

IN THE SENATE

SENATE BILL NO. 1251

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE SUBDIVIDED LANDS DISPOSITION ACT; AMENDING SECTION 55-1801,
2 IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-1802,
3 IDAHO CODE, TO REVISE DEFINITIONS, TO PROVIDE CORRECT TERMINOLOGY AND
4 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1803, IDAHO CODE,
5 TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-1804, IDAHO CODE,
6 TO REQUIRE THAT A CERTAIN STATEMENT BE DELIVERED TO A PURCHASER, A DATED
7 AND SIGNED RECEIPT BE OBTAINED AND PURCHASER BE GIVEN AN OPPORTUNITY TO
8 EXAMINE THE STATEMENT, TO SPECIFY WHEN AN OFFER IS MADE IN THIS STATE,
9 TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
10 AMENDING CHAPTER 18, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW
11 SECTION 55-1804A, IDAHO CODE, TO PROVIDE A RIGHT OF RESCISSION AND
12 REQUIREMENTS FOR RESCISSION; AMENDING SECTION 55-1805, IDAHO CODE, TO
13 REMOVE REFERENCE TO THE IDAHO COMMISSIONER OF FINANCE AND THE DIRECTOR
14 OF THE DEPARTMENT OF FINANCE, TO PROVIDE CORRECT TERMINOLOGY AND TO
15 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1806, IDAHO CODE, TO
16 REVISE REQUIREMENTS RELATING TO AN APPLICATION FOR REGISTRATION OF
17 SUBDIVIDED LANDS, TO REVISE BONDING REQUIREMENTS NECESSARY TO REGISTER
18 ANY SUBDIVIDED LANDS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE
19 TECHNICAL CORRECTIONS; AMENDING SECTION 55-1807, IDAHO CODE, TO REVISE
20 REQUIREMENTS RELATING TO THE PUBLIC OFFERING STATEMENT, TO REQUIRE
21 THAT CERTAIN ADVERTISING MATERIAL BE SUBMITTED TO THE COMMISSION
22 PRIOR TO ITS USE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
23 55-1808, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COMMISSION'S
24 EXAMINATION OF AN APPLICATION FOR REGISTRATION, TO PROVIDE CORRECT
25 TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
26 55-1809, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REGISTRATION AND
27 RENEWAL FEES, TO INCREASE THE APPLICATION AND REGISTRATION MAXIMUM FEE
28 AMOUNT, TO PROVIDE A REDUCTION IN THE MAXIMUM FEE AMOUNT FOR APPLICANTS
29 WHO USE A CERTAIN WEB-BASED DOCUMENT MANAGEMENT SYSTEM, TO GRANT THE
30 COMMISSION AUTHORITY TO PROMULGATE CERTAIN RULES, TO REVISE PROVISIONS
31 RELATING TO THE REJECTION OF AN APPLICATION FOR REGISTRATION, TO
32 REVISE RENEWAL REQUIREMENTS, TO PROVIDE THAT CERTAIN FACTS DO NOT
33 CONSTITUTE COMMISSION FINDINGS, TO PROVIDE CORRECT TERMINOLOGY AND
34 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1810, IDAHO CODE,
35 TO REQUIRE THAT SUBDIVIDERS FILE A RENEWAL REPORT, TO PROVIDE A DUTY
36 TO REPORT CONVICTIONS AND JUDGMENTS, TO PROVIDE A RENEWAL EXAMINATION
37 PROCESS AND TO GRANT THE COMMISSION AUTHORITY TO ISSUE A CEASE AND
38 DESIST ORDER; AMENDING SECTION 55-1811, IDAHO CODE, TO REVISE THE
39 COMMISSION'S GENERAL POWERS AND DUTIES, TO PROVIDE CORRECT TERMINOLOGY
40 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1812, IDAHO
41 CODE, TO REMOVE REFERENCE TO THE PURCHASE OF SUBDIVIDED LANDS, TO
42 PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
43 AMENDING SECTION 55-1813, IDAHO CODE, TO REVISE PROVISIONS RELATING
44 TO INVESTIGATIONS AND PROCEEDINGS, TO PROVIDE CORRECT TERMINOLOGY
45

1 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1814, IDAHO
 2 CODE, TO REVISE PROVISIONS RELATING TO CEASE AND DESIST ORDERS,
 3 TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
 4 AMENDING SECTION 55-1815, IDAHO CODE, TO REVISE PROVISIONS RELATING
 5 TO THE REVOCATION OF A REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS;
 6 AMENDING SECTION 55-1817, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY
 7 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1818, IDAHO
 8 CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-1819, IDAHO
 9 CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
 10 AMENDING CHAPTER 18, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW
 11 SECTION 55-1819A, IDAHO CODE, TO PROVIDE THAT ANY OFFER OR DISPOSITION
 12 MADE IN VIOLATION OF CHAPTER 18, TITLE 55, IDAHO CODE, CONSTITUTES
 13 AN UNFAIR AND DECEPTIVE ACT OR PRACTICE; AMENDING SECTION 55-1820,
 14 IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS HAVE SUBMITTED TO THE
 15 JURISDICTION OF THIS STATE AND OF THE ADMINISTRATIVE JURISDICTION OF
 16 THE COMMISSION, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL
 17 CORRECTIONS; AMENDING SECTION 55-1821, IDAHO CODE, TO MAKE TECHNICAL
 18 CORRECTIONS; AMENDING SECTION 55-1822, IDAHO CODE, TO PROVIDE CORRECT
 19 TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION
 20 55-1823, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE
 21 TECHNICAL CORRECTIONS.

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That Section 55-1801, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 55-1801. TITLE. This ~~act~~ chapter shall be known and may be cited as the
 26 "Subdivided Lands Disposition Act."

27 SECTION 2. That Section 55-1802, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 55-1802. DEFINITIONS. When used in this ~~act~~ chapter, unless the
 30 context otherwise requires:

31 (1-) "Commission" means the Idaho real estate commission~~;~~.

32 (2-) "Disposition" includes sale, lease, assignment, award by lottery~~;~~
 33 or any other transaction concerning a subdivision, if undertaken for gain or
 34 profit~~;~~.

35 (3-) "Offer" includes any inducement, solicitation~~;~~ or attempt to
 36 encourage a person to acquire an interest in land, if undertaken for gain or
 37 profit~~;~~.

