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COMMITTEES  
CHAIRMAN:  
STATE AND FEDERAL AFFAIRS  
MEMBER:  
STATE EMERGENCY BOARD  
SELECT COMMITTEE ON  
ALCOHOL AND DRUG ABUSE  
RULES

December 28, 1973

MEMORANDUM TO: News Media Executives

RE: Information on New Subdivision Law

- 1) On Jan. 1, 1974, Oregon's sweeping new law to control subdivisions goes into effect. To help avert widespread confusion, I hope the news media will help inform the public about the provisions of this law.
- 2) The attached three-page news release has been sent to news editors around the state to get necessary information about the new subdivision law to the public.
- 3) Also enclosed, for your own background information, is the history behind the law and an explanation of the law.
- 4) I hope this will clear up any confusion about this important new law. Thank you for whatever you can do to help inform the public. Please feel free to call my office if I can be of further assistance.

REP. LES AuCOIN  
House Majority Leader

LA:jt  
Enclosures

State Representative Les AuCoin  
House Majority Leader  
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Salem, Oregon 97310  
Telephone: 378-8540

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N E W S   R E L E A S E

December 28, 1973

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If you're planning to parcel off and sell a couple of pieces of land -- or if you're shopping for land -- you owe it to yourself first to check out Oregon's new subdivision regulation law.

This is the reminder issued by State Rep. Les AuCoin, House Majority Leader, who sponsored Oregon's new Land Development Consumer Protection Act (HB 2607) which becomes effective January 1.

Rep. AuCoin, D-Forest Grove, was sponsor of the bill at the request of Gov. Tom McCall.

Registered real estate developers and brokers have been mailed information about the law and the necessary registration and sales disclosure forms, but AuCoin is concerned about individuals not professionally engaged in the real estate business who might come under the terms of the law but are unaware of its requirements. Penalties for violation of the provisions are severe -- up to \$50,000 fine and/or imprisonment for up to two years.

"The aim of this law is two-fold: to control the big-time operators who take advantage of unwary customers in 'sagebrush subdivisions' and similar developments, and to protect all real estate purchasers by requiring a full sales disclosure statement. It is not intended to hurt or inconvenience

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## 2-2-2 Land Development Consumer Protection Act

small landowners selling off a few acres, and they won't be if they are properly informed as to how the law affects them," AuCoin said.

Examples of the kinds of problems the law is designed to correct are suburban subdivisions where new homeowners found sales-promotion promises of sidewalks, location in a certain school district, and adequate sewage treatment facilities unfulfilled. In some large Central Oregon developments, purchasers did not get the water, roads, and utilities they thought they had paid for.

Specifically, the Land Development Consumer Protection Act: (1) insures that prospective purchasers of land development interests have all pertinent information concerning conditions on and in the vicinity of the property; (2) places the buyer and seller on an equal footing regarding the transaction; and (3) registers land developments, particularly promotional land sales.

Two key provisions are the requirements for public disclosure statements and registration of certain subdivisions.

When a landowner divides property into two or more parcels and thus becomes a developer, he must, unless exempted from the law's provisions, provide a disclosure statement to every prospective purchaser, if such is requested. All actual purchasers MUST receive a disclosure statement prior to signing a land sale contract.

Regarding registration of subdivisions with the Real Estate Commissioner, all land developments involving six

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3-3-3 Land Development Consumer Protection Act

or more parcels must be registered. No person may sell or offer an interest in a land development unless it is currently registered with the Real Estate Commissioner. That means previously registered land development projects must be re-registered.

The Commissioner has the mandatory duty to investigate every application to determine compliance. Additionally, he has the discretionary power to do such things as make an onsite inspection of the development, at the cost of the developer, and obtain reports and recommendations from planning commissioners or other agencies.

For more information on how this law affects land sales, and for data on exemptions, individuals should write the Real Estate Commissioner, Department of Commerce, Commerce Building, Salem, Ore. 97310, or 136 State Office Building, Portland, Ore. 97201.

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LAND DEVELOPMENT CONSUMER PROTECTION ACT (HB 2607)

HISTORY

House Bill 2607 is an outgrowth of problems first reported to me in the spring of 1972 by some of my constituents. These families purchased property in a major subdivision in Washington County which was built without sidewalks in violation of the county's subdivision ordinances and the developer's sales promises. Where developers promised sidewalks, children were walking to school along water-filled ditches. Where sales promotions promised recreational areas, weeds grew wild. Other problems encountered by constituents involved flooding, inadequate sewage treatment facilities, location in a school district other than the one indicated, and other unfilled promises of real estate salesmen.

