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## **Section IV**

# **WHO MUST APPLY**

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### **A. Preliminary or Final Public Report**

A Notice of Intention (RE 603, 624 or 628) must be filed with the DRE, and a preliminary, conditional or final public report obtained, with certain exceptions, before offering for sale or lease, in California, five or more subdivision interests.

The further division of any interest in the subdivision into five or more lots/units ordinarily constitutes a new subdivision as defined by Section 11000 of the Business and Professions Code and a Notice of Intention for a new public report must be submitted to the Real Estate Commissioner as required by said code. (See Section 11000 et seq., of the Business and Professions Code for further details.) It is advised that you contact DRE prior to commencing any further division in a common interest subdivision. (Also see Section 11018.7 of the Business and Professions Code.)

### **B. Amended or Renewed Public Report**

Once a preliminary, interim, conditional or final public report is issued, an application (RE 635 or RE 603B) must be filed to renew expired reports. To submit material changes to the last issued subdivision public report, an application (RE 603B, RE 635, RE 635A or RE 635B) must be filed to amend a subdivision public report.

Generally any change in the application file not reflecting the true facts of the subdivision offering is considered a material change. If such change results in the subdivision public report not stating the true facts or not truly representing the offering because of incorrect facts, the public report usually must be amended.

Whether or not the public report needs to be amended, the Department of Real Estate must be advised of any changes in the offering.

*Example:* If the owner of the subdivision options or sells five or more lots, units, shares or memberships to another, such option or sale constitutes a material change within the meaning of Section 11012 of the Business and Professions Code.

See Regulation 2800 for an enumeration of material changes.

If there is a change in the offering before or after a public report is issued, notify DRE or notify your single responsible party (SRP) and instruct the SRP to provide the information to the DRE.

### **C. HUD/OCRA**

Subdividers of some subdivisions which are sold interstate may be under the jurisdiction of the Department of Housing and Urban Development, Office of Consumer and Regulatory Affairs (HUD/OCRA), Interstate Land Sales and Real Estate Settlement Procedures Act Division, as well as State of California Department of Real Estate. You must contact HUD/OCRA directly to determine if your project is subject to HUD/OCRA laws and regulations.

California has been certified by HUD/OCRA pursuant to Section 1409 of the Interstate Land Sales Full Disclosure Act. This means that California subdividers who are subject to the jurisdiction of HUD/OCRA will satisfy most HUD/OCRA requirements by qualifying for a California final public report. A subdivision final public report issued for a project which is subject to HUD/OCRA states on the front page "HUD/OCRA" and the purchaser's HUD/OCRA rescission rights are disclosed in the body of the public report.

## D. Exempt Subdivisions

The following subdivisions are exempt from filing with the Department of Real Estate for a subdivision public report:

- Condominiums, planned developments, stock cooperatives, community apartments, and related conversions of less than five units or lots. (Section 11004.5, Business and Professions Code.)
- Standard subdivisions of less than five lots. (Section 11000, Business and Professions Code.)
- Subdivisions developed and offered to the public by public agencies. (Section 11010.6, Business and Professions Code.)
- Commercial and industrial subdivisions within California in which all lots or other interests are (a) limited to industrial or commercial uses by zoning or (b) limited to industrial or commercial uses by a declaration of covenants, condition, and restrictions, which declaration has been recorded in the official records of the county or counties in which the subdivision is located. (Section 11010.3, Business and Professions Code.)
- Standard subdivisions within the boundaries of a city within California with completed residential structures and with all other improvements necessary to occupancy completed or with financial arrangements determined to be adequate by the city to assure completion of such improvements, and purchase money handling as set forth in Section 11013.2 or 11013.4 of the Business and Professions Code. If compliance with Sections 11013.2/11013.4 will be other than by deposit into a neutral escrow depository until close of escrow, the purchase money handling procedure must be on file with the DRE before offering any interest for sale or lease. (Section 11010.4, Business and Professions Code)

The following examples are intended to clarify special situations related to exempt standard subdivisions. (§11010.4, Business and Professions Code.)

- The subdivider intends to improve all lots with residential dwellings which will be leased out for a period of one year or more.

*In this case, the subdivider would not be required to obtain a subdivision public report prior to entering into leases for a period of one year or more. He/she is entitled to enter into such long term leases on the lots because all lots are improved with completed residential structures.*

- The subdivider intends to build and sell twenty-four houses on lots in a twenty-five lot subdivision. There will be one remaining vacant lot. Does he/she need a subdivision public report to offer these lots for sale?

*Yes. The subdivider would need a subdivision public report for the entire twenty-five lot subdivision. The subdivider divided the parcel into twenty-five lots and must either improve each lot or parcel with a completed residential structure or obtain a subdivision public report.*

- How can a subdivider of an exempt subdivision under the provisions of Section 11010.4 of the Business and Professions Code comply with Sections 11013.2 and 11013.4 of the Code if he/she prefers to file a bond with the Department of Real Estate rather than impounding all purchaser's funds in an escrow depository?

*The Department of Real Estate has made provisions for subdividers to comply with Sections 11013.2(c) and 11013.4(b) of the Business and Professions Code. Complete RE 600B and submit along with a blanket bond (RE 600A) directly to the Department of Real Estate, Subdivisions-South, 320 W. Fourth Street, Suite 350, Los Angeles, CA 90013-1105.*

### **Exempt Transfers – Builder to Builder** [Section 11010.35(a) Business and Professions Code].

This section provides: *The provisions of this chapter shall not apply to the proposed sale or lease of five or more lots, parcels, or other interests in a subdivision or the sale of one or more lots or parcels in a subdivision where the lot or lots or parcel or parcels are intended to be further subdivided into five or more lots, parcels, or other subdivision interests as defined in Sections 11000, 11000.1, and 11004.5, to any person who acquires the lots, parcels, or other subdivision interests for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings, or for the purpose of resale*

*or lease of the lots, parcels, or other subdivision interests to persons engaged in this business, provided that the purchase or lease agreement or a separate disclosure document includes a statement or provision that the purchaser or lessee is required to comply with the applicable provisions of this chapter prior to offering for sale or lease any lot, parcel, or other subdivision interest acquired pursuant to the exemption granted by this subdivision.*