

§ 1710.503

24 CFR Ch. X (4-1-04 Edition)

1715 apply, excepting the disclaimer statement in §1715.50(a) which is modified to read as follows:

Obtain the Property Report or its equivalent, required by Federal and State law and read it before signing anything. No Federal or State agency has judged the merits or value, if any, of this property.

(f) Developers are obliged to pay filing fees as set forth in §1710.35 of these regulations.

§ 1710.503 Notice of certification.

(a) If the Secretary determines that a state qualifies for certification under §1710.501(a) or §1710.501(b), the Secretary shall so notify the state in writing. The state will be effectively certified under the section and as of the date specified in the notice.

(b) If the Secretary determines that a state does not meet the standards for certification, the Secretary shall so notify the state in writing. The notice will specify particular changes in state law, regulations or administration that are needed to obtain certification. The Secretary shall not be bound in advance to certify a state that makes the suggested changes if other deficiencies become apparent at a later time.

(c) The Secretary's final determination to accept or reject a State's Application for Certification of Land Sales Program shall be published in the FEDERAL REGISTER.

(d) A state's certification will remain in effect until it is voluntarily suspended by the state or withdrawn by the Secretary. A state can voluntarily suspend its certification by notifying the Secretary in writing. The suspension will take effect as of the date and time specified in the notice to the Secretary, or upon receipt by the Secretary if no date is specified. The Secretary may withdraw certification as provided in §1710.505.

§ 1710.504 Cooperation among certified states and between certified states and the Secretary.

(a) By filing an Application for Certification of State Land Sales Program pursuant to §1710.502, a state agrees that, if it is certified by the Secretary, it will:

(1) Accept for filing and allow to be distributed as the sole disclosure docu-

ment, a disclosure document currently in effect in the situs certified state. Only those documents filed with the situs state after certification by the Secretary must automatically be accepted by other certified states;

(2) Certify copies of all disclosure documents, amendments and consolidations filed with it by developers of land located within its borders for and as needed by developers required to submit certified copies to the Secretary and all other certified states. The certification shall indicate whether the documents are currently in effect. The certification should state as follows:

The (indicate the State Department of Real Estate or other appropriate entity) has reviewed the attached materials and finds they are true copies of (1) the (indicate Property Report or other similar state accepted document or amendment to such document) for (indicate the name of the subdivision), made effective by the State of _____ on _____ (give date) and still in effect; and (2) the supporting documentation upon which such (indicate the document or amendment) is based.

Signature _____

(3) Assist and cooperate with the Secretary and other certified states by requiring that developers of land within its borders amend disclosure documents if any change occurs in any representation of material fact required to be stated in the disclosure documents, including a change resulting from the developer's compliance with the requirements of the law in another certified state. The state shall require developers to send certified copies of the amended documents to the Secretary and requesting certified states. All amendments to such materials, which reflect changes in material facts regarding the subdivision, shall be submitted to the situs certified state authorities within 15 days of the date on which the developer knows, or should have known, of such change. Certified copies of the disclosure documents shall be submitted by the developer to the Secretary and the other certified states within 15 days after it becomes effective under the situs certified state laws.

(4) Continue to effectively operate its Land Sales Program as that Program

is described in the Application for Certification and as it was certified by the Secretary.

(5) Assist and cooperate with the Secretary by monitoring the sales practices of developers registered with it directly or through another certified state, and by reporting to the Secretary any violations of the Act, including but not limited to the required contract provisions, revocation rights and anti-fraud provisions of 15 U.S.C. 1703, or the regulations.

(b) A state required to accept the disclosure documents of another situs certified state pursuant to paragraph (a)(1) of this section, may, in its discretion, require the developer to furnish it with copies certified pursuant to paragraph (a)(2) of this section.

(c) No state shall be prevented from establishing substantive or disclosure requirements which exceed the federal standard provided that such requirements are not in conflict with the Act or these regulations. For example, a certified state may impose additional disclosure requirements on developers of land located within its borders but may not impose additional disclosure requirements on developers whose disclosure documents it is required to accept pursuant to paragraph (a)(1) of this section. However, a certified state may impose additional nondisclosure requirements on out of state developers even though the developer is registered in the certified state in which the land is located.

(d) After a developer is effectively registered with a certified state through a situs certified state, either or both certified states may exercise full enforcement authorities and powers over that developer according to applicable law and regulations.

(e) The Secretary shall cooperate with the certified states by offering a forum for nonbinding arbitration of disputes between two or more certified States arising out of the State Certification Program.

§ 1710.505 Withdrawal of State certification.

(a) The Secretary shall periodically review the laws, regulations and administration thereof, of a certified state. If the Secretary finds that,

taken as a whole, the laws, regulations or administration thereof, no longer meet the requirements of subpart C, then the Secretary may issue a notice to withdraw the certification of that state.

(b) The notice of proceedings to withdraw a state's certification will be issued to the state by the Secretary pursuant to §1720.236. The Secretary may, after notice and after an opportunity for a hearing, pursuant to §1720.237, issue an order withdrawing certification.

In the event that a withdrawal order is issued, the order shall remain in effect until the state has amended its laws, regulations or the administration thereof or has otherwise complied with the requirements of the order. When the state has complied with the requirements of the order, the Secretary shall so declare and the withdrawal order shall cease to be effective.

(c) Withdrawal orders issued pursuant to this subsection will be effective as of the date the order is received by the state. The withdrawal order shall be published in the FEDERAL REGISTER.

(d) The rules of chapter IX of 24 CFR part 1720, subpart D will generally apply to hearings on withdrawal of a state's certification.

§ 1710.506 State/Federal filing requirements.

(a)(1) If the Secretary has certified a state under §1710.501, the Secretary shall accept for filing disclosure materials or other acceptable documents which have been approved by the certified state within which the subdivision is located. Only those filings made by the developer with the state after the state was certified by the Secretary shall be automatically accepted by the Secretary.

(2) Retroactive application of the effectiveness of state's certification to a specified date may be granted on a state-by-state basis, where the Secretary determines that retroactive application will not result in automatic federal registration of any state filing that has not met the requirements of the certified state laws.

(b) For a developer to be registered with the Secretary, the developer shall file with the Secretary a state certified