

Title 300 - NEBRASKA REAL ESTATE COMMISSION

Chapter 1 - RETIREMENT SUBDIVISIONS AND RETIREMENT COMMUNITIES; STATEMENT OF RECORD; FILING REQUIREMENTS.

001 The Statement of Record, or of an amendment thereto, shall be filed with the Commission on forms prescribed by it. An Annual Renewal Report as required in Neb. Rev. Stat. Section 76-1310 shall be considered an amendment to the Statement of Record and shall be filed with the Commission on forms prescribed by it. The Statement of Record form and the Annual Renewal Report form are attached hereto as Attachments 1 and 2, respectively.

002 The filing fee shall be as follows:

002.01 Statement of Record - \$200.00

002.02 Amendment to Statement of Record - \$200.00

003 The Statement of Record for the registration of a retirement community shall be accompanied by a set of blueprints showing the floor plans and outline specifications of all buildings containing the units as well as all other buildings or facilities to be used in support thereof.

004 In lieu of the attorney's opinion mentioned in Neb. Rev. Stat. Section 76-1306(1)(f), the condition of the title to the subdivision lands may be shown by a title policy issued, within 30 days of the date of the filing of the Statement of Record, by a title insurance company licensed to do business in this State.

005 The Statement of Record shall be accompanied by copies of promotional materials used or proposed to be used in promoting the sale or lease of any unit or interest in the subdivision or community.

006 The Statement of Record shall be kept current with respect to all required items of inclusion during the entire period of operation of the retirement community or retirement subdivision.

007 The Commission shall prescribe the form of the registration certificate, the Public-offering Statement, and the Registration of Escrow Account. Each registration certificate shall have placed thereon the seal of the Commission. It shall be the duty of the developer to display his or her registration certificate conspicuously in his or her place of business. The Public-offering Statement form and the Registration of Escrow Account form are attached hereto as Attachments 3 and 4, respectively.

The effective date of this amended Chapter shall be July 1, 2004.

Laws 1972, LB 1311, §3; RS 1943, §76-1311, R. S. Supp., 1974.
Effective date July 6, 1972.

300 NAC 1 - ATTACHMENT 1

**STATEMENT OF RECORD
RETIREMENT SUBDIVISION OR COMMUNITY**

The undersigned applicant hereby submits this Statement of Record for the purpose of registering a Retirement Subdivision or Community with the State Real Estate Commission.

SECTION I

Attach the following documents:

1. Plat showing the subdivision or community as it now exists or is proposed with the dimensions of the lots and the relation of such lands to existing streets, roads and other improvements and the legal description of the subdivision or community.
2. A copy of an attorney's opinion or title policy showing the condition of the title to the subdivision or community lands, including encumbrances, current to within 30 days of the date of this Statement.
3. A copy of the instruments by which the interest in the subdivision or community lands was acquired.
4. A copy of any instruments creating liens or encumbrances showing the date said instruments were recorded.
5. A copy of the Public-offering Statement.
6. The current audited financial statements of the developer and, if different, the association, must be submitted as a part of this report. In the case of proposed new construction, prospective financial statements compiled by a Certified Public Accountant shall be furnished, unless examined statements are required. In the case of an initial registration or an amendment expanding the project, the prospective financial statements must be examined, rather than compiled, by a Certified Public Accountant pursuant to generally accepted accounting principles for a forecast, unless (a) all payments by purchasers are held in escrow at a state or federally regulated financial institution located within this state until closing of the disposition, (b) all public improvements serving the units or lots are completed prior to disposition, and (c) the interests in a unit or lot of a purchaser who is not in default on the contract for disposition will upon disposition be free of or not subject to disturbance by any encumbrances incurred by the developer or association for purchase or improvement of the retirement subdivision or community.
7. A copy of the instrument used or to be used to convey an interest in the subdivision or community to prospective purchasers or lessees.
8. A copy of the blueprints of the buildings or proposed buildings showing the floor plan of the buildings and the individual units therein.
9. Copies of all promotional advertising used or proposed in promoting the sale or lease of any unit or interest in the subdivision or community.

10. If applicant is a nonprofit corporation, copies of the articles of incorporation and bylaws.
11. If the subdivision or community offers a promise to provide future nursing or other health-related services to purchasers pursuant to contracts effective for the purchaser's life or contracts for a period of over one year, that include payment of an entrance or similar fee, then an actuarial forecast, which identifies the qualifications of the preparing actuary or actuaries, shall be submitted. The actuarial forecast shall be prepared in accordance with generally accepted actuarial principles and practices, including a statement of actuarial opinion, a pricing analysis, a cash-flow projection and a statement of applicable actuarial methodology, formulas and assumptions.