38 (4-) "Person" means an individual, corporation, government, ~~or~~
 39 governmental subdivision or agency, business trust, estate, trust,
 40 partnership, unincorporated association, two (2) or more of any of the
 41 foregoing having a joint or common interest~~;~~ or any other legal or commercial
 42 entity~~;~~.

43 (5-) "Purchaser" means a person who acquires or attempts to acquire or
 44 succeeds to an interest in land~~;~~.

45 (6-) "Subdivider" means any owner of subdivided land who offers it for
 46 disposition or the principal agent of an inactive owner~~;~~ and.

1 ~~(7.) a.~~ "Subdivision" ~~and or~~ "subdivided lands" means and includes the
 2 following:

3 (a) ~~Any~~ land situated outside the state of Idaho ~~which that~~ is divided
 4 or is proposed to be divided for the purpose of disposition into five
 5 (5) or more lots, parcels, units, or interests and also includes any
 6 land, whether contiguous or not, if five (5) or more lots, parcels,
 7 units, or interests are offered as a part of a common promotional plan of
 8 advertising and sale;

9 ~~(b.) In addition to the definition stated in subsection 7.a. above,~~
 10 ~~"subdivision" and "subdivided lands" mean a~~Any time shared property
 11 located within or without this state ~~which that~~ is offered to purchasers
 12 or is proposed to be offered to purchasers.

13 ~~(8.)~~ "Time shared property" means any real property in which the
 14 use and occupancy rights are divided or proposed to be divided into more
 15 than thirteen (13) units, interests or parcels in accordance with a fixed
 16 or variable time schedule on a periodic basis that allocates the use or
 17 occupancy among the persons holding similar interests, whether such use or
 18 occupancy rights are granted by deed, contract or share certificate.

19 SECTION 3. That Section 55-1803, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 55-1803. ADMINISTRATION OF ~~ACT~~ CHAPTER. This ~~act~~ chapter shall be
 22 administered by the Idaho real estate commission.

23 SECTION 4. That Section 55-1804, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 55-1804. PROHIBITIONS ON DISPOSITIONS OF INTERESTS IN
 26 SUBDIVISIONS. Unless the subdivided lands or the transaction is exempt under
 27 section 55-1805, Idaho Code, it shall be unlawful for any person to make in
 28 this state:

29 ~~(1.) To~~ Any offer or ~~to dispose~~ disposition of any interest in
 30 subdivided lands located without this state prior to the time that the
 31 subdivided lands are registered in accordance with this ~~act,~~ chapter.

32 ~~(2.) To dispose of any interest in subdivided lands unless a current~~
 33 ~~public offering statement is delivered to the purchaser and the purchaser is~~
 34 ~~afforded a reasonable opportunity to examine the public offering statement~~
 35 ~~prior to the disposition.~~

36 ~~3. To~~ Any offer or ~~dispose~~ disposition of any interest in a time shared
 37 property located within or without this state prior to the time that the time
 38 shared property is registered in accordance with this ~~act~~ chapter.

39 (3) Any disposition of any interest in subdivided lands without
 40 delivering to the purchaser an effective current public offering statement,
 41 obtaining a dated and signed receipt and affording the purchaser a
 42 reasonable opportunity to examine the statement.

43 An offer is made in this state, whether or not the offeror or offeree is
 44 then present in this state, if the offer originates within this state or is
 45 directed by the offeror to a person or place in this state and received by the
 46 person or at the place to which it is directed.

1 SECTION 5. That Chapter 18, Title 55, Idaho Code, be, and the same is
 2 hereby amended by the addition thereto of a NEW SECTION, to be known and
 3 designated as Section 55-1804A, Idaho Code, and to read as follows:

4 55-1804A. RIGHT OF RESCISSION. Any contract or agreement of
 5 disposition for an interest in subdivided lands may be rescinded by the
 6 purchaser without cause by personally delivering or sending by certified
 7 mail, a written notice of cancellation to the subdivider on or before 11:59
 8 p.m. of the fifth calendar day after execution of the contract or agreement
 9 of disposition. The contract or agreement of disposition shall state this
 10 right and terms in boldface type on the signature page and shall include the
 11 address of the subdivider.

12 SECTION 6. That Section 55-1805, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 55-1805. EXEMPTIONS. ~~(1.)~~ Unless the method of disposition is adopted
 15 for the purpose of evasion of this ~~act chapter~~, the registration provisions
 16 of this ~~act chapter~~ do not apply to offers or dispositions of an interest in
 17 land:

18 ~~(a.)~~ By a purchaser of subdivided lands for his own account in a single
 19 or isolated transaction;

20 ~~(b.)~~ If fewer than five (5) separate lots, parcels, units, or interests
 21 in subdivided lands are offered by a person in a period of twelve (12)
 22 months;

23 ~~(c.)~~ By any salaried employee in the normal course of his employment
 24 for an owner who is not in the business of making real estate sales when
 25 the transaction is incidental to the principal activities or business
 26 of the owner and where no added incentive such as a bonus or commission
 27 or other fee is paid to the employee for the transaction;

28 ~~(d.)~~ By any person holding a duly executed power of attorney from the
 29 owner or principal agent of an inactive owner when the power of attorney
 30 is executed for the performance of a specific real estate transaction;

31 ~~(e.)~~ To persons who are engaged in the business of construction of
 32 buildings for resale or to persons who acquire an interest in subdivided
 33 lands for the purpose of engaging, and do engage, in the business of
 34 construction of buildings for resale;

35 ~~(f.)~~ Pursuant to court order;

36 ~~(g.)~~ By any government or government agency; or

37 ~~(h.)~~ As cemetery lots or interests.

38 ~~(2.)~~ Unless the method of disposition is adopted for the purpose of
 39 evasion of this ~~act chapter~~, the registration provisions of this ~~act chapter~~
 40 do not apply to:

41 ~~a.~~ Offers and dispositions of securities currently registered with
 42 the Idaho ~~commissioner~~ department of finance; or

43 ~~b.~~ A subdivision as to which the commission has granted an exemption as
 44 provided in section 55-1811.

