

**CONSUMER FINANCIAL PROTECTION BUREAU
REQUEST FOR EMERGENCY PROCESSING AND APPROVAL
INTERSTATE LAND SALES FULL DISCLOSURE ACT
(REGULATIONS J, K & L) 12 CFR 1010, 1011, 1012**

EMERGENCY JUSTIFICATION

The Bureau of Consumer Financial Protection (CFPB) respectfully requests emergency processing and approval of the collection of information discussed below because the use of normal clearance procedures is reasonably likely to prevent and disrupt an existing collection of information.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), rulemaking authority for the Interstate Land Sales Full Disclosure Act (ILSA), 15 U.S.C. 1701 *et seq.*, transferred from the U.S. Department of Housing and Urban Development (HUD) to the CFPB on July 21, 2011. In addition to the transfer of rulemaking authority under the Dodd-Frank Act, the CFPB received certain enforcement authorities with respect to ILSA. The CFPB is in the process of publishing for public comment interim final rules establishing new regulations in 12 CFR Parts 1010, 1011 and 1012 (Regulations J, K & L). These interim final rules substantially replicate HUD's regulations, and will not impose any new substantive obligations on regulated entities or any new information collection requirements.

As the CFPB now has enforcement authority over certain populations that have been under the jurisdiction of another agency, the CFPB is requesting approval of a new OMB control number for its collection activities under Regulations J, K and L. To prevent a disruption of an approved information collection, the CFPB is requesting emergency processing and approval of the following information collection request. Upon receipt of emergency approval from the Office of Management and Budget, the CFPB will begin a standard approval process for this collection and will seek public input at that time.

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST - SUPPORTING STATEMENT
INTERSTATE LAND SALES FULL DISCLOSURE ACT
(REGULATIONS J, K & L) 12 CFR 1010, 1011, 1012
(OMB CONTROL NUMBER: 3170-XXXX)**

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The Interstate Land Sales Full Disclosure Act (ILSA) requires land developers to register subdivisions of 100 or more non-exempt lots or units and to provide each purchaser with a disclosure document designated as a property report, 15 U.S.C. 1703-1704. ILSA protects consumers from fraud and abuse in the sale or lease of land, and was enacted in response to a nation-wide proliferation of developers of unimproved subdivisions who made elaborate, but fraudulent, claims about their land to unsuspecting lot purchasers. Information is submitted to the Bureau of Consumer Financial Protection (CFPB) to assure compliance with ILSA and the implementing regulations. The CFPB investigates developers who are not in compliance with the regulations.

The following list provides the relevant section of each statute and regulation requiring a collection of information:

Registration of Projects – 12 CFR 1010.100 - 1010.219 and 15 U.S.C. 1701
MSA Exemption Certificate/Affirmation - 12 CFR 1010.13(a)(9) and 15 U.S.C. 1702
Option to Cancel Notification - 12 CFR 1010.15(b)(5)(i) and 15 U.S.C. 1703
Sample Registration Format/ Lot Information and Sample Receipt - 12 CFR 1010.15(b)(11) and 15 U.S.C. 1705
Advisory Opinion Affirmation - 12 CFR 1010.17(b)(3) and 15 U.S.C. 1702
Initial and Consolidated Fee Schedule - 12 CFR 1010.35(b) and 15 U.S.C. 1704
Property Reports Receipts for Lots Sold in Registered Projects – 12 CFR 1010.118 and 15 U.S.C. 1707(a)
Financial Statements (FS) – 12 CFR 1010.212(d) & 12 CFR 1010.112 and 15 U.S.C. 1705
Unconditional Guarantee – 12 CFR 1010.212(g) and 15 U.S.C. 1705
Annual Reports for Registered Projects (AR) – 12 CFR 1010.310 and 15 U.S.C. 1705

Exemption Filing (including Multiple Site Exemption Projects) – 12 CFR 1010.15 & 1010.16 and 15 U.S.C. 1702(c)
Lot Information Statement and Property Report Receipts for Multiple Site Exemption Projects – 12 CFR 1010.15 and 15 U.S.C. 1702(c)
Annual Report for Exempted Projects – 12 CFR 1010.15(d) and 15 U.S.C. 1701
Advertising Disclaimers (AD) – 12 CFR 1011.50(a) and 15 U.S.C. 1703, 1705
Restrictive Covenants – 12 CFR 1010.109(f)(1)(iii) and 15 U.S.C. 1705
Voluntary Suspension Form – 12 CFR 1010.22 and 15 U.S.C. 1702

Disclosure Document Certification - 12 CFR 1010.504(a)(2) and 15 U.S.C. 1708
Property Report Cover Page Language - 12 CFR 1010.558(a)(1) and 15 U.S.C. 1703
Revocation Rights Notification - 12 CFR 1010.559(a)(1) and 15 U.S.C. 1703

2. Use of the Information

The respondents are developers (or attorneys or others who work for them). Developers must submit an initial Statement of Record (registration) to the CFPB and receive an effective date before they can offer lots for sale or lease. The Statement of Record includes the proposed property report and additional information and documents that support the developer's disclosures in the property report. The developer is responsible for ensuring that the registration is accurate and does not omit information needed for a purchaser to make an informed decision. Developers must give purchasers an effective property report before the purchaser signs the sales contract. Developers must submit amendments to their registrations if any information in their initial registration changes. They must also submit a consolidated filing if they offer additional lots for sale. Each year the developer must submit an annual financial statement and an annual report that is prepared in the format required by Section 1010.310 of the regulations. A developer may voluntarily suspend his registration by submitting a Voluntary Suspension form or through the Annual Report. There are no other forms. The CFPB conducts a facial review of the submissions. The developer may request an Advisory Opinion if a developer has questions about the applicability of one of the exemptions from registration. A CFPB determination is required only if a developer claims an exemption from registration under the multiple site or substantial compliance exemption. The other 24 exemptions are self determining. Finally, the CFPB may require additional information from developers in response to investigations of complaints.

