

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the
Proposed Adoption and
Amendment of Rules and
Forms Relating to Minnesota
Statutes Chapter 83
(Subdivided Lands)

STATEMENT OF NEED
AND REASONABLENESS

The Minnesota Subdivided Land Sales Practices Act, Minn. Stat. § 83.21 (Supp. 1984) entrusts with the commissioner of Commerce (hereinafter "Commissioner") authority to administer the Minnesota Subdivided Land Sales Practices Act, MSA §§ 83.20 to 83.42 (Supp. 1984), amended by Chapter 452 (1984). The Commissioner presents herein his statement of the need for and reasonableness of adoption of the new rules and amendments to the Minnesota Rules §§ 2810.1100 to 2810.9950 (1984).

The new rules and amendments are made to reflect a change in statutory language and numbering. They are intended to streamline certain registration and enforcement provisions, and to make the Minnesota Rules Sections consistent with each other. In addition, the new rules and amendments reflect provisions in the amended statute that includes "time sharing" in the Subdivided Lands category for purposes of regulation. Chapter 452 (1984).

The Commissioner has determined that the adoption of the new rules and the amendments to the existing rules are reasonable and necessary to carry out and make effective the

provisions of the Minnesota Subdivided Land Sales Practices Act, Minn. Stat. Chap. 83 (Supp. 1984), as amended, Chapter 452 (1984).

Small Business Considerations in Rulemaking;
Minnesota Statutes 14.115 -- The Commissioner has determined that the following rules are in compliance with Minn. Stat. Section 14.115 regarding small business impact. Chapter 83, the Subdivided Land Sales Practices Act, is a consumer protection law as well as a disclosure law. Protection of Minnesota purchasers must be insured whether the purchased land is in a small or large development. Existing rules for registration are addressed to small and large subdividers. A separate format for registration, which does not put an undue burden on the small developer while still ensuring the protection of the Minnesota purchaser, has been in place since the Rules for Chapter 83 were initially promulgated and there are no substantive changes in this regard.

The need for and reasonableness of each of the new rules and amendments to the existing rules is as follows.

Minnesota Rules §§ 2810.2100.

The title of the rule is changed to "Guidelines for Preparing Applications for Registration by Qualification" to reflect amendments to the statute and changes in the text of the rule.

Minnesota Rules §§ 2810.2100.

In the text of the rule, the reference to 83.26, subd. 2(a) is deleted because the statute was changed, making the reference no longer applicable. Minn. Stat. § 83.26, subd. 2(b) (Supp. 1984), as amended Chapter 452 (1984).

Minnesota Rules §§ 2810.9910.

The title of the rule is changed to "Registration by Qualification" to reflect amendments to the statute and changes in the text of the rule governing this form. Minn. Stat. Chap. 83 (Supp. 1984), as amended Chapter 452 (1984).

Minnesota Rules §§ 2810.9910.

Subdivision 3 is deleted from Minn. Stat. 1973, Section 83.23 for technical and stylistic reasons.

Minnesota Rules §§ 2810.2100.

"Time share interest" has been added to the statutory definition of subdivided land to enhance and clarify the consumer protection objectives of the subdivided land laws. After the first full paragraph the following paragraph was added to allow some flexibility in registering time share interests as subdivided land:

"With regard to time share registration certain sections may be waived and other requirements substituted in the registration application, if the Commissioner finds the substitutions are consistent with the consumer protection objectives of Minn. Stat., Ch. 83."

Minnesota Rules §§ 2810.9910.

Number 9 has been amended so that the sentence ends with ", if applicable" for stylistic and technical reasons.

Minnesota Rules §§ 2810.9910.

Number 10 has been amended so that the sentence ends with ", if applicable" for stylistic and technical reasons.

Minnesota Rules §§ 2810.9910.

Number 13(e) has been amended so that the sentence ends with ", if applicable." for stylistic and technical reasons.

Minnesota Rules §§ 2810.9910.

Number 16 has been amended so that after "subdividers" the words "if required" are added for stylistic and technical reasons.