Further investigation indicated that in Washington County alone, some 100 subdivisions failed to make good on some of these and other promises.

Obviously, there was a need for a law requiring full disclosure by the seller of conditions on and near property to be purchased. People have a right to know what they are getting for their money.

Also part of the background of HB 2607 is the Federal Interstate Land Sales Full Disclosure Act which requires out-of-state developers to provide purchasers with pertinent information about real estate to be sold.

Working with the Governor's office, real estate people, developers, and others concerned, HB 2607 was written to provide consumer protection, environmental protection (by requiring compliance with comprehensive land use plans), and bring state law more into conformance with the federal disclosure law.

For a complete description of the law, itself, please see the attached bill summary.

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SUMMARY OF HB 2607: LAND DEVELOPMENT CONSUMER PROTECTION ACT

The purpose of House Bill 2607 (Chapter 421, 1973 Oregon Laws), is:

1. To insure that prospective purchasers of land development interests have all pertinent information concerning conditions on and in the vicinity of the property;
2. to place the buyer and seller on an equal footing regarding the transaction;
3. to register land developments--particularly promotional land sales.

I. DISCLOSURE STATEMENTS

When a landowner divides property into two or more parcels and thus becomes a developer, he must, unless exempted from the Act's provisions, provide a disclosure statement to every prospective purchaser, if such is requested. All purchasers must receive a disclosure statement prior to signing a land sale contract.

II REGISTRATION

All land developments involving six or more parcels, unless exempt from the Act or exempted by the Real Estate Commissioner, must be registered with the Commissioner.

No person may sell or offer an interest in a land development (unless exempt from registration) unless it is currently registered with the Real Estate Commissioner.

The Commissioner has the mandatory duty to investigate every application to determine compliance with several enumerated conditions for registration. Additionally, he has the discretionary power to do such things as make an onsite inspection of the development (cost to be incurred by the developer) and obtain reports and recommendations from planning commissions or other agencies.

III WHAT THE ACT COVERS AND EXEMPTS

The law repeals and replaces the current Subdivision Control Act (ORS 92.210 to 92.390), which provides for public reports on developments to be prepared by the Real Estate Commissioner, unless waived. The new Act is administered by the Commissioner.

The provisions apply to all lands encompassed by the term land development, which is defined in the Act: basically, the division of land into two or more lots, parcels, or units (including condominiums) for the purpose of disposition.

Partially Exempt

All land developments of five or fewer interests are exempt from registering or filing a disclosure statement with the Commissioner--although disclosures must still be given to purchasers by the seller in every case where land is divided unless specifically exempted by the Act.

Totally Exempt

Interests or transactions which are completely exempted from the Act's provisions are:

1. Lots, parcels or units on which there is a commercial or industrial building, shopping center, or dwelling unit or apartment which is not being disposed of for the first time.
2. Dispositions of parcels larger than 320 acres.
3. Dispositions where all parcels after division are intended to be used for agricultural, timber or grazing purposes.
4. Cemetery lots or interests in cemetery lots.
5. Dispositions between those engaged in the business of constructing, leasing, or re-selling residential, commercial or industrial buildings.
6. Dispositions pursuant to a court order.
7. Evidences of indebtedness secured by a mortgage or trust deed.
8. Securities or units of interest which are regulated under any federal or state statutes.
9. Interests in oil, gas, or other minerals.
10. Adjustments of lot lines, involving the relocation of common boundaries without creation of an additional building site.

## Exempt from Registration

Interests or transactions which are exempted from registration with the Commissioner: (CAVEAT: the developer must specifically claim the exemption after showing his eligibility for it; the burden of showing is on the developer and not the Commissioner. Also, a copy of the disclosure statement must accompany the exemption claim, and another copy must be given to the prospective purchaser):

1. Developers are exempt if the interest involves a fully-serviced subdivision (e.g., there is adequate water and sewage disposal, electric power is available, there is adequate drainage).
2. Developments not classed as "promotional land developments" may be exempted by rule of the Commissioner.

A presumption that the sale is a "promotional land development" arises when one of the following elements exists:

- a. The intended use of the property involves recreation.
- b. The intended use of the property involves construction of a second home or vacation dwelling.
- c. The property has been promoted for retirement living.
- d. The property has been promoted for investment.
- e. The property has been promoted by offering "free lots," or conducting lotteries or contests, or offering prizes, gifts or other material inducements for the purpose of influencing a purchaser or prospective purchaser of real property.
- f. Any other factor the Commissioner has found to be a frequently occurring element in promotional land sales.