

CHAPTER 826

REAL ESTATE SYNDICATES

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Sec. 47-91. Definitions. As used in this chapter unless the context otherwise requires:

- (a) “Real estate syndicate” means any general or limited partnership, joint venture, unincorporated association, or similar organization, but not a corporation, owned beneficially for not less than eighteen persons and formed for the sole purpose of, and engaged solely in, investment in or gain from an interest in real property, including, but not limited to, a sale, exchange, trade or development. An interest held by a husband and wife shall be considered held by one person.
- (b) “Interest in real property” includes any estate or interest in unimproved land, agricultural land, or land improved with a residential, commercial, industrial or other structure, including profits, rents or other incidental income.
- (c) “Real estate syndicate security” means any interest in a real estate syndicate.
- (d) (1) “Sale” or “sell” includes every contract of sale of, contract to sell, or disposition of a real estate syndicate security for value and any exchange of a real estate syndicate security or any substantial change in the rights, preferences, privileges or restrictions of or on outstanding certificates of interest. (2) “Offer” or “offer to sell” includes every attempt or offer to dispose of, or solicitation of an offer to buy, a real estate syndicate security for value. (3) Any real estate syndicate security given or delivered with, or as a bonus on account of, any purchase or loan or other thing constitutes a part of the subject of the purchase and is considered to have been offered and sold for value. (4) The terms defined in this section do not include (i) any bona fide secured transaction in or loan secured by outstanding certificates of interest or (ii) any act incident to a judicially approved arrangement or reorganization in which certificates of interest are issued in exchange for one or more certificates of interest, claims or property interests or partly in such exchange and partly for cash.
- (e) “Commission” means the Real Estate Commission.
- (f) “Permit” means a permit to sell real estate syndicate securities.
- (g) “Advertisement” means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television or similar communications media, published in connection with the offer or sale of a real estate syndicate security.
- (h) “Issuer” means any person who issues or proposes to issue any real estate syndicate security. The term “issuer” means the person or persons performing the acts and assuming the duties of a manager pursuant to the provisions of the agreement or instrument under which the real estate syndicate security is issued and the person or persons in active control of the real estate syndicate who sell such interests or participations. The determination of the person or persons in active control shall be made on the basis of the actual relationship of the parties and not on the basis of the legal designation of a person’s interest.

(P.A. 73-593, S. 1, 35.)

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Sec. 47-92. Qualification of real estate syndicate securities; issuance of permit. (a) All real estate syndicate securities shall be qualified under this section.

(b) The application for a permit shall be accompanied by a copy of the prospectus and said prospectus shall include but not be limited to information to the extent applicable to the plan of syndication as follows: (1) The name, residence and principal business address of the issuer; (2) if the issuer is a corporation, partnership or joint venture, the names, residence and business addresses of all officers or members of the corporation, partnership or joint venture; (3) a detailed statement of the plan of syndication including, but not limited to, the form of entity and the number and aggregate amount of the real estate syndicate securities proposed to be sold; (4) a copy of partnership or other agreements governing the rights, duties and liabilities of members or participants; (5) a legal description of the real property, including a detailed description of the existing or proposed improvements, if any; (6) a true statement of the condition of the record title to such real property, including all encumbrances thereon; (7) a statement disclosing any covenants, conditions or restrictions, if any; (8) the detailed terms of the property acquisition, including but not limited to, the down payment and the amount, periodic payment and terms of encumbrances, if any; (9) a description of the type or types of real property intended to be acquired pursuant to the plan of syndication, if the plan of syndication provides for the acquisition of unspecified property or properties; (10) a statement disclosing any management agreement, including the amount of any fee, compensation or promotional interest to be received by the issuer or any other persons in connection with the formation and management of the syndicate; (11) the name of the escrow depository, if any; (12) a statement disclosing the amount, terms and conditions of fire, liability and hazard insurance; (13) such other information as the commission by regulation deems necessary.

