

CHAPTER 95

**PROFESSIONS AND OCCUPATIONS**

SENATE BILL 96-032  
BY SENATOR Matsunaka;  
also REPRESENTATIVE May.

**AN ACT**

CONCERNING THE REGISTRATION OF SUBDIVISION DEVELOPERS WITH THE REAL ESTATE COMMISSION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-61-401 (2) and (3), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

**12-61-401. Definitions.** As used in this part 4, unless the context otherwise requires:

(2) "Developer" means any person, ~~firm, partnership, joint venture, association, or corporation~~ AS DEFINED IN SECTION 2-4-401 (8), C.R.S., which participates as owner, promoter, or sales agent in the promotion, sale, or lease of a subdivision or any part thereof.

(3) (a) "Subdivision" means any ~~division of~~ real property DIVIDED into ~~ten~~ TWENTY or more interests ~~not intended for commercial or industrial use~~ INTENDED SOLELY FOR RESIDENTIAL USE and offered for sale, lease, or transfer.

(b) (I) The term "subdivision" also includes:

(A) The conversion of an existing structure into a ~~group~~ COMMON INTEREST COMMUNITY of ~~ten~~ TWENTY or more residential ~~condominium~~ units, as ~~condominium unit~~ is defined in ~~section 38-33-103(1)~~; ARTICLE 33.3 OF TITLE 38, C.R.S.;

(B) A group of ~~ten~~ TWENTY or more time shares intended for residential use; and

(C) A group of ~~ten~~ TWENTY or more proprietary leases in a cooperative housing

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

corporation, as defined in article 33.5 of title 38, C.R.S.

(II) The term "subdivision" does not include:

(A) The selling of memberships in campgrounds;

(B) Bulk sales and transfers between developers;

(C) Property upon which there has been or upon which there will be erected ~~commercial, industrial, or residential buildings owned by the builder or the developer~~ THAT HAVE NOT BEEN PREVIOUSLY OCCUPIED and where the consideration paid for such property includes the cost of such buildings;

(D) Lots which, at the time of closing of a sale or occupancy under a lease, are situated on a street or road and street or road system improved to standards at least equal to streets and roads maintained by the county, city, or town in which the lots are located; have a feasible plan to provide potable water and sewage disposal; and have telephone and electricity facilities and systems adequate to serve the lots, which facilities and systems are installed and in place on the lots or in a street, road, or easement adjacent to the lots and which facilities and systems comply with applicable state, county, municipal, or other local laws, rules, and regulations; OR ANY SUBDIVISION THAT HAS BEEN OR IS REQUIRED TO BE APPROVED AFTER SEPTEMBER 1, 1972, BY A REGIONAL, COUNTY, OR MUNICIPAL PLANNING AUTHORITY PURSUANT TO ARTICLE 28 OF TITLE 30 OR ARTICLE 23 OF TITLE 31, C.R.S.;

(E) SALES BY PUBLIC OFFICIALS IN THE OFFICIAL CONDUCT OF THEIR DUTIES.

**SECTION 2.** 12-61-402 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-61-402. Registration required.** (1) Unless exempt under the provisions of ~~subsection (2) of this~~ section 12-61-401 (3), a developer, before selling, leasing, or transferring or agreeing or negotiating to sell, lease, or transfer, directly or indirectly, any subdivision or any part thereof, shall register pursuant to this part 4.

**SECTION 3.** 12-61-403 (1), (2) (a) (IV), (2) (a) (VII), (3) (e), (3) (i), and (3) (j), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-61-403 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**12-61-403. Application for registration.** (1) Every person who is required to register as a developer under this part 4 shall submit to the commission an application which contains the information described in subsections (2) and (3) of this section. If such information is not submitted, the commission may deny the application for registration. IF A DEVELOPER IS CURRENTLY REGULATED IN ANOTHER STATE THAT HAS REGISTRATION REQUIREMENTS SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS OF THIS PART 4 OR THAT PROVIDE SUBSTANTIALLY COMPARABLE PROTECTION TO A PURCHASER, THE COMMISSION MAY ACCEPT PROOF OF SUCH REGISTRATION ALONG WITH THE DEVELOPER'S DISCLOSURE OR EQUIVALENT STATEMENT FROM THE OTHER STATE IN FULL OR PARTIAL SATISFACTION OF THE INFORMATION REQUIRED BY THIS SECTION. In addition, the applicant shall be under a continuing obligation to notify the commission within ten days of any change in the information so submitted, and

a failure to do so shall be a cause for disciplinary action.

