
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 301

Session of
1979

INTRODUCED BY WILSON, FEBRUARY 13, 1979

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 14, 1979

AN ACT

1 Regulating subdivision sales, providing penalties and making an
2 appropriation.

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18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Short title.

21 This act shall be known and may be cited as the "Subdivided
22 Land Sales Act."

23 Section 2. Purpose and definitions.

24 (a) This act is remedial as well as requiring registration
25 and approval and the remedial portions hereof shall be liberally
26 construed to effectuate this purpose.

27 (b) As used in this act:

28 "Advertising." The publication or causing to be published of
29 information by means of a newspaper or periodical, radio or
30 television broadcast, telephone, other electronic means, or by

1 written or printed or photographic matter produced by any
2 duplicating process producing ten copies or more, offering for
3 sale or for the purpose of causing or inducing a person to
4 purchase or to acquire an interest in the title to subdivided
5 lands, including the land sales contract to be used and any
6 photographs or drawings or artists' representations of physical
7 conditions or facilities on the property existing or to exist.
8 It does not include: stockholder communications such as annual
9 reports and interim financial reports, proxy materials,
10 registration statements, securities prospectuses, applications
11 for listing securities on stock exchanges, prospectuses,
12 property reports, offering statements or other documents
13 required to be delivered to prospective purchasers by an agency
14 of any other state or the Federal Government, communications
15 addressed to and relating to the account of any persons who have
16 previously executed a contract for the purchase of the
17 subdivider's lands, except where directed to the sale of
18 additional lands, press releases or other communications
19 delivered to newspapers or other periodicals for general
20 information or public relations purposes if no charge is made by
21 such newspapers or other periodicals for the publication or use
22 of any part of such communications.

23 "Disposition." The sale, lease, assignment, or any other
24 transaction concerning a subdivision, if undertaken for gain or
25 profit.

26 "Encumbrance." A claim, lien, charge or liability attached
27 to and binding real property.

28 "Inactive subdivider." A registered subdivider who sells
29 less than ten lots in a calendar year.

30 "Notice" A communication by mail from the agency executed by

1 its duly authorized officer. Notice to subdividers is complete
2 when mailed to the subdivider's address currently on file with
3 the commission.

4 "Offer" An inducement, solicitation or attempt to encourage
5 a person to acquire an interest in land.

6 "Person." An individual, corporation, government, or
7 governmental subdivision or agency, business trust, estate,
8 trust, partnership, unincorporated association, two or more of
9 any of the foregoing having a joint or common interest, or any
10 other legal or commercial entity.

11 "Purchaser." A person who acquires or attempts to acquire or
12 succeeds to an interest in land.

13 "Salesman." A person who, for another and for a fee,
14 commission or other valuable consideration, sells, promotes,
15 exchanges, purchases, rents or negotiates the sale, promotion,
16 exchange, purchase or rental, or offers or attempts to negotiate
17 the sale, promotion, exchange, purchase or rental, or holds
18 himself out as engaged in the selling, promotion, exchanging,
19 purchasing, or renting of any real property of another, whether
20 it is located within the Commonwealth or elsewhere or who
21 collects or offers to attempt to collect rental for the use of
22 real property of another or who negotiates, offers or attempts
23 to negotiate a loan, secured or to be secured by a mortgage or
24 other encumbrance upon or transfer of any such real property.

25 "Subdivider." A person who engages directly or through an
26 agent in the disposition of subdivided lands and subdivisions.

27 "Subdivision" and "subdivided lands." Any land which is
28 divided or is proposed to be divided for the purpose of
29 disposition into 25 or more lots, parcels, units or interests.
30 It includes land, whether contiguous or not, whenever 25 or more

1 lots, parcels, units or interests are offered as part of a
2 common promotional plan of advertising and sale.

3 Section 3. Administrative agency.

4 (a) This act shall be administered by the Subdivided Land
5 Sales Commission which is hereby created and hereafter is
6 designated the commission.

7 (b) The commission shall be composed of five members
8 appointed by the Governor.

9 (c) The Governor shall appoint an executive secretary.
10 Vacancies in the commission shall be filled in the same manner
11 as the original appointments.

12 (d) The commission may select from its membership such
13 officers, other than chairman, that it deems necessary. The
14 commission may contract for studies and other special services
15 for the purpose of carrying out this act.

16 (e) The commission shall appoint advisory committees from
17 outside its membership. Such committees shall serve at no cost
18 to the Commonwealth.

19 (f) Members of the commission shall serve without
20 compensation, but shall be reimbursed for actual necessary
21 expenses incurred in the performance of their duties, as
22 authorized by the commission chairman.

23 (g) A majority of the members shall constitute a quorum for
24 the transaction of business for the commission.

25 (h) The commission may act at any regular or special
26 meeting. Regular meetings shall be held once during each three-
27 month period and special meetings may be called by the chairman
28 at any time he deems it is necessary to handle special or
29 emergency matters. The commission may act without a meeting if a
30 majority of the members approve of the action taken in writing.

