CHAPTER 543C

SALES OF SUBDIVIDED LAND OUTSIDE OF IOWA

Referred to in §669.14

This chapter not enacted as a part of this title;
transferred from chapter 117A in Code 1993

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543C.1 Definitions.

As used in this chapter, unless the context otherwise indicates:

1. *"Advertisement"* means the attempt by, dissemination, solicitation, or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in land offered for sale or lease, to the public in this state.

2. *"Commission"* means the real estate commission as established by chapter 543B.

3. *"Sale"* means any sale, offer for sale, or attempt to sell or lease any land, to the public in this state, for cash or on credit.

4. *"Subdivided land"* means improved or unimproved land divided or proposed to be divided for the purpose of sale or lease into five or more lots or parcels, or additions or parts of lots or parcels; however, subdivided land does not include a subdivision subject to section 306.21 or chapter 354 nor the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, or commercial building unless an undivided interest in the land is granted as a condition precedent to occupying space in the structure. Subdivided land does not include subdivisions of land located within the state of Iowa or time-share intervals as defined in section 557A.2.

5. *"Subdivider"* means any person, firm, partnership, company, corporation, or association engaging directly or through an agent in the business of selling or leasing subdivided land, or of offering such land for sale or lease, to the public in this state.

[C75, 77, 79, 81, §117A.1]
85 Acts, ch 155, §22; 90 Acts, ch 1236, §42
C93, §543C.1

543C.2 Provisions governing sale or lease of subdivided lands.

1. No subdivider shall sell or lease subdivided land, or offer such land for sale or lease, or advertise such land for sale or lease to the public within this state unless the subdivider has filed with the commission an application which shall include an offering statement. No subdivider shall engage in business in this state until the application and the offering statement have been accepted and the subdivider has been registered as a subdivider with the commission. In addition to the offering statement, the application shall contain the following:

a. The name of the owner and of the subdivider.

b. The address of the principal office of the owner and of the subdivider, wherever situated, and the addresses of the principal office and all branch offices of the owner and of the subdivider within this state.

c. The name of the person, firm, partnership, company, corporation, or association holding legal or equitable title to the land for sale or lease for the purpose of offering such land or part thereof to the general public.

d. A statement as to whether the owner or the subdivider, or if such owner or subdivider be other than an individual, the name of any partner, principal, officer, director, or branch manager thereof or any owner of more than a five percent interest in the business, has been convicted of any criminal offense in connection with any transaction involving the sale or lease, or offer for sale or lease, of subdivided land, or has been enjoined or restrained by

order of any court from selling or leasing, or offering for sale or lease, any subdivided land in any state or county, or has been enjoined or restrained by any court from continuing any practices in connection therewith.

e. The complete description of the land offered for subdivision by lots, plots, blocks, or sales, with or without streets, together with plats certified to by a duly licensed professional land surveyor accompanied by a certificate attached thereto showing the date of the completion of the survey and of the making of the plat and the name of the subdivision for the purpose of identification of the subdivided land or any part thereof.

f. Copies of plats of all of the land being filed by the subdivider which plats must have already been recorded by the proper recording office in the state in which the land is located.

g. An opinion of an attorney admitted to practice law in this state, a policy of title insurance issued by a title insurer licensed to do business in the state where the subdivided land is located, or an opinion of an attorney admitted or licensed to practice law in the state wherein the lands are situated, reciting in detail all of the liens, encumbrances, and clouds upon the title to such land, and any other defects of title, which may render the title to such land unmarketable.

h. The provisions, covenants, terms, and conditions upon which it is the intention of the owner and the subdivider to sell or lease such subdivided land, accompanied by proposed forms of contracts contemplated for execution and delivery upon the consummation of sales or leases.

i. If the subdivided land sought to be filed comes within the purview of the federal Interstate Land Sales Full Disclosure Act, codified at 15 U.S.C. §1701 et seq., the subdivider must furnish a copy of the accepted report filed with the department of housing and urban development. If the subdivision comes under the regulation of the real estate laws of the state where the land is located and that state requires a state offering statement or public report, the subdivider must also include a copy of said state report.

j. The subdivider, if a corporation, must register to do business in the state of Iowa as a foreign corporation with the secretary of state and furnish a copy of the certificate of authority to do business in the state of Iowa. If not a corporation, the subdivider must comply with the provisions of chapter 547, by filing a proper trade name with the Polk county recorder. The provisions of this paragraph shall also apply to any person, partnership, firm, company, corporation, or association, other than the subdivider, which is engaged by or through the subdivider for the purpose of advertising or selling the land involved in the filing.

k. Such other information as the commission may require, which shall be filed pursuant to the provisions of this chapter.

