperative trust shall be exempt from the requirements of this chapter if the limited-equity housing cooperative or workforce housing cooperative trust complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the United States Department of Agriculture, the National Consumers Cooperative Bank, the California Housing Finance Agency, the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Department of Housing and Community Development, the Federal Home Loan Bank System or any of its member institutions, a state or federally chartered credit union, a state or federally certified community development financial institution, or the city, county, school district, housing authority, community development commission, or redevelopment agency in which the cooperative is located, alone or in any combination with each other, directly finances or subsidizes at least 50 percent of the total construction or development cost or one hundred thousand dollars (\$100,000), whichever is less; or the real property to be occupied by the cooperative was sold or leased by the Transportation Agency, other state agency, a city, a county, or a school district for the development of the cooperative and has a regulatory agreement meeting standards of the Department of Housing and Community Development for the term of the permanent financing, notwithstanding the source of the permanent subsidy or financing.

(2) No more than 20 percent of the total development cost of a limited-equity mobilehome park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.

(3) A regulatory agreement that covers the cooperative for a term of at least as long as the duration of the permanent financing or subsidy, notwithstanding the source of the permanent subsidy or financing, has been duly executed between the recipient of the financing and either one of the lenders or funding sources specified in paragraph (1) or a local public agency in whose jurisdiction

the cooperative is or will be located. The regulatory agreement shall meet standards of the Department of Housing and Community Development and make provision for at least all of the following:

(A) Assurances for completion of the common areas and facilities to be owned or leased by the limited-equity housing cooperative, unless a construction agreement between the same parties contains written assurances for completion.

(B) Governing instruments for the organization and operation of the housing cooperative by the members.

(C) The ongoing fiscal management of the project by the cooperative, including an adequate budget, reserves, and provisions for maintenance and management.

(D) Distribution of a membership information report to any prospective purchaser of a membership share, prior to purchase of that share. The membership information report shall contain full disclosure of the financial obligations and responsibilities of cooperative membership, the resale of shares, the financing of the cooperative including any arrangements made with any partners, membership share accounts, occupancy restrictions, management arrangements, and any other information pertinent to the benefits, risks, and obligations of cooperative ownership.

(4) Each party that executes the regulatory agreement shall satisfy itself that the bylaws, articles of incorporation, occupancy agreement, subscription agreement, any lease of the regulated premises, any arrangement with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) Each provider of financing or subsidies shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 817 of the Civil Code and the exemption provided by this section, including that the regulatory agreement meets the standards of the Department of Housing and Community Development.

(c) Any limited-equity cooperative, or workforce housing cooperative trust that meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the Department of Real Estate, on a form provided by the department, that an exemption is claimed under this section. The Department of Real Estate shall retain this form for at least four years for statistical purposes.

(Amended by Stats. 2023, Ch. 770, Sec. 1. (AB 1764) Effective January 1, 2024.)

11004. "Community apartment project" has the same meaning as specified in Section 4105 of the Civil Code.

(Amended by Stats. 2012, Ch. 181, Sec. 6. (AB 806) Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181.)

11004.5. In addition to the provisions of Section 11000, the reference in this code to "subdivided lands" and "subdivision" shall include all of the following:

(a) Any planned development, as defined in Section 11003, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004, containing five or more apartments.

(c) Any condominium project containing five or more condominiums, as defined in Section 783 of the Civil Code.

(d) Any stock cooperative as defined in Section 11003.2, including any legal or beneficial interests therein, having or intended to have five or more shareholders.

(e) Any limited-equity housing cooperative, as defined in Section 11003.4.

(f) In addition, the following interests shall be subject to this chapter and the regulations of the commissioner adopted pursuant thereto:

(1) Any accompanying memberships or other rights or privileges created in, or in connection with, any of the forms of development referred to in subdivision (a), (b), (c), (d), or (e) by any deeds, conveyances, leases, subleases, assignments, declarations of restrictions, articles of incorporation, bylaws, or contracts applicable thereto.

(2) Any interests or memberships in any owners' association as defined in Section 4080 or 6528 of the Civil Code, created in connection with any of the forms of the development referred to in subdivision (a), (b), (c), (d), or (e).

(g) Notwithstanding this section, time-share plans, exchange programs, incidental benefits, and short-term product subject to Chapter 2 (commencing with Section 11210) are not "subdivisions" or "subdivided lands" subject to this chapter.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 7) by Stats. 2013, Ch. 605, Sec. 4. (SB 752) Effective January 1, 2014.)

11007. Every nonresident subdivider shall file with the questionnaire an irrevocable consent that if, in any action commenced against him in this State, personal service of process upon him cannot be made in this State after the exercise of due diligence, a

valid service may thereupon be made upon him 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 the service of process on the Secretary of State are applicable to this section.

(Added by Stats. 1963, Ch. 927.)

11008. No provision of this part which makes a violation of this part a crime shall be construed to preclude application of any other criminal provision of the law of this state to an act or omission which constitutes a violation of this part.

(Added by Stats. 1985, Ch. 57, Sec. 2.)