SECTION II

1. Name of Applicant: _____
2. Address: _____
3. Telephone Number: _____
4. Applicant is: Individual () Corporation () Partnership ()
Limited Liability Company () Other () Specify: _____
5. If Corporation, indicate:
 - (a) State of Incorporation: _____
 - (b) Date of Incorporation: _____
 - (c) Name of Nebraska Registered Agent: _____
Address: _____
 - (d) List the name, address and principal occupation for the last 5 years of each officer and director:

 - (e) List the name, address and principal occupation for the last 5 years of each stockholder of such company owning more than 10% of the capital stock and state the amount of stock owned by each:

6. If Limited Liability Company, indicate:

(a) State of Organization: _____

(b) Date of Organization: _____

(c) Name of Nebraska Registered Agent: _____

Address: _____

(d) List name, address and principal occupation for the past 5 years of each manager:

(e) List the name, address and principal occupation for the past 5 years of each member owning more than 10% of the membership units of the company:

7. If Partnership, or other than an individual, limited liability company or corporation state:

(a) Name: _____

(b) Year of Formation: _____ Is this a general partnership? Yes () No ()

If no, state type of equity: _____

(c) List the name, address and principal occupation for the past 5 years of each general partner, executive officer or similar management position:

(d) List the name, address and principal occupation for the past 5 years of each partner or other owner of more than 10% interest in Applicant:

8. Has there been an adjudication of bankruptcy against the Applicant, any managing association, contracted management agent or any principal owning more than 10% of the interests in any of such entities? Yes () No () If yes, please provide information including name and date and type of bankruptcy and court where filed.

9. Name and address of the subdivision or community manager or superintendent:

10. If Applicant, or if different, the Association is a Foreign Corporation or Foreign Limited Liability Company, has it qualified to do business in Nebraska? Yes () No ()

11. In case of default by Applicant on its obligations, what provisions have been made to assure purchasers or lessees that their interests will be protected or a full refund of all monies will be paid? (Attach copies of all applicable instruments.)

12. If any purchaser's lot or unit will be subject to any debts or liabilities of the developer or association in connection with the initial construction of improvements, Applicant must register an escrow account pursuant to Neb. Rev. Stat. § 76-1305(4) on the form prescribed by the Commission, in a state or federally regulated financial institution located in Nebraska.

13. Has the subdivision or community met the zoning requirements of the local city or county? Yes () No () List the name of the authority or governmental subdivision regulating zoning.

14. Are there existing or proposed special assessments against the land? Yes () No () If Yes, explain.

15. Has a registration of the subdivision or community been filed in any other state or jurisdiction, including any federal agency? Yes () No () If Yes, give the name and address of the regulating authority in each jurisdiction.

16. Has there been any adverse order, judgment, or decree entered in connection with the subdivision or community lands by the regulatory authorities in any other state or jurisdiction, including any federal agency? Yes () No () If Yes, explain and attach copies of any such order, judgment or decree.

17. List all services to be offered prospective purchasers or lessees in addition to the right to occupy a unit.

18. What is the current or proposed regular monthly charge to be assessed against each purchaser or lessee?
\$_____.

19. Are the services provided, as listed in question 17 above, included in the monthly charge? Yes () No () If No, list the charges to be made for each of the services not included in the monthly charge.

20. Does the subdivision or community reserve the right to increase or decrease the regular monthly charge in the future? Yes () No () If Yes, explain.

21. If this application is for a proposed subdivision or community what provision has been made to assure that proposed improvements and facilities will be completed as represented?

22. Has the **developer**, or if a corporation, its officers, directors, and principals, or if a limited liability company, its manager or members, or if a partnership or other entity, its partners or owners, ever been convicted of a crime involving land dispositions or any aspect of land sales business in this state, the United States, or any other state or foreign country or been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions? Yes () No () If Yes, explain and attach copies of any such order or conviction.

23. Has the **managing agent**, or if a corporation, its officers, directors, and principals, or if a limited liability company, its manager or members, or if a partnership or other entity, its partners or owners, ever been convicted of a crime involving land dispositions or any aspect of land sales business in this state, the United States, or any other state or foreign country or been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions? Yes () No () If Yes, explain and attach copies of any such order or conviction.

The foregoing statements are made for the purpose of procuring registration for the sale or lease of lot or units in the Retirement Subdivision or Community described herein and consent is hereby given that these statements and all documents submitted with this application may be used as evidence by the State Real Estate Commission of the State of Nebraska, or in any court in Nebraska where a violation of the laws of Nebraska regulating the sale or lease of units in a Retirement Subdivisions or Communities is claimed.

