

ASSEMBLY BILL NO. 621—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF DEPARTMENT OF BUSINESS AND
INDUSTRY—REAL ESTATE DIVISION)

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to real estate. (BDR 54-552)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 real estate; clarifying the authority of the real estate commission, real estate administrator and real estate division of the department of business and industry to impose a fine or penalty or to initiate or continue an investigation, action or disciplinary proceeding against a person whose license or permit is surrendered, suspended or expired and against certain other persons; 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.** Chapter 645 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 *The expiration or revocation of a license, permit or registration by*
4 *operation of law or by order or decision of the commission or a court of*
5 *competent jurisdiction, or the voluntary surrender of a license, permit or*
6 *registration by a real estate broker, real estate broker-salesman, real*
7 *estate salesman, property manager or owner-developer does not:*
8 1. *Prohibit the administrator, commission or division from initiating*
9 *or continuing an investigation of, or action or disciplinary proceeding*
10 *against, the real estate broker, real estate broker-salesman, real estate*
11 *salesman, property manager or owner-developer as authorized pursuant*
12 *to the provisions of this chapter or the regulations adopted pursuant*
13 *thereto; or*
14 2. *Prevent the imposition or collection of any fine or penalty*
15 *authorized pursuant to the provisions of this chapter or the regulations*
16 *adopted pursuant thereto against the real estate broker, real estate*



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1 *broker-salesman, real estate salesman, property manager or owner-*
2 *developer.*

3 **Sec. 2.** NRS 645.630 is hereby amended to read as follows:

4 645.630 The commission may require a licensee, *property manager*
5 or owner-developer to pay an administrative fine of not more than \$5,000
6 for each violation he commits or suspend, revoke, *deny the renewal of* or
7 place conditions upon his license, *permit* or registration, or ~~do both,~~
8 *impose any combination of those actions*, at any time if the licensee,
9 *property-manager* or owner-developer has, by false or fraudulent
10 representation, obtained a license, *permit* or registration, or the licensee,
11 *property manager* or owner-developer, whether or not acting as such, is
12 found guilty of:

- 13 1. Making any material misrepresentation.
- 14 2. Making any false promises of a character likely to influence,
15 persuade or induce.
- 16 3. Accepting a commission or valuable consideration as a real estate
17 broker-salesman or salesman for the performance of any of the acts
18 specified in this chapter or chapter 119 or 119A of NRS from any person
19 except the licensed real estate broker with whom he is associated or the
20 owner-developer by whom he is employed.
- 21 4. Representing or attempting to represent a real estate broker other
22 than the broker with whom he is associated, without the express knowledge
23 and consent of the broker with whom he is associated.
- 24 5. Failing to maintain, for review and audit by the division, each
25 brokerage agreement governed by the provisions of this chapter and
26 entered into by the licensee.
- 27 6. Failing, within a reasonable time, to account for or to remit any
28 money which comes into his possession and which belongs to others.
- 29 7. If he is required to maintain a trust account:
 - 30 (a) Failing to balance the trust account at least monthly; and
 - 31 (b) Failing to submit to the division an annual accounting of the trust
32 account as required in NRS 645.310.
- 33 8. Commingling the money or other property of his clients with his
34 own or converting the money of others to his own use.
- 35 9. In the case of a broker-salesman or salesman, failing to place in the
36 custody of his licensed broker or owner-developer, as soon as possible, any
37 deposit or other money or consideration entrusted to him by any person
38 dealing with him as the representative of his licensed broker.
- 39 10. Accepting other than cash as earnest money unless that fact is
40 communicated to the owner before his acceptance of the offer to purchase
41 and that fact is shown in the receipt for the earnest money.
- 42 11. Upon acceptance of an agreement, in the case of a broker, failing
43 to deposit any check or cash received as earnest money before the end of
44 the next banking day unless otherwise provided in the purchase agreement.
- 45 12. Inducing any party to a brokerage agreement, sale or lease to break
46 it in order to substitute a new brokerage agreement, agreement of sale or
47 lease with the same or another party if the inducement to make the
48 substitution is offered to secure personal gain to the licensee or owner-
49 developer.



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1 If discipline is imposed pursuant to this section, the costs of the
2 proceeding, including investigative costs and attorney's fees, may be
3 recovered by the board.

