

**57-11-7 Public offering statement -- Contents -- Restrictions on use -- Alteration or amendments.**

- (1) Every public offering statement shall disclose completely and accurately to prospective purchasers:
  - (a) the physical characteristics of the subdivided lands offered; and
  - (b) unusual and material circumstances or features affecting the subdivided lands.
- (2) The proposed public offering statement submitted to the division shall be in a form prescribed by its rules and, unless otherwise provided by the division, shall include the following:
  - (a) the name and principal address of the subdivider and the name and principal address of each officer, director, general partner, other principal, or person occupying a similar status or performing similar functions as defined by the rules of the division if the subdivider is a person other than an individual;
  - (b) a general description of the subdivided lands stating the total number of units in the offering;
  - (c) a statement summarizing in one place the significant terms of any encumbrances, easements, liens, severed interests, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit, and a statement of all existing or proposed taxes or special assessments which affect the subdivided lands;
  - (d) a statement of the use for which the property is offered;
  - (e) information concerning:
    - (i) any improvements, including streets, curbs, and gutters, sidewalks, water supply including a supply of culinary water, drainage and flood control systems, irrigation systems, sewage disposal facilities, and customary utilities;
    - (ii) the estimated cost to the purchaser, the estimated date of completion, and the responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition; and
    - (iii) if for any reason any of the improvements described in Subsections (2)(e)(i) and (ii) cannot presently be constructed or maintained, a statement clearly setting forth this fact and giving the reasons therefor;
  - (f)
    - (i) a statement of existing zoning or other planned land use designation of each unit and the proposed use of each unit in the subdivision including uses as residential dwellings, agriculture, churches, schools, low density apartments, high density apartments and hotels, and a subdivision map showing the proposed use, the zoning, or other planned land use designation, unless each unit has the same proposed use, zoning, or other planned land use designation;
    - (ii) if the subdivision consists of more than one tract or other smaller division, the information and map required by Subsection (2)(f)(i) need only pertain to the tract or smaller division in which the units offered for disposition are located;
  - (g) a map, which need not be drawn to scale, enabling one unfamiliar with the area in which the subdivision is located to reach the subdivision by road or other thoroughfare from a nearby town or city;
  - (h)
    - (i) the boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;
    - (ii) the location of existing underground and utility facilities; and
    - (iii) any conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of record, and utility facilities within the subdivision; and

- (i) any additional information the division may require to assure full and fair disclosure to prospective purchasers.
- (3)
- (a) The public offering statement may not be used for any promotional purposes either before registration of the subdivided lands or before the date the statement becomes effective.
  - (b) The statement may be used after it becomes effective only if it is used in its entirety.
  - (c) A person may not advertise or represent that the division approves or recommends the subdivided lands or their disposition.
  - (d) No portion of the public offering statement may be underscored, italicized, or printed in larger, heavier, or different color type than the remainder of the statement, unless the division requires it.
- (4)
- (a) The division may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers.
  - (b) A change in the substance of the promotional plan or plan of disposition or development of the subdivision may not be made after registration without notifying and receiving approval of the division and without making appropriate amendment of the public offering statement.
  - (c) A public offering statement is not current unless:
    - (i) all amendments are incorporated;
    - (ii) the subdivider has timely filed each renewal report required by Section 57-11-10; and
    - (iii) no cease and desist order issued pursuant to this chapter is in effect.
- (5) The subdivider must notify the division within five working days if he is convicted of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions, or has been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions.
- (6) The subdivider must notify the division within five working days if the person which owns the subdivided lands files a petition in bankruptcy or if any other event occurs which may have a material adverse effect on the subdivision.

Amended by Chapter 324, 2010 General Session