REQUIRES TWO-THIRDS MAJORITY VOTE (§§ 4, 9, 10)

S.B. 322

SENATE BILL NO. 322–SENATOR SCHNEIDER

MARCH 5, 1999

Referred to Committee on Judiciary

SUMMARY—Revises various provisions governing resale of time shares. (BDR 10-1234)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to time shares; providing for the registration of a time share resale broker; requiring a time share resale broker to pay a fee for registration; requiring a time share resale broker to disclose certain facts to an owner; requiring a time share resale broker to disclose certain facts to a purchaser; requiring a time share resale broker to place certain advance fees in a trust account until the sale of the time share or the expiration of the listing; requiring the real estate division of the department of business and industry to review the advertising of a time share being offered for resale; requiring a filing fee; providing a penalty; and providing other matters properly relating thereto.

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

Section 1. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***"Time share resale" means the sale or transfer of a time share that was previously sold to a purchaser.***

Sec. 3. ***"Time share resale broker" means a person who:***

1. Is registered as a time share resale broker pursuant to the provisions of this chapter; and

2. Lists, advertises for sale, solicits prospective purchasers of, promotes or sells 12 or more time shares that were previously sold.

3. The term does not include:

(a) A person who has purchased fewer than 12 time shares and who later sells or offers to sell one or more of those time shares; or

(b) A project broker who resells or offers to resell a time share in a project as an agent for a developer who holds a permit for the project.

Sec. 4. ***1. A person who wishes to resell time shares:***

(a) Must be licensed as a real estate broker pursuant to the provisions of chapter 645 of NRS; and

(b) Shall register as a time share resale broker with the division by completing a form for registration provided by the division and paying the fee for registration to the administrator.

2. A time share resale broker shall renew his registration with the division annually on a form provided by the division and pay the fee for renewal of the registration to the administrator.

Sec. 5. ***1. An agreement for a time share resale between a time share resale broker and an owner must:***

(a) Be in writing; and

(b) Contain a disclosure that sets forth:

(1) Whether the time share resale broker or any other person may use the time share during the period before the time share is resold;

(2) Whether the time share resale broker or any other person may rent the use of the time share during the period before the time share is resold;

(3) The name of any person who will receive any rents or profits generated from the use of the time share during the period before the time share is resold; and

(4) A detailed description of any relationship between the time share resale broker and any other person who receives any benefit from the use of the time share.

2. Except as otherwise provided in subsection 3, a time share resale broker shall provide a fully executed copy of the written agreement described in subsection 1 to the owner on the date that the owner signs the agreement.

3. If an agreement described in subsection 1 is entered into by means of a telephone or other oral communication, the time share resale broker shall make the disclosures required pursuant to paragraph (b) of subsection 1 by telephone or other oral communication before accepting anything of value from the owner. A time share resale broker shall provide a copy of the written agreement to the owner for his signature within 10 days after the date that the oral agreement was made.

Sec. 6. ***In addition to the provisions of NRS 645.322 to 645.324, inclusive, a time share resale broker who charges or collects an advance fee shall place 80 percent of that fee into his trust account. If the time share resale broker closes escrow on the time share resale, he shall be deemed to have earned the advance fee. If the listing of the time share expires before the time share resale broker closes escrow on the time share resale, he must return the money held in the trust account to the owner of the time share within 10 days after the date of the expiration of the listing.***

Sec. 7. ***1. Before a purchaser signs any contract to purchase a time share that is offered for resale, a time share resale broker shall disclose by a written document separate from the contract to purchase a time share:***

(a) The period during which the purchaser may use the time share;

(b) A legal description of the interest in the time share;

(c) The earliest date that the prospective purchaser may use the time share;

(d) The name, address and telephone number of the agent managing the time-share project;

(e) The place where the documents of formation of the association and documents governing the time-share project may be obtained;

(f) The amount of the annual assessment of the association of the time share for the current fiscal year, if any;

(g) Whether all assessments against the time share are paid in full, and the consequences of failure to pay any assessment; and

(h) Whether participation in any program for the exchange of occupancy rights among time-share owners or with the owners of time shares in other time-share properties is mandatory.

2. The administrator shall adopt regulations prescribing the form and contents of the disclosure statement described in this section.

Sec. 8. NRS 119A.010 is hereby amended to read as follows:

119A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 119A.020 to 119A.160, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 119A.360 is hereby amended to read as follows:

119A.360 1. The division shall collect the following fees at such times and upon such conditions as it may provide by regulation:

Application fee for preliminary permit to sell time shares	$250
Application fee for registration of representative	65
For renewal of registration of representative	65
Application fee for transfer of registration of representative to different developer or location	20
For reinstatement of registration of representative	25
For each permit to sell time shares, per subdivision	500
For each amendment to a public offering statement after the issuance of the report	100
For renewal of a permit ***to sell time shares, per subdivision***	500
Application fee for registration of time share resale broker	***500***
For renewal of registration of time share resale broker	***500***

2. Each developer shall pay an additional fee for each time share he sells in a time-share project over 50 pursuant to the following schedule:

Number of time shares	Amount to be paid per time share
51—250	$5.00
251—500	4.00
501—750	3.00
751—1500	2.50
over 1500	1.00

3. Except for the fees relating to the registration of a representative, the administrator may reduce the fees established by this section if the reduction is equitable in relation to the costs of carrying out the provisions of this chapter.

Sec. 10. NRS 119A.370 is hereby amended to read as follows:

119A.370 1. A time share must not be advertised or offered for sale ***or resale*** within this state until the advertisement or offering is approved by the division.

2. Each advertisement must contain the processing number assigned to it by the division.

3. Each application for the approval of advertising must:

(a) Include the form and content of advertising to be used;

(b) Include the nature of the offer of gifts or other free benefits to be extended;

(c) Include the nature of promotional meetings involving any person or act described in NRS 119A.300; and

(d) Be accompanied by a filing fee of not more than $200, to be established by the division.

4. The division shall render a decision upon an application for the approval of advertising or an offer for sale within 30 days after the date the application is filed.

Sec. 11. NRS 119A.680 is hereby amended to read as follows:

119A.680 1. It is unlawful for any person to engage in the business of, act in the capacity of, advertise or assume to act as a:

(a) Project broker or sales agent within the State of Nevada without first obtaining a license from the division pursuant to chapter 645 of NRS or NRS 119A.210.

(b) Representative ***or time share resale broker*** within the State of Nevada without first registering with the division.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

Sec. 12. The amendatory provisions of this act do not apply to offenses that were committed before July 1, 1999.

Sec. 13. This act becomes effective on July 1, 1999.

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