4 **Sec. 3.** NRS 645.660 is hereby amended to read as follows:

5 645.660 1. Any unlawful act or violation of any of the provisions of
6 this chapter by any licensee is not cause ~~for the suspension or revocation~~
7 ~~of a~~ *to suspend, revoke or deny the renewal of the* license of any person
8 associated with the licensee, unless it appears to the satisfaction of the
9 commission that the associate knew or should have known thereof. A
10 course of dealing shown to have been persistently and consistently
11 followed by any licensee constitutes prima facie evidence of such
12 knowledge upon the part of the associate.

13 2. If it appears that a registered owner-developer knew or should have
14 known of any unlawful act or violation on the part of a real estate broker,
15 broker-salesman or salesman employed by him, in the course of his
16 employment, the commission may suspend, ~~for~~ revoke *or deny the*
17 *renewal of* his registration and may assess a civil penalty of not more than
18 \$5,000.

19 3. The commission may suspend, ~~for~~ revoke *or deny the renewal of*
20 the license of a real estate broker and may assess a civil penalty of not
21 more than \$5,000 against him if it appears he has failed to maintain
22 adequate supervision of a salesman or broker-salesman associated with him
23 and that person commits any unlawful act or violates any of the provisions
24 of this chapter.

25 **Sec. 4.** NRS 645.680 is hereby amended to read as follows:

26 645.680 1. The procedure set forth in this section and NRS 645.690
27 must be followed before the ~~revocation or suspension~~ *commission*
28 *revokes, suspends or denies the renewal of* any license ~~it~~ *, permit or*
29 *registration of an owner-developer issued pursuant to this chapter.*

30 2. Upon the initiation of a complaint by the administrator, the matter
31 must be set for a hearing by the administrator, who shall schedule a hearing
32 before the commission, and the licensee, *, permit or owner-developer*
33 is entitled to be heard thereon in person or by counsel.

34 3. The commission shall hold the hearing within 90 days after the
35 filing of a complaint by the administrator. The time of the hearing may be
36 continued upon the motion of the commission or at the discretion of the
37 commission, upon the written request of the licensee, *, permittee or owner-*
38 *developer* or of the division for good cause shown.

39 4. The licensee, *, permittee or owner-developer* must be given at least
40 30 days' notice in writing by the division of the date, time and place of the
41 hearing together with a copy of the complaint and copies of all
42 communications, reports, affidavits or depositions in possession of the
43 division relevant to the complaint. The division may present evidence
44 obtained after the notice only if the division shows that the evidence was
45 not available after diligent investigation before the time notice was given to
46 the licensee, *, permittee or owner-developer* and that the evidence was
47 given or communicated to the licensee, *, permittee or owner-developer*
48 immediately after it was obtained.



5. Notice is complete upon delivery personally to the licensee, *permittee or owner-developer* or by mailing by certified mail to the last known address of the licensee ~~H~~, *permittee or owner-developer*. If the licensee is a broker-salesman or salesman, the division shall also notify the broker with whom he is associated, or the owner-developer by whom he is employed, by mailing an exact statement of the charges and the date, time and place of the hearing by certified mail to the owner-developer or broker's last known address.

Sec. 5. NRS 645.685 is hereby amended to read as follows:

645.685 1. The licensee, *permittee or owner-developer* shall file an answer to the charges with the commission no later than 30 days after service of the notice and other documents described in subsection 4 of NRS 645.680. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee, *permittee or owner-developer* will rely. If no answer is filed within the time limit described in this subsection, the division may, after notice to the licensee, *permittee or owner-developer* served in the manner authorized in subsection 5 of NRS 645.680, move the commission for the entry of a default against the licensee ~~H~~, *permittee or owner-developer*.

2. The answer may be served by delivery to the commission, or by mailing the answer by certified mail to the principal office of the division.

3. No proceeding ~~for the suspension or revocation~~ *to suspend, revoke or deny the renewal* of any license *or registration of an owner-developer* may be maintained unless it is commenced by the giving of notice to the licensee, *permittee or owner-developer* within 3 years of the time of the act charged, whether of commission or omission, except:

(a) If the charges are based upon a misrepresentation, or failure to disclose, the period does not commence until the discovery of facts which do or should lead to the discovery of the misrepresentation or failure to disclose; and

(b) Whenever any action or proceeding is instituted to which the division, ~~for the~~ licensee, *permittee or owner-developer* is a party and which involves the conduct of the licensee, *permittee or owner-developer* in the transaction with which the charges are related, the running of the 3-year period with respect to the institution of a proceeding pursuant to this chapter to suspend, ~~for~~ revoke *or deny the renewal of* the license, *permit or registration* is suspended during the pendency of the action or proceeding.