(c) Qualification of real estate syndicate securities under this section becomes effective upon the issuance of a permit by the commission authorizing issuance of such securities.

(d) Every qualification under this chapter is effective for twelve months from its effective date, unless the commission by order or regulation specifies a different period, except during the time an order under subsection (a) of section 47-94 is in effect.

(e) Every application for qualification under this chapter shall be signed and verified by the issuer. All information required to be included in a prospectus shall be true and complete as of the time the qualification of the sale of real estate syndicate securities becomes effective.

(P.A. 73-593, S. 6, 35.)

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Sec. 47-93. Expert opinion. The commission may accept and act upon the opinions, appraisals and reports of any engineers, appraisers or other experts which may be presented by an application on any question of fact concerning or affecting the real estate syndicate securities proposed to be offered and sold. In lieu of, or in addition to, such opinions, appraisals and reports, the commission may have any

or all matters concerning or affecting such real estate syndicate securities investigated, appraised, passed upon and certified to them by engineers, appraisers or other knowledgeable person competent to provide an accurate opinion of value selected by them.

(P.A. 73-593, S. 16, 35.)

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Sec. 47-94. Grounds for refusal of permit. Appeal, hearing. (a) The commission may refuse, suspend or revoke any permit issued under section 47-92 if it finds that the proposed plan of business of the issuer, the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof.

(b) Any applicant objecting to the denial of a permit or to any condition therein may, within ten days after receipt of such denial or order, file a written request for a hearing. Said hearing shall be held within the time period and in accordance with the procedures set forth for hearings contained in section 20-321.

(P.A. 73-593, S. 7, 17, 35.)

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Sec. 47-95. Amendment to offering; commission approval; effective date. (a) After the permit has been issued authorizing the sale of real estate syndicate securities, no change, alteration or modification of the offering shall be made without first notifying the commission in writing thereof and obtaining an amended permit or written approval of the commission.

(b) An amendment to an application filed after the effective date of the qualification of the sale of real estate syndicate securities, if such amendment is approved by the commission, shall become effective on such date as the commission may determine, having due regard to the public interest and the protection of investors.

(P.A. 73-593, S. 8, 20, 35.)

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Sec. 47-96. Permit fees. Determination of value of securities. (a) The fee for filing an application for a permit for the sale of real estate syndicate securities or renewal thereof is one hundred dollars plus one-tenth of one per cent of the aggregate value of the certificates of interest sought to be issued in this state up to a maximum aggregate fee of one thousand five hundred dollars. For the purpose of determining the fees fixed in this section, the value of the real estate syndicate securities shall be the price at which they are proposed to be sold, including obligations to make future payments, or the value as alleged in the application, or the actual value, as determined by the commission, of the consideration, if other than money, to be received therefor, whichever is greater.

(b) The fee for filing any application for a permit to issue real estate syndicate securities evidencing

any change in the rights, preferences, privileges or restrictions on outstanding real estate syndicate securities is one hundred dollars. Where such issuance will result in an increase in the aggregate face amount of the real estate syndicate securities, the fee shall be in accordance with subsection (a) of this section.

(P.A. 73-593, S. 21, 35; P.A. 07-217, S. 176.)

History: P.A. 07-217 made technical changes in Subsec. (b), effective July 12, 2007.

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Sec. 47-97. No endorsement by commission to be implied by filing of application, qualification of securities or exemption. Inconsistent representations to purchasers prohibited. Permit to indicate permissive nature. (a) Neither the fact that an application for qualification under this chapter has been filed nor the fact that such qualification has become effective constitutes a finding by the commission that any document filed under this chapter is true, complete or not misleading. Neither any such fact nor the fact that an exemption is available for a real estate syndicate security or a transaction means that the commission has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, real estate syndicate security or transaction.

(b) No person shall make or cause to be made to any prospective purchaser any representation inconsistent with subsection (a) of this section.

(c) Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the real estate syndicate securities to be issued.

