

HB-604

COMMITTEE REPORT

JUDICIARY

1/16/76

HOUSE

Mr. Speaker:

Date _____

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 600

under consideration. A Majority of the members of the Committee

- recommends it DO PASS
- recommends it DO NOT PASS
- recommends it DO PASS WITH ATTACHED AMENDMENT(S)
- recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS
- "and" recommends it BE REFERRED TO THE _____
COMMITTEE
- reports it back WITHOUT RECOMMENDATION
- "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND
GOVERNOR

POUCH D - JUNEAU 99811

April 5, 1976

41 B604

Honorable Terry Gardiner
Chairman
House Judiciary Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Terry:

Re: CS HB 604

We received information late Friday afternoon that the House Judiciary Committee would consider HB 604 at 11:00 A.M. the next day, Saturday, April 3, 1976. However, we were apparently misinformed, because when Julius Brecht, the new Director of Banking, arrived to testify at that meeting, he was informed that the Committee had already considered the bill on Friday, and voted to send it to the House with two substantive changes, on which we would have liked to have commented. We are sorry we missed the committee meeting on Friday, however, we do have some comments on CS HB 604.

22

I shall briefly outline those comments at this time. First, the form of CS HB 604 reported out of the committee changed the cutoff for reporting intrastate subdivision offerings from 50 to 25. I feel that the cutoff should be left at 50. The purpose of this bill is certainly to protect potential buyers of subdivided land. But where small amounts of land are involved in the offering, e.g., 25 lots or roughly eight acres, the scope of the offering is usually extended to persons within a reasonable distance from the land. Therefore, these persons may make their own on-site inspection without difficulty. However, offerings of 50 lots or more tend to be made to a much larger group of interested buyers, a number of whom quite likely cannot afford the time or money to travel to the site to inspect the land prior to purchase. The intent of the Governor in proposing this bill was to cover the latter situation. Also, to reduce the cutoff to 25 will greatly increase the administrative burden on the Department of Commerce and Economic Development in processing the filings of offers containing 25 or more subdivisions. For these reasons, I feel the cutoff should be left at 50 and not changed to 25.

I also understand that the committee has amended HB 604 to require that sales of subdivided land by the state be expressly subject to the provisions of the bill. I understand that the committee believes that there are policy reasons for requiring the state, when offering subdivided land for sale, to follow a procedure similar to that set out in HB 604 for private businessmen. However, I do not believe that the administrative mechanism chosen by the committee, i.e. registration of those state

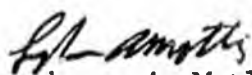
April 5, 1976

offerings with the Department of Commerce and Economic Development, is the best way to implement the policy. I believe that it is more reasonable to require, e.g., the Division of Lands in the Department of Natural Resources, to adopt regulations that would essentially follow the procedure outlined in HB 604, with the single exception that the registration of the offering would be with the Department of Natural Resources, not with the Department of Commerce and Economic Development.

Aside from the comments just expressed, I am pleased that the House Judiciary Committee has sent this important bill on to the House.

Thank you for your consideration of the bill.

Sincerely,


Langhorne A. Motley
Commissioner



STATE OF ALASKA
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
JUNEAU

4. 20. 76

SAM:

Attached For your info per
our discussion. The cover note gives you
a feel for the impact on us of 25 lots
versus 50 lots. The forms are from existing
ones we use for out of state lands and would
be similar to the ones used with the Bill.

Ty.

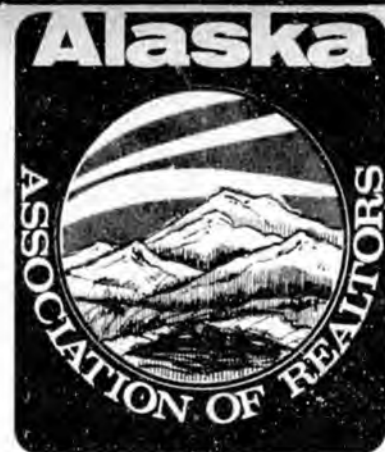


REALTOR®

ALASKA ASSOCIATION OF REALTORS

2223 SPENARD ROAD
ANCHORAGE, ALASKA 99503
(907) 272-8016

March 8, 1976



Representative Samuel Cotton
Chairman, House Community & Regional Affairs
Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Cotton:

This letter is written in regards to House Bill #604, "An Act Relating To the Uniform Land Sales Practices Act."