1 A member who does not attend three consecutive meetings without
2 good cause, may be replaced.

3 Section 4. General powers and duties.

4 (a) The commission shall prescribe rules and regulations
5 which shall be adopted, amended or repealed in compliance with
6 the Commonwealth Documents Law.

7 (b) The commission by rule, regulation or order shall
8 require the filing of advertising material relating to
9 subdivided lands prior to its distribution, and may charge a fee
10 set by it for each item of advertising or promotional material
11 filed.

12 (c) If it appears that a person has engaged or is about to
13 engage in an act or practice constituting a violation of a
14 provision of this act or ruling, or order hereunder, the
15 commission with or without prior administrative proceedings may
16 bring an action in the Commonwealth Court to enjoin the acts or
17 practices and to enforce compliance with this act, rule,
18 regulation or order thereunder. Upon proper showing, injunctive
19 relief shall be granted, and a receiver may be appointed. The
20 commission shall not be required to post a bond in any court
21 proceedings under this act.

22 (d) The commission may intervene in a suit involving
23 subdivided lands. In any suit by or against a subdivider
24 involving subdivided lands, the subdivider shall promptly
25 furnish the commission notice of the suit and copies of all
26 pleadings.

27 (e) The commission may:

28 (1) Contract with an independent firm or government
29 related agency to perform investigative functions under this
30 act.

1 (2) Accept grants in aid from any source.

2 (f) The commission shall cooperate with similar agencies in
3 other jurisdictions to establish uniform filing procedures and
4 forms, uniform public offering statements, advertising
5 standards, rules and common administrative practices.

6 (g) Advertising submitted as part of the initial
7 registration of land shall be treated as part of such initial
8 registration. Advertising submitted subsequent thereto shall be
9 deemed a subsequent filing and the commission may require such
10 further or other supporting data as may be deemed necessary at
11 the time of the subsequent filing. Such subsequent filing shall
12 be approved or disapproved within ten days from the date of
13 filing. If the commission fails to approve or disapprove such
14 information within ten days, the subdivider filing the same may
15 publish or cause to be published or distributed all information
16 which has been properly filed. Advertising shall also include,
17 but not be limited to, materials used by the subdividers or
18 their agents to induce prospective purchasers to visit this
19 Commonwealth, particularly vacation certificates which require
20 the holders of such certificates to attend or submit to a sales
21 presentation by a subdivider or its agents, and the commission
22 may require full disclosure of pertinent information concerning
23 a vacation or visitor campaign including but not limited to
24 terms and conditions of such offers and the fact and extent of
25 participation in such a campaign by a subdivider. The commission
26 may require reasonable assurances that the obligations incurred
27 by the subdivider or its agents in a certificate program can be
28 met.

29 (h) The commission shall prepare and issue a detailed
30 property report annually concerning all the subdivisions in the

1 Commonwealth in language intelligible to a person with an
2 eighth-grade education. Attached to the front of it shall be a
3 special cover page with a warning to consumers. It shall
4 instruct them to read the report before signing anything. It
5 shall include:

6 (1) An economic feasibility report regarding the
7 developer's financial capability.

8 (2) A statement of special risk factors if any.

9 (3) An indication of whether a building permit is
10 required.

11 (4) Whether the quality and quantity of the water supply
12 is adequate.

13 (5) Specific statements concerning availability of
14 utilities, sewage, year-round fire protection and flood
15 insurance.

16 (6) A statement indicating whether the subdivision can
17 be reached by automobile.

18 (7) A statement as to whether fringe benefits are
19 obligations or only promises.

20 Section 5. Application for registration.

21 (a) The application for registration of subdivided lands
22 shall be filed as prescribed by the commission's rules,
23 regulations and orders and shall contain the following documents
24 and information:

25 (1) An irrevocable appointment of the commission to
26 receive service of any lawful process in any noncriminal
27 proceeding arising under this act against the applicant or
28 his personal representative.

29 (2) A legal description of the subdivided lands offered
30 for registration, together with a map or plat showing the

1 division proposed or made, and the dimensions of the lots,
2 parcels, units or interests and the relation of the
3 subdivided lands to existing streets, roads and other off-
4 site improvements.

5 (3) The states or jurisdictions in which an application
6 for registration or a similar document has been filed, any
7 adverse order, judgment, or decree entered in connection with
8 the subdivided lands by the regulatory authorities in such
9 jurisdiction or by any court, and a list of all states or
10 countries where the offering will be made.

11 (4) The applicant's name, address and the form, date and
12 jurisdiction of organization, and the address of each of its
13 offices in this Commonwealth.

14 (5) The name, address, principal occupation for the past
15 five years of every director and officer of the applicant or
16 person occupying a similar status or performing similar
17 functions; the extent and nature of any interest in the
18 applicant or the subdivided lands as of a specified date
19 within 30 days of the filing of the application of every
20 person whose interests exceed a 10% interest in the
21 subdivider.

22 (6) A statement, in a form acceptable to the commission,
23 of the condition of the title to the subdivided lands
24 including encumbrances as of a specified date within 30 days
25 of the date of application by an attorney at law, a title
26 officer or director of the applicant or owner, copies of the
27 instruments by which the interest in the subdivided lands was
28 acquired and copies of the documents creating any liens,
29 easements, or encumbrances on the property, statement of the
30 consequences for purchaser of failure to discharge a lien or

1 encumbrance and the steps taken, or to be taken to protect
2 the purchaser in case of this eventuality.