2. The offering statement must contain all of the following:

a. The names, addresses, and business background of the subdivider as required in subsection 1, paragraphs *"a"* to *"d"*. If such subdivider is a partnership or corporation, the names, addresses, and business background of each of the partners, officers, and principal stockholders, the nature of their fiduciary relationship and their past, present, or anticipated financial relationship to the subdivider.

b. A complete description of the land and copies of the plat in which the land is located as required in subsection 1, paragraphs *"e"* and *"f"*, and a certified financial statement by a certified public accountant of the assets and liabilities of the subdivider as of a date not more than six months prior to the date of the filing, in such detail as the board may require.

c. Information concerning public improvements, including without limitation, streets, storm sewers, street lighting, water supply, and sewage treatment and disposal facilities in existence or planned on the subdivision, and the estimated cost, date of completion, and responsibility for construction of improvements to be made which are referred to in connection with the sale or lease, or offering for sale or lease, of the subdivision or any unit or lot thereon.

d. Each of the terms and conditions under which each such unit or lot is offered for sale and such opinion or certificates as required in subsection 1, paragraphs *"g"* and *"h"*.

e. A statement as to the exact terms of any guaranties or promises of refund or exchange which are to be used by the subdivider. The guaranty or promise of refund or exchange, if any, must be contained in the body of any contracts used by the subdivider and cannot be

in any separate document. Said guaranty or promise of refund or exchange must appear in boldface type in the contract.

f. If the refund privilege, pursuant to paragraph *"e"*, is predicated in any way upon the requiring by the subdivider of an inspection by the purchaser prior to requesting a refund or exchange pursuant to the guaranty provisions, the offering statement and the sale contract itself must set out in detail all pertinent information in regard to the inspection trip and in regard to claiming a refund or exchange pursuant to the guaranty after the inspection trip.

g. A vicinity sketch of sufficient scale to show the entire tract of land, surrounding property ownership, and road access.

h. Such additional information as the commission may require as being necessary or appropriate in the public interest or for the protection of purchasers or lessees.

[C75, 77, 79, 81, §117A.2]

C93, §543C.2

2010 Acts, ch 1061, §71; 2012 Acts, ch 1009, §25; 2013 Acts, ch 90, §167; 2013 Acts, ch 140, §75

Referred to in §543C.3, 543C.4, 543C.8

543C.3 Offering statement — contents — prohibitions.

1. There may be omitted from the offering statement any of the information required under section 543C.2, subsection 1, paragraphs *"f"*, *"i"*, and *"j"*, which the commission may by a properly promulgated rule designate as being unnecessary or inappropriate for the protection of the public interest or a purchaser.

2. No offer to sell or lease subdivided land by any means of advertisement shall be made unless a copy of such advertisement has first been filed with the board. All such advertisements shall state that an offering statement has been filed with the commission and that a copy of such statement is available from the subdivider upon request.

3. Except as provided in subsection 1, no offer to sell or lease subdivided land shall be made unless such offer is accompanied by a copy of the current offering statement filed pursuant to this chapter.

4. The first page of the offering statement employed in the sale or lease, or offer for sale or lease, of subdivided land shall contain a legible statement printed in at least sixteen point bold type which shall be at least four point type larger than the body of the document that the filing of the verified statement and offering statement with the commission does not constitute approval of the sale or lease, or offer for sale or lease, by the state, commission or any officer thereof, or that the state, commission or any officer thereof, has in any way passed upon the merits of such offering.

5. No sale or lease of subdivided land shall be made unless accompanied or preceded by the delivery to the prospective purchaser of an offering statement complying with the provisions of this section.

6. No offering statement shall be changed or amended unless a copy of such change or amendment has first been filed with the commission.

7. The subdivider shall, within thirty days after the first day of July of each year, file with the commission a current offering statement setting forth all changes which have taken place during the preceding year with respect to any information required to be set forth in such offering statement. Only a current offering statement shall be used to sell or lease, or offer to sell or lease, any subdivided land.

