

SENATE BILL NO. 116—COMMITTEE ON JUDICIARY

(ON BEHALF OF REAL ESTATE DIVISION)

FEBRUARY 4, 1999

Referred to Committee on Judiciary

SUMMARY—Revises authority of real estate administrator related to regulation of certain property transactions. (BDR 10-739)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to property transactions; authorizing the real estate administrator to obtain information that is necessary to carry out the provisions governing the sale, transfer or other disposition of subdivided land, time shares and memberships in campgrounds; authorizing the real estate administrator to grant exemptions from those provisions under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 119.122 is hereby amended to read as follows:
2 119.122 1. The provisions of this chapter do not apply, unless the
3 method of disposition is adopted to evade those provisions or the
4 provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§
5 1701 to 1720, inclusive, upon notification to the division by the person
6 electing to be exempt under this subsection, to:
7 (a) Any offer or disposition of any evidence of indebtedness secured by
8 way of any mortgage or deed of trust of real estate.
9 (b) Securities or units of interest issued by an investment trust regulated
10 under the laws of this state, except where the division finds that the
11 enforcement of this chapter with respect to such securities or units of
12 interest is necessary in the public interest and for the protection of
13 purchasers.
14 (c) Cemetery lots.

1 2. Unless the method of disposition is adopted to evade the provisions
2 of this chapter or the provisions of the Interstate Land Sales Full Disclosure
3 Act, 15 U.S.C. §§ 1701 to 1720, inclusive, this chapter does not apply to
4 the sale or lease of real estate located in this state which is free and clear of
5 all liens, encumbrances and adverse claims if each purchaser or his agent
6 has personally inspected the lot before purchase and if the developer
7 executes a written affirmation to that effect to be made a matter of record in
8 accordance with regulations of the division. As used in this subsection, the
9 terms "liens," "encumbrances" and "adverse claims" are not intended to
10 refer to purchase money encumbrances ~~nor~~ **or** property reservations
11 which land developers commonly convey or dedicate to local bodies or
12 public utilities ~~for the purpose of bringing~~ **to bring** public services to the
13 land being developed ~~nor~~ **or** to taxes and assessments which, under
14 applicable state **law** or local ~~law,~~ **ordinances**, constitute liens on the
15 property before they are due.

16 3. ~~The division may, pursuant to regulations adopted by it,~~
17 **administrator may** exempt from any of the provisions of this chapter any
18 subdivision, if ~~it~~ **he** finds that the enforcement of this chapter with respect
19 to subdivisions or lots, parcels, units or interests in subdivisions is not
20 necessary in the public interest and for the protection of purchasers. An
21 exemption granted pursuant to this subsection is effective for a period not
22 to exceed 1 year as determined by the ~~division. The division~~
23 **administrator. The administrator** may revoke such an exemption at any
24 time upon finding that the revocation is necessary for the protection of
25 purchasers. Upon application for **the** renewal of an exemption, the
26 ~~division~~ **administrator** may renew an exemption for a period not to
27 exceed 1 year as determined by the ~~division.~~ **administrator.** An
28 application for an exemption pursuant to this subsection, or for the renewal
29 of such an exemption, must be accompanied by the applicable fee specified
30 in NRS 119.320.

31 **Sec. 2.** NRS 119.140 is hereby amended to read as follows:

32 119.140 Any person or broker proposing to offer or sell any
33 subdivision or lot, parcel, unit or interest therein in this state ~~shall~~ **must**
34 first submit to the division:

35 1. The name and address of each person owning or controlling an
36 interest of 10 percent or more.

37 2. The name, principal occupation and address of every officer,
38 director, partner, owner, associate or trustee of the subdivider.

39 3. The legal description and area of lands.

40 4. A true statement of the condition of the title to the land, including all
41 encumbrances thereon.

1 5. A true statement of the terms and conditions on which it is intended
2 to dispose of the land and copies of the instruments which will be delivered
3 to a purchaser to evidence his interest in the subdivision and of the
4 contracts and other agreements which a purchaser will be required to agree
5 to or sign.

6 6. A true statement of the provisions, if any, that have been made for
7 public utilities in the proposed subdivision, including water, electricity, gas,
8 telephone and sewerage facilities.

9 7. A true statement of the use for which the proposed subdivision will
10 be offered.

11 8. A true statement of the provisions, if any, limiting the use or
12 occupancy of the parcels in the subdivision.

13 9. A true statement of the maximum depth of fill used, or proposed to
14 be used on each lot, and a true statement on the soil conditions in the
15 subdivision supported by engineering reports showing the soil has been, or
16 will be, prepared in accordance with the recommendations of a licensed
17 civil engineer.