Sec. 6. NRS 645.690 is hereby amended to read as follows:

645.690 1. The hearing on the charges must be held at such time and place as the commission prescribes. The hearing may be held by the commission or a majority thereof, and the hearing must be held, if the licensee, *permittee or owner-developer* so requests in writing, within the northern or southern district, as set forth in NRS 645.100, within which the ~~licensee's~~ principal place of business *of the licensee, permittee or owner-developer* is situated.

2. At the hearing, a stenographic transcript of the proceedings must be made if requested or required for judicial review. Any party to the



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1 proceedings desiring a transcript must be furnished with a copy upon
2 payment to the division of the reasonable cost of transcription.

3 **Sec. 7.** NRS 645.990 is hereby amended to read as follows:

4 645.990 1. A person who:

5 (a) Obtains or attempts to obtain a license pursuant to this chapter by
6 means of intentional misrepresentation, deceit or fraud; or

7 (b) Sells or attempts to sell in this state any interest in real property by
8 means of intentional misrepresentation, deceit or fraud,
9 is guilty of a category D felony and shall be punished as provided in NRS
10 193.130. In addition to any other penalty, the court shall order the person to
11 pay restitution.

12 2. Any licensee, *permittee* or owner-developer who commits an act
13 described in NRS 645.630, 645.633 or 645.635 shall be punished by a fine
14 of not more than \$5,000 for each offense.

15 3. A person who violates any other provision of this chapter, if a
16 natural person, is guilty of a gross misdemeanor, and if a limited-liability
17 company, partnership, association or corporation, shall be punished by a
18 fine of not more than \$2,500.

19 4. Any officer or agent of a corporation, or member or agent of a
20 limited-liability company, partnership or association, who personally
21 participates in or is an accessory to any violation of this chapter by the
22 limited-liability company, partnership, association or corporation, is
23 subject to the penalties prescribed in this section for natural persons.

24 5. ~~Nothing in this section releases~~ *The provisions of this section do*
25 *not release* a person from civil liability or criminal prosecution pursuant to
26 the general laws of this state.

27 6. The administrator may prefer a complaint for violation of NRS
28 645.230 before any court of competent jurisdiction and may take the
29 necessary legal steps through the proper legal officers of this state to
30 enforce the provisions thereof.

31 7. Any court of competent jurisdiction may try any violation of this
32 chapter, and upon conviction the court may revoke or suspend the license
33 of the person so convicted, in addition to imposing the other penalties
34 provided in this section.

35 8. If discipline is imposed pursuant to this section, the costs of the
36 proceeding, including investigative costs and attorney's fees, may be
37 recovered by the administrator.

38 **Sec. 8.** Chapter 645C of NRS is hereby amended by adding thereto a
39 new section to read as follows:

40 *The expiration or revocation of a certificate, license or registration*
41 *card by operation of law or by order or decision of the commission or a*
42 *court of competent jurisdiction, or the voluntary surrender of a*
43 *certificate, license or registration card by a certified or licensed appraiser*
44 *or registered intern does not:*

45 1. *Prohibit the commission or division from initiating or continuing*
46 *an investigation of, or action or disciplinary proceeding against, the*
47 *certified or licensed appraiser or registered intern as authorized pursuant*
48 *to the provisions of this chapter or the regulations adopted pursuant*
49 *thereto; or*



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1 *2. Prevent the imposition or collection of any fine or penalty*
2 *authorized pursuant to the provisions of this chapter or the regulations*
3 *adopted pursuant thereto against the certified or licensed appraiser or*
4 *registered intern.*

5 **Sec. 9.** NRS 645C.460 is hereby amended to read as follows:

6 645C.460 1. Grounds for disciplinary action against a certified or
7 licensed appraiser or registered intern include:

8 (a) Unprofessional conduct;

9 (b) Professional incompetence;

10 (c) A criminal conviction for a felony or any offense involving moral
11 turpitude; and

12 (d) The suspension or revocation of a registration card, certificate,
13 license or permit to act as an appraiser in any other jurisdiction.

14 2. If grounds for disciplinary action against an appraiser or intern exist,
15 the commission may do one or more of the following:

16 (a) Revoke or suspend his certificate, license or registration card.

