Introduced: 1/17/77
Referred: Commerce and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

IN THE HOUSE

SCS (5) HOUSE BILL NO. 67 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Uniform Land Sales Practices Act."

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

* Section 1. AS 34.55 is amended by adding a new section to read:

Sec. 34.55.006. FRAUDULENT AND PROHIBITED PRACTICES. It is unlawful for a person, in connection with the offer, sale or purchase of subdivided land directly or indirectly, to

(1) employ a device, scheme, or artifice to defraud;

(2) make an untrue statement of a material fact or omit a statement of a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(3) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon a person.

* Sec. 2. AS 34.55.008 is amended to read:

Sec. 34.55.008. PROHIBITIONS OF DISPOSITIONS OF INTERESTS IN SUBDIVISIONS. Unless the subdivided land or the transaction is exempt by sec. 42 of this chapter

(1) no person may offer or dispose of in this state an interest in subdivided land [LOCATED OUTSIDE THIS STATE] before the time the subdivided land is registered in accordance with this chapter;

(2) no person may dispose of an interest in subdivided land [LOCATED OUTSIDE THIS STATE] unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable

opportunity to examine the public offering statement before the disposition.

* Sec. 3. AS 34.55.022(b) is amended to read:

(b) For the purpose of an investigation or proceeding under this chapter, the department or an officer designated by the department [REGULATION] may administer oaths or affirmations, and upon its own motion or upon request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

* Sec. 4. AS 34.55.028 is repealed and re-enacted to read:

Sec. 34.55.028. PENALTIES. (a) A person who wilfully violates secs. 6 or 8 of this chapter is, upon conviction, punishable by a fine of not more than $50,000 or by imprisonment for not less than one year nor more than five years, or by both fine and imprisonment.

(b) Any violation of this chapter other than as provided in (a) of this section or of a regulation adopted under this chapter is a misdemeanor and is punishable by a fine of not less than $1,000 or double the amount of gain from the transaction, whichever is larger but not more than $50,000, or by imprisonment for not more than six months, or by both fine and imprisonment.

* Sec. 5. AS 34.55.030(a) is amended to read:

(a) A person who disposes of subdivided land in violation of sec. 6 or sec. 8 of this chapter [OR WHO, IN DISPOSING OF SUBDIVIDED LAND, MAKES AN UNTRUE STATEMENT OF A MATERIAL FACT REQUIRED TO BE STATED IN A REGISTRATION STATEMENT OR PUBLIC OFFERING STATEMENT OR

NECESSARY TO MAKE THE STATEMENTS MADE NOT MISLEADING,] is liable as provided in this section to the purchaser unless in the case of an untruth or omission it is proved that the purchaser knew of the untruth or omission or that the person offering or disposing of subdivided land did not know and in the exercise of reasonable care could not have known of the untruth or omission.

* Sec. 6. AS 34.55.032 is amended to read:

Sec. 34.55.032. JURISDICTION. A disposition of subdivided land is subject to this chapter and the superior court of this state has jurisdiction in claims or causes of action arising under this chapter if

(1) the subdivider's principal office is located in this state; or

(2) the subdivided land is located in this state; or

(3) [(2)] an offer or disposition of subdivided land is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates in this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

* Sec. 7. AS 34.55.042(a) is amended to read:

(a) Unless the method of disposition is adopted for the purpose of evasion of this chapter, the registration provisions of this chapter do not apply to offers or dispositions of an interest in land

(1) by a purchaser of subdivided land for his own account in a single or isolated transaction;

(2) if fewer than 10 separate lots, parcels, units or interests in subdivided land located outside this state are offered by a person in a period of 12 months, or if fewer than 50 separate lots, parcels, units or interests in subdivided land located within this

state are offered by a person in a period of 12 months;

(3) on which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within one year from date of disposition;

(4) to persons who are engaged in the business of construction of buildings for resale, or to persons who acquire an interest in subdivided land for the purpose of engaging, and do engage in the business of construction of buildings for resale;

(5) under court order;

(6) by a government or government agency;

(7) as cemetery lots or interests;

(8) if the land is located within this state and is registered or exempt from registration under the provisions of the federal Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.).

* Sec. 8. AS 34.55.044(6) is amended to read:

(6) "subdivision" and "subdivided land" mean land [LOCATED OUTSIDE THIS STATE] which is divided or is proposed to be divided for the purpose of disposition into two [10] or more lots, parcels, units or interests and also includes any land whether contiguous or not if two [10] or more lots, parcels, units or interests are offered as a part of a common promotional plan of advertising and sale;