3 (7) Copies of the instruments which will be delivered to
4 a purchaser to evidence his interest in the subdivided lands
5 and of the contracts and other agreements which a purchaser
6 will be required to agree to or to sign.

7 (8) A statement on the installation of water and
8 sewerage facilities as required by the rules, regulations or
9 orders of the commission.

10 (9) A statement of the zoning and other governmental
11 regulations affecting the use of the subdivided lands and
12 also of any existing tax and existing or proposed special
13 taxes or assessments which affect the subdivided lands.

14 (10) A statement of the existing provisions for legal
15 and physical access or, if none exist, a statement to that
16 effect, a statement of public utilities available or to be
17 available in the subdivision including water and sewer, a
18 statement of the improvements such as, but not limited to,
19 recreational facilities or lakes to be created, the schedule
20 for their completion, and a statement as to the provisions
21 for improvement maintenance.

22 (11) A narrative description of the promotional plan for
23 the disposition of the subdivided lands together with copies
24 of all advertising material which has been prepared for
25 public distribution by any means of communication.

26 (12) The proposed public offering statement.

27 (13) A statement of the potential effect of the
28 subdivision on environmental factors in surrounding areas.

29 (14) Any other information, including, but not limited
30 to, a current financial statement, which the commission by

1 its rules, regulations and orders requires for the protection
2 of purchasers.

3 (b) Whenever the subdivider registers additional subdivided
4 lands to be offered for disposition, he may consolidate the
5 subsequent registration with any earlier registration offering
6 subdivided lands for disposition under the same promotional
7 plan.

8 (c) The subdivider shall immediately report to the
9 commission any material change in the information contained in
10 an application for registration or amendments thereto.

11 Section 6. Fees.

12 The commission shall charge a filing fee for each application
13 for registration of subdivided land located within the
14 Commonwealth of Pennsylvania which fee shall be based on the
15 following schedule:

16 (1) A fee of \$500 for a subdivision comprised of fewer
17 than 100 lots, parcels, units or interest, plus a fee of \$10
18 for each lot, parcel, unit or interest over 100.

19 (2) Each filing or registration shall be renewed
20 annually and the fee therefor shall be \$200. The renewal fee
21 shall be payable no later than January 31. The commission may
22 assess a penalty not to exceed \$10 per day for each day after
23 January 31 that the registration is delinquent but said
24 penalty shall not exceed the sum of \$300. The registration of
25 subdivisions which are more than ten days delinquent in
26 renewing their registrations shall be automatically suspended
27 until such time as the proper renewal fee, plus penalties, if
28 any, has been submitted to the commission.

29 (3) The commission shall charge out of state
30 subdivisions disposed of or offered for disposition in this

Commonwealth an initial fee and an annual fee equal to the fees charged for subdivided land located within the Commonwealth.

Section 7. Inquiry and examination.

Upon receipt of an application for registration in proper form, the commission shall forthwith initiate an examination to determine that:

(1) The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer necessary to effect conveyance, that release clauses, conveyances in trust and other safeguards have been provided.

(2) There is reasonable assurance that all proposed improvements will be completed as represented. If improvements provided in this act are to be furnished by the seller and are not completed, provisions for completion shall be made in the form of a completion bond or escrow of adequate funds and in such an amount as is sufficient to complete such improvements. Such security shall be posted with the proper public authority in the municipality where the subdivision is located; and, a copy shall also be furnished to the commission.

(3) The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the commission in its rules, regulations and orders and afford full and fair disclosure.

(4) The subdivider has not been convicted of a crime involving land dispositions or any aspect of the land sales business in this Commonwealth, United States, or any other state or foreign country within the past ten years, or have

1 been enjoined by any court within this Commonwealth of any
2 violation of any State law regarding the sale of subdivided
3 lands within this Commonwealth, and has not violated any
4 Consumer Protection Act or Securities Law or regulations
5 within the past ten years.

6 (5) There is no evidence which would reasonably lead the
7 commission to believe that the subdivider is contemplating a
8 fraudulent or misleading sales promotion.

9 (6) The public offering statement requirements of this
10 act have been satisfied.

11 Section 8. Inspections.

12 The commission and Department of Environmental Resources
13 shall investigate every such subdivision offered for sale in
14 this Commonwealth, and:

15 (1) May rely upon any relevant information concerning a
16 subdivision obtained from any other state or Federal agency
17 having comparable duties in relation to subdivision and sale
18 of real property.

19 (2) Require the applicant to submit reports prepared by
20 competent engineers as to any hazard to which any subdivision
21 offered for sale is subject to in the opinion of the
22 commission, or any factor which affects the utility of lots
23 or parcels within the subdivision and require evidence of
24 compliance to remove or minimize all hazards stated by
25 competent engineering reports.

26 (3) Make an on-site inspection of each subdivision. In
27 connection with any on-site inspection, the owner, subdivider
28 or agent shall defray all expenses and wages incurred by the
29 inspector in the course of the inspection.

