

CALIFORNIA CODES  
BUSINESS AND PROFESSIONS CODE  
SECTION 11010-11023

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

- (1) The name and address of the owner.
- (2) The name and address of the subdivider.
- (3) The legal description and area of lands.
- (4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.
- (6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government **Code**, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government **Code**.
- (7) A true statement of the use or uses for which the proposed subdivision will be offered.
- (8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.
- (9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.
- (10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.
- (11) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the department with the name, address, and telephone number of that district.

(12) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

#### NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(13) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(14) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(15) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

#### NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(16) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a

proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

11010.05. A person who proposes to create a senior citizen housing development, as defined in Section 51.3 or 51.11 of the Civil **Code**, shall include in the application for a public report a complete statement of the restrictions on occupancy that are to be applicable in the development. Any public report issued for a senior housing development shall also include a complete statement of the restrictions on occupancy to be applicable in the development. This section shall become operative on July 1, 2001, and shall apply to all applications for a public report for a senior housing development submitted to the department on or after July 1, 2001.

11010.1. Prior to the issuance of promissory notes secured by individual lots in an unrecorded subdivision, the owner, his agent or subdivider shall notify the commissioner in writing of his intention to issue such notes. The notice of intention shall contain the following information:

- (a) The name and address of the owner.
- (b) The name and address of the subdivider.
- (c) The legal description and area of lands.
- (d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (e) A true statement of the terms and conditions on which it is intended to issue the promissory notes.
- (f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities.
- (g) Such other information as the owner, his agent or subdivider, may desire to present.

11010.2. (a) As used in this section:

- (1) "Quantitative" means the number and type of documents required to make the filing substantially complete, as defined in the regulations of the commissioner, without regard to the content of those requirements.
- (2) "Qualitatively complete" means that all deficiencies and substantive inadequacies contained in the documents that were required to make the filing substantially complete have been corrected.
- (3) "Substantially complete" means that a notice and application contain all requirements as set forth in the regulations of the commissioner.

(b) Upon receipt of a notice of intention pursuant to Section 11010 and an application for issuance of a public report, the commissioner shall review the notice and application to

determine if the notice and application are substantially complete, with respect to quantitative requirements. The commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(1) If the notice and application are not substantially complete with respect to the quantitative requirements pursuant to this subdivision, the notification shall specify the information needed to make the notice and application substantially complete. Upon receipt of any resubmittal of a notice and application, the commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(2) If the commissioner determines that the notice and application are substantially complete with respect to the quantitative requirements pursuant to this subdivision, the commissioner shall provide the applicant with a list of all deficiencies and substantive inadequacies necessary for the notice and application to be qualitatively complete, within 60 days of that determination, in the case of subdivisions specified in Section **11000.1** or 11004.5, and within 20 days of that determination, in the case of other subdivisions.

(c) Upon receipt of all documents, materials, writings, and other information submitted in response to the list in paragraph (2) of subdivision (b), the commissioner shall notify the applicant whether the notice and application are qualitatively complete within 30 days, in the case of subdivisions specified in Section **11000.1** or 11004.5, and within 20 days of receipt, in the case of other subdivisions. If the application and notice are not qualitatively complete, the notification shall include a list of any remaining deficiencies and substantive inadequacies. Upon receipt of any resubmittal of documents, materials, writings, and other information in response to a list of any remaining deficiencies and substantive inadequacies, the commissioner shall provide notification within the time limits specified in this subdivision.

(d) The commissioner shall issue a public report within 15 days, in the case of a subdivision specified in Section **11000.1** or 11004.5, or 10 days, in the case of other subdivisions, after the notice and application are determined to be qualitatively and substantially complete, and submittal of recorded or filed instruments and evidence of financial arrangements required by the commissioner.

(e) Upon receipt of an application for approval of a declaration as provided in Section 11010.10, the commissioner shall notify the applicant of any deficiency or inadequacy in the declaration within 60 days of its receipt. The commissioner shall notify the applicant of any deficiency or inadequacy in a declaration that has been revised following the first notice of deficiency or inadequacy within 30 days of its receipt.

(f) The commissioner shall adopt regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code**, that define "substantially complete" and that list all the requirements necessary for a notice of intention and application to be considered "substantially complete."

(g) The commissioner may adopt emergency regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code**, to increase, as set forth below, those time periods specified in subdivisions (b), (c), and (d), upon a showing that the number of notices of intention and applications for a subdivision public report filed with the department for any immediately preceding six-month period has increased by more than 15 percent over the monthly average number of notices and applications filed for the

base period commencing July 1, 1983, and ending June 30, 1986:

(1) The time for issuing the notice provided in subdivision (b) shall increase to 15 days.

(2) The time for providing the listing required by paragraph (2) of subdivision (b) shall increase to 90 days, in the case of subdivisions specified in Sections **11000.1** and 11004.5, and to 30 days, in the case of other subdivisions.

(3) The time period provided in subdivision (c) for responding to receipt of documents intended to correct deficiencies shall be 30 days without regard to the type of subdivision being processed.

(4) The time periods provided in subdivision (d) within which the commissioner is required to issue a public report in the case of subdivisions specified in Sections **11000.1** and 11004.5, shall increase to 30 days and in the case of other subdivisions shall increase to 15 days.

This section does not apply to filings made exclusively under Section 11010.1. Nothing in this section requires the commissioner to issue a public report where grounds for denial exist, provided that issuance of a public report shall not be denied for inadequate information if the cause thereof is the commissioner's failure to comply with this section.

