

Amendment No. 108

Senate Amendment to Senate Bill No. 121

(BDR 10-250)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) **blue bold italics** is new language in the original bill; (2) **green bold italic underlining** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold dashed underlining** is newly added transitory language.

NMB/RRY



Date: 4/7/2009

S.B. No. 121—Makes various changes concerning the sale of subdivided land in certain circumstances. (BDR 10-250)



SENATE BILL NO. 121—COMMITTEE ON JUDICIARY

FEBRUARY 9, 2009

Referred to Committee on Judiciary

SUMMARY—~~[Makes various changes concerning the sale of subdivided land in certain circumstances.]~~ Provides an exemption from certain licensing and regulation requirements for persons engaged in the sale of certain subdivisions. (BDR 10-250)

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 property; exempting from certain licensing and regulation requirements persons who are engaged in the sale of a subdivision which consists solely of undivided interests, which is not located in the State of Nevada, which is offered for investment only and which does not contain lots or parcels; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 1 and 3 of this] Existing law provides that a sale of subdivided land must comply with certain licensing and regulation requirements. (Chapter 119 of NRS) Existing law exempts certain types of subdivisions or sales of an interest in a subdivision from complying with the provisions of chapter 119 of NRS. (NRS 119.120-119.125) This bill ~~exempt~~ exempts from the licensing and regulation requirements of chapter 119 of NRS ~~(119.160)~~ the sale of those subdivisions which consist solely of undivided interests, ~~and~~ which do not contain lots or parcels. ~~(NRS 119.130, 119.160) Section 2 of this bill exempts persons or brokers proposing to offer or sell any such subdivision from the requirement to submit certain data concerning the subdivision to the Real Estate Division of the Department of Business and Industry. (NRS 119.140))~~ which are not located in the State of Nevada and which are offered for investment purposes only. This bill also provides for: (1) the application for the exemption; (2) the termination of the exemption if the property report from another jurisdiction is revoked, withdrawn or suspended, or a cease and desist order is entered regarding the sale of the land; and (3) a process for the Real Estate Division of the Department of Business and Industry to address complaints filed by a person against the owner, broker or seller of land under this exemption.~~

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

Section 1. ~~[NRS 119.130 is hereby amended to read as follows:~~

~~119.130 1. No subdivision or lot, parcel, unit or interest in any subdivision may in any way be offered or sold in this State by any person until:~~

~~(a) He has appointed in writing the Secretary of State to be his agent, upon whom all process, in any action or proceeding against him, may be served, and in this writing he agrees that any process against him which is served on the Secretary of State is of the same legal validity as if served on him and that the appointment continues in force as long as any liability remains outstanding against him in this State. The written appointment must be acknowledged before a notary public and must be filed in the Office of the Secretary of State with a fee of \$10 for accepting and transmitting any legal process served on the Secretary of State. Copies certified by the Secretary of State are sufficient evidence of the appointment and agreement.~~

~~(b) [He] Except as otherwise provided in subsection 5 of NRS 119.160, he has received a license under NRS 119.160.~~

~~2. Service of process authorized by paragraph (a) of subsection 1 must be made by filing with the Secretary of State:~~

~~(a) Two copies of the legal process. The copies must include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included in each copy.~~

~~(b) A fee of \$10.~~

~~→ The Secretary of State shall forthwith forward one copy of the legal process to the licensee, by registered or certified mail prepaid to the licensee. (Deleted by amendment.)~~

Sec. 2. ~~[NRS 119.140 is hereby amended to read as follows:~~

~~119.140 Any person or broker proposing to offer or sell any subdivision or lot, parcel, unit or interest therein in this State, excluding a subdivision which consists solely of undivided interests and which does not contain any lots or parcels, shall first submit to the Division:~~

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

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

~~3. The legal description and area of lands.~~

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

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

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

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

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

~~9. A true statement of the maximum depth of fill used, or proposed to be used on each lot, and a true statement on the soil conditions in the subdivision supported~~

by engineering reports showing the soil has been, or will be, prepared in accordance with the recommendations of a licensed civil engineer.