30 (4) Require the owner, subdivider or agent to deposit

1 the expenses and wages to be incurred in any inspection or
2 reinspection, in advance, based upon an estimate by the
3 commission of those expenses and wages likely to be incurred.

4 (5) In those cases where an on-site inspection of any
5 subdivision has been made under the provisions of this act,
6 an inspection of a subsequent registration submitted as an
7 amendment to said registration covering subdivided land to be
8 sold under the same common promotional plan, may be waived,
9 and an inspection thereof shall be made in connection with
10 the next succeeding annual on-site reinspection.

11 Section 9. Encumbrances.

12 Where the vacant lands to be subdivided shall be subject to a
13 lien or encumbrance securing or evidencing the payment of money
14 other than taxes or assessments levied by public authority, or
15 where the interest of the owner or subdivider is held under
16 option of contract or purchase or in trust, it shall be unlawful
17 to sell land in such subdivision unless provision in such lien,
18 encumbrance, option, contract or trust agreement, or in an
19 agreement supplementary thereto, enables the vendor or its
20 successor to convey valid title to each parcel so sold or leased
21 free of such lien, encumbrance, option, contract or trust
22 agreement, upon completion of all payments and performance of
23 the terms and conditions required to be made and performed by
24 the vendee under the agreement of sale. Where the consideration
25 for the lot or lots sold has been amortized to an extent that
26 the balance due and owing thereunder equals an amount required
27 to release such lot or lots from any existing lien, encumbrance,
28 tax, assessment, option, contract or first agreement, and the
29 land has been or is subject to an encumbrance, then in such
30 event all moneys thereafter received by the owner or subdivider

1 from the purchase of said lot or lots shall be segregated and
2 kept in a separate account and be impressed with a trust which
3 shall be applied towards the clearance of title to the land
4 thereafter intended to be conveyed to the purchaser. Whenever
5 default occurs in the payment of any tax or assessment levied
6 and assessed against the premises or pursuant to the terms of a
7 contract, mortgage lien, charge or encumbrance, all moneys
8 received by the owner or subdivider from the purchaser of said
9 lot or lots shall be segregated and kept in a separate account
10 and be impressed with a trust which shall be applied towards the
11 clearance of title to the land thereafter intended to be
12 conveyed to the purchaser. Certified or verified copies of
13 documents containing such provisions shall be filed with the
14 commission prior to the sale or lease or offer of sale or lease
15 of any part of the subdivision.

16 Section 10. Investigation proceedings.

17 (a) The commission may:

18 (1) Make necessary public or private investigations
19 within or outside of this Commonwealth to determine whether
20 any person has violated or is about to violate this act or a
21 rule, regulation or order hereunder, or to aid in the
22 enforcement of this act or in the prescribing of rules,
23 regulations, orders and forms hereunder.

24 (2) Require or permit a person to file a statement in
25 writing under oath or otherwise, as the commission
26 determines, as to the facts and circumstances concerning the
27 matters to be investigated.

28 (b) For the purpose of an investigation or proceeding under
29 this act, the commission or officer designated by its rules,
30 regulations or orders, may administer oaths or affirmations, and

1 upon its own motions or upon request of a party to such
2 investigation or proceeding shall subpoena witnesses, compel
3 their attendance, take evidence and require the production of
4 all material which is relevant to the investigation, including
5 the existence, description, nature, custody, condition and
6 location of books, documents, or other tangible things and the
7 identity and location of persons having knowledge of relevant
8 facts or other matters reasonably calculated to lead to the
9 discovery of material evidence.

10 (c) Upon failure to obey a subpoena or to answer questions
11 propounded by the investigating officer and upon reasonable
12 notice to all parties affected thereby, the commission may apply
13 to Commonwealth Court for an order compelling compliance.

14 Section 11. Revocation.

15 (a) A registration may be revoked after notice and hearing
16 upon a written finding of fact that the subdivider has:

17 (1) Failed to comply with the terms of this act or cease
18 and desist order.

19 (2) Been convicted in any court subsequent to the filing
20 of the application for registration of a crime involving
21 fraud, deception, false pretenses, misrepresentation, false
22 advertising or dishonest dealing in real estate transactions.

23 (3) Disposed of, concealed, or dispersed funds or assets
24 of a person so as to defeat the rights of a subdivision
25 purchaser.

26 (4) Failed to faithfully perform a stipulation or
27 agreement made with the agency as an inducement to grant a
28 registration, to reinstate any registration, or to approve a
29 promotional plan or public offering statement.

30 (5) Made intentional misrepresentations or concealed

1 material facts in an application for registration.

2 (b) If the commission finds, after notice is given of the
3 opportunity for a hearing, that the subdivider has been guilty
4 of a violation for which revocation could be ordered, it may
5 issue a cease and desist order instead.