17 (b) Place conditions upon his certificate, license or registration card, or
18 upon the reissuance of a certificate, license or registration card revoked
19 pursuant to this section.

20 (c) *Deny the renewal of his certificate, license or registration card.*

21 (d) Impose a fine of not more than \$1,000 for each violation.

22 3. If a certificate, license or registration card is revoked by the
23 commission, another certificate, license or registration card must not be
24 issued to the same appraiser or intern for at least ~~one~~ 1 year after the date
25 of the revocation, or at any time thereafter except in the sole discretion of
26 the administrator, and then only if the appraiser or intern satisfies all the
27 requirements for an original certificate, license or registration card.

28 4. If discipline is imposed pursuant to this section, the costs of the
29 proceeding, including investigative costs and attorney's fees, may be
30 recovered by the commission.

31 **Sec. 10.** NRS 645C.500 is hereby amended to read as follows:

32 645C.500 1. Except as otherwise provided in NRS 425.540, the
33 procedure set forth in this section and NRS 645C.510 and 645C.520 must
34 be followed before the ~~revocation or suspension~~ *commission revokes,*
35 *suspends or denies the renewal* of a certificate, license or registration card.

36 2. Upon the initiation of a complaint by the administrator, he shall set
37 the matter for a hearing and schedule a date for the hearing before the
38 commission. The appraiser or intern is entitled to appear at the hearing in
39 person and to be represented by counsel.

40 3. The commission shall hold the hearing within 90 days after the
41 filing of a complaint by the administrator. The hearing may be continued
42 by the commission upon its own motion, or at the discretion of the
43 commission upon the written request of the division, appraiser or intern,
44 for good cause shown.

45 4. The division shall give written notice of the date, time and place of
46 the hearing, together with a copy of the complaint and copies of all
47 communications, reports, affidavits or depositions in the possession of the
48 division relevant to the complaint, to the appraiser or intern not less than 30
49 days before the hearing. The division may present evidence it obtains after



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1 the notice was given only if it shows that the evidence was not available
2 upon diligent investigation before the notice was given and that the
3 evidence was given or communicated to the appraiser or intern
4 immediately after it was obtained.

5 5. Notice pursuant to this section is deemed to be given upon personal
6 delivery to the appraiser or intern, or upon mailing by certified mail to his
7 last known address. If the complaint is against an intern, the division shall
8 also notify the appraiser with whom he is associated by mailing an exact
9 statement of the charges, and the date, time and place of the hearing, by
10 certified mail to the last known address of the appraiser.

11 **Sec. 11.** NRS 645C.510 is hereby amended to read as follows:

12 645C.510 1. The appraiser or intern must file an answer to the
13 charges with the commission not later than 30 days after service of the
14 notice and other documents described in NRS 645C.500. The answer must
15 contain an admission or denial of the allegations contained in the complaint
16 and any defenses upon which the appraiser or intern will rely. If no answer
17 is filed within the period described in this subsection, the division may,
18 after notice to the appraiser or intern given in the manner provided in
19 subsection 5 of NRS 645C.500, move the commission for the entry of a
20 default against the appraiser or intern.

21 2. The answer may be served by delivery to the commission, or by
22 mailing the answer by certified mail to the principal office of the division.

23 3. No proceeding ~~{for the suspension or revocation}~~ *to suspend, revoke*
24 *or deny the renewal* of a certificate, license or registration card may be
25 maintained unless it is commenced by giving notice to the appraiser or
26 intern within 3 years after the commission or omission of the alleged
27 grounds ~~{for suspension or revocation}~~ *to suspend, revoke or deny the*
28 *renewal of the certificate, license or registration*, except that:

29 (a) If the charges are based upon a misrepresentation or failure to
30 disclose, the period does not commence until the discovery of facts which
31 do or should lead to the discovery of the misrepresentation or failure to
32 disclose; and

33 (b) The period is suspended during the pendency of any action or
34 proceeding, to which the division, appraiser or intern is a party, which
35 involves the conduct of the appraiser or intern in a transaction to which the
36 alleged grounds ~~{for suspension or revocation}~~ *to suspend, revoke or deny*
37 *the renewal of the certificate, license or registration* are related.

