

H.B. 290

DIVISION OF REAL ESTATE AMENDMENTS

HOUSE COMMITTEE AMENDMENTS

AMENDMENT 1

JANUARY 31, 2013 4:01 PM

Representative **Gage Froerer** proposes the following amendments:

1. *Page 1, Line 11:*

11 This bill:

► modifies the entity with which a subdivider files an effective statement of record, in accordance with federal law;

2. *Page 1, Line 27 through Page 2, Line 28:*

27 AMENDS:

57-11-4, as last amended by Laws of Utah 2009, Chapter 352

28 61-2c-106, as last amended by Laws of Utah 2012, Chapter 166

3. *Page 2, Line 35:*

35 *Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 57-11-4 is amended to read:

57-11-4. Exemptions.

(1) Unless the method of disposition is adopted for the purpose of evasion of this chapter or the federal act, this chapter does not apply to an offer or disposition of an interest in land:

(a) by a purchaser of subdivided lands for the person's own account in a single or isolated transaction;

(b) (i) on a unit of which there is a residential, commercial, or industrial building; or

(ii) on a unit of which there is a legal obligation on the part of the seller to complete construction of a residential, commercial, or industrial building within two years from date of disposition;

(c) unless a person who acquires land for one of the following purposes sells that land to one or more individuals as unimproved lots with no legal obligation on the part of the seller to construct a residential, commercial, or industrial building on that lot within two years from the date of disposition:

(i) if the person acquires an interest in the land for use in the business of constructing residential, commercial, or industrial buildings; or

(ii) if the person acquires the type of land described in Subsection (1)(c)(i) for the purpose of disposition to a person engaged in the business of constructing residential, commercial, or industrial buildings;

(d) pursuant to court order;

(e) by a government or government agency;

(f) (i) if the interest lies within the boundaries of a city or a county which:

(A) has a planning and zoning board using at least one professional planner;

(B) enacts ordinances that require approval of planning, zoning, and plats, including the approval of

plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (1)(f)(i)(B) plus telephone and electricity; and

(ii) if at the time of the offer or disposition the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (1)(f)(i)(C);

(g) in an industrial park;

(h) as cemetery lots; or

(i) if the interest is offered as part of a camp resort as defined in Section 57-19-2 or a timeshare development as defined in Section 57-19-2.

(2) Unless the method of disposition is adopted for the purpose of evasion of this chapter or the provisions of the federal act, this chapter, except as specifically designated, does not apply to an offer or disposition of:

(a) indebtedness secured by a mortgage or deed of trust on real estate;

(b) a security or unit of interest issued by a real estate investment trust regulated under any state or federal statute;

(c) subject to Subsection (5), subdivided lands registered under the federal act and which the division finds to be in the public interest to exempt from the registration requirements of this chapter;

(d) a security currently registered with the Division of Securities; or

(e) an interest in oil, gas, or other minerals or a royalty interest in these assets if the offer or disposition of the interest is regulated as a security by the federal government or by the Division of Securities.

(3) (a) Notwithstanding the exemptions in Subsections (1) and (2), a person making an offer or disposition of an interest in land that is located in Utah shall apply to the division for an exemption before the offer or disposition is made if:

(i) the person is representing, in connection with the offer or disposition, the availability of culinary water service to or on the subdivided land; and

(ii) the culinary water service is provided by a water corporation as defined in Section 54-2-1.

(b) A subdivider seeking to qualify under this exemption shall file with the division a filing fee of \$50 and an application containing:

(i) information required by the division to show that the offer or disposition is exempt under this section;

(ii) a statement as to what entity will be providing culinary water service and the nature of that entity; and

(iii) (A) a copy of the entity's certificate of convenience and necessity issued by the Public Service Commission; or

(B) evidence that the entity providing water service is exempt from the jurisdiction of the Public Service Commission.

(4) (a) The director may by rule or order exempt a person from a requirement of this chapter if the director finds that the offering of an interest in a subdivision is essentially noncommercial.

(b) For purposes of this section, the bulk sale of subdivided lands by a subdivider to another person who will become the subdivider of those lands is considered essentially noncommercial.

(5) (a) A subdivider seeking to qualify under the exemption described in Subsection (2)(c) shall file

with the division:

- (i) a copy of an effective statement of record filed with the ~~{-secretary of the Department of Housing and Urban Development-}~~ Consumer Financial Protection Bureau ; and
- (ii) a filing fee of \$100.
- (b) If a subdivider does not qualify under the exemption described in Subsection (2)(c), the division shall credit the filing fee described in Subsection (5)(a) to the filing fee required for registration under this chapter.
- (c) Nothing in this Subsection (5) exempts a subdivider from:
 - (i) Sections 57-11-16 and 57-11-17; or
 - (ii) the requirement to file an annual report with the division under Section 57-11-10.
- (6) Notwithstanding an exemption under this section, the division:
 - (a) retains jurisdiction over an offer or disposition of an interest in land to determine whether or not the exemption continues to apply; and
 - (b) may require compliance with this chapter if an exemption no longer applies.

Renumber remaining sections accordingly.