45 SECTION 7. That Section 55-1806, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 55-1806. APPLICATION FOR REGISTRATION. (1-) The application for
 2 registration of subdivided lands shall be filed as prescribed by the
 3 commission and shall contain the following documents and information:

4 (a-) An irrevocable appointment of the commission to receive service of
 5 any lawful process in any noncriminal proceeding arising under this ~~act~~
 6 chapter against the applicant or his personal representative;

7 (b-) A legal description of the subdivided lands offered for
 8 registration, together with a map showing the division proposed or
 9 made, the dimensions of the lots, parcels, units, or interests, and the
 10 relation of the subdivided lands to existing streets, roads, waterways,
 11 schools, churches, shopping centers, public transportation facilities
 12 in existence or under construction, and other off-site improvements, in
 13 existence or under construction;

14 (c-) The state or jurisdictions in which an application for
 15 registration or similar document has been filed, and any adverse order,
 16 judgment, or decree entered in connection with the subdivided lands by
 17 the regulatory authorities in each jurisdiction or by any court;

18 (d-) The applicant's name, address, and the form, date, and
 19 jurisdiction of organization, and the address of each of its offices
 20 in this state;

21 (e-) If a corporation, partnership or other legal entity, the name,
 22 address, and principal occupation for the past five (5) years of every
 23 director, and officer, of the applicant general partner, member,
 24 manager or person occupying a similar status or performing similar
 25 functions; the extent and nature of his interest in the applicant or the
 26 subdivided lands as of a specified date within thirty (30) days of the
 27 filing of the application;

28 (f-) A statement indicating whether, within the past ten (10) years,
 29 the applicant, its individual directors, officers, general partners,
 30 members or managers have been:

31 (i) Convicted of a crime involving land dispositions or any
 32 aspect of the land sales business in this state, the United States
 33 or any other state or foreign country;

34 (ii) Adjudicated liable and had a civil judgment entered against
 35 him for making a false or misleading promotional plan involving
 36 land dispositions; or

37 (iii) Subject to any injunction or administrative order
 38 restraining a false or misleading promotional plan involving land
 39 dispositions.

40 (g) A statement, in a form acceptable to the commission, of the
 41 condition of the title to the subdivided lands including encumbrances
 42 as of a specified date within thirty (30) days of the date of application
 43 by a title opinion of a licensed attorney, not a salaried employee,
 44 officer, or director of the applicant or owner, or by other evidence of
 45 title acceptable to the commission;

46 ~~(h)~~ (h) Copies of the instruments which will be delivered to a purchaser
 47 to evidence his interest in the subdivided lands and of the contracts
 48 and other agreements ~~which~~ that a purchaser will be required to agree to
 49 or sign;

1 ~~h.~~(i) Copies of the instruments by which the interest in the subdivided
 2 lands was acquired and a statement of any lien or encumbrance upon the
 3 title and copies of the instruments creating the lien or encumbrance, if
 4 any, with data as to recording;

5 ~~i.~~(j) If there is a lien or encumbrance affecting more than one (1)
 6 lot, parcel, unit, or interest, a statement of the consequences for a
 7 purchaser of failure to discharge the lien or encumbrance and the steps,
 8 if any, taken to protect the purchaser in case of this eventuality;

9 ~~j.~~(k) Copies of instruments creating easements, restrictions, or other
 10 encumbrances affecting the subdivided lands;

11 ~~k.~~(l) A statement of the zoning and other governmental regulations
 12 affecting the use of the subdivided lands and also of any existing tax
 13 and existing or proposed special taxes or assessments ~~which~~ that affect
 14 the subdivided lands;

15 ~~l.~~(m) A statement of the existing provisions for legal and physical
 16 access or, if none exists, a statement to that effect; a statement of the
 17 existing or proposed provisions for sewage disposal, water, and other
 18 public utilities in the subdivision; a statement of the improvements to
 19 be installed, the schedule for their completion, and a statement as to
 20 the provisions for improvement maintenance;

21 ~~m.~~(n) A narrative description of the promotional plan for the
 22 disposition of the subdivided lands, including the range of selling
 23 prices or rents at which it is proposed to dispose of the lots in
 24 the subdivision, together with copies of all advertising material
 25 ~~which~~ that has been prepared for public distribution by any means of
 26 communication;

27 ~~n.~~(o) A copy of its articles of incorporation, with all amendments
 28 thereto, if the subdivider is a corporation; copies of all instruments
 29 by which the trust is created or declared, if the subdivider is a
 30 trust; copies of its articles of partnership or association and all
 31 other papers pertaining to its organization, if the subdivider is
 32 a partnership, unincorporated association, or any other legal or
 33 commercial entity; and if the purported holder of legal title is a
 34 person other than the subdivider, copies of the above documents for such
 35 person;

36 ~~o.~~(p) The proposed public offering statement;

37 ~~p.~~(q) Such current financial statements, certified or otherwise, as
 38 the commission may require; and

39 ~~q.~~(r) Such other information and such other documents and
 40 certifications as the commission may require as being reasonably
 41 necessary or appropriate for the protection of purchasers.

42 (2-) If the subdivider registers additional subdivided lands to be
 43 offered for disposition, he may consolidate the subsequent registration
 44 with any earlier registration offering subdivided lands for disposition
 45 under the same promotional plan.

46 (3-) The subdivider shall immediately report to the commission
 47 any material changes in the information contained in an application for
 48 registration.

49 (4-) As a condition precedent to the registration of any subdivided
 50 lands, the commission shall require that the subdivider file a bond executed

1 to the state of Idaho for the ~~use, benefit, and~~ protection of any person and
 2 conditioned for the faithful compliance by the subdivider, his agents, and
 3 his employees with all of the provisions of this ~~act, as amended,~~ chapter and
 4 with all rules, ~~regulations,~~ and orders made pursuant thereto and for the
 5 faithful performance and payment of all obligations of the subdivider, his
 6 agents, and his employees in connection with the registration, including any
 7 order to pay the costs and attorney's fees incurred by the commission or by
 8 any other agency of this state, in an administrative or judicial proceeding
 9 to enforce the provisions of this chapter or the provisions of chapter 6,
 10 title 48, Idaho Code. The ~~indemnity~~ bond shall be of such type and in such
 11 form ~~and shall be in such amount~~ as the commission shall deem necessary to
 12 protect purchasers when the volume of business of the subdivider and other
 13 relevant factors are taken into consideration, but in no event less than ten
 14 comply with the provisions of this subsection and shall be in the amount of
 15 one hundred thousand dollars (\$100,000). Any such bond shall have as surety
 16 thereon a surety company authorized to do business in this state. Such bond
 17 shall remain in effect for one (1) calendar year after the earlier to occur
 18 of the following:

19 (a) The subdivision is no longer required to be registered pursuant to
 20 this chapter;

21 (b) The subdivider elects to discontinue offering for disposition
 22 interests in the subdivision and therefor elects not to renew the
 23 registration of the subdivision pursuant to this chapter;

24 (c) The provisions of this chapter no longer require the subdivider to
 25 post any bond; or

26 (d) The subdivider deposits sufficient funds in an approved escrow
 27 account or trust fund in lieu of the bond; provided, the bond shall
 28 continue to insure any covered claim filed against the subdivider, and
 29 of which the commission received written notice during the time the bond
 30 was in effect and until the claim has been finally resolved, including
 31 any appeal process.