Notwithstanding other provisions of this section, the commissioner shall not be required to issue a public report if grounds for denial exist under Section 11018 or 11018.5. However, the commissioner may not base the denial of a public report on the lack of adequate information if the commissioner has not acted within the time periods prescribed in this section.

11010.3. The provisions of this chapter shall not apply to the proposed sale or lease of lots or other interests in a subdivision in which lots or other interests are (a) limited to industrial or commercial uses by zoning or (b) limited to industrial or commercial uses by a declaration of covenants, conditions, and restrictions, which declaration has been recorded in the official records of the county or counties in which the subdivision is located.

11010.35. (a) The provisions of this chapter shall not apply to the proposed sale or lease of five or more lots, parcels, or other interests in a subdivision or the sale of one or more lots or parcels in a subdivision where the lot or lots or parcel or parcels are intended to be further subdivided into five or more lots, parcels, or other subdivision interests as defined in Sections **11000**, **11000.1**, and 11004.5, to any person who acquires the lots, parcels, or other subdivision interests

for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings, or for the purpose of resale or lease of the lots, parcels, or other subdivision interests to persons engaged in this business, provided that the purchase or lease agreement or a separate disclosure document includes a statement or provision that the purchaser or lessee is required to comply with the applicable provisions of this chapter prior to offering for sale or lease any lot, parcel, or other subdivision interest acquired pursuant to the exemption granted by this subdivision.

(b) The exemption provided by subdivision (a) does not apply to a proposed sale or lease of lots, parcels, or other subdivision interests that is done for the purpose of evading any other provision of this chapter.

(c) The provisions of subdivision (a) are intended to clarify the application of this chapter to the commercial sale or lease of residential subdivision interests and should not be interpreted to impose requirements on transactions entered into prior to the date on which this section became operative.

11010.4. The notice of intention specified in Section 11010 is not required for a proposed offering of subdivided land that satisfies all of the following criteria:

(a) The owner, subdivider, or agent has complied with Sections 11013.1, 11013.2, and 11013.4, if applicable.

(b) The subdivided land is not a subdivision as defined in Section **11000.1** or 11004.5.

(c) Each lot, parcel or unit of the subdivision is located entirely within the boundaries of a city.

(d) Each lot, parcel or unit of the subdivision will be sold or offered for sale improved with a completed residential structure and with all other improvements completed that are necessary to occupancy or with financial arrangements determined to be adequate by the city to ensure completion of the improvements.

11010.5. The filing of a second notice of intention to sell and a second report of the commissioner under this article shall not be required when all the following conditions have been met: (a) where there has been a previous subdivision report and the lots are subsequently acquired through any foreclosure action, or by a deed in lieu of foreclosure, by a bank, life insurance company, industrial loan company, credit union, or savings and loan association licensed or operating under the provisions of a state or federal law if the acquired lots, either improved or unimproved, will be sold in conformance with the previously issued subdivision public report; (b) the original public report is given to the first purchasers of the lots in the foreclosed subdivision; and (c) the commissioner is notified of the change of ownership within 30 days of the acquisition of the title to such property.

11010.6. The provisions of this chapter shall not be applicable to

subdivided land which is offered or proposed to be offered for sale, lease, or financing by a state agency, including the University of California, a local agency, or other public agency.

11010.7. The notice of intention specified in Section 11010 shall not apply to nonbinding expressions of intent to purchase or lease which an owner, agent, or subdivider is required to obtain from the tenants of units which are proposed to be converted to a condominium, community apartment project, or stock cooperative project, by ordinance, or as a condition to the approval of a tentative or parcel map pursuant to Division 2 (commencing with Section 66410) of Title 7 of the Government **Code**.

11010.8. (a) The requirement that a notice of intention be filed pursuant to Section 11010 is not applicable to the purchase of a mobilehome park by a nonprofit corporation if all of the following occur:

(1) A majority of the shareholders or members of the nonprofit corporation constitute a majority of the homeowners of the mobilehome park, and a majority of the members of the board of directors of the nonprofit corporation are homeowners of the mobilehome park.

(2) All members of the corporation are residents of the mobilehome park. Members of the nonprofit corporation may enter into leases with the corporation that are greater than five years in length. "Homeowners" or "residents" of the mobilehome park shall include a bona fide secured party who has, pursuant to a security interest in a membership, taken title to the membership by means of foreclosure, repossession, or voluntary repossession, and who is actively attempting to resell the membership to a prospective resident or homeowner of the mobilehome park, in accordance with subdivision (f) of Section 7312 of the Corporations **Code**.

(3) A permit to issue securities under Section 25113 of the Corporations **Code** is obtained from the Department of Corporations. In the case of a nonissuer transaction (as defined by Section 25011 of the Corporations **Code**) involving the offer to resell or the resale of memberships by a bona fide secured party as described in paragraph (2) of this section, a permit is not required where the transaction is exempt from the qualification requirements of Section 25130 of the Corporations **Code** pursuant to subdivision (e) of Section

25104 of the Corporations **Code**. The exemption from qualification pursuant to subdivision (e) of Section 25104 of the Corporations **Code** available to a bona fide secured party does not eliminate the requirement of this section that the nonprofit corporation shall either file a notice of intention pursuant to Section 11010 or obtain a permit pursuant to Section 25113 of the Corporations **Code**.

