

ASSEMBLY BILL NO. 404—ASSEMBLYMAN FRIERSON

MARCH 18, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to time shares.  
(BDR 10-960)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
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 time shares; amending provisions relating to licensing and registration of sales agents, representatives, managers, developers, project brokers and time-share resale brokers; revising provisions relating to permits to sell time shares; amending provisions relating to time-share instruments; revising provisions governing public offering statements; amending provisions governing the sale and resale of time shares; revising provisions governing the management and development of time-share plans and time-share projects; prohibiting certain acts; amending various other provisions relating to time shares; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides certain exemptions from the requirements governing time shares. (NRS 119A.170) **Section 11** of this bill revises these exemptions.

Existing law governs the qualifications and licensing of sales agents and requires a sales agent to be associated with a project broker. (NRS 119A.210-119A.237) **Sections 14, 15 and 16** of this bill provide for the association of a sales agent with a time-share resale broker. **Section 14** provides that a sales agent is not required to be licensed pursuant to existing law governing real estate salespersons.

Existing law provides for the registration and regulation of a representative, defined as a person who, on behalf of a developer induces other persons to attend a sales presentation. (NRS 119A.120, 119A.240, 119A.260) **Section 18** of this bill maintains the existing law requiring that a representative must register with the Real Estate Division of the Department of Business and Industry, but provides that



a representative is not required to be licensed pursuant to existing law governing real estate salespersons. **Section 19** of this bill amends provisions setting forth the prohibited acts of representatives.

Existing law requires a developer of a time-share plan to obtain certain permits from the Administrator of the Division before selling or offering for sale any time shares in this State. Existing law requires an applicant for a public offering statement and permit to sell time shares to submit an application containing certain information. (NRS 119A.300) **Section 23** of this bill: (1) requires the applicant to include with the application a public offering statement; and (2) provides that in lieu of the information required to be included with the application, a developer of a time-share plan in which some or all of the units are located outside of this State may file an abbreviated registration. **Section 3** of this bill requires a developer to file an amended statement of record with the Division under certain circumstances. **Sections 6, 26, 27 and 30** of this bill provide that a permit to sell time shares in this State is deemed approved if the Division does not take certain actions within the prescribed period. **Section 25** of this bill amends the grounds for denial of an application for a permit to sell time shares. **Section 28** of this bill revises the information to be provided in a public offering statement if a time-share project is not completed before the issuance of a permit to sell time shares.

**Section 29** of this bill authorizes instead of requires the Division to complete an investigation before issuing any permit or license issued pursuant to the provisions of existing law governing time shares.

**Section 52** of this bill repeals provisions of existing law governing advertisements for time shares, and **section 13** of this bill authorizes the Division to adopt regulations regarding advertisements relating to time shares.

Existing law governs the contents of a time-share instrument. (NRS 119A.380) **Section 33** of this bill enacts provisions relating to the governing instrument of a time-share plan or units governed by the laws of another state or jurisdiction.

Existing law requires a developer to provide each prospective purchaser with a copy of the developer's public offering statement. (NRS 119A.400) **Section 35** of this bill provides that, upon the request of a prospective purchaser for an electronic copy of the public offering statement, the developer must provide an electronic copy of the public offering statement.

Existing law requires money, negotiable instruments or other deposits pertaining to the sale of a time share to be placed in escrow. (NRS 119A.420) **Section 36** of this bill requires money, negotiable instruments or other deposits pertaining to the sale of a time share received from a purchaser to be placed in an escrow account or requires the developer to establish a surety bond.

Existing law provides for the licensing and regulation of a time-share resale broker. (NRS 119A.4771) **Section 41** of this bill amends provisions relating to the registration of a time-share resale broker. **Sections 42 and 43** of this bill provide for a right to cancel certain contracts or agreements relating to the resale of a time share.

Existing law governs the charging or collection of an advance fee by a time-share resale broker. (NRS 119A.4779) **Section 44** of this bill requires a contract for an advance fee listing to include certain information. **Section 44** also prohibits a time-share resale broker from engaging in certain acts with respect to an advance fee and provides penalties for engaging in those acts.

**Section 48** of this bill removes the authority of the Administrator to require an association or developer to provide an opinion of an independent professional consultant regarding the budget.

Existing law prohibits certain unfair methods of competition or deceptive or unfair acts in the offer to sell or sale of a time share. (NRS 119A.710) **Section 4** of this bill prohibits a person from knowingly participating in a plan or scheme to



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67 transfer a time share to a person who does not pay the assessments or taxes for that  
68 time share and provides a penalty for a violation of this provision.

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

1     **Section 1.** Chapter 119A of NRS is hereby amended by  
2 adding thereto the provisions set forth as sections 2, 3 and 4 of this  
3 act.

4     **Sec. 2.** *“Statement of record” means the information*  
5 *provided to the Administrator pursuant to subsection 1 of*  
6 *NRS 119A.300.*

7     **Sec. 3.** *1. If there is a material change to the time-share*  
8 *plan, the developer shall file with the Division an amended*  
9 *statement of record not later than 10 days before the material*  
10 *change occurs or within 10 days after the developer knows or*  
11 *reasonably should have known of the material change. Such an*  
12 *amended statement of record is effective on the 15th day after the*  
13 *filing or, in the event that additional units are added to the time-*  
14 *share plan, on the 30th day after the filing, unless the*  
15 *Administrator:*

16     *(a) Issues a denial of the amended statement of record*  
17 *pursuant to NRS 119A.654 describing the reasons for the denial in*  
18 *sufficient detail to allow the developer to correct the deficiencies in*  
19 *the amended statement of record; or*

