

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST**

**SUPPORTING STATEMENT PART A
INTERSTATE LAND SALES FULL DISCLOSURE ACT
(REGULATIONS J, K & L) 12 CFR 1010, 1011, 1012
(OMB CONTROL NUMBER: 3170-0012)**

OMB TERMS OF CLEARANCE:

Not applicable. The Office of Management and Budget (OMB) provided no Terms of Clearance when they approved this information collection on June 10, 2012.

ABSTRACT:

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

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 was enacted in response to a nation-wide proliferation of developers of unimproved subdivisions who made elaborate and often 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 also 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

In September 2014, President Obama signed into law H.R. 2600, which partially exempts sales and leases of condominium units from ILSA. The act will be effective six months after being signed into law (March 2015).¹ Therefore, we restrict our burden estimates to collections related to land sales only.

2. Use of the Information

Respondents are developers (or attorneys or others who work for them). As respondents, developers must provide information to two parties: government (CFPB) and prospective lot purchasers.

¹ This exemption for condominium units, along with other exemptions, is listed in the statute at 15 U.S.C. 1702.

The developer must register a subdivision with CFPB and receive an effective date before any lots from that subdivision can be offered for sale or lease. The registration documents, also called Initial Statement of Record, include the proposed property report and additional information and documents that support the developer's disclosures in the property report. The initial registration also includes a copy of financial statements and a receipt of paid registration fees. If after the initial registration there are any material changes, developers must submit amendments to their registrations. In addition, if other lots are added to the existing sub-division, a developer must submit a consolidated filing.

The developer must also submit an annual financial statement and an annual report on any initial or consolidated registration not under suspension, prepared in the format required by Section 1010.310 of the regulations. However, a developer may voluntarily suspend his registration by submitting a Voluntary Suspension Form, which can be obtained through request of the CFPB.

Developers must give purchasers a copy of an up to date property report before the purchaser signs the sales contract. 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 are also required to make copies of financial statements readily available.

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. Other exemptions are self-determining. The CFPB may require additional information from developers in response to investigations of complaints. For the purposes of communication with developers, contact information is collected.

3. Use of Information Technology

10% of information collections submitted to CFPB take electronic form.

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

Developers who have subdivisions of fewer than 100 lots are exempt from registration.

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

In accordance with 5 CFR §1320.8(d)(1), the Bureau has published a notice Federal Register allowing the public 60 days to comment on this proposed the extension (renewal) of this currently approved collection of information. No comments were received. Further and in accordance with 5 CFR §1320.5(a)(1)(iv), the Bureau will also publish a notice in the Federal Register allowing the public 30 days to comment on the submission of this information collection request to the Office of Management and Budget.

9. Payments or Gifts to Respondents

No payments or gifts are provided to respondents.

10. Assurances of Confidentiality

Whenever CFPB receives information obtained in association with ILSA, CFPB shall treat the information in accordance with applicable federal law, including but not limited to the Bureau's confidentiality rules, 12 CFR Part 1070, and the federal laws and regulations that apply to federal agencies for the protection of privacy, confidentiality, security and integrity.

In general, the information collected under this regulation is meant to be available to the public, and as such there are no assurances of confidentiality. To the extent that any potentially sensitive information is collected by the CFPB, such as the names, addresses, and financial statements of developers, this information is being used to help avoid fraud on the part of sales and as such necessary for this charge.

The Bureau also evaluates the potential privacy risk and harm to individuals relative to the authorized purpose, and vets any research proposals on the data to ensure that they serve an authorized purpose. Disclosure conducted under any studies using these data will be consistent with the Privacy Act and the E-Government Act. The requisite SORNs (System of Records Notice) and PIAs (Privacy Impact Assessment) will document the collection, use, disclosure, and retention of PII; the technical, administrative, and physical controls used to minimize privacy risks. The CFPB.012 Interstate Land Sales Registration Files (ILS), 76 FR 77470 SORN, and the Interstate Land Sales Registration Files PIA, which is pending publication, cover the use of the data. The SORN and PIA will be updated, as appropriate.