6 Section 12. Cease and desist orders.

7 (a) Whenever the commission determines, after notice is
8 given of the opportunity for a hearing, that a person has:

9 (1) violated a provision of this act;

10 (2) directly or through an agent or employee knowingly
11 engaged in a false, deceptive, or misleading advertising,
12 promotional or sales method to offer or dispose of an
13 interest in subdivided lands;

14 (3) made a substantial change in the plan of disposition
15 and development of the subdivided land subsequent to the
16 order of registration without obtaining prior written
17 approval from the commission;

18 (4) disposed of any subdivided land which has not been
19 registered with the commission; or

20 (5) violated a lawful order or rule of the agency, it
21 may issue an order requiring the person to cease and desist
22 from the unlawful practices and take such affirmative action
23 as in the judgment of the commission will carry out the
24 purposes of this act.

25 (b) If the commission makes a finding of fact in writing
26 that the public interest will be irreparably harmed by delay in
27 issuing an order, it may issue a temporary cease and desist
28 order. Prior to issuing a temporary cease and desist order, the
29 commission shall give notice of the proposal to issue a
30 temporary cease and desist order to the person involved. A

1 temporary cease and desist order shall include in its terms a
2 provision that upon request a hearing will be held within 20
3 days of the receipt by the commission of a written request for a
4 hearing to determine whether it should become permanent or
5 should be withdrawn.

6 Section 13. Civil remedy.

7 (a) A subdivider who disposes of subdivided lands in
8 violation of the provisions of this act, or, in disposing of
9 subdivided lands makes an untrue statement of a material fact,
10 or, in a registration statement or public offering statement
11 makes an untrue statement of a material fact, or omits a
12 material fact required to be stated therein, is liable as
13 provided in this section to the purchaser unless, in the case of
14 an untruth or omission, it is proved that the purchaser knew of
15 the untruth or omission or that the subdivider offering or
16 disposing of subdivided lands did not know and in the exercise
17 of reasonable care could not have known of the untruth or
18 omission or that the purchaser did not rely on the untruth or
19 omission.

20 (b) In addition to any other remedies, the purchaser, for a
21 violation of this section, may sue either in law or in equity to
22 recover the consideration paid for the lot, parcel, unit or
23 interest in subdivided lands, the cost of improvements erected
24 thereon by him together with interest at the rate of 6% per year
25 from the date of payment, property taxes paid, court costs and
26 reasonable attorneys' fees, less the amount of any income
27 received from the subdivided lands upon tender of appropriate
28 instruments of reconveyance made at any time before the entry of
29 judgment.

30 (c) A person who materially participates in any disposition

1 of subdivided lands in the manner specified in this section
2 shall also be liable jointly and severally with and to the same
3 extent as the subdivider, unless such person otherwise liable
4 did not know, and in the exercise of reasonable care could not
5 have known of the existence of the facts by which such liability
6 is alleged to exist. There shall be a right of contribution as
7 in cases of contracts among persons so liable.

8 (d) A person whose occupation gives authority to a
9 statement, which with his consent has been used in an
10 application for registration or public offering statement, who
11 is not otherwise associated with the subdivision and development
12 plan in a material way, is liable only for false statements and
13 omissions in his statement if he did know or in the exercise of
14 the reasonable care of a man in his occupation should have known
15 of the existence of the facts by reason of which the liability
16 is alleged to exist.

17 (e) An action shall not be maintained to enforce any
18 liability created under this section unless brought within two
19 years after the discovery of the untrue statement or the
20 omission, or after such discovery should have been made by the
21 exercise of reasonable diligence. In no event shall any such
22 action be brought more than five years after the date the
23 purchaser made his first payment of money to the subdivider.

24 (f) A stipulation or provision purporting to bind a person
25 acquiring subdivided lands to waive compliance with this act or
26 a rule or order under it is void.

27 (g) A person entitled to bring an action under this section
28 may, if the unlawful method, act, or practice has caused similar
29 injury to persons similarly situated, bring an action on behalf
30 of other similarly injured and situated persons to recover

1 damages provided herein. In an action brought under this
2 subsection, the court may order such additional relief as it
3 deems necessary or proper including reasonable attorney fees.

4 Section 14. Penalties.

5 (a) A subdivider who willfully violates any provision of
6 this act or who willfully, in an application for registration
7 makes any untrue statement of a material fact or omits to state
8 a required material fact, shall pay a civil penalty of not less
9 than \$5,000, nor more than \$100,000 plus costs, or double the
10 amount of gain from the transaction, whichever is larger, but
11 not more than \$500,000. A person other than a subdivider who
12 willfully violates any cease and desist order issued under a
13 provision of this act or who willfully, in an application for
14 registration makes an untrue statement of a material fact or
15 omits to state a required material fact, shall pay a civil
16 penalty of not less than \$5,000, plus costs.

17 (b) In addition to the above penalty, all expenses of
18 investigations and litigation shall be paid by the person or
19 subdivider.

20 Section 15. Exemptions.

21 (a) Unless the method of disposition is adopted for the
22 purpose of evading this act, the provisions of this act do not
23 apply to offers or disposition of an interest in land:

24 (1) By a purchaser of subdivided lands for his own
25 account in a single or isolated transaction.

26 (2) Whenever not more than 25 separate lots, parcels,
27 units or interests in subdivided lands are offered by a
28 person in a period of one year.

29 (3) Pursuant to court order.

30 (4) By a government or governmental agency.

1 (5) As cemetery lots or interests.