18 10. A true statement of the amount of indebtedness which is a lien
19 upon the subdivision or any part thereof, and which was incurred to pay for
20 the construction of any on-site or off-site improvement, or any community
21 or recreational facility, and the names and addresses of the holders of the
22 indebtedness together with an indication of their relationship, if any, to the
23 owner and subdivider.

24 11. A true statement or reasonable estimate, if applicable, of the
25 amount of any indebtedness which has been or is proposed to be incurred
26 by an existing or proposed special district, entity, taxing area or assessment
27 district, within the boundaries of which the subdivision, or any part thereof,
28 is located, and which is to pay for the construction or installation of any
29 improvement or to furnish community or recreational facilities to the
30 subdivision, and which amounts are to be obtained by ad valorem tax or
31 assessment, or by a special assessment or tax upon the subdivision, or any
32 part thereof.

33 12. A true statement describing any agricultural activities or conditions
34 in the area which may adversely affect residents of the subdivision,
35 including any odors, cultivation and related dust, agricultural burning,
36 application of pesticides, or irrigation and drainage.

37 13. Such other information as the owner, his agent or subdivider may
38 wish to present.

39 14. A completed application for a license in such form and containing
40 such additional information as the division may require on its filing forms.

41 15. The fees prescribed by this chapter.

42 **16. Such other information or documentation as the administrator**
43 **deems necessary to carry out the purposes of this chapter.**

1 **Sec. 3.** NRS 119A.170 is hereby amended to read as follows:

2 119A.170 1. The provisions of this chapter, except ***as otherwise***
3 ***provided in*** subsection 4, do not apply to:

4 (a) The sale of 12 or fewer time shares in a time-share project or the sale
5 of 12 or fewer time shares in the same subdivision;

6 (b) The sale or transfer of a time share by an owner who is not the
7 developer, unless the time share is sold in the ordinary course of business
8 of that owner;

9 (c) Any transfer of a time share by deed in lieu of foreclosure or as a
10 result of foreclosure of the time share;

11 (d) A gratuitous transfer of a time share;

12 (e) A transfer by devise or descent or a transfer to an inter vivos trust; or

13 (f) The sale or transfer of the right to use and occupy a unit on a
14 periodic basis which recurs over a period of less than 5 years,
15 unless the method of disposition is adopted ~~{for the purpose of evading}~~ to
16 ***evade*** the provisions of this chapter.

17 2. Any campground or developer which is subject to the requirements
18 of chapter 119B of NRS and complies with those provisions is not required
19 to comply with the provisions of this chapter.

20 3. The ~~{division may from time to time, pursuant to regulations~~
21 ~~adopted by it,}~~ ***administrator may*** exempt from any of the provisions of
22 this chapter any other sale, transfer or disposition of a time share if ~~{it}~~ ***he***
23 finds that the enforcement of this chapter with respect to such a transaction
24 is not necessary in the public interest and for the protection of purchasers.

25 4. The provisions of chapter 645 of NRS apply to the sale of time
26 shares, except any sale of a time share to which this chapter applies, and for
27 that purpose the terms “real property” and “real estate” as used in chapter
28 645 of NRS shall be deemed to include a time share, whether it is an
29 interest in real property or merely a contractual right to occupancy.

30 **Sec. 4.** NRS 119A.300 is hereby amended to read as follows:

31 119A.300 Except as ***otherwise*** provided in NRS 119A.310, the
32 administrator shall issue a public offering statement and a permit to sell
33 time shares to each applicant who:

34 1. Submits an application, in the manner provided by the division,
35 which includes:

36 (a) The name and address of the project broker;

37 (b) A copy of the document in which the time-share project is created;

38 (c) A preliminary title report for the time-share project and copies of the
39 documents listed as exceptions in the report;

40 (d) Copies of any other documents which relate to the project, including
41 any contract, agreement or other document to be used to establish and
42 maintain an association of time-share owners and to provide for the
43 management of the project;

- 1 (e) Copies of instructions for escrow, deeds, sales contracts and any
- 2 other documents that will be used in the sale of the time shares;
- 3 (f) A copy of any proposed trust agreement which establishes a trust for
- 4 the time-share project;
- 5 (g) Documents which show the current assessments for property taxes
- 6 on the time-share project;
- 7 (h) Documents which show compliance with local zoning laws;
- 8 (i) If the units in the time-share project are in a condominium project, or
- 9 other form of community ownership of property, documents which show
- 10 that use of the units in a time-share project is in compliance with the
- 11 documents which created the community ownership;
- 12 (j) Copies of all documents which will be given to a purchaser who is
- 13 interested in participating in a program for the exchange of occupancy
- 14 rights among time-share owners and copies of the documents which show
- 15 acceptance of the time-share project in such a program;
- 16 (k) A copy of the budget or a projection of the operating expenses of the
- 17 association, if applicable;
- 18 (l) A financial statement of the developer; and
- 19 (m) Such other information ~~as the division, by regulation, requires;~~ **or**
- 20 ***documentation as the administrator deems necessary to carry out the***
- 21 ***provisions of this chapter;*** and

22 2. Pays the fee provided for in this chapter.