11. Justification for Sensitive Questions

Developer financial statements are generally considered sensitive, especially for non-public companies. However, this information allows consumers transparency into developers' financial history so they will be able to ascertain the financial condition of the company they are transacting with.

12. Estimated Burden of Information Collection

Information collection requirement	No. of Respondents	Frequency of Response	Annual Responses	Average Response Time	Annual Burden Hours	Hourly Rate	Hourly Costs
(Panel A) For land subdivisions in non-certified states							
Initial Registration							
Cover letter	6	1.0	6	0.25	1.5	\$300	\$450
Receipt of paid fees	6	1.0	6	0.5	3	\$80	\$240
Supplemental Material §§1010.208 through 1010.219	6	1.8	11	20.0	220	\$80	\$17,600
Property Report	6	1.0	6	160	960	\$148	\$141,785
Property Report	6	1.0	6	130	780	\$148	\$115,200
Consolidated Statement of Record							
Consolidation	27	1.2	32	33	1067	\$300	\$320,000
Receipt of paid fees	27	1.2	32	0.5	16	\$80	\$1,280
Property Report §§1010.208 through 1010.219	27	1.2	32	5.0	160	\$148	\$23,680
Amendment	27	3.0	80	10.0	800	\$300	\$240,000
Final Version of Property Report	82	1.3	107	5.0	535	\$148	\$79,180
Annual Submissions							
Annual Report	134	1.0	134	1.5	201	\$100	\$20,100
Receipt of paid fees	53	1.0	53	0.5	27	\$80	\$2,120
Audited financial statements	64	1.0	64	1.0	64	\$80	\$5,120
Unaudited financial statements	83	1.0	83	1.0	83	\$80	\$6,640
Collections given to lot purchasers							
Property Report	77	30.7	2,365	0.3	591	\$30	\$17,738
Lot Information Statement	8	36.6	293	0.3	73	\$30	\$2,198
Deficiency Response							
Amendatory Material Effective Date	1	1	1	1.0	1	\$300	\$300
Suspension Request	3	1	3	1.0	3	\$300	\$900
(Panel B) For land subdivisions in certified states (California, Arizona, Minnesota)							
Fact Sheet prepared for:							
Initial Registration	2	1	2	1	2	\$100	\$200
Consolidation	4	1	4	1	4	\$100	\$400
Amendment	1	1	1	1	1	\$100	\$100
For all land subdivisions							

Time to burn a CD	56	1.95	109	0.25	27.25	\$80	\$2,180
Time to print out documents	53	10.08	534	1	534	\$80	\$42,720
Time to assemble and mail the package	197	2.09	411	1	411	\$80	\$32,880
Total hours:	6,724						
Total labor cost:	\$1,096,690						

In 2014, there were 197 land subdivisions that are potentially subject to ILSA information collection requirements. These 197 land subdivisions were maintained by 180 developers. Because the information collection requirements are specified per subdivision, not per developer, for the purposes of burden calculations, we use subdivision as a unit of analysis. As a result, the overall number of potential respondents for 2014 is estimated to be 197.

The number of respondents varies by collection, because some collections must be submitted only under specified circumstances. For instance, only a subdivision for which the registration is not under suspension is obliged to submit the Annual Report (and we find that 134 out of the potential 197 did so in 2014).

The primary method of calculating the counts of collections – with an exception of collections given out to lot purchasers – is by utilizing the database of submissions maintained by CFPB. The advantages of this method are accuracy and consistency across periods of renewal. The average response times and appropriate hourly rates are obtained through interviews with industry experts.

In calculating burden hours, we make a distinction between subdivisions registered in states that participate in the state certification program – California and Arizona, Panel B, -- and subdivisions in other states (Panel A). Developers that sell lots in California and Arizona are already subject to state filing requirements that are substantially similar to those required by ILSA. The marginal burden of ILSA for such developers consists of fact sheets that they must file along with Initial Registration, Consolidation or Amendment. The costs associated with fact sheets are presented on Panel B.