(4) All funds of tenants for the purchase of the mobilehome park are deposited in escrow until the document transferring title of the mobilehome park to the nonprofit corporation is recorded. The escrow also shall include funds of homeowners that shall be available to the homeowners association nonprofit corporation for payment of any and all costs reasonably associated with the processing and conversion of the mobilehome park into condominium interests. Payment of these costs may be made from the funds deposited in escrow prior to the close of escrow upon the direction of the homeowners association nonprofit corporation.

(b) The funds described by paragraph (4) of subdivision (a), or any other funds subsequently received from tenants for purposes other than the purchase of a separate subdivided interest in any portion of the mobilehome park, are not subject to the requirements of Section 11013.1, 11013.2, or 11013.4.

11010.9. (a) Notwithstanding any other provision of law, the subdivider of a mobilehome park that is proposed to be converted to resident ownership, prior to filing a notice of intention pursuant to Section 11010, shall disclose to homeowners and residents of the park, by written notice, the tentative price of the subdivided interest proposed to be sold or leased.

(b) The disclosure notice required by subdivision (a) shall include a statement that the tentative price is not binding, could change between the time of disclosure and the time of governmental approval to commence the actual sale or lease of the subdivided interests in the park, as the result of conditions imposed by the state or local government for approval of the park conversion, increased financing costs, or other factors and, in the absence of bad faith, shall not give rise to a claim for liability against the provider of this information.

(c) The disclosure notice required by subdivision (a) shall not be construed to authorize the subdivider of a mobilehome park that is proposed to be converted to resident ownership to offer to sell or lease, sell or lease, or accept money for the sale or lease of,



subdivided interests in the park, or to engage in any other activities that are otherwise prohibited, with regard to subdividing the park into ownership interests, prior to the issuance of a public report pursuant to this chapter.

11010.10. A person who plans to offer for sale or lease lots or other interests in a subdivision which sale or lease (a) is not subject to the provisions of this chapter, (b) does not require the submission of a notice of intention as provided in Section 11010, or (c) is subject to this chapter and for which the local jurisdiction requires review and approval of the declaration, as defined in subdivision (h) of Section 1351 of the Civil **Code**, prior to or concurrently with the recordation of the subdivision map and prior to the approval of the declaration pursuant to a notice of intention for a public report, may submit an application requesting review of the declaration, along with any required supporting documentation, to the commissioner, without the filing of a notice of intention for the subdivision for which the declaration is being prepared. Upon approval, the commissioner shall give notice to the applicant that the declaration shall be approved for a subsequent notice of intent filing for any public report for the subdivision identified in the application, provided that the subdivision setup is substantially the same as that originally described in the application for review of the declaration.

11010.11. Notwithstanding any provision in the purchase contract to the contrary, if the subdivision is to be used for residential purposes, the subdivision public report shall disclose that a prospective buyer has the right to negotiate with the seller to permit inspections of the property by the buyer, or the buyer's designee, under terms mutually agreeable to the prospective buyer and seller.

11011. (a) The commissioner may by regulation prescribe filing fees in connection with applications to the Department of Real Estate pursuant to this chapter 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 chapter. 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.

(b) The filing fee for an application for a public report to be issued under authority of this chapter shall not exceed the following for each subdivision or phase of a subdivision in which interests are to be offered for sale or lease:

(1) A notice of intention without a completed questionnaire: One hundred fifty dollars (\$150).

(2) An original public report for subdivision interests described in Section 11004.5: One thousand seven hundred dollars (\$1,700) plus ten dollars (\$10) for each subdivision interest to be offered.

(3) An original public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars (\$600) plus ten dollars (\$10) for each subdivision interest to be offered.

(4) A conditional public report for subdivision interests described in Section 11004.5: Five hundred dollars (\$500).

(5) A conditional public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars (\$500).

(6) A preliminary public report for subdivision interests described in Section 11004.5: Five hundred dollars (\$500).

(7) A preliminary public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars (\$500).

(8) A renewal public report for subdivision interests described in Section 11004.5: Six hundred dollars (\$600).

(9) A renewal public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars (\$600).

(10) An amended public report for subdivision interests described in Section 11004.5: Five hundred dollars (\$500) plus ten dollars (\$10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(11) An amended public report to offer subdivision interests other than those described in Section 11004.5: Five hundred dollars (\$500) plus ten dollars (\$10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(c) The filing fee to review a declaration as described in Section 11010.10 shall not exceed two hundred dollars (\$200).

(d) The actual subdivision fees established by regulation under authority of this section and Section 10249.3 shall not exceed the amount reasonably required by the department to administer this part

and Article 8 (commencing with Section 10249) of Chapter 3 of Part 1.

(e) All fees collected by the department under authority of this chapter 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 this chapter shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as the result of a mistake or inadvertence.

This section shall remain in effect unless it is superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

11012. It is unlawful for the owner, his agent, or subdivider, of the project, after it is submitted to the Department of Real Estate, to materially change the setup of such offering without first notifying the Department of Real Estate in writing of such intended change. This section only applies to those changes of which the owner, his agent, or subdivider has knowledge or constructive knowledge.

11013. For the purposes of this part, a blanket encumbrance shall be considered to mean a trust deed or mortgage or any other lien or encumbrance, mechanics' lien or otherwise, securing or evidencing the payment of money and affecting land to be subdivided or affecting more than one lot or parcel of subdivided land, or an agreement affecting more than one such lot or parcel by which the owner or subdivider holds said subdivision under an option, contract to sell, or trust agreement.