2 (6) By evidences of indebtedness secured by a mortgage
3 of deed of trust of real estate if the offer or disposition
4 is to one person for the entire amount of the indebtedness
5 secured by the mortgage or deed of trust.

6 (7) By securities or units of interest issued by a real
7 estate investment trust regulated under any State or Federal
8 statute.

9 (8) By securities currently registered with the
10 Pennsylvania Securities Commission.

11 (9) By an interest in oil, gas, or other minerals or any
12 royalty interest therein if the offers or dispositions of
13 such interests are regulated as securities by the United
14 States or by the Pennsylvania Securities Commission.

15 (10) By constituting a single sale or offer to sell to a
16 person when the sale and purchase price is \$50,000 or more.

17 (b) The provisions of this act do not apply to offers or
18 dispositions of lots contained in a recorded subdivision plot,
19 provided that all of the following conditions exist:

20 (1) Each lot is situated on a paved and dedicated road
21 or street constructed to the specifications of the
22 municipality which has accepted such road or street for
23 maintenance.

24 (2) The subdivision has drainage structures and fill
25 which have been approved by the municipality.

26 (3) Electric power is available at or near each lot.

27 (4) Approved domestic water supply and central sewerage
28 systems are available at each lot.

29 (5) The subdivider has clear title to such subdivided
30 lands and is at all times prepared to convey clear title to

1 the purchaser.

2 (6) All sales of lots are made by the subdivider after
3 on-site inspections by the purchaser.

4 (7) All other promised improvements are completed or
5 escrow or bond provided for their completion.

6 (c) The provisions of this act shall not apply to the sale
7 or lease of land to any person engaged in the business of
8 construction of residential or commercial buildings or to any
9 person who acquires such land for the purpose of resale or lease
10 to a person engaged in such business, nor shall this act apply
11 to a subdivision where the plan of promotion and disposition is
12 primarily directed to persons in the local trading area in which
13 the subdivision is located.

14 (d) The provisions of this act shall not apply to the sale
15 or lease of lots of land on which there is a residential,
16 commercial or industrial building or to the sale or lease of any
17 lots of land under a contract obligating the seller to erect a
18 building thereon within two years of the date of the contract.

19 Section 16. Prohibitions on dispositions of interests in
20 subdivisions.

21 Unless the subdivided lands or the transaction is exempt:

22 (1) A person may not offer, dispose or participate in an
23 offer or disposition of any interest in subdivided lands
24 located in this Commonwealth, nor offer, dispose, or
25 participate in an offer or disposition of subdivided lands in
26 this Commonwealth of any interest in subdivided lands located
27 without this State prior to the time the subdivided lands are
28 registered in accordance with this act.

29 (2) A person may not dispose or participate in the
30 disposition of any interest in subdivided lands unless a

1 current public offering statement is delivered to the
2 purchaser at the initial contact with the purchaser, when
3 either by owner, salesman, promoter, mail, or the office or
4 other personnel of the subdivider or his agent, and the
5 purchaser is afforded a reasonable opportunity to examine the
6 public offering statement prior to purchasing.

7 Section 17. Public offering statement.

8 (a) A public offering statement shall disclose fully and
9 accurately the physical characteristics of the subdivided lands
10 offered and shall make known to prospective purchasers all
11 unusual and material circumstances or features affecting the
12 subdivided lands. The proposed public offering statement
13 submitted to the commission shall be in a form prescribed by its
14 rules, regulations, and orders and shall include the following,
15 unless otherwise provided by the commission:

16 (1) The name and principal address of the subdivider.

17 (2) A general description of the subdivided lands
18 stating the total number of lots, parcels, units or interests
19 in the offering.

20 (3) The significant terms of any encumbrances,
21 easements, liens and restrictions, including zoning and other
22 regulations affecting the subdivided lands and each unit or
23 lot, and a statement of all existing taxes and existing or
24 proposed special taxes or assessments which affect the
25 subdivided lands.

26 (4) A statement of the use for which the property is
27 offered.

28 (5) Information concerning improvements, including
29 streets, water supply, levees, drainage control systems,
30 irrigation systems, sewage disposal facilities and customary

1 utilities, and the estimated cost, date of completion and
2 responsibility for construction and maintenance of existing
3 and proposed improvements which are referred to in connection
4 with the offering or disposition of any interest in
5 subdivided lands.

6 (6) A provision for insertion of the date of approval of
7 the public offering statement by the commission.

8 (7) Additional information required by the commission to
9 assure full and fair disclosure to prospective purchasers.

10 (b) The public offering statement shall not be used for any
11 purpose before the registration of the subdivided lands and
12 afterwards only if it is used in its entirety. A person shall
13 not advertise or represent that the commission approves or
14 recommends the subdivided lands or disposition thereof. A
15 portion of the public offering statement shall not be
16 underscored, italicized or printed in larger or heavier or
17 different color type than the remainder of the statement unless
18 the commission requires or permits it.