The Alaska Association of Realtors is strongly opposed to the passage of this bill. Any developer of 50 lots or more must now apply to Housing & Urban Development in Washington, D.C. to obtain registration or exemption from their rules. This is after complying with all local City and Planning Commission Rules and Platting Act - now it appears that this Administration wants Juneau in the act as well. If much more of this type of legislation continues, Alaska will be deserving of her outside nickname "the icebox."

We ask you and your committee to defeat this bill.

If you should hold hearings on this bill, I would appreciate being notified so that I may be in Juneau to testify before your committee.

Sincerely yours,

ALASKA ASSOCIATION OF REALTORS


Al Courtney
Chairman, State Legislative Comm.

AC:mw

Noted
Tues 1/27

Attended

HB 604

Don Berg, Ak Municipal League (6-1325)

Lee McAndrew, Comm Dept C&RA (contact: Barbara Morse 4761)

Rep. Joe McKinnon

Rep Ted Smith

Dept. of Commerce & Econ Devel (Contact: Pam Knude 2532)

~~_____~~

MEMORANDUM

State of Alaska

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

TO: Langhorne A. Motley
Commissioner

DATE: April 20, 1976

~~XXXXX~~ OPR: L. P. Carroll *LC*

TELEPHONE NO: Ext. 2523

FROM: Julius J. Brecht *JB*
Director

SUBJECT: CSHB 604
Intrastate Land Sales Registration Act

Attached is a complete set of instructions and forms which must be completed to register a land sale under the Uniform Land Sales Practices Act (AS 34.55). Passage of CSHB 604 will impose these same requirements on intra-Alaska land sales provided the subdivided land contains 25 or more lots.

HB 604 as originally submitted by this Department called for registration only if the subdivision contained a minimum of 50 or more lots and the purpose of this memo is to discuss the rationale of our decision to set the minimum at 50 lots and to present arguments for returning the proposed legislation to its original form.

Please note that registration requires preparation of 14 exhibits (a list of which may be found on page 2 of the attached). The most detailed exhibit is the proposed Public Offering Statement. The requirements for this exhibit are fully described on page 14 of the attached forms. While for the most part the application can be completed by the individual subdivider or developer, some technical assistance may be required in completing the financial data requirements and perhaps for some portions of the Public Offering Statement.

Let us analyze the potential cost of perfecting a registration and show the impact of a 25 lot subdivision as opposed to the minimum 50 lot subdivision we requested.

The fixed fee for registration filing is \$300.00 plus the cost of an on-site inspection. The inspection fees will vary depending on location, but for purposes of this discussion, we have estimated the average to be an additional \$300.00. Assuming that preparation of registration documents and technical assistance may run as high as \$500.00, it can be shown that minimum fees could be \$1100.00. Based on these calculations, the fees prorated on a 25 lot subdivision adds \$44.00 to the cost of each lot. At a 50 lot minimum, the addition is one half that amount and proportionately lower as the size of the subdivision goes up. **prorated only*

It should also be pointed out that the developer is not required to file a H.U.D. statement with the office of Interstate Land Sales until the subdivision contains 50 or more lots. Much of the same data is required on both filings. By setting the minimum at 50 lots, we are not imposing any harsher standards than is imposed by the Federal government in the same area.

As far as potential work load to the Division is concerned, a survey of subdivision plats filed with four major boroughs in 1975 (Anchorage, Fairbanks, Kenai, Matanuska-Susitna) disclosed the following information:

<u>Subdivision lot size</u>	<u>No. of Registrations</u>
4-24 Lots	460
25-49 Lots	47
50 & over Lots	40

April 20, 1976

Thus it can be shown, based on prior year activity, that we would experience in excess of a 100% workload increase if the minimum is kept at 25 lots.