(P.A. 73-593, S. 10, 13, 35; P.A. 07-217, S. 177.)

History: P.A. 07-217 made a technical change in Subsec. (b), effective July 12, 2007.

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Sec. 47-98. Sale of unqualified real estate syndicate securities prohibited. No issuer shall offer or sell to the public in this state any real estate syndicate security unless such sale has been qualified under section 47-92 or unless such real estate syndicate security or transaction is exempted under section 47-101. No issuer shall offer or sell in this state any real estate syndicate security issued by it in connection with any change in the rights, preferences, privileges or restrictions of or on an outstanding real estate syndicate security unless such sale has been qualified under section 47-92 or unless such real estate syndicate security or transaction is exempted under section 47-101.

(P.A. 73-593, S. 5, 35.)

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Sec. 47-99. Advertisement of securities; prior filing; hearings; media responsibility. (a) No person shall publish any advertisement in this state concerning any real estate syndicate security sold or

offered for sale in this state unless a true copy of the advertisement has first been filed in the office of the commission at least three business days prior to the publication or such shorter period as the commission may by regulation or order allow.

(b) No person shall publish any advertisement concerning any real estate syndicate security in this state after the commission finds that the advertisement contains any statement that is false or misleading or omits to make any statement necessary in order to make the statements made in the light of the circumstances under which they were made not misleading and so notifies the person in writing. After such notification is issued, the person or persons named therein may, within twenty days after receipt of the notification, file a written request for a hearing. Said hearing shall be held within the time period and in accordance with the procedures set forth for hearings contained in section 20-321.

(c) The owner, publisher, licensee or operator of any newspaper, magazine, visual or sound radio broadcasting station or network of stations or the agents or employees of any such owner, publisher, licensee or operator of such newspaper, magazine, station or network of stations shall not be liable under this chapter for any advertising regarding any real estate syndicate security sold or offered for sale in this state carried in any such newspaper or magazine or by any such visual or sound radio broadcasting station or network of stations nor shall any of them be liable under said chapter for the contents of any such advertisement.

(P.A. 73-593, S. 23, 24, 34, 35.)

See Sec. 47-103(b) re conduct of hearings.

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Sec. 47-100. Sale does not require licensure as real estate salesperson or broker. The sale of real estate syndicate securities shall not be an act requiring licensure as a real estate salesperson or broker as defined in section 20-311.

(P.A. 73-593, S. 33, 35; P.A. 96-200, S. 25.)

History: P.A. 96-200 substituted "salesperson" for "salesman".

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Sec. 47-101. Exceptions. (a) The provisions of this chapter do not apply to any of the following: (i) Any real estate syndicate securities or participation in an oil, gas, or mining title or lease; (ii) any shares, memberships or certificates of interest or participation in a mutual water company; (iii) any share, membership or certificate of interest in a real estate investment trust subject to the provisions of sections 20-329o to 20-329bb, inclusive; (iv) any real estate syndicate security for which a registration has been filed under the Federal Securities Act of 1933; (v) any membership interest or other right or privilege of purchasers created in or in connection with any of the forms of development referred to in the Condominium Act of 1976, as set forth in sections 47-68a to 47-90c, inclusive.

(b) Any offer or sale of a real estate syndicate security in a transaction not involving a public offering

within the meaning of Section 4(2) of the Federal Securities Act of 1933, presently constituted as Section 77(d)(2) of Title 15 of the United States Code is exempt from the provisions of this chapter, provided it shall be a conclusive presumption that any such offer or sale to less than eighteen persons shall be a private offering.

(c) There shall be exempted from the provisions of this chapter any other transaction which the commission by regulation exempts as not being comprehended within the purposes of this chapter and the qualification of which it finds is not necessary or appropriate in the public interest or for the protection of investors.

(P.A. 73-593, S. 2-4, 35; P.A. 79-602, S. 131.)

History: P.A. 79-602 referred to “Condominium Act of 1976” rather than to “Unit Ownership Act” in Subsec. (a).