It is also expressly agreed that the State Real Estate Commission has the right to go outside this application for information in investigating this application. We also agree to furnish, if requested, a cashier's or certified check in an amount to be determined by the Commission as sufficient to allow a personal inspection of the subdivision or community by a representative of the Commission.

I, _____, in submitting this document, state as follows: that I am _____ of _____; that I have read the above and foregoing application, and that the same is true to the best of my knowledge and belief.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned does hereby constitute and appoint the Director of the State Real Estate Commission of the State of Nebraska, and his or her successor in office, its or his or her true and lawful agent in Nebraska, upon whom all judicial and other process or legal notice directed to such registrant may be served and service upon the agent so designated shall be equivalent to personal service upon said registrant. The undersigned registrant agrees that any lawful process against such registrant which is served upon such agent shall be of the same legal force and validity as if served upon the registrant, and that such authority shall continue in force so long as any liability remains outstanding in the State of Nebraska. It is expressly agreed that this appointment covers not only the present application and registration but extends to and covers all future or renewal applications and renewal registrations issued by the State Real Estate Commission of the State of Nebraska.

I, _____, in submitting this document, state as follows that I signed the foregoing Appointment of Agent for Service of Process as _____ of _____, having full authority to sign such appointment in said capacity; that I have read said instrument and that the execution thereof is a voluntary act and deed and the voluntary act and deed of said registrant.

Signature

Date

300 NAC 1 - ATTACHMENT 2

**ANNUAL RENEWAL REPORT
RETIREMENT SUBDIVISION OR COMMUNITY
ANNUAL RENEWAL FEE \$200**

NOTE: Current audited financial statements, a current public-offering statement, and any amendments to the statement of record must be submitted as a part of this report.

1. Name of Retirement Subdivision or Community: _____

2. Address: _____

3. Name of Developer: _____

4. Address: _____

5. Telephone Number: _____

6. Developer is: Individual () Partnership () Corporation ()
Limited Liability Company () Other () Specify _____

7. (a) If Developer is a Corporation, indicate:

(1) Name of Nebraska Registered Agent: _____
Address: _____

(2) List the name, address and principal occupation for the last 5 years of each officer and director:

(3) List the name, address and principal occupation for the last 5 years of each stockholder of such company owning more than 10% of the capital stock and state the amount of stock owned by each:

(b) If Developer is a Limited Liability Company, indicate:

(1) Name of Nebraska Registered Agent: _____

Address: _____

(2) List name and address and principal occupation for the past 5 years of each manager:

(3) List the name, address and principal occupation for the past 5 years of each member owning more than 10% of the membership units of the company:

(c) If Developer is a Partnership, or other than an individual, limited liability company or corporation:

(1) List below the name, address and principal occupation for the past 5 years of each general partner, executive officer or similar management position:

- (2) List the name, address and principal occupation for the past 5 years of each partner or other owner of a more than 10% interest in Applicant:

8. Name and address of the subdivision or community manager or superintendent:

9. Has the developer, association, managing agent or any principal owning more than 10% of the interest in the subdivision or community or any of such entities ever been adjudged bankrupt? Yes () No () If Yes, state the court and date of such adjudication and the bankruptcy chapter filed under.

10. List any additional liens against the subdivision or community and submit copies thereof.

11. Before answering this question, please review your current Statement of Record. Are there any changes to the information provided in the filed Statement of Record?
Yes () No () If yes, submit an amendment showing such changes.

The foregoing statements are made for the purpose of renewing the registration for the sale or lease of units in the Retirement Subdivision or Community named herein and consent is hereby given that these statements and all documents submitted with this Report may be used as evidence in the State Real Estate Commission of the State of Nebraska, or in any court in Nebraska where a violation of the laws of Nebraska regulating the sale or lease of units in a Retirement Subdivision or Community is claimed.

It is also expressly agreed that the State Real Estate Commission has the right to go outside this Report for information in investigating this Report.

I, _____, in submitting this document hereby acknowledge that I am _____ of _____, that I have read the above and foregoing Report and all documents accompanying and made a part of this Report, and that the same are true to the best of my knowledge and belief.

(Date)

(Signature of Developer, Partner, Officer of Corporation, or Member/Manager of Limited Liability Company)

300 NAC 1 - ATTACHMENT 3

PUBLIC-OFFERING STATEMENT
OF
(Name and address of
Subdivision or Community)