32 (5) In lieu of filing a bond, the commission may accept funds deposited
 33 by the subdivider into an escrow depository acceptable to the commission or
 34 into a trust account acceptable to the commission. The deposited funds shall
 35 be maintained for the same purposes and upon the same terms and conditions as
 36 set forth in subsection (4) of this section.

37 SECTION 8. That Section 55-1807, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 55-1807. PUBLIC OFFERING STATEMENT. ~~(1-)~~ A public offering statement
 40 shall disclose fully and accurately the physical characteristics of the
 41 subdivided lands offered and shall make known to prospective purchasers all
 42 unusual and material circumstances or features affecting the subdivided
 43 lands. The proposed public offering statement submitted to the commission
 44 shall be in a form prescribed by it and shall include the following:

45 ~~(a-)~~ The name and principal address of the subdivider;

46 ~~(b-)~~ A general description of the subdivided lands stating the total
 47 number of lots, parcels, units, or interests in the offering;

48 ~~(c-)~~ The significant terms of any encumbrances, easements, liens, and
 49 restrictions, including zoning and other regulations, affecting the

1 subdivided lands and each unit or lot, and a statement of all existing
 2 taxes and existing or proposed special taxes or assessments ~~which~~ that
 3 affect the subdivided lands;

4 ~~(d-)~~ A statement of the use for which the property is offered;

5 ~~(e-)~~ Information concerning improvements in existence or under
 6 construction including streets, water supply, levees, drainage
 7 control systems, irrigation systems, sewage disposal facilities,
 8 and customary utilities, and the estimated cost, date of completion,
 9 and responsibility for construction and maintenance of existing and
 10 proposed improvements ~~which~~ that are referred to in connection with the
 11 offering or disposition of any interest in subdivided lands; and

12 ~~(f-)~~ Such of the information contained in the application for
 13 registration, and any amendments thereto, and such other information
 14 as the commission may require as being necessary or appropriate in the
 15 public interest or for the protection of purchasers.

16 ~~(2-)~~ The public offering statement shall disclose, in a prominent place
 17 and in bold type, the right of rescission as required in section 55-1804A,
 18 Idaho Code.

19 (3) The public offering statement shall not be used for any promotional
 20 purposes before registration of the subdivided lands and afterwards only
 21 if it is used in its entirety. No person may advertise or represent that
 22 the commission approves or recommends the subdivided lands or disposition
 23 thereof. No portion of the public offering statement may be underscored,
 24 italicized, or printed in larger or heavier or different color type than
 25 the remainder of the statement ~~unless the commission requires it~~ except as
 26 required by statute or rule of the commission.

27 ~~3-~~(4) The commission may require the subdivider to alter or amend
 28 the proposed public offering statement in order to assure full and fair
 29 disclosure to prospective purchasers, and no change in the substance of the
 30 promotional plan or plan of disposition or development of the subdivision
 31 may be made after registration without notifying the commission and without
 32 making appropriate amendment of the public offering statement. A public
 33 offering statement is not current unless all amendments are incorporated.

34 (5) All advertising material of any nature prepared for use in
 35 connection with the offer and disposition of any interests in subdivided
 36 lands registered under this chapter shall be submitted to the commission
 37 prior to its use.

38 SECTION 9. That Section 55-1808, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 55-1808. ~~INQUIRY AND EXAMINATION~~ BY COMMISSION OF APPLICATION FOR
 41 REGISTRATION. Upon receipt of an application for registration in proper
 42 form, the commission shall forthwith initiate an examination of the
 43 application for registration to determine that:

44 (1-) The requirements of section 55-1806, Idaho Code, have been
 45 satisfied, the subdivider can convey or cause to be conveyed the interest in
 46 subdivided lands offered for disposition if the purchaser complies with the
 47 terms of the offer, and, when appropriate, that release clauses, conveyances
 48 in trust, escrow and impoundage provisions, and other safeguards have been
 49 provided;

1 ~~(2.)~~ There is reasonable assurance that all proposed improvements will
2 be completed as represented;

3 ~~(3.)~~ ~~The advertising material and the general promotional plan are~~
4 ~~not false or misleading and comply with the standards prescribed by the~~
5 ~~commission in its rules and regulations and afford full and fair disclosure;~~

6 ~~4.~~ ~~The subdivider has not, or if a corporation, its officers,~~
7 ~~directors, and principals have not been convicted of a crime involving land~~
8 ~~dispositions or any aspect of the land sales business in this state, the~~
9 ~~United States, or any other state or foreign country within the past ten (10)~~
10 ~~years and has not been subject to any injunction or administrative order~~
11 ~~within the past ten (10) years restraining a false or misleading promotional~~
12 ~~plan involving land dispositions;~~

13 ~~5.~~ There is no evidence which would reasonably lead the commission
14 to believe that the subdivider, or if a corporation, partnership or other
15 legal entity, its individual officers, directors, general partners,
16 members, managers or other such principals are contemplating a fraudulent or
17 misleading sales promotion; and

18 ~~6.(4)~~ The public offering statement requirements of this ~~act~~ chapter
19 have been satisfied.

20 SECTION 10. That Section 55-1809, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 55-1809. NOTICE OF FILING -- REGISTRATION -- REJECTION OF APPLICATION
23 -- FEES. ~~(1.)~~ Upon receipt of the application for registration in proper
24 form and of a base registration fee of two hundred fifty dollars (\$250), the
25 commission shall issue a notice of filing to the applicant. In addition to
26 the ~~application for base~~ base registration fee, the following fees are payable
27 prior to issuance of an order of registration; five dollars (\$5.00) per
28 lot, parcel, unit or interest numbering fifty (50) to two hundred fifty
29 (250); four dollars (\$4.00) per lot, parcel, unit or interest numbering
30 two hundred fifty-one (251) to five hundred (500); three dollars (\$3.00)
31 per lot, parcel, unit or interest numbering five hundred one (501) to seven
32 hundred fifty (750); and two dollars and fifty cents (\$2.50) for each lot,
33 parcel, unit or interest numbering in excess of seven hundred fifty (750).
34 The ~~maximum~~ application and registration fees ~~is twenty five hundred~~ shall
35 not exceed a maximum fee of three thousand dollars (\$23,500).