11013.1. It shall be unlawful, except as provided in Section 11013.2, for the owner, subdivider, or agent to sell or lease lots or parcels within a subdivision that is subject to a blanket encumbrance unless there exists in such blanket encumbrance or other supplementary agreement a provision, hereinafter referred to as a release clause, which by its terms shall unconditionally provide that the purchaser or lessee of a lot or parcel can obtain legal title or other interest contracted for, free and clear of such blanket

encumbrance, upon compliance with the terms and conditions of the purchase or lease.

11013.2. Should there not exist in the blanket encumbrance or supplementary agreement a release clause as set forth in Section 11013.1, then it shall be unlawful for the owner, subdivider, or agent to sell or lease lots or parcels within such subdivision unless one of the following conditions is complied with:

(a) The entire sum of money paid or advanced by the purchaser or lessee of any such lot or parcel, or such portion thereof as the commissioner shall determine is sufficient to protect the interest of the purchaser or lessee, shall be deposited into an escrow depository acceptable to the commissioner until either (1) a proper release is obtained from such blanket encumbrance; or (2) either the owner, subdivider, or agent or the purchaser or lessee may default under their contract of sale or lease and there is a determination as to the disposition of such moneys; or (3) the owner, subdivider, or agent orders the return of such moneys to such purchaser or lessee.

(b) The title to the subdivision is to be held in trust under an agreement of trust acceptable to the commissioner until a proper release from such blanket encumbrance is obtained.

(c) A bond to the State of California is furnished to the commissioner for the benefit and protection of purchasers or lessees of such lots or parcels, in such amount and subject to such terms as may be approved by the commissioner, which shall provide for the return of the moneys paid or advanced by any purchaser or lessee, for or on account of the purchase or lease of any such lot or parcel if a proper release from such blanket encumbrance is not obtained; provided, however, that if it should be determined that such purchaser or lessee, by reason of default or otherwise, is not entitled to the return of such moneys, or any portion thereof, then such bond shall be exonerated to the extent of the amount of such moneys to which such purchaser or lessee is not entitled.

(d) There is conformance to such other alternative requirement or method which the commissioner may deem acceptable to carry into effect the intent and provisions of this part.

11013.3. Taxes and assessments levied by public authority shall not be considered a blanket encumbrance within the meaning of Section 11013.

11013.4. If a subdivision is not subject to a blanket encumbrance, as defined in Section 11013, it is unlawful for the owner, subdivider, or agent to sell or lease lots or parcels within a subdivision unless one of the following conditions is complied with:

(a) The entire sum of money paid or advanced by the purchaser or lessee of any lot or parcel, or such portion thereof as the commissioner determines is sufficient to protect the interest of the purchaser or lessee, is deposited into an escrow depository acceptable to the commissioner or into a trust account acceptable to the commissioner to be held in the escrow depository or trust account until the legal title or other interest contracted for, whether title of record or other interest, is delivered to the purchaser or lessee or until (1) either the owner, subdivider, or agent or the purchaser or lessee defaults under the contract of sale or lease and a determination is made as to the disposition of the money; or (2) the owner, subdivider, or agent orders the return of the money to the purchaser or lessee.

(b) A bond to the State of California is furnished to the commissioner for the benefit and protection of purchasers or lessees of the lots or parcels, in such amount and subject to such terms as may be approved by the commissioner, which provides for the return of the money paid or advanced by any purchaser or lessee, for or on account of the purchase or lease of any lot or parcel in the event that the owner, subdivider, or agent does not, within the time specified in the contract to sell or lease, or any extension thereof, deliver the legal title or other interest contracted for, whether title of record or other interest, to the purchaser or lessee for any reason other than an uncured default of the purchaser or lessee.

(c) An association, approved by the commissioner, files with the commissioner a certificate in which it certifies that the owner, subdivider, or agent is a member of the association and that there is on file with the commissioner a bond, of the kind specified in subdivision (b), which has been approved by the commissioner as to amount, terms and coverage, and which is for the benefit and protection of all purchasers and lessees of subdivided lots or parcels to be sold or leased by members of the association (all which the commissioner may, at the commissioner's option, verify or require to be verified).

(d) Proof, satisfactory to the commissioner, is furnished: (1) that security provided or contemplated to be given pursuant to the

provisions of Section 66493 and Chapter 5 (commencing with Section 66499) of Division 2 of Title 7 of the Government **Code**, has been given in an amount, the commissioner approves, or that the giving of such security is unnecessary; and (2) that a lien and completion bond or bonds, approved by the commissioner as to amount, terms and coverage and including within its scope all onsite construction work to be undertaken on the lots or parcels, has been written and issued by an admitted surety insurer; provided, however, that this subdivision applies only to an owner, subdivider, or agent who proposes to sell or lease the lots or parcels with improvements thereon in the nature of residential structures.

(e) The entire sums of moneys paid or advanced by the purchasers or lessees of the lots or parcels, or such portion of the money as the commissioner determines is sufficient to protect the interest of the purchaser or lessee, is deposited into an escrow depository or other agency, acceptable to the commissioner, to be held, in whole or in part, by the escrow depository or other agency as provided by subdivision (a) or, at the election of the owner, subdivider, or agent, to be disbursed, in whole or in part, for the construction of residential or other structures to be built on the lots or parcels within the subdivision, or such unit or units thereof as the commissioner determines, in such manner and pursuant to such instructions as the commissioner approves; provided, however, that the provisions of this subdivision apply only to an owner, subdivider, or agent who proposes to sell or lease the lots or parcels with improvements thereon in the nature of residential structures.