On Panel A, we present costs associated with information collections by developers in other states. The major component of the cost is the Property Report. We distinguish between the cost of creating the first copy of the Property Report, which is substantial, and the cost of later submissions, which is smaller. The first copy of the Property Report is submitted together with other documents required by the Initial Registration. The subsequent copies of the Property Report received by CFPB are either exact copies of the initial Property Report, or its modifications (such as required by Consolidation or Amendment).

A special mention must be made regarding Financial Statements. ILSA requires audited Financial Statements, which are expensive as they require a Certified Public Accountant to produce them. However, we believe that in most cases developers have to produce them in the normal course of business: it is a typical requirement by a bank that extended credit to a developer. Therefore, we assume that the marginal burden of ILSA in this respect is zero. In lieu

of audited Financial Statements, developers often submit unaudited ones. We believe that the production of unaudited Financial Statements is mostly triggered by CFPB requirements, and therefore we attribute the cost of their production to ILSA.

Information collections that are present in the statute but recorded zero instances during the period of study are not shown in the table.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

Non-labor costs related to information collections under ILSA have two components: registration fees and costs associated with submission of documents. The table provides detail on both components. Consistent with our approach we count costs only associated with land subdivisions.

Description of costs	Unit Cost	Units	Total Cost
Mailing	\$30	411	\$12,330
Printing, pages	\$.10	112,608	\$11,261
Producing CD's	\$.50	109	\$55
Fees paid for Initial Registration	\$800	6	\$4800
Fees paid for Consolidation	\$800	32	\$25600
Fees paid for Annual Report filing	\$800	53	\$42400
Total cost burden			\$96,445

14. Estimated Cost to the Federal Government

There are two components of the ILSA cost for the CFPB. The first component is the service by a third party provider, which is to scan information collections and enter them into a database. The cost of this service is \$600,000 per year. The second component is the cost of time of four full time CFPB employees, totaling \$800,000 per year. Therefore, the estimated total annual cost to the Federal Government is \$1,400,000 in 2014.

Annual cost, however, is partially offset by registration fees. These fees totaled \$149,600 in FY2014 (paid by both land and condos developers). Registration fee income should continue to trend lower over the next two years as a result of the H.R. 2600, eventually stabilizing at approximately \$100,000 per year in FY2016.

15. Program Changes or Adjustments

Summary of Burden Changes:

	Total Respondents	Annual Responses	Burden Hours	Cost Burden (O&M)

Total Annual Burden Requested	197	6,772	6,724	\$96,445
Current OMB Inventory	985	88,874	17,329	\$0
Difference (+/-)	-788	-82,102	-10,605	+\$96,445
Program Change	-788	-82,102	-14,184	\$0
Discretionary	0	0	0	\$0
New Statute	-788	-82,102	- 14,184	\$0
Violation	0	0	0	\$0
Adjustment	0	0	+3,579	+\$96,445

Program Changes: The changes in the number of respondents and the number of annual responses are primarily a result of a new legislation partially exempting condominiums from ILSA (15 U.S.C. 1702). Specifically, we have estimated that the exemption will remove 788 respondents from our respondent pools, and the remaining respondents, owing to the nature of their business, will have fewer annual responses per year. Therefore, whereas we previously estimated that each respondent would respond an average of 90 times a year, we now estimate that the number of responses per respondent will average only 34 per year. This change has also resulted in an estimated reduction of 14,184 annual burden hours.

Adjustments: The changes in burden hours and cost burden are also a result of an improved methodology of calculating costs. Whereas we had previously estimated an average response time of 12 minutes per response, our analysis leads us to estimate that the actual time burden is closer to 1 hour per response. In addition we have identified cost burdens for responding to these information collections that were not previously accounted for that average \$14 per response. Further, historical submissions for this collection inaccurately included burden hour costs which have been previously removed. The new requests should be seen as a more accurate representation of the true costs of this regulation going forward.

16. Plans for Tabulation, Statistical Analysis, and Publication

There are no plans to provide any publications based on the information collection of this regulation.

17. Display of Expiration Date

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government’s electronic PRA docket at www.reginfo.gov, as well as in the Federal Register Notice of the submission.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.