

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 is given authority to adopt rules regarding the Minnesota Subdivided Land Practice Act by Minn. Stat § 83.38. 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 provision, and to make the Minnesota Rules Sections consistent with each other.

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 CONSIDERATION 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. No modification of the proposed rules for small businesses was deemed feasible as such modifications would reduce the protection of the consumers that the Act was intended to accomplish. It would also be counter-productive for small businesses as consumers might feel reluctant to deal with them if they felt they were less protected than if they were dealing with a large developer. 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 §§ 2810.3200

In the text of the rule, section c, all references to the irrevocable bank letter of credit are deleted because the nature of an irrevocable letter of credit is such that it would not offer the same protection to the purchaser as the other alternative.

Minnesota Rules §§ 2810.9930

In the text of the rule, the purchaser's reference to financial statements and to Exhibit A is deleted because the statute has been changed. This reference and attachment A are no longer required because of the amendment of Minn. Stat. § 83.24, Subd. 2, 8 (Supp. 1984) by Chapter 452, Laws of Minnesota 1984.

In the text of the addendum to the public offering statement, items 4(b), 4(C) and 5 are deleted because of the statutory changes encompassed in Chapter 452, Laws of Minnesota 1984.

Minnesota Rules §§ 2810.9940

The requirement that the title opinion be authored by a "licensed practicing attorney who is not a salaried employee, partner, officer or director of the subdivider through the word status" is deleted and "The statement required by this paragraph must be authored by an attorney who is licensed to practice in the state in which the land to be subdivided is located" is substituted. This language has been changed because of the statutory changes encompassed in Chapter 452, Laws of Minnesota 1984.