36 (2) If an applicant submits the required filings using the web-based
37 document management system sponsored by the association of real estate
38 license law officials, the fees prescribed in this section, including the
39 maximum fee, shall be reduced by twenty-five percent (25%). The reduction
40 does not apply to late fees. The commission may promulgate rules changing or
41 eliminating the fee reduction.

42 (3) Within ninety (90) days from the date of the notice of filing,
43 the commission shall enter an order registering the subdivided lands or
44 rejecting the registration. If no order of rejection is entered within
45 ninety (90) days from the date of notice of filing, the land shall be deemed
46 registered unless the applicant has consented in writing to a delay.

47 ~~2.(4)~~ If the commission ~~affirmatively~~ determines, ~~upon inquiry and~~
48 ~~examination,~~ that the requirements of sections 55-1806 through 55-1808,

1 Idaho Code, have been met, it shall enter an order registering the subdivided
2 lands and shall designate the form of the public offering statement.

3 ~~3.~~(5) If the commission determines, ~~upon inquiry and examination,~~
4 that any of the requirements of sections 55-1806 through 55-1808, Idaho
5 Code, have not been met, the commission shall notify the applicant that the
6 application for registration must be corrected in the particulars specified
7 within ten (10) days or within the time otherwise allowed by the commission.
8 If the requirements are not met within the time allowed, the commission shall
9 enter an order rejecting the registration which shall ~~include the findings~~
10 ~~of fact upon which the order is based~~ state the basis for the rejection and
11 advise the applicant of his right to request a hearing before the commission.
12 The order rejecting the registration shall not become effective for twenty
13 (20) days after service of the order, during which time the applicant may
14 ~~petition for reconsideration and shall be entitled to make a written request~~
15 for a hearing. If a hearing is not timely requested, the order shall become
16 the final agency action subject to judicial review under chapter 52, title
17 67, Idaho Code.

18 ~~4.~~(6) Registration under this ~~act~~ chapter shall be effective as of the
19 date of the registration order for a period of one (1) year and may be renewed
20 for additional periods of one (1) year by filing, not later than fifteen (15)
21 days prior to the expiration of a registration, a renewal application in
22 such form and containing such information as the commission shall prescribe,
23 including the renewal report provided in section 55-1810, Idaho Code,
24 together with the payment of a base renewal fee of two hundred fifty dollars
25 (\$250), plus one dollar (\$1.00) for each lot, parcel, unit or interest. The
26 total fees for a timely renewal application shall not exceed a maximum fee of
27 three thousand dollars (\$3,000). A late renewal fee of twenty-five dollars
28 (\$25.00) per day will be charged for each day the renewal application is
29 late, with a maximum late fee of five hundred dollars (\$500). A registration
30 that is not renewed within twenty (20) days of expiration shall be deemed
31 canceled and may not thereafter be renewed under the provisions of this
32 section. Each amendment to the original registration requires a twenty-five
33 dollar (\$25.00) fee. The initial registration and any renewal fees ~~shall~~ may
34 not be returned or refunded for any reason.

35 ~~5.~~(7) All fees collected by the commission under this ~~act~~ chapter
36 shall be deposited at least monthly with the state treasurer and said funds
37 so deposited shall be deposited to the credit of the special real estate
38 fund. All funds so deposited are hereby appropriated to the commission
39 for the purpose of carrying out the provisions of this ~~act~~ chapter. All
40 expenditures from said fund by the commission under the provisions of this
41 ~~act~~ chapter shall be paid out on warrants drawn by the state controller upon
42 presentation of proper vouchers approved by the commission. Such claims
43 and supporting vouchers shall be examined by the state board of examiners in
44 the same manner as other claims against the state of Idaho. For the purpose
45 of carrying out the objects of this ~~act~~ chapter and in the exercise of the
46 powers herein granted, the commission shall have powers to make orders
47 concerning the disbursement of the moneys in said special real estate fund,
48 including the payment of compensation and expenses of its members, clerks
49 and employees and for the payment of printing and for such other expenses as
50 deemed necessary.

1 (8) The fact that an application for registration and public offering
 2 statement have been filed, or the fact that an order of registration has been
 3 issued, does not constitute a finding by the commission that any document
 4 is true, complete and not misleading, nor does either fact mean that the
 5 commission has determined in any way the merits, qualifications of or given
 6 its approval or recommendation to any person or subdivision. It is unlawful
 7 for any person to make, or cause to be made, to any prospective purchaser any
 8 representation inconsistent with the provisions of this subsection.

9 SECTION 11. That Section 55-1810, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 55-1810. ~~ANNUAL RENEWAL REPORT -- DUTY TO REPORT CONVICTIONS AND~~
 12 ~~JUDGMENTS. (1) Within thirty (30) days after each annual anniversary date~~
 13 ~~of an order registering subdivided lands, t~~The subdivider shall file a
 14 renewal report in the form prescribed by the commission. The renewal report
 15 shall reflect any material changes in information contained in the original
 16 application for registration. The renewal report must be filed with the
 17 renewal application not later than fifteen (15) days before the registration
 18 expiration date.

19 (2) If at any time after filing an initial or renewal application, a
 20 subdivider or any of its individual directors, officers, general partners,
 21 members, managers or other such principals, is convicted, has a judgment
 22 entered against it or is found liable in any court or administrative tribunal
 23 for any conduct referenced in section 55-1806 or 55-1815, Idaho Code, the
 24 subdivider shall, within thirty (30) days, forward to the commission a copy
 25 of the judgment, order or other document evidencing the same.

26 (3) The commission may initiate a renewal examination of the kind
 27 provided in section 55-1808, Idaho Code. If the commission determines that
 28 any of the requirements of sections 55-1806 through 55-1808, Idaho Code,
 29 have not been met, it shall notify the subdivider that the deficiency must
 30 be corrected within twenty (20) days or such other time as allowed by the
 31 commission. If the requirements are not met within the time allowed, the
 32 commission may, notwithstanding the provisions of section 55-1814, Idaho
 33 Code, issue a cease and desist order according to the emergency procedures
 34 of chapter 52, title 67, Idaho Code, barring further sales of the subdivided
 35 lands.