38 **Sec. 12.** Chapter 645D of NRS is hereby amended by adding thereto a
39 new section to read as follows:

40 *The expiration or revocation of a certificate by operation of law or by*
41 *order or decision of a hearing officer or court of competent jurisdiction,*
42 *or the voluntary surrender of a certificate by a certified inspector does*
43 *not:*

44 1. *Prohibit the division from initiating or continuing an investigation*
45 *of, or action or disciplinary proceeding against, the certified inspector as*
46 *authorized pursuant to the provisions of this chapter or the regulations*
47 *adopted pursuant thereto; or*



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1 ***2. Prevent the imposition or collection of any fine or penalty***
2 ***authorized pursuant to the provisions of this chapter or the regulations***
3 ***adopted pursuant thereto against the certified inspector.***

4 **Sec. 13.** NRS 645D.700 is hereby amended to read as follows:

5 645D.700 1. Grounds for disciplinary action against a certified
6 inspector are:

- 7 (a) Unprofessional conduct;
8 (b) Professional incompetence; and
9 (c) A criminal conviction for a felony or any offense involving moral
10 turpitude.

11 2. If grounds for disciplinary action against a certified inspector exist,
12 the division may, after providing the inspector with notice and an
13 opportunity for a hearing, do one or more of the following:

- 14 (a) Revoke or suspend his certificate.
15 (b) Place conditions upon his certificate or upon the reissuance of a
16 certificate revoked pursuant to this section.
17 (c) ***Deny the renewal of his certificate.***
18 (d) Impose a fine of not more than \$1,000 for each violation.

19 3. If a certificate is revoked by the division, another certificate must
20 not be issued to the same inspector for at least 1 year after the date of the
21 revocation, or at any time thereafter except in the sole discretion of the
22 administrator, and then only if the inspector satisfies the requirements for
23 an original certificate.

24 **Sec. 14.** Chapter 116 of NRS is hereby amended by adding thereto a
25 new section to read as follows:

26 ***The expiration or revocation of a certificate for the management of a***
27 ***common-interest community by operation of law or by order or decision***
28 ***of the real estate commission or a court of competent jurisdiction, or the***
29 ***voluntary surrender of such a certificate by the holder of the certificate***
30 ***does not:***

31 1. ***Prohibit the real estate division of the department of business and***
32 ***industry or real estate commission from initiating or continuing an***
33 ***investigation of, or action or disciplinary proceeding against, the holder***
34 ***of the certificate as authorized pursuant to the provisions of this chapter***
35 ***or the regulations adopted pursuant thereto; or***

36 2. ***Prevent the imposition or collection of any fine or penalty***
37 ***authorized pursuant to the provisions of this chapter or the regulations***
38 ***adopted pursuant thereto against the holder of the certificate.***

39 **Sec. 15.** NRS 116.1203 is hereby amended to read as follows:

40 116.1203 1. Except as otherwise provided in subsection 2, if a
41 planned community contains no more than 12 units and is not subject to
42 any developmental rights, it is subject only to NRS 116.1105, 116.1106
43 and 116.1107 unless the declaration provides that this entire chapter is
44 applicable.

45 2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138,
46 NRS 116.3101 to 116.3119, inclusive, ***and section 14 of this act,*** and
47 116.110305 to 116.110393, inclusive, to the extent necessary in construing
48 any of those sections, apply to a residential planned community containing
49 more than six units.



1 **Sec. 16.** Chapter 119 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 *The expiration or revocation of a property report, permit, partial*
4 *registration, exemption, license or registration by operation of law or by*
5 *order or decision of the administrator, a hearing officer or a court of*
6 *competent jurisdiction, or the voluntary surrender of a property report,*
7 *permit, partial registration, exemption, license or registration by a*
8 *developer, broker, real estate salesman or registered representative does*
9 *not:*

10 1. *Prohibit the administrator or division from initiating or*
11 *continuing an investigation of, or action or disciplinary proceeding*
12 *against, the developer, broker, real estate salesman or registered*
13 *representative as authorized pursuant to the provisions of this chapter or*
14 *the regulations adopted pursuant thereto; or*

15 2. *Prevent the imposition or collection of any fine or penalty*
16 *authorized pursuant to the provisions of this chapter or the regulations*
17 *adopted pursuant thereto against the developer, broker, real estate*
18 *salesman or registered representative.*

19 **Sec. 17.** NRS 119.165 is hereby amended to read as follows:

20 119.165 1. A developer's permit must be renewed annually by the
21 developer by filing an application with and paying the fee for renewal to
22 the administrator. The application must be filed and the fee paid not later
23 than 30 days before the date on which the permit expires. The application
24 must include any change that has occurred in the information previously
25 provided to the administrator or in a property report provided to a
26 prospective purchaser pursuant to the provisions of NRS 119.182.