(f) There is conformance to such other alternative requirement or method the commissioner deems acceptable to carry into effect the intent and provisions of this part.

11013.5. The public report of the commissioner, when issued, shall indicate the method or procedure selected by the owner or subdivider to comply with the provisions of Sections 11013.1, 11013.2 or 11013.4.

11014. The commissioner may investigate any subdivision being offered for sale or lease in this State. For the purposes of such investigations the commissioner may use and rely upon any relevant information or data concerning a subdivision obtained by him from the

Federal Housing Administration, the United States Veterans Administration or any other federal agency having comparable duties and functions in relation to subdivisions or property therein.

11018. The Real Estate Commissioner shall make an examination of any subdivision, and shall, unless there are grounds for denial, issue to the subdivider a public report authorizing the sale or lease in this state of the lots or parcels within the subdivision. The report shall contain the data obtained in accordance with Section 11010 and which the commissioner determines are necessary to implement the purposes of this article. The commissioner may publish the report.

The grounds for denial are:

- (a) Failure to comply with any of the provisions in this chapter or the regulations of the commissioner pertaining thereto.
- (b) The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.
- (c) Inability to deliver title or other interest contracted for.
- (d) Inability to demonstrate that adequate financial arrangements have been made for all offsite improvements included in the offering.
- (e) Inability to demonstrate that adequate financial arrangements have been made for any community, recreational or other facilities included in the offering.
- (f) Failure to make a showing that the parcels can be used for the purpose for which they are offered; and in the case of a subdivision being offered for residential purposes failure to make a showing that vehicular access and a source of potable domestic water either is available or will be available.
- (g) Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative thereto.
- (h) Agreements or bylaws to provide for management or other services pertaining to common facilities in the offering, which fail to comply with the regulations of the commissioner.
- (i) Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.

11018.1. (a) A copy of the public report of the commissioner, when issued, shall be given to the prospective purchaser by the owner, subdivider or agent prior to the execution of a binding contract or agreement for the sale or lease of any lot or parcel in a subdivision. The requirement of this section extends to lots or parcels offered by the subdivider after repossession. A receipt shall be taken from the prospective purchaser in a form and manner as set forth in regulations of the Real Estate Commissioner.

(b) A copy of the public report shall be given by the owner, subdivider or agent at any time, upon oral or written request, to any member of the public. A copy of the public report and a statement advising that a copy of the public report may be obtained from the owner, subdivider or agent at any time, upon oral or written request, shall be posted in a conspicuous place at any office where sales or leases or offers to sell or lease lots within the subdivision are regularly made.

(c) At the same time that a public report is required to be given by the owner, subdivider, or agent pursuant to subdivision (a) with respect to a common interest development, as defined, in subdivision (c) of Section 1351 of the Civil **Code**, the owner, subdivider, or agent shall give the prospective purchaser a copy of the following statement:

#### "COMMON INTEREST DEVELOPMENT GENERAL INFORMATION

The project described in the attached Subdivision Public Report is known as a common-interest development. Read the public report carefully for more information about the type of development. The development includes common areas and facilities which will be owned or operated by an owners' association. Purchase of a lot or unit automatically entitles and obligates you as a member of the association and, in most cases, includes a beneficial interest in the areas and facilities. Since membership in the association is mandatory, you should be aware of the following information before you purchase:

Your ownership in this development and your rights and remedies as a member of its association will be controlled by governing instruments which generally include a Declaration of Restrictions (also known as CC&R's), Articles of Incorporation (or association) and bylaws. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law. Study these documents carefully before entering into a contract to purchase a subdivision interest.



In order to provide funds for operation and maintenance of the common facilities, the association will levy assessments against your lot or unit. If you are delinquent in the payment of assessments, the association may enforce payment through court proceedings or your lot or unit may be liened and sold through the exercise of a power of sale. The anticipated income and expenses of the association, including the amount that you may expect to pay through assessments, are outlined in the proposed budget. Ask to see a copy of the budget if the subdivider has not already made it available for your examination.

A homeowner association provides a vehicle for the ownership and use of recreational and other common facilities which were designed to attract you to buy in this development. The association also provides a means to accomplish architectural control and to provide a base for homeowner interaction on a variety of issues. The purchaser of an interest in a common-interest development should contemplate active participation in the affairs of the association. He or she should be willing to serve on the board of directors or on committees created by the board. In short, "they" in a common interest development is "you." Unless you serve as a member of the governing board or on a committee appointed by the board, your control of the operation of the common areas and facilities is limited to your vote as a member of the association. There are actions that can be taken by the governing body without a vote of the members of the association which can have a significant impact upon the quality of life for association members.

Until there is a sufficient number of purchasers of lots or units in a common interest development to elect a majority of the governing body, it is likely that the subdivider will effectively control the affairs of the association. It is frequently necessary and equitable that the subdivider do so during the early stages of development. It is vitally important to the owners of individual subdivision interests that the transition from subdivider to resident-owner control be accomplished in an orderly manner and in a spirit of cooperation.

When contemplating the purchase of a dwelling in a common interest development, you should consider factors beyond the attractiveness of the dwelling units themselves. Study the governing instruments and give careful thought to whether you will be able to exist happily in an atmosphere of cooperative living where the interests of the group must be taken into account as well as the interests of the individual. Remember that managing a common interest development is very much like governing a small community ... the management can

serve you well, but you will have to work for its success."