36 SECTION 12. That Section 55-1811, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 55-1811. GENERAL POWERS AND DUTIES. ~~(1-)~~ The commission shall have
 39 the authority to promulgate, to amend, and to repeal reasonable rules ~~and~~
 40 ~~regulations~~ for the administration and enforcement of this ~~act~~ chapter.
 41 Such rules ~~and regulations shall~~ may include, ~~but not be limited to,~~
 42 provisions for advertising standards to assure full and fair disclosure;
 43 provisions for bond, escrow or trust agreements or other means to assure
 44 that all improvements referred to in the application for registration and
 45 advertising will be completed and that purchasers will receive the interest
 46 in land for which they contracted; provisions for operating procedures; and

1 such other rules ~~and regulations~~ as are necessary or proper to accomplish the
2 purposes of this ~~act~~ chapter.

3 ~~(2.) All advertising material of any nature whatsoever prepared for use~~
4 ~~in connection with the offer and disposition of any interests in subdivided~~
5 ~~lands registered under this act shall be submitted to and approved by the~~
6 ~~commission prior to its use~~ The commission may revoke a registration ordered
7 under the provisions of this chapter, issue a cease and desist order and
8 assess costs and attorney's fees for the cost of any investigation and
9 administrative or other proceedings against any person who is found to have
10 violated any section of this chapter, the commission's administrative rules
11 or any order of the commission. If any amounts assessed against a subdivider
12 by final order of the commission become otherwise uncollectible or payment
13 is in default, and only if all of the defendant's rights to appeal have
14 passed, the commission may then proceed to district court and seek to enforce
15 collection through judgment and execution, including an action against any
16 bond filed or escrow or trust funds deposited pursuant to section 55-1806,
17 Idaho Code.

18 ~~(3.)~~ Whenever it appears that a person has engaged or is about to
19 engage in acts or practices ~~which~~ that constitute or will constitute a
20 violation of the provisions of this ~~act~~ chapter or of a rule ~~or regulation~~
21 or order hereunder, the commission, with or without prior administrative
22 proceedings, may bring an action in any district court to enjoin the acts
23 or practices and to enforce compliance with this ~~act~~ chapter or any rule
24 ~~or regulation~~ or order hereunder. Upon a proper showing, a permanent or
25 temporary injunction or restraining order may be granted.

26 ~~(4.)~~ The commission may intervene in a suit involving subdivided lands.
27 In any suit by or against a subdivider involving subdivided lands, the
28 subdivider promptly shall furnish the commission notice of the suit and
29 copies of all pleadings.

30 ~~(5.)~~ The commission may:

31 ~~(a.)~~ Accept registrations filed in other states or with the federal
32 government;

33 ~~(b.)~~ Contract with the association of real estate license law officials
34 to use its web-based file management system to accept registrations and
35 related filings and to reduce the registration fees for applicants who
36 use the web-based system to file registration documents;

37 ~~(c.)~~ Contract with similar agencies in this state or other jurisdictions
38 to perform investigative functions.

39 ~~(6.)~~ The commission shall cooperate with similar agencies in other
40 jurisdictions to establish uniform filing procedures and forms, uniform
41 public offering statements, advertising standards, rules, ~~regulations,~~ and
42 common administrative practices.

43 ~~7. The commission may exempt a subdivision of ten (10) or fewer lots,~~
44 ~~parcels, units, or interests from the provisions of this act if it determines~~
45 ~~that the plan of promotion and disposition is primarily directed to persons~~
46 ~~in the local community in which the subdivision is located.~~

47 SECTION 13. That Section 55-1812, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 55-1812. FRAUDULENT PRACTICES. It shall be a fraudulent practice~~7~~ and
2 it shall be unlawful:

3 (1~~-~~) For any person knowingly to subscribe to or make or cause to be
4 made any materially false statement or representation in any application,
5 financial statement~~7~~ or other document or statement required to be filed
6 under any provision of this ~~act~~ chapter, or to omit to state any material
7 statement or fact in any such document or statement ~~which~~ that is necessary
8 in order to make the statements made, in the light of the circumstances under
9 which they are made, not misleading;

10 (2~~-~~) For any person, in connection with the offer~~7~~ or disposition~~7~~~~or~~
11 ~~purchase~~ of subdivided lands, directly or indirectly, to employ any device,
12 scheme~~7~~ or artifice to defraud;

13 (3~~-~~) For any person, in connection with the offer~~7~~ or disposition~~7~~~~or~~
14 ~~purchase~~ of subdivided lands, directly or indirectly, to make any untrue
15 statement of a material fact or omit to state a material fact necessary in
16 order to make the statements made, in the light of the circumstances under
17 which they are made, not misleading; or

18 (4~~-~~) For any person, in connection with the offer~~7~~ or disposition~~7~~~~or~~
19 ~~purchase~~ of subdivided lands, directly or indirectly, to engage in any act,
20 practice~~7~~ or course of business ~~which~~ that operates or would operate as a
21 fraud or deception upon purchasers or the public.

22 SECTION 14. That Section 55-1813, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 55-1813. INVESTIGATIONS AND PROCEEDINGS. (1~~-~~) The commission ~~shall~~
25 may investigate any subdivision offered for disposition in this state and
26 the actions of any person who makes any offer or disposition of subdivided
27 lands requiring registration under this chapter. In the conduct of the
28 investigation, the commission may:

29 (a~~-~~) Rely upon any relevant information concerning a subdivision
30 obtained from the federal housing administration, the United States
31 veterans administration~~7~~ or any other federal agency or any state
32 agency having comparable duties in relation to subdivisions;

33 (b~~-~~) Require the applicant to submit reports prepared by competent
34 engineers as to any hazard to which any subdivision offered for
35 disposition is subject or any factor ~~which~~ that affects the utility of
36 interests within the subdivision, and require evidence of compliance in
37 removing or minimizing all hazards reflected in engineering reports;

38 (c~~-~~) Require an on-site inspection of the subdivision by a person or
39 persons designated by it. All expenses incurred in connection with
40 an on-site inspection shall be defrayed by the applicant, and the
41 commission shall require a deposit sufficient to defray such expenses
42 in advance;

43 (d~~-~~) Make public or private investigations within or outside this
44 state to determine whether any person has violated or is about to
45 violate the provisions of this act chapter or any rule~~7~~~~regulation~~ or
46 order hereunder, or to aid in the enforcement of this ~~act~~ chapter or in
47 prescribing rules ~~and regulations~~ and forms hereunder; and

1 ~~(e-)~~ Require or permit any person to file a statement in writing, under
 2 oath or otherwise as the commission determines, as to all the facts and
 3 circumstances concerning the matter to be investigated.