(2) (a) Registration information concerning the developer shall include:

(IV) The names and residence and business addresses of all NATURAL persons ~~financially interested~~ WHO HAVE A TWENTY-FOUR PERCENT OR GREATER FINANCIAL OR ULTIMATE BENEFICIAL INTEREST in the business of the developer, EITHER DIRECTLY OR INDIRECTLY, as principal, MANAGER, MEMBER, partner, officer, director, ~~and~~ OR stockholder, specifying ~~as to each his~~ SUCH PERSON'S capacity, ~~and~~ title, ~~but any stockholder owning less than ten percent of the outstanding stock of a corporate developer need not be included; except that, when more than one corporation is the developer of a subdivision, stockholders owning more than ten percent of the total stock in all such corporations shall be included~~ AND PERCENTAGE OF OWNERSHIP. IF NO NATURAL PERSON HAS A TWENTY-FOUR PERCENT OR GREATER FINANCIAL OR BENEFICIAL INTEREST IN THE BUSINESS OF THE DEVELOPER, THE INFORMATION REQUIRED IN THIS SUBPARAGRAPH (IV) SHALL BE SUBMITTED REGARDING THE NATURAL PERSON HAVING THE LARGEST SINGLE FINANCIAL OR BENEFICIAL INTEREST.

(VII) The states in which the applicant has had a license or registration similar to the developer's registration in this state granted, refused, suspended, or revoked OR IS CURRENTLY THE SUBJECT OF AN INVESTIGATION OR CHARGES THAT COULD RESULT IN REFUSAL, SUSPENSION, OR REVOCATION.

(3) Registration information concerning the subdivision shall include:

(e) If there is a blanket encumbrance upon the title of the subdivision OR ANY OTHER OWNERSHIP, LEASEHOLD, OR CONTRACTUAL INTEREST THAT COULD DEFEAT ALL POSSESSORY OR OWNERSHIP RIGHTS OF A PURCHASER, a copy of the instruments creating such liens, ~~or~~ encumbrances, OR INTERESTS, with dates as to the recording, along with documentary evidence that any BENEFICIARY, mortgagee, or trustee of a deed of trust OR ANY OTHER HOLDER OF SUCH OWNERSHIP, LEASEHOLD, OR CONTRACTUAL INTEREST will release any lot or time share from the blanket encumbrance or ~~in the case of time share use~~; has subordinated ~~his~~ ITS interest in the subdivision to the interest of any purchaser OR HAS ESTABLISHED ANY OTHER ARRANGEMENT ACCEPTABLE TO THE REAL ESTATE COMMISSION THAT PROTECTS THE RIGHTS OF THE PURCHASER;

(i) A true statement as to whether or not a survey of each lot, site, or tract offered for sale or lease from such subdivision has been made AND WHETHER SURVEY MONUMENTS ARE IN PLACE;

(i.5) A TRUE STATEMENT BY THE DEVELOPER AS TO WHETHER OR NOT A COMMON INTEREST COMMUNITY IS TO BE OR HAS BEEN CREATED WITHIN THE SUBDIVISION AND WHETHER OR NOT SUCH COMMON INTEREST COMMUNITY IS OR WILL BE A SMALL COOPERATIVE OR SMALL AND LIMITED EXPENSE PLANNED COMMUNITY CREATED PURSUANT TO SECTION 38-33.3-116, C.R.S.;

(j) A true statement by the developer concerning the existence of any ~~homeowners~~ COMMON INTEREST COMMUNITY association, including whether the developer controls funds in such association.

**SECTION 4.** 12-61-404 (1) and (2), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

**12-61-404. Registration of developers.** (1) The commission shall register all applicants who meet the requirements of this part 4 and provide each applicant so registered with a certificate indicating that the ~~person, firm, partnership, joint venture, association, or corporation~~ DEVELOPER named therein is registered in the state of Colorado as a subdivision developer. The ~~person, firm, partnership, joint venture, association, or corporation~~ DEVELOPER which will sign as seller or lessor in any contract of sale, lease, or deed purporting to convey any site, tract, lot, or divided or undivided interest from a subdivision shall secure a certificate before offering, negotiating, or agreeing to sell, lease, or transfer before such sale, lease, or transfer is made. If such person or entity is acting only as a trustee, the beneficial owner of the subdivision shall secure a certificate. A certificate issued to a developer shall entitle all sales agents and employees of such developer to act in the capacity of a developer as agent for such developer. The developer shall be responsible for all actions of such sales agents and employees.

(2) All certificates issued under this section shall expire on December 31 following the date of issuance. IN THE ABSENCE OF ANY REASON OR CONDITION UNDER THIS PART 4 THAT MIGHT WARRANT THE DENIAL OR REVOCATION OF A REGISTRATION, a certificate shall be renewed ~~except as provided in section 12-61-405~~ by payment of a renewal fee established pursuant to section 12-61-111.5. A registration that has expired may be reinstated within two years after such expiration upon payment of the appropriate renewal fee if the applicant meets all other requirements of this part 4.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 17, 1996