8. A fee of one hundred dollars shall be paid, plus ten dollars for each one hundred lots, units, parcels, portions, or interest included in the current offering statement.

[C75, 77, 79, 81, §117A.3]

C93, §543C.3

2013 Acts, ch 90, §249

Referred to in §543C.8

543C.4 Inspection power of commission and attorney general — unlawful practices — penalties.

1. The commission may request the department of inspections and appeals to conduct an

investigation and inspection to be made of any subdivided land proposed to be offered for sale or lease in this state pursuant to this chapter. The department of inspections and appeals shall make a report of its findings.

2. If an inspection is to be made of subdivided land situated outside of this state and offered for sale in this state, the inspection as authorized by subsection 1 shall be made by the department of inspections and appeals at the expense of the subdivider. After the application required by section 543C.2 is filed and after the filing fee required by section 543C.8 is received, the commission may decide whether an inspection pursuant to this subsection is to be made. If the commission requires an inspection, the department of inspections and appeals shall so notify the subdivider and the subdivider shall remit to the department an amount equivalent to the round trip cost of travel from this state to the location of the project, as estimated by the department and a further amount estimated to be necessary to cover the additional expenses of inspection but not to exceed fifty dollars a day for each day incurred in the inspection. The costs of any subsequent inspections deemed necessary shall be paid for by the subdivider. At the completion of an inspection trip the department shall furnish the subdivider a statement as to the costs of the inspection trip, and if the costs are less than the amount advanced by the subdivider to the department, the remaining balance shall be refunded to the subdivider.

3. It shall be unlawful for the subdivider to change the financial structure of any offering after the submission thereof to the commission without first notifying the commission in writing of such intention.

4. Where improvements are to be made in connection with the sale or lease, or offering for sale or lease, of the subdivision or any unit, parcel, or lot thereon, the owner or subdivider shall either furnish to the commission a performance bond executed by a surety company authorized to do business in the state and which has given consent to be sued in this state with sufficient surety for the benefit and protection of purchasers of units, parcels, or lots, in such amount and subject to such terms as the commission deems necessary for the protection of such purchasers with respect to construction of such improvements, or place in an escrow account in a depository acceptable to the commission, that portion of the sums paid or advanced by purchasers which the commission deems necessary for the protection of such purchasers with respect to construction of such improvements.

5. *a.* Where the land to be subdivided is subject to a mortgage, lien, or encumbrance securing or evidencing the payment of money, other than taxes levied or assessments made, or where the interest of the owner, the subdivider or an agent is held under option or contract of purchase or in trust, it shall be unlawful to sell any land in such subdivision unless a provision in such mortgage, lien, encumbrance, option, contract, or trust agreement, or a provision in an agreement supplementary thereto, enables the vendor to convey valid title to each parcel so sold or leased free of such mortgage, lien, encumbrance, option, contract, or trust agreement upon completion of all payments and the performance of all the terms and conditions required to be made and performed by the vendee under the agreement of sale.

b. Where the consideration price for a lot sold has been amortized to an extent that the balance due and owing thereunder equals an amount required to release such lot or lots from any existing mortgage, lien, encumbrance, tax, assessment, option, contract, or trust agreement, and the initial cost for said land has not been paid for by the owner or subdivider, all moneys thereafter received by the owner or subdivider shall be segregated and kept in a separate account as a trust which shall be applied toward the clearance of title of the land intended to be conveyed to the purchaser. Certified or verified copies of documents containing such provisions shall be filed with the commission prior to the sale or lease, or offer of sale or lease, or advertisement for sale or lease, of any part of the subdivision.

[C75, 77, 79, 81, §117A.4]
88 Acts, ch 1158, §25
C93, §543C.4
2012 Acts, ch 1023, §157

543C.5 Penalties.

1. Any person, firm, partnership, corporation, company, or association representing

in any manner that the state, the commission or any officer thereof has recommended or acquiesced in the recommendation of the purchase of any subdivided land offered for sale or lease, in advertising or offering such subdivided land for sale or lease, shall be guilty of a serious misdemeanor.

2. Any person, officer, director, agent, or employee of a person, company, firm, partnership, association, or corporation offering to sell or lease, or selling or leasing, subdivided land prior to the filing of the offering statement and the application required by this chapter shall be guilty of a serious misdemeanor.