Certainly the purpose of this bill is to provide full disclosure to potential buyers of subdivided land and the assurance that such disclosure is accurate and honest. What must be examined is at what point should this protection be extended. We feel that where small amounts of land are involved (25 lots or roughly 8 acres) the market area is significantly reduced. Accordingly, fewer people and generally those within a close proximity are potential buyers. These people can and generally do undertake their own personal investigation and on-site inspection. However, offerings of 50 or more lots require a much larger marketing area and in many cases the effort is statewide. In this situation, many potential purchasers would rely on the advertising material and the Public Offering Statement as they quite likely cannot afford the time or expense of traveling to conduct their own inspection.

It is for these reasons we feel that the minimum lot size requiring registration be left at 50 and not reduced to 25.

We also understand that the committee has amended HB 604 to require that sales of subdivided land by the state be expressly subject to the provisions of the bill. The House Judiciary Committee believes that there are policy reasons for requiring the state, when offering subdivided land for sale, to follow a procedure similar to that set out in HB 604 for private businessmen. We would like to suggest that the State remain exempt under the Land Sales Registration Act and that the Legislature consider requiring the Division of Lands in the Department of Natural Resources, to adopt regulations which would essentially follow the procedure outlined in the Uniform Land Sales Practices Act without requiring registration with the Department of Commerce and Economic Development.

The staff of this Division remains at your disposal should you or any member of the Legislature have any questions or desire further discussion of this material.

Attachment

STATE OF ALASKA
DEPARTMENT OF COMMERCE
DIVISION OF BANKING & SECURITIES
POUCH D
JUNEAU, ALASKA 99801

INSTRUCTION SHEET

Attached are the necessary forms for registration of out-of-state lands to be sold in Alaska. Registration is required when ten (10) or more separate lots, parcels, units or interests are offered in this State by a person in a period of twelve (12) months (unless otherwise exempt under Sec. 34.55.042).

Application fee must accompany Registration Statement. Applicant will be billed for inspection fee following inspection but prior to issuing Order of Registration.

The Department will upon receipt of applicant's Registration Statement and required exhibits, issue a Notice of Filing and within ninety (90) days from the date of the Notice of Filing will issue to the applicant, an order registering or rejecting the sale of the subdivided land in this State.

Please ascertain that all required exhibits are submitted with Registration Statement. ALL exhibits are not mentioned in the Registration Statement but are required.

No person may dispose of subdivided lands located outside this State unless a Public Offering Statement conforming to the attached format is delivered to the purchaser prior to the sale.

The subdivider must file within thirty (30) days after each annual anniversary date of the order registering subdivided land, an Annual Report (form attached) reflecting material changes in information contained in original registration.

The Department may accept, after review, the registrations filed with other states which have adopted the Uniform Land Sales Practices Act.

Please forward completed forms to:

Department of Commerce
Division of Banking & Securities
Pouch D
Juneau, Alaska 99801

STATE OF ALASKA
UNIFORM LAND SALES PRACTICES ACT

EXHIBITS REQUIRED

1. Service of Process
2. Copies of instruments by which applicant acquired interest in subdivided lands.
3. Copies of instruments creating liens against subdivided lands.
4. Copies of instruments creating easements, restrictions or other encumbrances, affecting the subdivided land.
5. A statement of zoning and other governmental regulations affecting the use of the subdivided land.
6. A description of any existing tax or proposed tax or assessment which affects the subdivided land.
7. Copies of contracts or agreements purchaser will be required to sign or agree to.
8. Copy of instrument which purchaser will receive as evidence of his interest in subdivided lands.
9. Proposed public offering statement ✓
10. Current Financial Statement of applicant (end of last fiscal year)
11. Title opinion by license
12. Copies of advertising material used
13. Legal description of the subdivision and a map showing dimensions of the lots, parcels, units or interests and the relations of the subdivision lands to existing streets, roads and other off-site improvements.
14. Statement of officers, directors, partner or employee