4 ~~(2-)~~ For the purpose of any investigation or proceeding under this ~~act~~
 5 chapter, the commission or any person designated by it may administer oaths
 6 or affirmations, and upon its own motion or upon the request of any party the
 7 commission or any person designated by it shall have the power to administer
 8 oaths, take depositions of witnesses in and out of the state of Idaho in
 9 the manner of civil cases, require the attendance of such witnesses and the
 10 production of such books, records and papers as it may desire at any hearing
 11 before it or deposition authorized by it, pertaining in any manner to any
 12 matters of which it has authority to investigate and for that purpose the
 13 ~~board~~ commission may issue a subpoena for any witness or a subpoena duces
 14 tecum to compel the production of any books, records or papers ~~directed to~~
 15 ~~the sheriff of any county of the state of Idaho, where such witness resides,~~
 16 ~~or may be found, which that~~ shall be served and returned in the same manner
 17 as a subpoena in a civil case is returned. The fees and mileage of witnesses
 18 shall be the same as that allowed in the district courts in civil cases. ~~In~~
 19 ~~any cases of disobedience to, or neglect of, any subpoena or subpoena duces~~
 20 ~~tecum served upon any person, or the refusal of any witness to testify to any~~
 21 ~~matter regarding which he may lawfully be interrogated, it shall be the duty~~
 22 ~~of the district court, or any judge thereof, of any county in this state in~~
 23 ~~which such disobedience, neglect or refusal occurs, upon application of the~~
 24 ~~commission, to compel obedience in proceedings for contempt as in the case of~~
 25 ~~disobedience of the requirements of any subpoena issued from such court or~~
 26 ~~for refusal to testify therein. The person accused in such proceeding shall~~
 27 ~~have the same right of subpoena upon making application to the commission as~~
 28 ~~set out in this act.~~

29 ~~Prior to the service of any subpoena authorized by this act, the~~
 30 ~~commission or the accused person must secure an order authorizing the~~
 31 ~~service of the subpoena from a district judge. Application to a district~~
 32 ~~judge for authorization to serve a subpoena shall be on ex parte motion~~
 33 ~~supported by an affidavit of a member of the commission, the accused person~~
 34 ~~or his attorney, setting forth the reasons why the person applying for~~
 35 ~~permission to serve the subpoena believes the testimony or evidence to be~~
 36 ~~obtained will be pertinent to the investigation, inquiry or hearing. The~~
 37 ~~order shall be filed with the commission.~~

38 ~~(3-)~~ The commission may permit a person registered with the commission
 39 whose conduct or actions may be under investigation to waive formal
 40 proceedings and enter into a consent proceeding whereby orders, rules, or
 41 letters of censure or warning, whether formal or informal, may be entered
 42 against said person.

43 ~~(4-)~~ Except as otherwise provided in this ~~act~~ chapter, all proceedings
 44 under this ~~act~~ chapter shall be in accordance with chapter 52, title 67,
 45 Idaho Code, and IDAPA 33.01.02, rules of practice and procedure of the Idaho
 46 real estate commission governing contested cases.

47 SECTION 15. That Section 55-1814, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 55-1814. CEASE AND DESIST ORDERS. ~~(1-)~~ If the commission determines
2 after notice and hearing that a person has:

3 ~~(a-)~~ Violated any provision of this ~~act~~ chapter;

4 ~~(b-)~~ Directly or through an agent or employee knowingly engaged in any
5 false, deceptive, or misleading advertising, promotional, or sales
6 methods to offer or dispose of an interest in subdivided lands;

7 ~~(c-)~~ Made any substantial change in the plan of disposition and
8 development of the subdivided lands subsequent to the order of
9 registration without obtaining prior written approval from the
10 commission;

11 ~~(d-)~~ Disposed of any subdivided lands ~~which~~ that have not been
12 registered with the commission; or

13 ~~(e-)~~ Violated any lawful order or rule ~~or regulation~~ of the commission;
14 it may file an action in the district court for issue an order requiring the
15 person to cease and desist from the unlawful practice and ~~to~~ may take such
16 affirmative other action as in the judgment of the district court will carry
17 out the purposes of authorized by this act chapter.

18 ~~(2-)~~ If the ~~district court~~ commission makes a finding of fact in writing
19 that the public interest will be irreparably harmed by delay in issuing
20 an order, such as in the case of the subdivider's failure to maintain the
21 statutory requirements for registration, it may issue a temporary cease and
22 desist order. Prior to issuing the temporary cease and desist order, the
23 ~~district court may require that the commission shall~~, whenever possible
24 practicable, by telephone or otherwise, ~~has given~~ notice of the ~~proposal to~~
25 apply petition for a temporary cease and desist order to the person. Every
26 temporary cease and desist order issued shall be promptly served upon the
27 person ordered and shall include in its terms the reasons for the order and
28 a provision that, upon if requested by the person within twenty (20) days
29 of service, the matter will be scheduled for a hearing, which will be held
30 promptly within a reasonable time to determine whether or not it the order
31 becomes permanent.

32 SECTION 16. That Section 55-1815, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 55-1815. REVOCATION. ~~(1-)~~ A registration may be revoked by the
35 commission after notice and hearing upon a written finding of fact that the
36 subdivider has:

37 ~~(a-)~~ Failed to maintain the requirements for continued registration;

38 ~~(b)~~ Failed to comply with the terms of a cease and desist order;

39 ~~b-(c)~~ In any court or administrative tribunal, been convicted, or
40 found liable in any court subsequent to the filing of the application
41 for registration of or had a registration revoked for a crime, or tort
42 or other misconduct involving fraud, deception, false pretenses,
43 misrepresentation, false advertising, or dishonest dealing in real
44 estate transactions land dispositions, including the offering or
45 promotion of land disposition;

46 ~~e-(d)~~ Disposed of, concealed, or diverted any funds or assets of any
47 person so as to defeat the rights of subdivision purchasers;

48 ~~d-(e)~~ Failed faithfully to perform any stipulation or agreement made
49 with the commission as an inducement to grant any registration, to

1 reinstatement any registration, or to approve any promotional plan or
2 public offering statement; or

3 ~~e.~~(f) Made intentional misrepresentations or concealed material facts
4 in an application for registration.