27 2. The renewal is effective on the 30th day after the filing of the
28 application unless the administrator:

29 (a) Denies the renewal ~~if~~ *pursuant to NRS 119.325 or for any other*
30 *reason;* or

31 (b) Approves the renewal on an earlier date.

32 **Sec. 18.** NRS 119.190 is hereby amended to read as follows:

33 119.190 ~~Any~~ *In addition to any other penalty imposed by this*
34 *chapter, the division:*

35 1. *Shall suspend or revoke the license or registration of a* broker, real
36 *estate salesman or registered representative* ~~violating~~ *who violates* any
37 *provision of this chapter* ~~shall, in addition to any other penalty imposed by~~
38 ~~this chapter, have his license or registration suspended or revoked by the~~
39 ~~division~~ *for such time as in the circumstances it considers justified.*

40 2. *May deny the renewal of the license or registration of a broker,*
41 *real estate salesman or registered representative who violates any*
42 *provision of this chapter.*

43 **Sec. 19.** NRS 119.325 is hereby amended to read as follows:

44 119.325 The administrator may impose a fine or suspend, revoke ,
45 *deny the renewal of* or place conditions upon the property report, permit,
46 partial registration, exemption or license issued pursuant to this chapter of
47 a developer at any time if:

48 1. The developer obtained the property report, permit, partial
49 registration, exemption or license by false or fraudulent representation; or



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1 2. The developer violates any of the terms or conditions of the
2 property report, permit, partial registration, exemption or license, the
3 provisions of this chapter or the regulations adopted pursuant thereto.
4 The administrator shall not impose a fine of more than \$5,000 pursuant to
5 this section.

6 **Sec. 20.** Chapter 119A of NRS is hereby amended by adding thereto a
7 new section to read as follows:

8 *The expiration or revocation of a license or permit by operation of law*
9 *or by order or decision of a hearing officer or a court of competent*
10 *jurisdiction, or the voluntary surrender of a license or permit by a sales*
11 *agent, project broker or developer does not:*

12 1. *Prohibit the administrator, division or real estate commission from*
13 *initiating or continuing an investigation of, or action or disciplinary*
14 *proceeding against, the sales agent, project broker or developer; or*

15 2. *Prevent the imposition or collection of any fine or penalty*
16 *authorized pursuant to the provisions of this chapter against the sales*
17 *agent, project broker or developer.*

18 **Sec. 21.** NRS 119A.230 is hereby amended to read as follows:

19 119A.230 1. The administrator may impose a fine or suspend, revoke
20 , ~~for~~ reissue, subject to conditions, *or deny the renewal of* any sales
21 agent's license issued under the provisions of this chapter at any time if the
22 sales agent has, by false or fraudulent application or representation,
23 obtained a license or, whether or not acting as a sales agent, is found guilty
24 of:

25 (a) Making any material misrepresentation;

26 (b) Making any false promises of a character likely to influence,
27 persuade or induce;

28 (c) Engaging in any fraudulent, misleading or oppressive sales
29 techniques or tactics;

30 (d) Accepting a commission or valuable consideration as a sales agent
31 for the performance of any of the acts specified in this chapter from any
32 person except a licensed project broker with whom the sales agent is
33 associated or the developer by whom he is employed;

34 (e) Failing, within a reasonable time, to account for or remit or turn over
35 to the project broker any money which comes into his possession and
36 which belongs to others;

37 (f) Violating any of the provisions of this chapter or chapter 119B of
38 NRS or of any regulation adopted pursuant to either chapter, or willfully
39 aiding or abetting another to do so; or

40 (g) A felony or other crime of moral turpitude or has entered a plea of
41 nolo contendere to a felony or other crime of moral turpitude.

42 2. The administrator may investigate the actions of any sales agent or
43 any person who acts in such a capacity within the State of Nevada.

44 **Sec. 22.** NRS 119A.355 is hereby amended to read as follows:

45 119A.355 1. A permit must be renewed annually by the developer by
46 filing an application with and paying the fee for renewal to the
47 administrator. The application must be filed and the fee paid not later than
48 30 days before the date on which the permit expires. The application must
49 include the budget of the association of time-share owners or the budget of



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1 the developer, if there is no association, and any change that has occurred
2 in the information previously provided to the administrator or in a
3 statement of disclosure provided to a prospective purchaser pursuant to the
4 provisions of NRS 119A.400.