4. Size of Subdivision:

A. Total acreage in subdivision, including land held for future expansion. _____

B. Number of lots, parcels, units, or interests included in this filing. _____

C. Size of smallest parcel to be offered for sale. _____

(Exhibit 13 required as supporting information)

5. Record title holder:

Name _____
Address _____
Telephone _____

(Exhibit 2 required as supporting information)

6. Condition of title:

A. Are there any mortgages, trust, liens, or other encumbrances against this property?

Yes _____ No _____

If Yes, submit the following:

1. Name of mortgagee _____
2. Address _____
3. Original amount of mortgage _____
4. Balance owing _____
5. Terms of payment _____
6. Are mortgage and interest payments current?

Yes _____ No _____

(Exhibit 3 required as supporting information)

B. Other encumbrances (describe fully, i.e. pledged receivables, contract assignments, etc.). _____

C. Can subdivider presently convey clear title to subdivided lands?

Yes _____ No _____

7. Land use, covenants, taxes, assessments. (Exhibits 4, 5 & 6 required as supporting information)

A. Are these lands platted of record?

Yes _____ No _____

Did platting of these lands require prior approval of a governmental agency?

Yes _____ No _____

Name of agency _____

B. Is the use of the land restricted?

Yes _____ No _____

C. Are protective covenants recorded?

Yes _____ No _____

D. Are easements recorded?

Yes _____ No _____

8. Land is characterized by:

Steep grades or ravines?	_____	Filled grounds?	_____
Poor surface drainage?	_____	Swamp or marsh?	_____
Ocean spray damage?	_____	Desert?	_____
High water table?	_____	Sandy soil?	_____
Soil erosion?	_____	Clay soil?	_____
Floods?	_____	Other?	_____

9. Climate:

A. Describe climate _____

B. Average rainfall _____

10. Community facilities:

A. Developed or to be developed within the subdivision.

Elementary School?	_____	Church?	_____
High School?	_____	Shopping Center?	_____
Playground?	_____	Civic Center?	_____

B. Where the above are not developed within the subdivision, distance to:

Elementary School	_____ mi.	Church	_____ mi.
High School	_____ mi.	Shopping Center	_____ mi.
Playground	_____ mi.	Civic Center	_____ mi.

11. Utilities:

Public water system?	_____	Street lighting?	_____
Electric lines?	_____	Telephones?	_____
Sewage system?	_____	Gas?	_____
Fire hydrants?	_____		

12. Street improvements:

Width of streets?	_____	Type of road?	_____
Storm sewers?	_____	Who is responsible for	
Nature of access road	_____	maintenance?	_____

13. Completion of required improvements:

A. Under subdivision regulations, are improvements required to be completed or bond posted prior to sale?

Yes _____ No _____

If no, when must they be completed? _____

STATE OF ALASKA
DEPARTMENT OF COMMERCE
DIVISION OF BANKING & SECURITIES
Pouch D
Juneau, Alaska 99801

NOTICE OF FILING

Name and address of subdivider

State of _____

File Number _____

Subdivision

Date Filed _____

Examiner _____

Telephone _____

UNIFORM CONSENT TO SERVICE OF PROCESS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, _____, (a corporation organized under the laws of the State of _____) (a partnership) (an individual) (other _____) for the purpose of complying with the laws of the State of _____ relating to either the registration or sale of out-of-state land hereby irrevocably appoints Commissioner of Commerce _____, and the successors in such office, its attorney in the State of Alaska upon whom may be served any notice, process or pleading in any action or proceeding against it arising out of or in connection with the sale of out-of-state land or out of violation of the aforesaid laws of said State; and the undersigned does hereby consent that any such action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within said State by service of process upon said officer with the same effect as if the undersigned was organized or created under the laws of said State and had lawfully been served with process in said State.

It is requested that a copy of any notice, process or pleading served hereunder be mailed to:

(Name and Address)

Dated: _____, 19____.