5 Findings of fact, if set forth in statutory language, shall be accompanied
6 by a concise and explicit statement of the underlying facts supporting the
7 findings.

8 ~~(2.)~~ If the ~~district court~~ commission finds after notice and hearing
9 that the subdivider has ~~been guilty of~~ committed a violation for which
10 revocation could be ordered, it may issue a cease and desist order instead.

11 SECTION 17. That Section 55-1817, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 55-1817. REAL ESTATE LICENSE REQUIRED. No real estate broker or
14 ~~salesman~~person shall offer or dispose of subdivided lands within or from
15 this state, except in dispositions and transactions exempt under section
16 55-1805, Idaho Code, unless said real estate broker or ~~salesman~~person is
17 licensed pursuant to chapter 20, title 54, Idaho Code.

18 SECTION 18. That Section 55-1818, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 55-1818. EXTRADITION. In proceedings for extradition of a person
21 charged with a crime under this ~~act~~ chapter, it need not be shown that the
22 person whose surrender is demanded has fled from justice or at the time of the
23 commission of the crime was in the demanding or other state.

24 SECTION 19. That Section 55-1819, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 55-1819. CIVIL REMEDY. ~~(1.)~~ Every disposition made in violation of
27 any of the provisions of this ~~act~~ chapter, or of any order issued by the
28 commission under any of the provisions of this ~~act~~ chapter, shall be voidable
29 at the election of the purchaser. The person making such disposition, and
30 every director, officer, ~~salesman~~person or agent of or for such person who
31 shall have participated or aided in any way in making such disposition, shall
32 be jointly and severally liable to such purchaser in any action at law in
33 any court of competent jurisdiction for the consideration paid for the lot,
34 parcel, unit, or interest, together with interest at the rate of six percent
35 (6%) per year from the date of payment, property taxes and assessments paid,
36 court costs, and reasonable attorney's fees, less the amount of any income
37 received from the subdivided lands, upon tender of appropriate instruments
38 of reconveyance made at any time before the entry of judgment. If the
39 purchaser no longer owns the lot, parcel, unit, or interest in subdivided
40 lands, he may recover the amount that would be recoverable upon a tender of
41 a reconveyance less the value of the land when disposed of and less interest
42 at the rate of six percent (6%) per year on that amount from the date of
43 disposition.

1 ~~(2-)~~ No action shall be brought under this section for the recovery
2 of the consideration paid after five (5) years from the date of such
3 disposition.

4 ~~(3-)~~ Any stipulation or provision purporting to bind any person
5 acquiring subdivided lands to waive compliance with this ~~act~~ chapter or any
6 rule ~~or regulation~~ or order under it is void.

7 ~~(4-)~~ The rights and remedies provided by this ~~act~~ chapter shall be in
8 addition to any and all other rights and remedies that may exist at law or in
9 equity.

10 SECTION 20. That Chapter 18, Title 55, Idaho Code, be, and the same
11 is hereby amended by the addition thereto of a NEW SECTION, to be known and
12 designated as Section 55-1819A, Idaho Code, and to read as follows:

13 55-1819A. NONCOMPLIANCE -- UNFAIR PRACTICE UNDER THE IDAHO CONSUMER
14 PROTECTION ACT. Any offer or disposition made in violation of this chapter
15 constitutes an unfair and deceptive act or practice pursuant to chapter 6,
16 title 48, Idaho Code.

17 SECTION 21. That Section 55-1820, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 55-1820. JURISDICTION. (1) Dispositions of subdivided lands are
20 subject to this ~~act~~ chapter, and the district courts of this state have
21 jurisdiction in claims or causes of action arising under this ~~act~~ chapter if:

22 ~~1-~~(a) The subdivider's principal office is located in this state; or

23 ~~2-~~(b) Any offer or disposition of subdivided lands is made in this
24 state, whether or not the offeror or offeree is then present in this
25 state, if the offer originates within this state or is directed by the
26 offeror to a person or place in this state and received by the person or
27 at the place to which it is directed.

28 (2) Any person who makes a disposition of subdivided lands in this
29 state, whether or not the subdivided lands are registered in this state,
30 has thereby submitted to the jurisdiction of the state of Idaho and to the
31 administrative jurisdiction of the commission and shall be subject to all
32 penalties and remedies available under Idaho law for any violation of the
33 provisions of this chapter.

34 SECTION 22. That Section 55-1821, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 55-1821. SERVICE OF PROCESS. ~~1-~~ In addition to the methods of service
37 provided for in the Idaho rules of civil procedure and Idaho statutes,
38 service may be made on a person who has filed a consent to service of process
39 by delivering a copy of the process to the office of the commission, but
40 it is not effective unless the plaintiff (which may be the commission in a
41 proceeding instituted by it):

42 ~~a-~~(1) Forthwith sends a copy of the process and of the pleading by
43 certified or registered mail to the defendant or respondent at his last known
44 address; and

1 ~~b.~~(2) The plaintiff's affidavit of compliance with this section is
2 filed in the case on or before the return day of the process, if any or within
3 such further time as the court allows.

4 SECTION 23. That Section 55-1822, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 55-1822. EVIDENTIARY MATTERS. ~~(1-)~~ In any action, civil or criminal,
7 where a defense is based upon any exemption provided for in this ~~act~~ chapter,
8 the burden of proving the existence of such exemption shall be upon the party
9 raising such defense.

10 ~~(2-)~~ In any action, civil or criminal, a certificate signed and sealed
11 by the commission stating compliance or noncompliance with the provisions of
12 this ~~act~~ chapter shall be admissible in any such action.

13 SECTION 24. That Section 55-1823, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 55-1823. PENALTIES. Any person who shall willfully violate any
16 provision of this ~~act~~ chapter or who willfully violates any rule ~~or~~
17 ~~regulation~~ or order of the commission made and served upon said person
18 pursuant to the provisions of this ~~act~~ chapter, or who shall willfully engage
19 in any act, practice~~r~~ or transaction declared by any provision of this ~~act~~
20 chapter to be unlawful shall be guilty of a felony.