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Sec. 47-102. Waiver of chapter void. Exception. Any condition, stipulation or provision purporting to bind any person acquiring any real estate syndicate security to waive compliance with any provisions of this chapter or any regulation or order hereunder is void unless written approval thereof by the commission is obtained.

(P.A. 73-593, S. 30, 35.)

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Sec. 47-103. Real Estate Commission to establish regulations. Hearings. (a) The commission may establish such regulations as are reasonably necessary to carry out the intent and purpose of the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of chapter 54 and chapter 392.

(b) All hearings initiated under the provisions of this chapter shall be conducted in accordance with the provisions of section 20-321 and other applicable provisions of chapter 392.

(P.A. 73-593, S. 22, 27, 35.)

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Sec. 47-104. Required form of sales contracts. The commission may by regulation require as a condition of qualification that any real estate syndicate securities authorized under section 47-92 be sold only on a form of subscription or sale contract approved by the commission, and that a signed or conformed copy of each contract be preserved for such period as the commission may find reasonable and necessary to specify by regulation.

(P.A. 73-593, S. 15, 35.)

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Sec. 47-105. Required records and reports. Examination of records; examination costs. (a) Every issuer qualifying real estate syndicate securities for sale in this state shall at all times keep and maintain a complete set of books, records and accounts of such sales and the disposition of the proceeds thereof, and shall thereafter, at such times as are required by the commission, make and file in the office of the commission a report, setting forth the interests sold by it under such qualification, the proceeds derived therefrom and the disposition thereof.

(b) The commission shall have the right to examine such records at any time and, when such examination requires out-of-state travel, the issuer shall pay the cost of such examination at the discretion of and as determined by the commission.

(P.A. 73-593, S. 14, 35.)

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Sec. 47-106. Penalty for false statement. No person shall wilfully make any untrue statement of a material fact in any application, notice, or report filed with the commission under this chapter, or wilfully omit to state in any such application, notice or report any material fact which is required to be stated therein. Any person violating this section shall be subject to the penalty provided in section 20-324.

(P.A. 73-593, S. 12, 35.)

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Sec. 47-107. Investigations by commission; powers. (a) The commission in its discretion may make such public or private investigations within or outside of this state as it deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any regulation or order hereunder or to aid in the enforcement of this chapter or in the prescribing of regulations and forms hereunder.

(b) The commission in its discretion may make such examinations or investigations as it deems necessary to determine whether any person or company has violated any provisions of this chapter, or any regulation, order or permit hereunder. For the purpose of any examination or investigation under this chapter, the chairman or any officer designated by him may administer oaths and affirmation, subpoena witnesses, compel their attendance, audit books, accounts and records, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the commission deems relevant or material to the inquiry.

(P.A. 73-593, S. 19, 26, 35.)

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Sec. 47-108. Appointment of attorney for service. Every applicant for qualification of real estate syndicate securities under this chapter shall file with the chairman of the commission, in such form as it by regulation prescribes, an irrevocable consent appointing the chairman of the commission or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against him or his successor, executor or administrator, which arises under this chapter or any regulation or order promulgated hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the commission but it is not effective unless the plaintiff, who may be the commission in a suit, action or proceeding instituted by it, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the commission, and the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(P.A. 73-593, S. 11, 35; P.A. 75-567, S. 73, 80; P.A. 81-472, S. 86, 159.)

History: P.A. 75-567 substituted "regulation" for "rule"; P.A. 81-472 made technical changes.

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Sec. 47-109. Actions, limitation of time, prerequisite. (a) No action shall be maintained to enforce any liability created under this chapter, unless brought before the expiration of two years after the act or transaction constituting the violation or the expiration of one year after the discovery by the plaintiff of the facts constituting the violation, whichever shall first expire.