5 2. The renewal is effective on the 30th day after the filing of the
6 application unless the administrator:

7 (a) Denies the renewal ~~if~~ *pursuant to NRS 119A.654 or for any other*
8 *reason*; or

9 (b) Approves the renewal on an earlier date.

10 **Sec. 23.** NRS 119A.630 is hereby amended to read as follows:

11 119A.630 For any proceeding held pursuant to a provision of this
12 chapter, except a hearing to impose a fine or revoke, ~~to~~ suspend *or deny*
13 *the renewal of* a license ~~to~~ *or permit*, the administrator may appoint a
14 hearing officer from the staff of the department of business and industry
15 who shall act as his agent and conduct any hearing or investigation which
16 may be conducted by the administrator pursuant to this chapter. The
17 administrator shall appoint a hearing officer to conduct a hearing to impose
18 a fine or revoke, ~~to~~ suspend *or deny the renewal of* a license ~~to~~ *or*
19 *permit*.

20 **Sec. 24.** NRS 119A.652 is hereby amended to read as follows:

21 119A.652 1. The division shall regularly inspect the files of
22 transactions, records of trusts and relevant accounts of all project brokers
23 and developers.

24 2. ~~The~~ *If a project broker or developer fails to allow or cooperate*
25 *fully with such an inspection, the* division may ~~impose~~ :

26 (a) *Impose* a fine or suspend or revoke the license or permit of ~~any~~ *the*
27 project broker or developer ~~who fails to allow or cooperate fully with such~~
28 ~~an inspection~~ ; or

29 (b) *Deny the renewal of the license of the project broker.*

30 3. The division shall adopt regulations specifying the procedure for
31 such inspections.

32 **Sec. 25.** NRS 119A.654 is hereby amended to read as follows:

33 119A.654 The administrator may impose a fine or suspend, revoke ,
34 *deny the renewal of* or place conditions upon the permit of a developer at
35 any time if the developer:

36 1. Obtained the permit by false or fraudulent representation; or

37 2. Violates any of the terms or conditions of the permit, the provisions
38 of this chapter or the regulations adopted pursuant thereto.

39 **Sec. 26.** NRS 119A.655 is hereby amended to read as follows:

40 119A.655 1. The procedure set forth in this section must be followed
41 before the ~~imposition of a fine or revocation or suspension of~~
42 *administrator or division imposes a fine or revokes, suspends or denies*
43 *the renewal of* any license or permit ~~issued pursuant to this chapter~~.

44 2. Upon the initiation of a complaint by the administrator, the matter
45 must be set for a hearing by the administrator, who shall schedule a hearing
46 before the hearing officer, and the licensee *or permittee* is entitled to be
47 heard thereon in person or by counsel.

48 3. The hearing officer shall hold the hearing within 90 days after the
49 filing of a complaint by the administrator. The time of the hearing may be



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1 continued at the discretion of the hearing officer, upon the written request
2 of the licensee *or permittee* or of the administrator for good cause shown.

3 4. The licensee *or permittee* must be given at least 30 days' notice in
4 writing by the administrator of the date, time and place of the hearing
5 together with a copy of the complaint and copies of all communications,
6 reports, affidavits or depositions in possession of the division relevant to
7 the complaint. The administrator may present evidence obtained after the
8 notice only if he shows that the evidence was not available after diligent
9 investigation before the time notice was given to the licensee *or permittee*
10 and that the evidence was given or communicated to the licensee *or*
11 *permittee* immediately after it was obtained.

12 5. Notice is complete upon delivery personally to the licensee ~~H~~ *or*
13 *permittee* or upon mailing by certified mail to the last known address of the
14 licensee ~~H~~ *or permittee*. If the licensee is a sales agent, the administrator
15 shall also notify the broker with whom he is associated, or the developer by
16 whom he is employed, by mailing an exact statement of the charges and the
17 date, time and place of the hearing by certified mail to the developer's or
18 broker's last known address.

19 **Sec. 27.** NRS 119A.656 is hereby amended to read as follows:

20 119A.656 1. Within 20 days after service of the notice upon him, the
21 licensee *or permittee* shall file an answer to the charges with the division.
22 The answer must contain an admission or denial of the allegations
23 contained in the complaint and any defenses upon which the licensee *or*
24 *permittee* will rely.