23 **Sec. 5.** NRS 119B.120 is hereby amended to read as follows:

24 119B.120 1. The provisions of this chapter do not apply to:

- 25 (a) An offering subject and registered pursuant to the provisions of
- 26 chapter 119 of NRS;
- 27 (b) An offering subject and registered pursuant to the provisions of
- 28 chapter 119A of NRS;
- 29 (c) An offer, sale or transfer by any one person of no more than one
- 30 membership in a campground in any 12 months;
- 31 (d) An offer or sale by a government or governmental agency; or
- 32 (e) A bona fide pledge of a membership in a campground.

33 2. The administrator may ~~[- pursuant to the regulations adopted by~~
34 ~~him,]~~ exempt from a provision of this chapter any other sale, transfer or
35 disposition of a membership if he finds that the enforcement of that
36 provision with respect to that transaction is not necessary to protect the
37 public interest or that of the purchasers thereof.

38 **Sec. 6.** NRS 119B.130 is hereby amended to read as follows:

39 119B.130 A person wishing to offer memberships in a campground
40 must apply to the administrator for a permit to do so. The applicant must
41 use the forms prescribed by the administrator and must provide all of the
42 following information:

- 1 1. His name and address.
- 2 2. If the applicant is not a natural person:
- 3 (a) A copy of the articles of incorporation or the agreement for a
- 4 partnership or joint venture;
- 5 (b) The name and address of each director, officer, partner or affiliate ~~to~~
- 6 ~~if~~ **and, if** any person named is a natural person, his occupation for the 5
- 7 years immediately before the date of the application must also be stated;
- 8 and
- 9 (c) The name and address of each person owning more than 10 percent
- 10 of the stock or other equity of the developer.
- 11 3. Whether any person identified has, within the 10 years immediately
- 12 before the date of the application, been convicted by a court of any felony
- 13 involving theft, fraud or dishonesty and, if so, the style and number of the
- 14 case, the court, the date of the judgment and the penalty imposed.
- 15 4. A copy of each contract or related form proposed to be used in the
- 16 sale of memberships in the campground, the prices to be charged for each
- 17 type of membership and the amount and purpose of any other fee or charge
- 18 to be paid by a member.
- 19 5. A copy of each document relating to the formation, incorporation
- 20 and operation of the members' association responsible for the operation
- 21 and maintenance of the amenities and common area of the campground.
- 22 6. A brief description of the developer's ownership of or other right to
- 23 use the properties or facilities represented to be available for use by
- 24 purchasers, together with a brief description of the duration of any lease,
- 25 license, franchise, reciprocal agreement or other agreement entitling the
- 26 developer to use the properties and facilities, and any material provisions of
- 27 those agreements which restrict a purchaser's use of the property or which
- 28 may result in the impairment of the purchaser's exercise of his rights
- 29 derived from membership.
- 30 7. A statement of the permits or other authorizations that are necessary
- 31 for the operation of each facility that is represented by the developer as
- 32 available for the use of a member that have not yet been obtained.
- 33 8. A statement of the financial condition of the developer prepared in
- 34 accordance with generally accepted accounting principles and consisting of
- 35 the financial statements for the most recent fiscal year of the developer that
- 36 have been audited by an independent certified public accountant and the
- 37 unaudited financial statements of the most recently completed fiscal
- 38 quarter. The administrator may waive the requirement for audited
- 39 statements if they have been prepared by an independent certified public
- 40 accountant or an independent public accountant and the administrator is
- 41 satisfied with the reliability of those statements and with the ability of the
- 42 developer to meet his future commitments.

- 1 9. A description of the method used to determine the number of
- 2 memberships to be sold for each campground owned by the developer and
- 3 made available to members.
- 4 10. A copy of the disclosure required by NRS 119B.270.
- 5 11. The name and business address and a copy of the license of the
- 6 broker of record who will supervise the sale of the memberships.
- 7 12. Such ~~additional information as deemed necessary by the~~
- 8 ~~administrator.~~ ***other information or documentation as the administrator***
- 9 ***deems necessary to carry out the provisions of this chapter.***
- 10 **Sec. 7.** This act becomes effective upon passage and approval.

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