19 (c) The commission may require the subdivider to alter or
20 amend the proposed public offering statement in order to assure
21 full and fair disclosure to prospective purchasers, and a change
22 in the substance of the promotional plan or plan of disposition
23 or development of the subdivision shall not be made after
24 registration without notifying the commission and without making
25 appropriate amendment of the public offering statement. A public
26 offering statement is not current unless all amendments are
27 incorporated.

28 (d) The newspaper, magazine, radio or television advertising
29 of the subdivider shall contain a clear notation that a copy of
30 the current public offering statement may be obtained by writing

1 to the subdivider.

2 Section 18. Taking effect of registration statements and
3 amendments thereto.

4 (a) Except as hereinafter provided, the effective date of a
5 registration statement shall be the 20th day after the filing
6 thereof or such earlier date as the commission may determine,
7 having due regard to the adequacy of the information respecting
8 the subdivider theretofore available to the public, and to the
9 public interest and the protection of prospective purchasers.

10 Whenever an amendment to a statement is filed prior to the
11 effective date of the statement, the registration statement
12 shall be deemed to have been filed when the amendment is filed;
13 except that an amendment filed with the consent of the
14 commission prior to the effective date of the registration
15 statement, or filed pursuant to an order of the commission,
16 shall be treated as a part of the registration statement.

17 (b) Whenever it appears to the commission that a
18 registration statement is on its face incomplete or inaccurate
19 in any material respect, the commission may, after notice by
20 personal service or the sending of confirmed telegraphic notice
21 not later than ten days after the filing of the registration
22 statement, and opportunity for hearing (at a time fixed by the
23 commission) within ten days after such notice by personal
24 service or the sending of such telegraphic notice, issue an
25 order prior to the effective date of registration refusing to
26 permit such statement to become effective until it has been
27 amended in accordance with such order. When such statement has
28 been amended in accordance with such order, the agency shall so
29 declare and the registration shall become effective at the time
30 provided in subsection (a) or upon the date of such declaration,

1 whichever is the later.

2 (c) An amendment filed after the effective date of the
3 registration statement, if such amendment, upon its face,
4 appears to the commission not to be incomplete or inaccurate in
5 any material respect, shall become effective on such date as the
6 commission may determine, having due regard to the public
7 interest and the protection of prospective purchasers.

8 (d) A notice required under this section shall be sent to or
9 served on the subdivider properly directed in the case of
10 telegraphic notice to the address given in such statement.

11 Section 19. Annual report.

12 Within 30 days after each annual anniversary date of an order
13 registering subdivided lands, the subdivider shall file a report
14 in the form prescribed by the rules, regulations and orders of
15 the commission. The report shall reflect all changes in
16 information contained in the original application for
17 registration.

18 Section 20. Registration and regulation of salesmen.

19 (a) A person shall not dispose of or attempt to dispose of
20 subdivided land as a salesman until he is registered with the
21 commission as a salesman: Provided, however, That registration
22 shall not be required of persons who are currently licensed by
23 the Pennsylvania Real Estate Commission as a broker or as a
24 salesman in such a broker's employ where such broker and
25 salesman do not engage in repeated and successive transactions
26 of a similar character on behalf of a subdivider: Provided, That
27 this section shall not apply to salesmen conducting business
28 solely in other states, territories, or countries selling or
29 offering for sale subdivided lands in this State, if such
30 salesman is licensed to make dispositions or offers for

1 dispositions.

2 (b) Each application filed for registration as a salesman
3 shall be accompanied by a filing fee of \$25, said fee being
4 nonrefundable. A salesman's certificate issued hereunder shall
5 be renewed annually upon the payment of a fee of \$25 on or
6 before January 31.

7 (c) A certificate of registration of a salesman may be
8 suspended for a period of not more than six months or a civil
9 penalty imposed, or both, of not more than \$500, after notice
10 and hearing and upon a finding of fact showing that the salesman
11 has:

12 (1) Violated a provision of this section.

13 (2) Directly and knowingly engaged in a false, deceptive
14 or misleading promotion or sales method or made a material
15 misrepresentation for the purpose of offering or disposing of
16 interest in subdivided land.

17 (3) Made statements contrary to the information
18 contained in the approved promotional publications and the
19 current public offering statement.

20 (4) Failed to deliver to a purchaser of registered land
21 a copy of the current public offering statement prior to the
22 execution of a purchase agreement as required by this act.

23 (5) Violated any lawful order, rule or regulation made
24 or issued or promulgated by the commission.

25 (d) The registration of a salesman may be revoked or
26 suspended for a period of not more than one year or a civil
27 penalty imposed, or both, of not more than \$1,000 after notice
28 and hearing and upon finding of fact showing that the salesman
29 has:

30 (1) Persisted in doing an act for which his registration

1 could be suspended.

2 (2) Been convicted in a court for a crime involving
3 fraud, deception, false pretense, misrepresentation, or
4 dishonest dealing in a business transaction or of a crime
5 involving moral turpitude.

6 (3) Disposed of, concealed or diverted funds or assets
7 of a purchaser, for his own use and benefit.

8 (4) Failed to account to his employer for funds or
9 assets received from purchasers.

10 (5) Obtained his registration certificate or an order,
11 ruling or authorization by means of fraud, misrepresentation,
12 or concealment of material facts.