25 2. The answer may be served by delivery to the administrator, or by
26 mailing the answer by certified mail to the principal office of the division.

27 3. No proceeding ~~for the imposition of~~ *to impose* a fine or ~~the~~
28 ~~suspension or revocation~~ *suspend, revoke or deny the renewal* of any
29 license *or permit* may be maintained unless it is commenced by the giving
30 of notice to the licensee *or permittee* within 3 years after the time of the act
31 charged, whether of commission or omission, except:

32 (a) If the charges are based upon a failure to disclose or
33 misrepresentation, the period does not commence until the discovery of
34 facts which do or should lead to the discovery of the failure to disclose or
35 misrepresentation; and

36 (b) Whenever any action or proceeding is instituted to which the
37 division, ~~for the~~ licensee *or permittee* is a party and which involves the
38 conduct of the licensee *or permittee* in the transaction with which the
39 charges are related, the running of the 3-year period with respect to the
40 institution of a proceeding under this chapter to impose a fine or suspend,
41 ~~or~~ *revoke or deny the renewal of* the license *or permit* is suspended
42 during the pendency of the action or proceeding.

43 **Sec. 28.** NRS 119A.657 is hereby amended to read as follows:

44 119A.657 1. The hearing officer shall render a decision on any
45 complaint within 60 days after the final hearing thereon and shall give
46 notice in writing of the ruling or decision to the applicant, ~~for~~ licensee *or*
47 *permittee* affected thereby by certified mail to the last known address of
48 the person to whom the notice is sent.



1 2. If the ruling is adverse to the licensee ~~H~~ *or permittee*, the hearing
2 officer shall also state in the notice the date upon which the ruling or
3 decision becomes effective, which date must not be less than 30 days after
4 the date of the notice.

5 3. The decision of the hearing officer may not be stayed by any appeal
6 unless the district court so orders upon motion of the licensee ~~H~~ *or*
7 *permittee*, notice to the division of the motion and opportunity for the
8 division to be heard.

9 4. An appeal from a decision of the district court affirming the
10 imposition of a fine or the revocation, ~~for~~ suspension *or denial of the*
11 *renewal* of a license *or permit* does not stay the order of the hearing officer
12 unless the district or appellate court upon petition of the licensee *or*
13 *permittee* after notice and hearing orders such stay, and upon the filing of a
14 bond for costs in the amount of \$1,000.

15 **Sec. 29.** NRS 119A.658 is hereby amended to read as follows:

16 119A.658 1. A ruling or decision of the hearing officer in any
17 disciplinary action is final when in favor of the licensee ~~H~~ *or permittee*.

18 2. If a ruling or decision is against the licensee ~~H~~ *or permittee*, the
19 licensee *or permittee* may within 30 days after the date of the decision
20 appeal therefrom to the district court for the county in which the party
21 adversely affected by the decision resides or has his place of business
22 under the terms of this chapter, by filing in the district court and serving
23 upon the administrator personally or by certified mail a notice of the
24 appeal, a written petition for review and a demand in writing for a certified
25 transcript and copies of all the papers on file in the office of the division
26 affecting or relating to the decision and the evidence taken at the hearing.
27 Thereupon, the division shall, within 30 days, make and certify the
28 transcript and the copies and file them with the clerk of the court. The
29 petition for review need not be verified but must set forth in specific detail
30 any ground for the appeal, including any errors which the licensee *or*
31 *permittee* contends that the hearing officer committed at the hearing.

32 3. The appellant's opening brief must be filed in the district court
33 within 30 days after the date on which the transcript is filed with the court.
34 The respondent's answering brief must be filed within 30 days after the
35 appellant's opening brief is filed. If the appellant chooses to file a reply
36 brief, it must be filed within 10 days after the respondent's answering brief
37 is filed. Failure to file a brief within the time prescribed in this section
38 constitutes a waiver of the right to file that brief, unless the court grants an
39 extension for good cause shown.

40 4. The burden of proof in the appeal is on the appellant. The court shall
41 consider the action of the administrator upon which the decision of the
42 hearing officer was based, and is limited solely to a consideration and
43 determination of the question of whether there has been an abuse of
44 discretion on the part of the administrator in making that decision.

45 **Sec. 30.** This act becomes effective upon passage and approval.

