

CHAPTER 4:01:07

COMMERCIAL LEASES

Section

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4:01:07:01. Terms. Terms used in this chapter mean:

(1) "Commissioner," the commissioner of school and public lands;

(2) "Department," the Department of School and Public Lands;

(3) "Commercial lease," a lease characteristic of commerce or pertaining to business or doing business for a profit as opposed to a lease for grazing, forestry, agriculture, or minerals;

(4) "Lessee," the original lessee or the assignee of the lease;

(5) "Assignee," the person to whom the lease is being transferred.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2](#).

Law Implemented: SDCL [5-1-7.2](#).

4:01:07:02. Lands subject to commercial leasing. All common school, indemnity, and endowment lands and any other land placed under the jurisdiction of the department may be leased for commercial purposes, but nothing in this chapter requires the commissioner to offer any tract of land for lease.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:03. Designating land to be leased. The commissioner may solicit or accept proposals from any person for commercial leasing of land that belongs to, or is placed under, the jurisdiction of the department.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:04. Minimum rental rate. The commissioner shall establish the minimum annual rental rate for a tract of land to be commercially leased. In fixing the minimum annual rental rate the commissioner shall consider location, accessibility, utility of the land, and current rental rates. The commissioner shall publish the minimum rental rate in the notice of public auction. The commissioner may only accept bids for commercial leases that are at or above the minimum annual rental rate.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:05. Publication of notice of leasing auction. The commissioner shall publish a notice stating the time and place of the public auction at which bids for commercial leases will be accepted. Before the auction, the notice shall be published once each week for at least four consecutive weeks in the official newspapers of the county in which the land is located.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:06. Term of leases. The term of commercial leases may not exceed 99 years.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:07. Development plan and selection. Bidders must provide the commissioner with a development plan and financial statement at the time of the bid opening. The commissioner shall select the most qualified lessee based on development and managerial experience, financial capabilities, proposed capital investments, leasing fees and benefits offered to the state, and any other criteria considered by the commissioner to be pertinent.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:08. Assignment of lease -- Filing fee. The lessee may assign a lease to a third person after receiving the written approval of the commissioner. The commissioner shall provide the form used for requesting such an assignment. The commissioner shall approve or disapprove the assignment within 60 days after receipt of the completed form. The commissioner's approval or disapproval shall be based on the assignee's financial capabilities and development and managerial experience and any other criteria considered by the commissioner to be pertinent. The filing fee for the assignment of a lease is \$250.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:09. Grounds for cancellation of lease. The commissioner may cancel a lease for nonpayment of rentals, nonperformance by the lessee of any requirement of the lease, or a breach of any term of the lease.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)

4:01:07:10. Notice of intent to cancel lease -- Remedy of default. The commissioner shall mail to the lessee or assignee, by registered or certified letter, a notice of intention to cancel the lease, specifying the reason for which the lease is subject to cancellation. A notice of intent to cancel is not required for nonpayment of rentals by the date they are due. If the lessee or assignee remedies the default specified in the cancellation notice within 30 days after the mailing of the notice to the lessee or assignee, the commissioner may not order the cancellation of the lease. If the specified default is not remedied, the commissioner may cancel the lease and all the rights of the lessee or assignee under the lease shall terminate.

Source: 22 SDR 79, effective December 7, 1995.

General Authority: SDCL [5-1-7.2.](#)

Law Implemented: SDCL [5-1-7.2.](#)