(Seal)

By _____
Title _____

By _____
Title _____

CORPORATE ACKNOWLEDGMENT

UNITED STATES OF AMERICA)
) ss.
STATE OF _____)

On this _____ day of _____, 19____, before me _____, the undersigned officer, personally appeared _____ and _____, known personally to be to be the _____ President and _____ Secretary, respectively, of the above named corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by themselves as such officers.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notarial Seal)

Notary Public
My Commission expires: _____

INDIVIDUAL OR PARTNERSHIP ACKNOWLEDGMENT

UNITED STATES OF AMERICA)
) ss.
STATE OF _____)

On this _____ day of _____, 19____, before me, _____, the undersigned officer, personally appeared _____ to me personally known and known to me to be the same person(s) whose name(s) is (are) signed to the foregoing instrument, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notarial Seal)

Notary Public
My Commission expires: _____

STATE OF ALASKA
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT

TO BE FILLED OUT BY ALL PARTNERS, OFFICERS, DIRECTORS OR PERSON OCCUPYING A SIMILAR STATUS OR FUNCTION OF THE SUBDIVIDER OR ANYONE WHOSE INTEREST IN THE APPLICANT EXCEEDS TEN PERCENT.

1. Firm Making Application

2. Applicant's Director or Officer's Full Name

Place of Birth Age

Business Address (including Zip Code)

Residence Address

Present Occupation or Profession

3. Are you an Officer, Director, Partner or Employee of above named firm?
(Circle one) President, Vice President, Sec., Treas., Director, Ocher

4. Record of Previous Occupation (5 years) (Give full details and attach separate sheet if necessary)

5. (a) Education Record (school address, years attended, degrees)

(b) State any specialized education in real estate or land development.

(c) States in which licensed as a real estate broker or salesman.

(d) If licensed, has your license as a real estate broker or salesman ever been revoked or suspended in this state or any other state?
Yes _____ No _____

6. Do you as principal of the firm have an interest in the applicant?
Yes _____ No _____

(a) Extent and nature (within 30 days of filing of application)
Number of shares owned: _____ Percentage of Ownership: _____

(b) How acquired and manner of payment _____

(c) Is payment completed? _____

7. Have you any written agreement covering acquisition of additional interest?
Yes _____ No _____ (If yes, give full particulars on separate sheet marked Exhibit A)

8. State in full your arrangements with this organization regarding compensation, salary, commission, profit-sharing, bonus, etc. (Attach separate sheet if necessary, marked Exhibit B)

9. (a) What amount of time do you devote to this organization's business or affairs? _____
(b) Will you be engaged in such activities on a full-time or part-time basis? _____

10. Have you ever:
(a) Been an officer or director in a company which has become insolvent or has voluntarily or involuntarily declared bankruptcy? _____
(b) Been arrested for or convicted of any crime? (Omit minor traffic violations) _____
(c) Have you as an individual ever filed a petition in voluntary bankruptcy or has an involuntary petition in bankruptcy been filed against you? _____

11. Has applicant company or any of its officers and directors ever been convicted of a crime involving land dispositions or any aspect of the land sales business, in this state, the United States, or any other state or foreign country or subject to any injunction or administrative order regarding false or misleading promotional plans involving land dispositions? _____

NOTE: If answer is "YES" to any part of Questions 10 or 11, attach a separate sheet providing full particulars and marked Exhibit C.

12. Names and addresses of five character references (do not use relatives or associates in this enterprise):

Name of Reference	Occupation	Mailing Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

13. Names and addresses of credit references:

14. Banking facilities used during the past five years:

15. For corporations or partnerships owning in excess of 10% of registrant, attach latest Financial Statement (Balance Sheet & Income Statement)

STATE OF _____)
) ss:
 COUNTY OF _____)

I, _____, do solemnly swear that the foregoing answers and statements have been knowingly made by me and that the same are true, and that I have not omitted to state any material facts touching upon such matters.

Given under my hand this _____ day of _____ A.D. 19 _____.

Signature as principal of firm

Subscribed and sworn to before me in _____ County, in the State of _____, by the said _____, who personally appeared before me in the aforesaid County and State this _____ day of _____, A.D. 19 _____.

