

CS FOR HOUSE BILL NO. 470(L&C)(title am)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Amended: 3/22/02

Offered: 3/13/02

Sponsor(s): REPRESENTATIVES ROKEBERG, Scalzi, Hayes

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to public offering statements required under the Uniform Common**
2 **Interest Ownership Act; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 34.08.520(c) is amended to read:

5 (c) A declarant or dealer who offers a unit to a purchaser shall deliver a public
6 offering statement, **or a preliminary version of the public offering statement that**
7 **reasonably reflects the contents of the public offering statement that is**
8 **subsequently recorded,** in the manner required by AS 34.08.580(a). The person who
9 prepared all or a part of the public offering statement is liable under AS 34.08.580 and
10 34.08.670 for any false or misleading statement set out in the statement or for any
11 omission of a material fact from the statement with respect to the portion of the public
12 offering statement that the person prepared. If a declarant did not prepare any part of a
13 public offering statement, the declarant is not liable for a false or misleading statement
14 set out in the statement or for an omission of a material fact from the statement unless

1 the declarant had actual knowledge of the statement or omission or, in the exercise of
2 reasonable care, should have known of the statement or omission.

3 * **Sec. 2.** AS 34.08.530(a) is amended to read:

4 (a) Except as provided in (b) of this section, a public offering statement must
5 fully and accurately contain or disclose

6 (1) the name and principal address of the declarant and of the common
7 interest community and indicate whether the common interest community is a
8 condominium, cooperative, or planned community;

9 (2) a general description of the common interest community,
10 including, in a building constructed for residential purposes with horizontal
11 boundaries, the area of the interior surface of floors available for residential purposes
12 and, to the extent possible, the types, number, and declarant's schedule for the
13 commencement and completion of construction of buildings and amenities that the
14 declarant anticipates including in the common interest community;

15 (3) the number of units in the common interest community;

16 (4) copies and a brief narrative description of the significant features of
17 the declaration, other than plats and plans, and

18 (A) any recorded covenants, conditions, restrictions, and
19 reservations affecting the common interest community;

20 (B) the bylaws and any rules or regulations of the association;

21 (C) copies of any contracts and leases to be signed by
22 purchasers at closing; and

23 (D) a brief narrative description of any contracts or leases that
24 will or may be subject to cancellation by the association under AS 34.08.360;

25 (5) any current balance sheet and a projected budget for the
26 association, either within or as an exhibit to the public offering statement, for one year
27 after the date of the first conveyance to a purchaser, and the current budget of the
28 association, the name of the person who prepared the budget, and a statement of the
29 budget's assumptions concerning occupancy, assumptions concerning the calculation
30 of the amount of reserves certified by a certified architect or engineer, and inflation
31 factors, including, without limitation,

1 (A) a statement of the amount included in the budget as a
 2 reserve for repairs and replacement including the estimated cost of repair or
 3 replacement cost and the estimated useful life of the asset to be repaired or
 4 replaced;

5 (B) a statement of any other reserves;

6 (C) the projected common expense assessment by category of
 7 expenditures for the association; and

8 (D) the projected monthly common expense assessment for
 9 each type of unit;

10 (6) any services not reflected in the budget that the declarant provides,
 11 or expenses that the declarant pays and that the declarant expects may become a
 12 common expense of the association at a subsequent time and the projected common
 13 expense assessment attributable to each of those services or expenses for the
 14 association and for each type of unit;

15 (7) any initial or special fee due from the purchaser at closing, together
 16 with a description of the purpose and method of calculating the fee;

17 (8) a description of liens, defects, or encumbrances on or affecting the
 18 title to the common interest community;

19 (9) a description of financing offered or arranged by the declarant;

20 (10) the terms and significant limitations of warranties provided by the
 21 declarant, including statutory warranties and limitations on the enforcement of the
 22 warranties or on damages;

23 (11) a statement that

24 (A) within 15 days after receipt of a public offering statement
 25 **or a preliminary version of the public offering statement that reasonably**
 26 **reflects the contents of the public offering statement that is subsequently**
 27 **recorded,** a purchaser, before conveyance, may cancel any contract for
 28 purchase of a unit from a declarant;

29 (B) if a declarant fails to provide a public offering statement to
 30 a purchaser before conveying a unit, the purchaser may recover from the
 31 declarant **up to** 10 percent of the sales price of the unit plus 10 percent of the

1 share, proportionate to the common expense liability of the unit, of any
 2 indebtedness of the association secured by security interests encumbering the
 3 common interest community; and

4 (C) a purchaser who receives the public offering statement, or
 5 a preliminary version of the public offering statement that reasonably
 6 reflects the contents of the public offering statement that is subsequently
 7 recorded, more than 15 days before signing a contract cannot cancel the
 8 contract;

9 (12) a statement of any unsatisfied judgments or pending suits against
 10 the association, and the status of any pending suits material to the common interest
 11 community of which a declarant has actual knowledge;

12 (13) a statement that a deposit made in connection with the purchase of
 13 a unit will be held in an escrow account until closing and will be returned to the
 14 purchaser if the purchaser cancels the contract under AS 34.08.580, together with the
 15 name and address of the escrow agent;

16 (14) any restraints on alienation of any portion of the common interest
 17 community and any restrictions

18 (A) on use, occupancy, and alienation of the unit; and

19 (B) on the amount for which a unit may be sold or on the
 20 amount that may be received by a unit owner on sale, condemnation, or
 21 casualty loss to the unit or to the common interest community, or on
 22 termination of the common interest community;

23 (15) a description of the insurance coverage provided for the benefit of
 24 unit owners;

25 (16) current or expected fees or charges to be paid by a unit owner for
 26 the use of the common elements and other facilities related to the common interest
 27 community;

28 (17) the extent to which financial arrangements have been provided for
 29 completion of improvements that the declarant is obligated to build under
 30 AS 34.08.690;

31 (18) a brief narrative description of zoning and other land use

1 requirements affecting the common interest community;

2 (19) each unusual and material circumstance, feature, or characteristic
3 of the common interest community and the units; and

4 (20) in a cooperative,

5 (A) whether each unit owner will be entitled, for federal, state,
6 and local income tax purposes, to a pass-through of deductions for payments
7 made by the association for real estate taxes and interest paid the holder of a
8 security interest encumbering the cooperative; and

9 (B) a statement as to the effect on each unit owner if the
10 association fails to pay real estate taxes or payments due the holder of a
11 security interest encumbering the cooperative.

12 * **Sec. 3.** AS 34.08.580(a) is amended to read:

13 (a) A person required to deliver a public offering statement under
14 AS 34.08.520(c) shall provide each purchaser with a copy of the public offering
15 statement and each amendment to the statement, **or a preliminary version of the**
16 **public offering statement that reasonably reflects the contents of the public**
17 **offering statement that is subsequently recorded,** before conveyance of the unit,
18 and not later than the date of a contract of sale. If a purchaser is not given the public
19 offering statement, **or a preliminary version of the public offering statement that**
20 **reasonably reflects the contents of the public offering statement that is**
21 **subsequently recorded,** more than 15 days before execution of a contract for the
22 purchase of a unit, the purchaser, before conveyance, may cancel the contract within
23 15 days of receipt of the public offering statement **or preliminary version of the**
24 **public offering statement.**

25 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).