Minnesota Rules §§ 2810.2610.

In Subpart 4 insert the following paragraph before 4(A), (B), (C):

"The Commissioner may accept pursuant to application for registration under Minn. Stat., 1973, chapter 83, any currently effective public offering statement prepared for compliance with registration provisions of the subdivided land laws of such jurisdictions as the Commissioner may, from time to time, designate. The Commissioner reserves the right to require alterations in such statements as he deems necessary to fulfill the requirements of Minn. Stat. 1973, chapter 83. This provision saves the applicant duplication of work when the applicant has submitted an application to another jurisdiction that has acceptable requirements.

Minnesota Rules §§ 2810.2700.

The title is changed to "Guidelines for Preparing Applications for Registration by Notification" to reflect amendments to the statute and changes in the text of the rule. Minn. Stat. § 83.23 (Supp. 1984), as amended Chapter 452 (1984).

Minnesota Rules §§ 2810.9940.

The referenced statute number is changed from Minn. Stat. § 83.26, Subd. 2(b) to Minn. Stat. 83.23 because of the statutory change. Chapter 452 (1984).

Number 8 is deleted with the following paragraph inserted:

"State the condition of title to the land to be subdivided included but not limited to, a statement reflecting all encumbrances, deed restrictions, and covenants applicable to such title and state the condition of title as recorded as of a date 30 days prior to the filing of this application. THE STATEMENTS REQUIRED BY THIS PARAGRAPH MUST BE AUTHORIZED BY A LICENSED PRACTICING ATTORNEY WHO IS NOT A SALARIED EMPLOYEE, PARTNER, OFFICER OR DIRECTOR OF THE SUBDIVIDER OR AN AGENT OF THE SUBDIVIDER AND

SUCH ATTORNEY SHALL CERTIFY AS PART OF THE STATEMENT THAT SAID ATTORNEY ENJOYS SUCH A STATUS; OR BY A TITLE INSURANCE COMPANY ACCEPTABLE TO THE COMMISSIONER."

This paragraph is substituted so that the language is consistent with Minnesota Rules § 2810.990.

Minnesota Rules §§ 2810.9940.

Number 16 is amended so that "in accordance with Minnesota Rules 2810.2400" is inserted after "representative." This is a technical change.

Minnesota Rules §§ 2810.9940.

The fee is changed from \$10.00 to \$100.00 to reflect the increasing cost of processing the applications.

Minnesota Rules §§ 2810.9950.

In number 14(3) insert " if required" after "income statement." This is a stylistic and technical change.

Minnesota Rules §§ 2810.9950.

In number 14(3) insert " if required" after "balance sheet." This is a stylistic and technical change.

No Minnesota rules number.

S.Div 1616.

The following paragraphs are added to provide a format for requesting an exemption from registration pursuant to Minn. Stat. § 83.26 Subd. 2(i)(1) (Supp. 1984), as amended chapter 452 (1984).

"Guidelines for Preparing a Request for Exemption from Registration.

This request is to be prepared and filed pursuant to Minnesota Statutes 1973, Section 83.26, Subd. 2(i)(1).

1. Submit no later than 10 days prior to the first offer, a cover letter, stating the reasons for the request along with an information sheet which contains the following:

- (a) Name of the subdivision.
- (b) Name, address and telephone number of the subdivider.
- (c) Name, address, contract person and telephone number of the escrow agent.

2. Attach as exhibits:

- (a) Sales contract.
- (b) In accordance with S.Div 1607, (3) an offering statement or fact sheet.

A \$50.00 fee must be filed with the application. The fee is payable to the Treasurer, State of Minnesota."

No Minnesota Rules Number.

S.Div. 1617.

"The following paragraphs provides a form for amending an existing application.

(a) An application to amend the registration shall be made by submitting a revised application and or a revised public offering statement with all alterations of the text previously filed underscored and accompanied by a verification sheet manually signed and notarized.

If required a new exhibit must be included.

A \$25.00 fee must be filed with the amendment. The fee is payable to the Treasurer of the State of Minnesota."