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

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

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

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

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

~~15. The fees prescribed by this chapter.~~ **(Deleted by amendment.)**

Sec. 3. [NRS 119.160 is hereby amended to read as follows:]

~~119.160 1. [The] Except as otherwise provided in subsection 5, the Administrator shall make an examination of any subdivision, and shall, unless there are grounds for denial, issue to the subdivider a property report authorizing the sale or lease, or the offer for sale or lease, in this State of the lots or parcels in the subdivision. The report must contain the data obtained in accordance with NRS 119.140 and which the Administrator determines are necessary to carry out the purposes of this chapter. The Administrator may publish the report.~~

~~2. The grounds for denial are:~~

~~(a) Failure to comply with any of the provisions in this chapter or the rules and regulations of the Division pertaining thereto;~~

~~(b) That the sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees;~~

~~(c) Inability to deliver title or other interest contracted for;~~

~~(d) Inability to demonstrate that adequate financial arrangements have been made for all off-site improvements included in the offering;~~

~~(e) Inability to demonstrate that adequate financial arrangements have been made for any community, recreational or other facilities included in the offering;~~

~~(f) Failure to make a showing that the parcels can be used for the purpose for which they are offered;~~

~~(g) Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative thereto;~~

~~(h) Agreements or bylaws to provide for management or other services pertaining to common facilities in the offering, which fail to comply with the regulations of the Division;~~

~~(i) Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.~~

~~3. If the Administrator finds that grounds for denial exist, he shall issue an order so stating to the owner or subdivider no later than 30 days after receipt of the~~

1 information required to be filed by NRS 119.130 and 119.140. The Administrator
2 may, alternatively, issue a temporary permit to be effective for not more than 6
3 months from the date of issuance. If the Administrator issues an order of denial, the
4 owner or developer may appeal the order to the Director who shall, within 5 days of
5 the receipt of the appeal, determine whether grounds for denial exist. If the Director
6 finds that grounds for denial exist, he shall confirm the denial. If the Director
7 confirms the denial, the owner or developer may appeal to the Real Estate
8 Commission, which shall conduct a hearing and either confirm the denial or order a
9 license issued within 30 days of the receipt of the appeal.

10 ~~4. If it appears to the Administrator that a statement of record, or any~~
11 ~~amendment thereto, is on its face incomplete or inaccurate in any material respect,~~
12 ~~the Administrator shall so advise the developer within a reasonable time after the~~
13 ~~filing of the statement or the amendment, but before the date the statement or~~
14 ~~amendment would otherwise be effective. This notification serves to suspend the~~
15 ~~effective date of the statement or the amendment until 30 days after the developer~~
16 ~~files such additional information as the Administrator requires. Any developer,~~
17 ~~upon receipt of such notice, may request a hearing, and the hearing must be held~~
18 ~~within 20 days after receipt of the request by the Administrator.~~

19 ~~5. The licensing requirements of this section do not apply to a subdivision~~
20 ~~which consists solely of undivided interests and which does not contain any lots~~
21 ~~or parcels. (Deleted by amendment.)~~

22 Sec. 4. Chapter 119 of NRS is hereby amended by adding thereto a new
23 section to read as follows:

24 1. The provisions of this chapter do not apply, unless the method of
25 disposition is adopted to evade those provisions or the provisions of the Interstate
26 Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 to 1720, inclusive, upon
27 notification to the Division by the person electing to be exempt under this
28 subsection, to the sale of an undivided interest in unimproved land if:

29 (a) The land has not been divided into lots or parcels;

30 (b) The land is not located in this State; and

31 (c) The undivided interest is offered for investment purposes and not for
32 short- or long-term residential development purposes.

33 2. The seller of land exempted pursuant to this section must provide a
34 property report from the jurisdiction where the land is located to each potential
35 purchaser of the land.

36 3. The Division shall adopt regulations prescribing the application for an
37 exemption pursuant to this section. The application must be posted by the
38 Division on its Internet website. The application must contain:

39 (a) All information necessary to determine if an applicant is qualified for the
40 exemption, including, without limitation, the information contained in
41 paragraphs (a), (b) and (c) of subsection 1;

42 (b) The name, address, telephone number and license number, if any, of the
43 owner, broker or seller of the land; and

44 (c) A property report issued by the jurisdiction where the land is located.

45 4. An application for an exemption pursuant to this section must be
46 accompanied by the applicable fee specified in NRS 119.320.

47 5. An owner, broker or seller of land who applies for an exemption
48 pursuant to this section must notify the Division of any change of his address,
49 telephone number or other contact information within 10 days after such change.
50 The Division shall update its records to reflect any changes in such information
51 without charge to the owner, broker or seller.

52 6. If the property report issued by another jurisdiction and submitted as part
53 of the application for exemption pursuant to this section is revoked, withdrawn or

suspended, or a cease and desist order is issued by the jurisdiction concerning activities relating to the land, the exemption granted pursuant to this section is automatically revoked.

7. If a person files a complaint against an owner, broker or seller of land exempted from this chapter pursuant to this section, the Division shall:

(a) Provide the person with the contact information of the owner, broker or seller of the land that the Division has on file; and

(b) If the owner, broker or seller is a licensed or registered broker in another jurisdiction, provide the information contained in the complaint to the appropriate regulatory agency of the other jurisdiction.