Failure to provide the statement in accordance with this subdivision shall not be deemed a violation subject to Section 10185.

11018.2. No person shall sell or lease, or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the Real Estate Commissioner. This section shall not apply to subdivisions for which a notice of intention is not required under the provisions of this chapter.

11018.3. Any subdivider objecting to the denial of a public report may, within 30 days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within 20 days thereafter unless the party requesting the hearing requests a postponement. If the hearing is not held within 20 days after request for a hearing is received plus the period of the postponement or if a proposed decision is not rendered within 45 days after submission and an order adopting or rejecting the proposed decision is not issued within 15 days thereafter, the order of denial shall be rescinded and a public report issued.

11018.5. With respect to the subdivisions and interests of the type described in Section 11004.5, and in addition to the other grounds for denial of a public report as set forth in this **code**, the commissioner shall issue a public report if the commissioner finds the following with respect to any such subdivision or interest:

(a) (1) Reasonable arrangements have been made to assure completion of the subdivision and all offsite improvements included in the offering.

(2) If the condominium or community apartment project, stock cooperative or planned development, or premises or facilities within the common area are not completed prior to the issuance of a final subdivision public report on the project, the subdivider shall specify a reasonable date for completion and shall comply with one of

the following conditions:

(A) Arranges for lien and completion bond or bonds in an amount and subject to such terms, conditions and coverage as the commissioner may approve to assure completion of the improvements lien free.

(B) All funds from the sale of lots or parcels or such portions thereof as the commissioner shall determine are sufficient to assure construction of the improvement or improvements, shall be impounded in a neutral escrow depository acceptable to the commissioner until the improvements have been completed and all applicable lien periods have expired; provided, however, the commissioner determines the time for the completion is reasonable.

(C) An amount sufficient to cover the costs of construction shall be deposited in a neutral escrow depository acceptable to the commissioner under a written agreement providing for disbursements from that escrow as work is completed.

(D) If the project is a condominium situated on a single parcel as shown on an approved final subdivision map, arrange for (i) lien and completion bond or bonds in an amount sufficient to assure lien-free completion of all common area improvements not located in a residential structure, and (ii) placement of all funds, or such portions thereof as the commissioner shall determine are sufficient, from the sales of condominium interests in a neutral escrow depository acceptable to the commissioner. The funds for purchase or lease of the condominium interest shall remain in the escrow account until the residential structure in which the purchaser's separate unit is located has been completed, and all lien periods applicable to the purchaser's separate and undivided interests in the entire project arising out of the work of improvement performed by either the subdivider or any successor in interest to the subdivider have expired or have been insured against in a manner satisfactory to the commissioner.

(E) Such other alternative plan as may be approved by the commissioner.

(b) The deeds, conveyances, leases, subleases, or instruments or assignment to be used are adequate to transfer to the purchasers the legal interests and uses which the owner or subdivider represents the purchasers will receive.

(c) After transfer of title to the first lot, apartment, or condominium in the subdivision to any purchaser, the provisions of the declaration of restrictions, articles of incorporation, bylaws, management contracts (and the provisions of any and all other documents establishing, in whole or in part, the plan for use,

enjoyment, maintenance, and preservation of the subdivision) as last submitted to the commissioner prior to issuance of the final public report, shall be binding upon the purchaser and occupant of every other lot, apartment, or condominium in the subdivision, including, except with regard to a limited-equity housing cooperative, purchasers acquiring title by foreclosure, whether judicial or nonjudicial, or by deed in lieu thereof, under any mortgage or deed of trust, whether or not the mortgage or deed of trust was recorded prior to recordation of the covenants, conditions and restrictions applicable to the first lot, apartment, or condominium.

(d) Reasonable arrangements have been made for delivery of control over the subdivision and all offsite land and improvements included in the offering, to the purchasers of lots, apartments, or condominiums in the subdivision.

(e) Reasonable arrangements have been or will be made as to the interest of each of the purchasers of lots, apartments, or condominiums in the subdivision with respect to the management, maintenance, preservation, operation, use, right of resale, and control of their lots, apartments, or condominiums, and such other areas or interests, whether or not within, or pertaining to, areas within the boundaries of the subdivision, as have been or will be made subject to the plan of control proposed by the owner and subdivider, and which are included in the offering.

"Purchaser," as used in this section, shall include within its meaning a lessee of the legal interests described in Section 11003 of this **code**.

11018.6. Any person offering to sell or lease any interest subject to the requirements of subdivision (a) of Section 11018.1 in a subdivision described in Section 11004.5 shall make a copy of each of the following documents available for examination by a prospective purchaser or lessee before the execution of an offer to purchase or lease and shall give a copy thereof to each purchaser or lessee as soon as practicable before transfer of the interest being acquired by the purchaser or lessee:

(a) The declaration of covenants, conditions, and restrictions for the subdivision.

(b) Articles of incorporation or association for the subdivision owners association.

(c) Bylaws for the subdivision owners association.

(d) Any other instrument which establishes or defines the common,

mutual, and reciprocal rights, and responsibilities of the owners or lessees of interests in the subdivision as shareholders or members of the subdivision owners association or otherwise.

(e) To the extent available, the current financial information and related statements as specified in subdivision (a) of Section 1365 of the Civil **Code**, for subdivisions subject to those provisions.

