

§ 1710.14

24 CFR Ch. X (4-1-03 Edition)

control of a subdivision through a Property Owners' Association, Architectural Control Committee, restrictive covenants, or otherwise, shall transfer such control to the lot owners no later than when the developer ceases to own a majority of total lots in, or planned for, the subdivision. Relinquishment of developer control shall require affirmative action, usually in the form of an election based upon one vote per lot.

(vi) Reservations contained in United States land patents and similar Federal grants or reservations.

(7) Before the sale the developer gives a written MSA Exemption Statement to the purchaser and obtains a written receipt acknowledging that the statement was received. A sample MSA Exemption Statement is included in the exemption guidelines. A State-approved disclosure document may be used to satisfy this requirement if all of the information required by this section is included. The statement(s) given to purchasers must contain neither advertising nor promotion on behalf of the developer or the subdivision nor references to the U.S. Department of Housing and Urban Development. In descriptive and concise terms, the statement that the developer must give the purchaser shall disclose the following:

(i) All liens, reservations, taxes, assessments, beneficial property restrictions which are enforceable by other lot owners in the subdivision, and adverse claims which are applicable to the lot to be purchased.

(ii) Good faith estimates of the cost to the purchaser of providing electric, water, sewer, gas and telephone service to the lot. The estimates for unsold lots must be updated every two years, or more frequently if the developer has reason to believe that significant cost increases have occurred. The dates on which the estimates were made must be included in the statement.

(8) The developer executes and gives to the purchaser a written instrument designating a person within the State of residence of the purchaser as the developer's agent for service of process. The developer must also acknowledge in writing that it submits to the legal

jurisdiction of the State in which the purchaser or lessee resides.

(9) The developer executes a written affirmation for each sale made under this exemption. By January 31 of each year, the developer submits to the Secretary a copy of the executed affirmation for each sale made during the preceding calendar year or a master affirmation in which are listed all purchasers' names and addresses and the identity of the lots purchased. Individual affirmations must be available for the Secretary's review at all times during the year.

The affirmation must be in the following form:

Developer's Name \_\_\_\_\_  
Developer's Address \_\_\_\_\_  
Purchaser's Name(s) \_\_\_\_\_  
Purchaser's Address(es) (including county) \_\_\_\_\_  
Name of Subdivision \_\_\_\_\_  
Legal Description of Lot(s) Purchased \_\_\_\_\_

I hereby affirm that all of the requirements of the MSA exemption as set forth in 15 U.S.C. 1702(b)(8) and 24 CFR 1710.13 have been met in the sale or lease of the lot(s) described above.

I also affirm that I submit to the jurisdiction of the Interstate Land Sales Full Disclosure Act with regard to the sale or lease cited above.

(Date) \_\_\_\_\_  
(Signature of Developer or Authorized Agent) \_\_\_\_\_

(Title) \_\_\_\_\_

(b) *Metropolitan Statistical Area.* Metropolitan Statistical Areas are defined by the Office of Management and Budget generally on the basis of population statistics reported in a census. To determine whether a subdivision is located within an MSA and the boundaries of an MSA, contact the Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503.

(c) The sale must also comply with the anti-fraud provisions of §1710.4 (b) and (c).

[45 FR 40479, June 13, 1980, as amended at 49 FR 31369, Aug. 6, 1984]

§ 1710.14 Regulatory exemptions.

(a) *Eligibility requirements.* The following transactions are exempt from the registration requirements of the

Act unless the Secretary has terminated the exemption in accordance with paragraph (b) of this section.

(1) The sale of lots, each of which will be sold for less than \$100, including closing costs, if the purchaser will not be required to purchase more than one lot.

(2) The lease of lots for a term not to exceed five years if the terms of the lease do not obligate the lessee to renew.

(3) The sale of lots to a person who is engaged in a bona fide land sales business.

(4) The sale of a lot to a person who owns the contiguous lot which has a residential, commercial or industrial building on it.

(5) The sale of real estate to a government or government agency.

(6) The sale of a lot to a person who has leased and resided primarily on the lot for at least the year preceeding the sale.

(b) *Termination.* If the Secretary has reasonable grounds to believe that exemption from the registration requirements in a particular case is not in the public interest, the Secretary may, after issuing a notice and giving the respondent an opportunity to request a hearing within fifteen days of receipt of the notice, terminate eligibility for exemption. The basis for issuing a notice may be the conduct of the developer or agent, such as unlawful conduct or insolvency, or adverse information about the lots or real estate that should be disclosed to the purchasers. Proceedings will be governed by § 1720.238.

(c) The sale must also comply with the anti-fraud provisions of § 1710.4 (b) and (c) of this part.

[45 FR 40479, June 13, 1980, as amended at 49 FR 31370, Aug. 6, 1984]

**§ 1710.15 Regulatory exemption—multiple site subdivision—determination required.**

(a) *General.* (1) The sale of lots contained in multiple sites of fewer than 100 lots each, offered pursuant to a single common promotional plan, is exempt from the registration requirements.

(2) For purposes of this exemption, the sale of lots in an individual site

that exceeds 99 lots is not exempt from registration. Likewise, the sale of lots in a site containing fewer than 100 lots, where the developer either owns contiguous land or holds an option or other evidence of intent to acquire contiguous land which, when taken cumulatively, would or could result in one site of 100 or more lots, is not exempt from registration. Furthermore, the sale of lots that are within a subdivision established by a separate developer is not exempt from registration by this provision.

(b) *Eligibility requirements.* The sale of each lot must meet the following requirements to be eligible for this exemption.

(1) The lot is sold “as is” with all advertised improvements and amenities completed and in the condition advertised.

(2) The lot is in conformance with all local codes and standards.

(3) The lot is accessible, both legally and physically. For lots which are advertised or otherwise represented as “residential”, either primary or secondary, with any inference that a permanent or temporary dwelling unit of any description (excluding collapsible tents) can be built or installed, physical access must be available by automobile, pick-up truck or equivalent “on-road” vehicle.

(4) At the time of closing, a title insurance binder or title opinion reflecting the condition of title must be issued to the purchaser showing that, subject only to exceptions approved in writing by the purchaser at the time of closing, marketable title is vested in the seller.

(5) Each contract or agreement and any promissory notes—

(i) Contain the following non-waivable provision in bold face type (which must be distinguished from the type used for the rest of the document) on the face or signature page above all signatures:

You have the option to cancel your contract or agreement of sale by notice to the seller until midnight of the seventh day following the date of signing of the contract or agreement.

If you did not receive a Lot Information Statement prepared pursuant to the rules and regulations of the Interstate Land Sales Registration Division, U.S. Department of