3. Except as provided in subsection 2, every person, officer, director, agent, or employee of a person, company, firm, partnership, corporation, or association who authorizes, directs, or aids in the publication, advertisement, distribution, or circulation of any device, scheme, or artifice for obtaining money or property by means of any false pretense, representation, or promise concerning any subdivided land offered for sale or lease, and every person, officer, director, agent, or employee of a company, firm, partnership, corporation, or association who makes or attempts to make fictitious or pretended purchases or sales of subdivided lands in this state, or in any other respect willfully violates or fails to comply with any of the provisions of this chapter, or omits or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement of the commission under the provisions of this chapter, is guilty of a serious misdemeanor.

[C75, 77, 79, 81, §117A.5]
C93, §543C.5

543C.6 Sales by brokers.

It shall be unlawful for any subdivider to sell or lease, or offer for sale or lease, any subdivided land located without this state except through a real estate broker or salesperson duly licensed in this state. The provision of section 543B.7, subsection 1, exempting regular employees of the owner of real estate from the licensing requirements of chapter 543B, shall not in any way apply to the sale of any subdivided land regulated by this chapter and subdividers covered by this chapter may not avail themselves of the provisions of section 543B.7, subsection 1, but must pursuant to this section sell only through licensed Iowa brokers and licensed salespersons.

[C75, 77, 79, 81, §117A.6]
C93, §543C.6
2019 Acts, ch 59, §194
Section amended

543C.7 Prosecution.

1. The attorney general shall prosecute all violations of this chapter. Prosecutions shall be instituted by the attorney general upon the written request of the commission. In all criminal proceedings the attorney general may appear before any court or any grand jury and exercise all the powers and perform all the duties in respect to such actions or proceedings which the county attorney would otherwise be authorized or required to exercise or perform. In lieu thereof the attorney general may transmit evidence, proof, and information pertaining to such offense to the county attorney of the county in which the alleged violation occurred, and such county attorney shall prosecute for such violation. In any such proceeding in which the attorney general has appeared, the county attorney shall only exercise such powers and perform such duties as are required by the attorney general. The attorney general shall, within ten days after a conviction for a violation of any provision of this chapter, file with the commission a detailed report showing the date of the conviction, name of the person convicted, and the specific nature of the charge.

2. Whenever it appears to the commission that any person, officer, director, agent, or employee of a company, firm, partnership, association, or corporation offering to sell or lease, or selling or leasing, subdivided land, has committed or is about to commit a violation of this chapter or any rule or order issued by the commission hereunder, the commission may apply to the district court of the county in which the principal office of the subdivider is located or if such subdivider has no such office in this state then to the district court of Polk county for

an order enjoining such subdivider or such officer, director, agent, or employee thereof from violating or continuing to violate this chapter or any such rule or order, and for such other equitable relief as the nature of the case and the interests of the public may require.

3. Any false statement contained in any statement filed with the commission pursuant to the requirements of this chapter, or in any affidavit attached thereto, shall constitute a violation of this chapter.

4. In any action brought under the provisions of this chapter, the attorney general is entitled to recover costs for the use of this state.

[C75, 77, 79, 81, §117A.7]

C93, §543C.7

543C.8 Filing fees.

Each initial filing made pursuant to section 543C.2 shall be accompanied by a basic filing fee of one hundred dollars, plus twenty-five dollars for every one hundred lots, units, parcels, portions, or interests included in the offering. A registration fee shall be paid with the filing of an application for registration consolidating additional lots with a prior registration and shall be set by rule which shall provide a basic fee of fifty dollars, plus an additional fee of twenty-five dollars for every one hundred lots, units, parcels, portions, or interests included in the offering. A fee shall not be charged for amendments to the property report as a result of amendments to the initial filing, unless the commission determines the amendments are made for the purpose of avoiding the payment of a fee, in which event the amendment may be treated as an application for registration consolidating additional lots with a prior registration. The filing fee to be paid with each annual current offering statement is as established by section 543C.3, subsection 8.

All fees collected under this chapter shall be deposited with the treasurer of state and credited to the general fund.

[C75, 77, 79, 81, §117A.8]

C93, §543C.8

Referred to in §543C.4