S E A L

Notary Public

My Commission Expires

PROFIT AND LOSS STATEMENT
 For the Period from _____ to _____

Sale of Lots		
Cost of Sales of Lots		
Gross Profit		
Sale of Houses		
Cost of Sale of Houses		
Gross Profit		
Interest Income on Lot Contracts		
Other Income		
<u>Operating Expenses</u>		
Advertising		
Other Selling Expenses		
Commissions		
General and Administrative		
Provision and Cancellation of Lot Contracts		
Net Income Before Provision For Federal Income Tax		
Provision for Federal Income Tax		
Net Income		

What is the average pay-out period on lot sales contracts?

What has been the average monthly expenditure for land improvement for the past six months? (Include monies placed in escrow for this purpose, but exclude any indirect charges; viz., consultation fees, etc.)

Is any of the land previously sold or presently offered for sale encumbered by mortgages or pledged as collateral?

If so, approximately what percent and how is it encumbered?

Does the encumbrance contain individual lot or parcel release provisions? Explain briefly. _____

BALANCE SHEET

_____ 19 _____

ASSETS

LIABILITIES

Cash Unrestricted _____

Cash, In Escrow for Land Improve-
ments on Mortgage Payments _____

Contracts Receivable on Lots Sales _____

Less: Allowance for Contract
Cancellations _____

Other Receivables _____

Land Held for Sale, at Cost _____

Houses Under Construction _____

Fixed Assets at Cost _____

Less: Accumulated Depreciation _____

Deferred Charges _____

Other Assets _____

TOTAL ASSETS _____

Accounts Payable _____

Construction Loans Payable _____

Customer Deposits _____

Accrued Liabilities:
Commissions on Lot Sales _____

Interest _____

Other _____

Mortgages Payable _____

Other Notes Payable _____

Estimated Liability for
Improvements to lots sold _____

Federal Income Tax Payable:
Current _____

Deferred _____

Other Liabilities _____

Total Liabilities _____

STOCKHOLDER'S EQUITY

(If Proprietorship or Partnership, use Appropriate
Leading and Subtitles)

Common Stock _____ Shares Authorized _____
and Issued _____

Other Classes of Stock _____ Shares
Authorized and Issued _____

Contributed Capital _____

Retained Earnings _____

TOTAL LIABILITIES AND EQUITY _____

INSTRUCTION: In preparing Public Offering Statement, please use this format.

Reg. No. _____

**PUBLIC OFFERING STATEMENT
on**

Date _____

1. Name and address of Subdivider
2. Description of land (location, number lots, etc.)
3. Ownership of land
4. Nature of interest in land to be conveyed
5. Type of instrument used for conveyance (deed, etc.)
6. Zoning regulations
7. Use for which property offered
8. Encumbrances, easements, liens, restrictions
9. Existing taxes, special taxes or assessments
10. Roads
11. Water Supply
12. Elevation of the land
13. Soil conditions - drainage
14. Sewage disposal facilities
15. Existing and proposed improvements
16. Date of completion and responsibility for construction and maintenance of existing and proposed improvements.
17. Electricity, telephone, gas
18. Fire and police protection
19. Public transportation
20. Schools
21. Shopping facilities
22. Terms of sale
23. Provisions of installment contract of sale
24. Tax estimate
25. Escrow or trust agreement
26. Representative or real estate agent in Alaska.
27. Name and address of agency to receive service

THIS SUBDIVISION HAS BEEN REGISTERED WITH THE DEPARTMENT OF COMMERCE,
STATE OF ALASKA, ON _____ . REGISTRATION DOES NOT INDICATE
APPROVAL OR DISAPPROVAL OF THE SUBDIVISION.

Signature of authorized officer or agent

THIS PUBLIC OFFERING STATEMENT MUST BE GIVEN TO EACH PURCHASER AT
THE TIME OF SALE AND PURCHASER BE GIVEN AMPLE OPPORTUNITY TO READ
THE STATEMENT.

Note: (The above two underscored statements to appear on all Public Offering Statements)