(b) No purchaser of a real estate syndicate security may commence an action under this chapter, if, before suit is commenced, such buyer shall have received a written offer (1) stating the respect in which liability under section 47-98 or 47-106 may have arisen; (2) offering to repurchase the real estate syndicate security for a cash price payable upon delivery of the real estate syndicate security equal to the consideration paid, with interest at the legal rate from the date of payment, less the amount of any income received on the real estate syndicate security, or, if the purchaser no longer owns the real estate syndicate security, offering to pay the purchaser upon the acceptance of the offer an amount in cash equal to the damages computed in accordance with section 47-110 provided such offer may be accepted by the purchaser at any time within a specified period of not less than thirty days after the date of receipt thereof; and (3) setting forth the provisions of this subdivision, and such purchaser shall have failed to accept such offer in writing within the specified period after receipt thereof.

(P.A. 73-593, S. 32, 35; P.A. 74-338, S. 44, 94.)

History: P.A. 74-338 made technical correction in Subsec. (b), replacing reference to "this section" with reference to Sec. 47-110.

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Sec. 47-110. Remedy of buyers. Any person who violates section 47-98 or 47-106 shall be liable to any person acquiring from him the real estate syndicate security sold in violation of such section, who

may sue to recover the consideration paid for such real estate syndicate security with interest thereon at the legal rate, less the amount of any income received therefrom, upon the tender of such real estate syndicate security, or for damages, if he no longer owns the real estate syndicate security, equal to the difference between (a) his purchase price plus interest at the legal rate from the date of purchase and (b) the value of the real estate syndicate security at the time it was disposed of by the plaintiff plus the amount of any income received therefrom by the plaintiff, together with such other relief as the court may deem proper.

(P.A. 73-593, S. 31, 35.)

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Sec. 47-111. Order to cease and desist. Hearing. Whenever the commission finds that any issuer or other person is violating any of the provisions of this chapter or of the regulations pertaining thereto, or the terms and conditions of the permit, or that the further sale or offer to sell real estate syndicate securities would work a fraud on the purchaser, the commission may order the person to cease and desist from violating the provisions of this chapter or of the regulations pertaining thereto, or from the further sale of real estate securities. After such an order is issued, the person or persons named therein may, within ten days after receipt of the order, file a written request for a hearing. Said hearing shall be held within the time period and in accordance with the procedures set forth for hearings contained in section 20-321.

(P.A. 73-593, S. 18, 35.)

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Sec. 47-112. Injunctive and other relief. Whenever any person shall engage in acts prohibited by this chapter, the commission shall request the Attorney General to apply in the name of the state of Connecticut in the Superior Court for an order enjoining the continuance of such business activity on a temporary or permanent basis or of any fraudulent or illegal acts, or for an order directing restitution in appropriate instances, or both. The court may award the relief applied for or so much as it may deem proper including accounting and other relief as may be granted in equity. In such action the commission shall be responsible for all necessary investigative support. Nothing contained herein shall be construed as a limitation upon the power or authority of the state, the Attorney General or the commission to seek administrative, legal or equitable relief as provided by other statutes or at common law.

(P.A. 73-593, S. 25, 35.)

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Sec. 47-113. Violations punished by fine or imprisonment. Any person who wilfully violates any provision of this chapter with the exception of the provisions of section 47-106, or who wilfully violates any regulation under this chapter, shall be fined not more than ten thousand dollars nor less than one thousand dollars or imprisoned not more than ten years or both; but no person may be

imprisoned for the violation of any regulation if he proves that he had no knowledge of the regulation.

(P.A. 73-593, S. 28, 35.)

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Sec. 47-114. Reservation of other punishments. Nothing in this chapter limits the power of the state to punish any conduct which constitutes a crime under any other statutes.

(P.A. 73-593, S. 29, 35.)

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Sec. 47-115. Burden of proof of exemptions or exceptions. In any proceeding under this chapter, the burden of proving an exemption or an exception from any provision of this chapter is upon the person claiming it.

(P.A. 73-593, S. 9, 35.)

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