The Voluntary Suspension form is voluntary and is a convenient way for developers to voluntarily suspend their registration. The form is not required and is not the only way that developers may close their registration. They may also end their registration through their annual report.

3. Use of Information Technology

Ninety-nine percent of the transactions in this information requirement are constituted by third-party disclosures during land sales transactions. Approximately 50% prepare documents electronically. Of registrations submitted to the CFPB approximately 25% are at least partially submitted on CD or e-mail.

4. Efforts to Identify Duplication

The State Certification Program is an effort to eliminate duplication. Developers in States that have an equivalent and certified land sales program may file a certified copy of the State filing to meet Federal requirements. In addition, 22 States accept a Federal registration as meeting State disclosure and consumer protection requirements.

5. Efforts to Minimize Burdens on Small Entities

The collection of this information does not impact small businesses. Developers who have subdivisions of fewer than 100 lots are exempt from registration. Almost all registered subdivisions have gross lot sales in excess of \$2 million.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

The frequency of the information collection is determined by statute and/or regulation. Less frequent collection of the information would result in a property report not having the current information and purchasers not having proper information on which to base their purchases.

7. Circumstances Requiring Special Information Collection

The collections of information in these interim final rules are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

This Supporting Statement is based on HUD's most recent Supporting Statement for OMB Control Number 2502-0243. As this is a request for emergency processing and approval of the transfer of certain burdens from an existing information collection to the CFPB, the CFPB has not sought public comment on this information collection request. Upon receipt of OMB's emergency approval, the CFPB will begin the standard approval process and will seek public input and input from other agencies at that time.

9. Payments or Gifts to Respondents

Not applicable.

10. & 11. Assurances of Confidentiality/Justification for Sensitive Questions

There is no assurance of confidentiality. The information collected is filed with the CFPB and available to the public. There is no sensitive information being requested.

12. Estimated Burden of Information Collection

Hours: 35,000

CFPB's estimate of the burden for ongoing recordkeeping and disclosure requirements under ILSA is based on the assumption that the total ongoing burden for this regulation remains the same as it was before the regulation was restated by the CFPB. Prior to the passage of the Dodd-Frank Act, HUD's ongoing recordkeeping and disclosure

burdens for ILSA were approximately 35,000 hours.¹ In light of the changes made by the Dodd-Frank Act, all 35,000 hours of that burden is being transferred to the CFPB.

In addition to the ongoing burden, the recodified Regulations will impose a one-time burden on entities that need to change forms and clauses with references to HUD replaced with the CFPB and HUD addresses replaced with CFPB addresses. To implement these changes, covered entities may need to make one-time revisions to document templates they use for ILSA compliance. The CFPB believes that the associated burden and costs for these changes will be minimal. It is the CFPB's understanding that a small set of entities maintain these forms and do so in accessible templates which can easily be modified on in-house computers.

Associated Labor Costs: \$ 1,869,000

The CFPB calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used are those associated with the burden hours assumed from HUD.

The CFPB estimates that the ongoing recordkeeping and disclosure costs allocated to the CFPB under ILSA are \$1,869,000. This estimate was calculated following HUD's cost analysis. For a detailed breakdown of the cost analysis, please reference HUD's supporting statement for ILSA.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

None.

14. Estimated Cost to the Federal Government

HUD previously estimated the total annualized cost to the Federal Government to be \$2,149,380 in 2007. Annual cost, however, is partially offset by registration fees. These fees totaled approximately \$681,000 in 2007.² The CFPB will provide revised estimates in its follow-up application to OMB for a standard approval of this information collection.

15. Program Changes or Adjustments

As detailed in section 12, although there are necessary form changes due to the restatement of ILSA, the associated burden and costs are minimal

¹ For purposes of the current request for emergency review and approval, the CFPB has relied on the estimates previously developed by HUD concerning the number of entities subject to ILSA and the hours of paperwork burden under the statute (for a detailed breakdown of the burden estimates of HUD, please reference HUD's supporting statement for ILSA, which can be found at www.reginfo.gov). The CFPB's enforcement authority is not necessarily limited to the entities covered by HUD's estimates. The CFPB will conduct a more detailed review of burden allocations and provide more detailed estimates in its follow-up application to OMB for a standard approval of this information collection.

² Although we realize the market has declined significantly post-2007, these numbers should give a rough estimate of the ratio of fees to costs for the government.

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable.

17. Display of Expiration Date

Not applicable.

18. Exceptions to the Certification Requirement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.