(f) A statement prepared by the governing body of the association setting forth the outstanding delinquent assessments and related charges levied by the association against the subdivision interests in question under authority of the governing instruments for the subdivision and association.

11018.7. (a) No amendment or modification of provisions in the declaration of restrictions, bylaws, articles of incorporation or other instruments controlling or otherwise affecting rights to ownership, possession, or use of interests in subdivisions as defined in Sections **11000.1** and 11004.5 which would materially change those rights of an owner, either directly or as a member of an association of owners, is valid without the prior written consent of the Real Estate Commissioner during the period of time when the subdivider or his or her successor in interest holds or directly controls as many as one-fourth of the votes that may be cast to effect that change.

(b) The commissioner shall not grant his or her consent to the submission of the proposed change to a vote of owners or members if he or she finds that the change if effected would create a new condition or circumstance that would form the basis for denial of a public report under Sections 11018 or 11018.5.

An application for consent may be filed by any interested person on a form prescribed by the commissioner. A filing fee to be fixed by regulation, but not to exceed twenty-five dollars (\$25), shall accompany each application.

There shall be no official meeting of owners or members nor any written solicitation of them for the purpose of effectuating a change referred to herein except in accordance with a procedure approved by the commissioner after the application for consent has been filed with him or her; provided, however, that the governing body of the owners association may meet and vote on the question of submission of the proposed change to the commissioner.

11018.12. (a) The commissioner may issue a conditional public report for a subdivision specified in Section 11004.5 if the requirements of subdivision (e) are met, all deficiencies and substantive inadequacies in the documents that are required to make an application for a final public report for the subdivision substantially complete have been corrected, the material elements of the setup of the offering to be made under the authority of the conditional public report have been established, and all requirements for the issuance of a public report set forth in the regulations of the commissioner have been satisfied, except for one or more of the following requirements, as applicable:

- (1) A final map has not been recorded.
- (2) A condominium plan pursuant to subdivision (e) of Section 1351 of the Civil **Code** has not been recorded.
- (3) A declaration of covenants, conditions, and restrictions pursuant to Section 1353 of the Civil **Code** has not been recorded.
- (4) A declaration of annexation has not been recorded.
- (5) A recorded subordination of existing liens to the declaration of covenants, conditions, and restrictions or declaration of annexation, or escrow instructions to effect recordation prior to the first sale, are lacking.
- (6) Filed articles of incorporation are lacking.
- (7) A current preliminary report of a licensed title insurance company issued after filing of the final map and recording of the declaration covering all subdivision interests to be included in the public report has not been provided.
- (8) Other requirements the commissioner determines are likely to be timely satisfied by the applicant, notwithstanding the fact that the failure to meet these requirements makes the application qualitatively incomplete.

(b) The commissioner may issue a conditional public report for a subdivision not referred to or specified in Section **11000.1** or 11004.5 if the requirements of subdivision (e) are met, all deficiencies and substantive inadequacies in the documents that are required to make an application for a final public report for the subdivision substantially complete have been corrected, the material elements of the setup of the offering to be made under the authority of the conditional public report have been established, and all requirements for issuance of a public report set forth in the regulations of the commissioner have been satisfied, except for one or more of the following requirements, as applicable:

- (1) A final map has not been recorded.
- (2) A declaration of covenants, conditions, and restrictions has

not been recorded.

(3) A current preliminary report of a licensed title insurance company issued after filing of the final map and recording of the declaration covering all subdivision interests to be included in the public report has not been provided.

(4) Other requirements the commissioner determines are likely to be timely satisfied by the applicant, notwithstanding the fact that the failure to meet these requirements makes the application qualitatively incomplete.

(c) A decision by the commissioner to not issue a conditional public report shall be noticed in writing to the applicant within five business days and that notice shall specifically state the reasons why the report is not being issued.

(d) Notwithstanding the provisions of Section 11018.2, a person may sell or lease, or offer for sale or lease, lots or parcels in a subdivision pursuant to a conditional public report if, as a condition of the sale or lease or offer for sale or lease, delivery of legal title or other interest contracted for will not take place until issuance of a public report and provided that the requirements of subdivision (e) are met.

(e) (1) Evidence shall be supplied that all purchase money will be deposited in compliance with subdivision (a) of Section 11013.2 or subdivision (a) of Section 11013.4, and in the case of a subdivision referred to in subdivision (a) of this section, evidence shall be given of compliance with paragraphs (1) and (2) of subdivision (a) of Section 11018.5.

(2) A description of the nature of the transaction shall be supplied.

(3) Provision shall be made for the return of the entire sum of money paid or advanced by the purchaser if a subdivision public report has not been issued during the term of the conditional public report, or as extended, or the purchaser is dissatisfied with the public report because of a change pursuant to Section 11012.

(f) A subdivider, principal, or his or her agent shall provide a prospective purchaser a copy of the conditional public report and a written statement including all of the following:

(1) Specification of the information required for issuance of a public report.

(2) Specification of the information required in the public report that is not available in the conditional public report, along with a statement of the reasons why that information is not available at the time of issuance of the conditional public report.

(3) A statement that no person acting as a principal or agent

shall sell or lease, or offer for sale or lease, lots or parcels in a subdivision for which a conditional public report has been issued except as provided in this article.

(4) Specification of the requirements of subdivision (e).

(g) The prospective purchaser shall sign a receipt that he or she has received and has read the conditional public report and the written statement provided pursuant to subdivision (f).