13 (e) A certificate of registration of a salesman of
14 subdivided land shall not be issued by the commission until the
15 applicant has demonstrated to the commission's satisfaction, by
16 examination or otherwise, that he is familiar with this act and
17 the rules and regulations of the commission.

18 (f) A person disposing of or attempting to dispose of
19 subdivided land without being registered with the commission, or
20 after having his registration revoked by our commission, shall
21 be guilty of a misdemeanor of the second degree.

22 Section 21. Inactive subdivider.

23 An inactive subdivider shall be required to annually renew
24 his registration until such time as the contract and obligations
25 assumed in the disposition of the subdivided land have been
26 substantially fulfilled, as may be determined by the commission
27 and shall pay such annual registration fee as may be determined
28 by the commission.

29 Section 22. Right of rescission.

30 A buyer signing a contract for the sale of land which is

1 regulated by the terms of this act may avoid that contract by
2 notifying, in writing, the seller within three full business
3 days following the day on which the contract was made. Such
4 notice of rescission shall be effective on depositing same in
5 the United States mail or upon other service which gives the
6 seller notice of rescission. The buyer shall be provided a
7 printed form by the seller which explains the right of
8 rescission and notifies the buyer where the notice shall be
9 directed, and said printed form shall be in such form that it
10 can be returned to the seller as the notice of rescission. Said
11 form shall be printed in at least ten point bold type with the
12 heading "Notice." The period provided for in this section shall
13 not begin to run until the buyer is furnished the name of the
14 seller and the address at which notice to the seller can be
15 given, and the rescission form herein required has been
16 provided. Where a contract is rescinded as provided herein,
17 seller must return to the buyer the full amount of any payment
18 made or consideration given under the contract.

19 Section 23. Waivers.

20 A stipulation or provision purporting to bind a person
21 acquiring subdivided lands to waive compliance with this act or
22 any rule or order under it is void.

23 Section 24. Service of process.

24 (a) In addition to the methods of service provided for in
25 the Rules of Civil Procedure promulgated by the Supreme Court of
26 Pennsylvania, service may be made in the case of a nonresident
27 or foreign corporation, not authorized to conduct its business
28 in this Commonwealth by delivering a copy of the process to the
29 office of the commission, but it is not effective unless the
30 plaintiff (which may be the commission in a proceeding

1 instituted by it):

2 (1) forthwith sends a copy of the process and of the
3 pleading by certified or registered mail to the defendant or
4 respondent at his last known address; and

5 (2) the affidavit of compliance of plaintiff with this
6 section is filed in the case on or before the return day of
7 the process, if any, or within such further time as the court
8 allows.

9 (b) If a person, including a nonresident of this
10 Commonwealth, engages in conduct prohibited by this act or a
11 rule, regulation or order hereunder, and has not filed a consent
12 to service of process and personal jurisdiction over him cannot
13 otherwise be obtained in this Commonwealth, that conduct shall
14 authorize the commission to receive service of process in a
15 noncriminal proceeding against him or his successor which grows
16 out of that conduct and which is brought under this act or a
17 rule, regulation or order hereunder, with the same force and
18 validity as if served on him personally. Notice shall be given
19 as provided in this section.

20 Section 25. Judicial review.

21 A person who is aggrieved by an order of the commission
22 pertaining to registration, a cease and desist order, an order
23 of revocation, or any other final decision of the commission
24 shall be entitled to judicial review as provided by the
25 Administrative Agency Law.

26 Section 26. Restitution.

27 Whenever a court issues a permanent injunction to restrain or
28 prevent violations of this act, the court may in its discretion,
29 direct that the defendant or defendants restore to a person in
30 interest any money or property, real or personal, which may have

1 been acquired by means of a violation of this act, under terms
2 and conditions established by the court.

3 Section 27. Compliance with Department of Environmental
4 Resources.

5 (a) Notwithstanding any provisions to the contrary in this
6 act, a subdivider shall not sell or offer for sale or agree to
7 sell or dispose of any subdivided land or interest therein until
8 the municipality within which the subdivision is located has an
9 official plan or amendment thereto pursuant to the act of
10 January 24, 1966 (1965 P.L.1535, No.537), known as the
11 "Pennsylvania Sewage Facilities Act," which covers the proposed
12 sewage facilities for the subdivision and has submitted to and
13 received approval from the Department of Environmental Resources
14 for plan including an implementation schedule covering the
15 sewage facilities proposed in the official plan or amendment
16 thereto for the subdivision. No implementation plan and schedule
17 shall be approved by the Department of Environmental Resources
18 unless the Department of Environmental Resources is satisfied
19 that adequate financial resources are available to the
20 municipality or municipalities to complete the project.

21 (b) The Department of Environmental Resources may adopt
22 appropriate rules, regulations or orders for the implementation
23 of this section. Nothing stated in this section shall be
24 construed to limit or alter the subdivider's obligations under
25 this act.

26 Section 28. Appropriation.

27 The sum of \$200,000 is hereby appropriated to the Subdivided
28 Land Sales Commission for the fiscal year 1978-1979 for the
29 purpose of this act.

30 Section 29. Effective date.

1 This act shall take effect in 60 days.