1. Date of this Report:
2. Name and Principal Address of Developer:
3. General Description: (Give a general description of the subdivision or community stating the total number of lots, parcels, units or interests in the offering.)
4. Encumbrances: (List all encumbrances showing total indebtedness and terms of repayment. Also list restrictions and easements. Describe zoning. List taxes and special assessments, if any. If applicable, state that the association may incur debt secured by sold or leased lots or units.)
5. Use for Which Property Offered:
6. Hospital and Health Facilities:
7. Recreational Facilities:
8. Public Improvements: (Streets, water, sewer and other customary public utilities.)
9. Cost of Proposed Public Improvements:
10. Estimated Date of Completion of Proposed Public Improvements:
11. Date Audited or, if applicable, Prospective Financial Statements were filed with State Real Estate Commission: (Financial statement must be for both the developer and, if applicable, the association.)
12. Public Transportation Facilities:
13. Right to Adjust Regular Monthly Charge: (A general statement as to whether or not the developer has the right to increase or decrease the regular monthly charge and under what conditions said adjustment will be made.)
14. Items Included in Regular Monthly Charge:
15. Services NOT Included in Regular Monthly Charge:
16. Budget: (If periodic payment is subject to change, attach a detailed current or projected budget of expenses and liabilities of the association, the assumptions upon which the budget is based, including the number of units or lots assumed to be paying such payments, and the effect on monthly payments if less than the assumed number of units or lots are disposed of to purchasers or lessees.)
17. Insurance: (Describe insurance coverage or state that no insurance coverage is provided.)
18. Cancellation Rights: (Describe the cancellation rights granted to prospective purchasers, which must extend for not less than 3 business days after delivery of Public-offering Statement or execution of contract, whichever is later, and include a statement that such

cancellation rights may not be waived.)

19. Miscellaneous: (If applicable, state the affiliations of the association or developer with another organization referred to in any promotional materials, and the extent to which the affiliate is responsible for the financial and contractual obligations of the association or developer. If applicable, state any policy with regard to health or financial conditions.)
20. Officers and Directors or Principals of Developer: (List officers and directors if a corporation; managing members or manager if a limited liability company; general partners of a partnership; or other principals if different entity.)
21. Manager or Superintendent: (Individual or company providing day-to-day management of subdivision or community.)

TO THE DEVELOPER:

The above are the required headings and subject matter for the Public-offering Statement. All headings must be used exactly as written above.

Your attention is called to the section of the law dealing with the form and use of the Statement: "No person may advertise or represent that the agency approves or recommends the subdivision lands or disposition thereof. No portion of the public-offering statement may be underscored, italicized or printed in larger or heavier or different color type than the remainder of the statement unless the agency requires or permits it."

300 NAC 1 - ATTACHMENT 4

NEBRASKA REAL ESTATE COMMISSION
P.O. Box 94667
Lincoln, Nebraska 68509-4667

Registration of Escrow Account

_____ having filed an application for registration
(Name of Developer)

of _____ as a retirement subdivision or
(Name of Retirement Subdivision or Community)

community under Neb. Rev. Stat. §§76-1301 through 76-1315, does register with the Nebraska Real Estate Commission the following escrow account in which any deposit(s) made in connection with the purchase or reservation of a lot or unit in a retirement subdivision or community from a developer shall be placed and held until: (1) the date public improvements serving the above retirement subdivision or community are substantially completed and secured financing has been obtained by the developer or association (a) in an amount adequate to complete the improvements to the subdivision or community as represented in the Statement of Record, as submitted for registration, and (b) under such terms as are consistent with the budget stated in the Public-offering Statement; or (2) refunded to the purchaser. The escrow account, to be used solely for the above purpose, is carried with the following Nebraska financial institution, which accounts are insured by a governmental agency or instrumentality, under the following account name and number:

_____, Nebraska
(Name of Financial Institution) (City)

(Exact Title of Account) (Account Number)

_____ does hereby covenant and
(Name of Developer)

authorize _____ to allow, at anytime a duly
(Name of Financial Institution)

authorized representative of the Nebraska Real Estate Commission to examine the aforementioned escrow account as required by Neb. Rev. Stat. §76-1312.

Executed at _____ this _____ day of _____, _____.

(Signature of Developer)

CERTIFICATION OF FINANCIAL INSTITUTION

The undersigned, a duly authorized official of _____
(Name of Financial Institution)

of _____, Nebraska, on behalf of said financial institution, does hereby certify that
(City)

the above developer does maintain an escrow account as set forth above and agrees that

_____ of _____, Nebraska will allow a duly
(Name of Financial Institution) (City)

authorized representative of the Nebraska Real Estate Commission to examine the aforementioned escrow account upon demand and agrees that it is subject to the personal jurisdiction and venue of the state district court in Nebraska located in the county of the residence or principal office of each purchaser having funds placed in said escrow.

Executed at _____ this _____ day of _____, _____.

(Name of Financial Institution)

(SEAL OF FINANCIAL INSTITUTION)
If Applicable

BY: _____
(Name)

(Official Title)

Original to Real Estate Commission

Blue Copy to Developer

Yellow Copy to Financial Institution