(h) The term of a conditional public report shall not exceed six months, and may be renewed for one additional term of six months if the commissioner determines that the requirements for issuance of a public report are likely to be satisfied during the renewal term.

(i) The term of a conditional public report for attached residential condominium units, as defined pursuant to Section 783 of the Civil **Code**, consisting of 25 units or more as specified on the approved tentative tract map, shall not exceed 30 months and may be renewed for one additional term of six months if the commissioner determines that the requirements for issuance of a public report are likely to be satisfied during the renewal term.

11018.13. (a) After written notice to the subdivider, or the subdivider's representative, the commissioner may abandon any application for a subdivision public report if the data required by Section 11010 has not been furnished within three years from the date a notice of intention is filed for a subdivision public report.

(b) The commissioner shall adopt regulations establishing time periods for notifying the subdivider, or the subdivider's representative, of the intention to abandon a file, and establishing hardship or justifiable extenuating circumstances the commissioner deems acceptable.

11018.14. The commissioner shall not be a responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000), Public Resources **Code**). Receipt by the commissioner of a copy of an environmental impact report or negative declaration prepared pursuant to the California Environmental Quality Act shall be conclusive evidence of compliance with that act for purposes of issuing a subdivision public report.



11019. (a) Whenever the commissioner determines from available evidence that a person has done any of the following, the commissioner may order the person to desist and refrain from those acts and omissions or from the further sale or lease of interests in the subdivision until the condition has been corrected:

(1) Has violated or caused the violation of any provision of this part or the regulations pertaining thereto.

(2) Has violated or caused a violation of Section 17537, 17537.1, or 17539.1, in advertising or promoting the sale of subdivision interests.

(3) Has failed to fulfill representations or assurances with respect to the subdivision or the subdivision offering upon which the department relied in issuing a subdivision public report.

(4) Has failed to inform the department of material changes that have occurred in the subdivision or subdivision offering which have caused the subdivision public report to be misleading or inaccurate or which would have caused the department to deny a public report if the conditions had existed at the time of issuance.

(b) Upon receipt of such an order, the person or persons to whom the order is directed shall immediately discontinue activities in accordance with the terms of the order.

(c) Any person to whom the order is directed may, within 30 days after service thereof upon him, file with the commissioner a written request for hearing to contest the order. The commissioner shall after receipt of a request for hearing assign the matter to the Office of Administrative Hearings to conduct a hearing for findings of fact and determinations of the issues set forth in the order. If the hearing is not commenced within 15 days after receipt of the request for hearing, or on the date to which continued with the agreement of the person requesting the hearing, or if the decision of the commissioner is not rendered within 30 days after completion of the hearing, the order shall be deemed to be vacated.

(d) Service and proof of service of an order issued by the commissioner pursuant to this section may be made in a manner and upon such persons as prescribed for the service of summons in Article 3 (commencing with Section 415.10), Article 4 (commencing with Section 416.10) and Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2, of the **Code** of Civil Procedure.

11020. (a) It shall be unlawful for any person to make, issue,

publish, deliver, or transfer as true and genuine any public report which is forged, altered, false, or counterfeit, knowing it to be forged, altered, false, or counterfeit or to cause to be made or participate in the making, issuance, delivery, transfer, or publication of a public report with knowledge that it is forged, altered, false, or counterfeit.

(b) Any person who violates subdivision (a) is guilty of a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both that fine and imprisonment.

(c) The penalty provided by this section is not an exclusive penalty, and does not affect any other penalty, relief, or remedy provided by law.

11021. For the purpose of calculating the period of any applicable statute of limitations in any action or proceeding, either civil or criminal involving any violation of this chapter, the cause of action shall be deemed to have accrued not earlier than the time of recording with the county recorder of the county in which the property is situated of any deed, lease or contract of sale conveying property sold or leased in violation of this chapter and which describes a lot or parcel so wrongfully sold or leased.

This section does not prohibit the maintenance of any such action at any time before the recording of such instruments.

11022. (a) It is unlawful for an owner, subdivider, agent or employee of a subdivision or other person, with intent directly or indirectly to sell or lease subdivided lands or lots or parcels therein, to authorize, use, direct, or aid in the publication, distribution, or circularization of an advertisement, radio broadcast, or telecast concerning subdivided lands, that contains a statement, pictorial representation, or sketch that is false or misleading.

(b) An owner, subdivider, agent, or employee of an owner or subdivider may, prior to the use, publication, distribution, or circulation of any advertisement concerning subdivided lands, submit the same to the department for approval. The submission shall be accompanied by a fee of not more than seventy-five dollars (\$75).

The commissioner shall prescribe by regulation the amount of the fee.

If disapproval of the proposed advertisement is not communicated by the department to the owner, subdivider, agent, or employee within 15 calendar days after receipt of the copy of the proposed advertisement, the advertisement shall be deemed approved, but the department shall not be estopped from disapproving a later distribution, circulation, or use of the same or similar advertising.

(c) Nothing in this section shall be construed to hold the publisher or employee of any newspaper, or any job printer, or any broadcaster, or telecaster, or any magazine publisher, or any of the employees thereof, liable for any publication herein referred to unless the publisher, employee, or printer has actual knowledge of the falsity thereof or has an interest either as an owner or agent in the subdivided lands so advertised.

11023. Any person who violates Section 11010, 11010.1, 11010.8, 11013.1, 11013.2, 11013.4, 11018.2, 11018.7, 11018.9, 11018.10, 11018.11, 11019, or 11022 is guilty of a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.