20     *(b) Approves the amended statement of record on an earlier*  
21 *date.*

22     *2. The Administrator shall, within 30 days after receiving*  
23 *evidence that the deficiencies in the amended statement of record*  
24 *are cured, approve or deny the amended statement of record and*  
25 *list the specific reasons for denial. If the Division fails to take any*  
26 *of the actions described in this subsection within the 30-day*  
27 *period, the amended statement of record shall be deemed approved*  
28 *by the Division.*

29     *3. Any amendment proposed by the developer to the*  
30 *provisions of a time-share instrument must be filed with the*  
31 *Division. Unless the Division notifies the developer of its*  
32 *disapproval within 15 days after the developer files the proposed*  
33 *amendment to the time-share instrument, the amendment shall be*  
34 *deemed to be approved by the Division.*

35     **Sec. 4.** *1. Except as otherwise provided in subsection 3, a*  
36 *person who knowingly participates, for consideration or with the*  
37 *expectation of consideration, in any plan or scheme, a purpose of*  
38 *which is to transfer a previously owned time share to a transferee*  
39 *who does not pay or provide payment for all assessments for that*



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1 *time share commits a false, misleading or deceptive act or practice*  
2 *for the purposes of NRS 207.170, 207.171, 598.0915 to 598.0925,*  
3 *inclusive, and chapters 598A and 599A of NRS.*

4 2. *The failure of a transferee to pay assessments or taxes that*  
5 *come due after the acquisition of a resale time share to acquire the*  
6 *time share for commercial purposes is prima facie evidence of a*  
7 *violation of this subsection.*

8 3. *An association or manager does not violate the provisions*  
9 *of this subsection by performing such acts and collecting such fees*  
10 *or expenses as are customary during the transfer.*

11 **Sec. 5.** NRS 119A.010 is hereby amended to read as follows:

12 119A.010 As used in this chapter, unless the context otherwise  
13 requires, the words and terms defined in NRS 119A.020 to  
14 119A.160, inclusive, *and section 2 of this act* have the meanings  
15 ascribed to them in those sections.

16 **Sec. 6.** NRS 119A.060 is hereby amended to read as follows:

17 119A.060 "Permit" means the authorization issued *or deemed*  
18 *issued* by the Administrator pursuant to the provisions of this  
19 chapter to a developer to offer to sell or sell time shares.

20 **Sec. 7.** NRS 119A.090 is hereby amended to read as follows:

21 119A.090 "Project broker" means any person who coordinates  
22 the sale of time shares for ~~{a} one or more~~ time-share ~~{plan and to~~  
23 ~~whom sales agents and representatives are responsible.}~~ *plans on*  
24 *behalf of one or more developers and who is licensed as a real*  
25 *estate broker pursuant to the provisions of chapter 645 of NRS.*

26 **Sec. 8.** NRS 119A.100 is hereby amended to read as follows:

27 119A.100 "Public offering statement" means a ~~{report, issued~~  
28 ~~by the Administrator}~~ *disclosure document prepared and signed by*  
29 *the developer and filed with the Division* pursuant to the provisions  
30 of this chapter, which ~~{authorizes a developer to offer to sell or sell~~  
31 ~~time shares in the time share plan which is the subject of the report.}~~  
32 *contains the information required by this chapter and any*  
33 *regulations adopted pursuant thereto.*

34 **Sec. 9.** NRS 119A.130 is hereby amended to read as follows:

35 119A.130 "Sales agent" means a person who, ~~{on behalf of a~~  
36 ~~developer,}~~ *under the supervision of a real estate broker licensed*  
37 *pursuant to the provisions of chapter 645 of NRS,* sells *or resells*  
38 or offers to sell *or resell* a time share to a purchaser or who, if he or  
39 she is not registered as a representative, may act to induce other  
40 persons to attend a sales presentation on the behalf of a developer.

41 **Sec. 10.** NRS 119A.156 is hereby amended to read as follows:

42 119A.156 "Time-share resale broker" means a person who ~~{is~~  
43 ~~registered as a time share resale broker pursuant to the provisions of~~  
44 ~~this chapter.}~~ *, for compensation, lists, advertises, transfers, assists*  
45 *in transferring, promotes for resale or solicits prospective*



*purchasers for previously sold time shares on behalf of an owner other than a developer.*

**Sec. 11.** NRS 119A.170 is hereby amended to read as follows:

119A.170 1. ~~The~~ *Unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS, the* provisions of this chapter, except subsection ~~4~~ *5*, do not apply to:

(a) The sale *or resale* of 12 or fewer time shares in a *time-share* project ; ~~for the sale of 12 or fewer time shares in the same subdivision;~~

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

(c) Any transfer of a time share:

(1) By deed in lieu of foreclosure;

(2) At a foreclosure sale; or

(3) By the resale of a time share that has been acquired by an association ~~by~~ *as a result of nonpayment of association assessments:*

*(I) By termination of a contractual right of occupancy;*

*(II) By deed or other transfer* in lieu of foreclosure *or termination;* or ~~at~~

*(III) At a foreclosure sale* ~~at~~ ,

*↪ provided that the association or its agent delivers the disclosures required by NRS 119A.4775 to the purchaser;*

(d) A gratuitous transfer of a time share;

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

(f) The sale or transfer of the right to use and occupy a unit on a periodic basis which recurs over a period of less than 5 years . ~~;~~

~~↪ unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS.~~

2. *The provisions of NRS 119A.270 to 119A.470, inclusive, and sections 3 and 4 of this act and 119A.480 do not apply to the offer or disposition of a time share in a time-share plan that is not registered under this chapter to an owner of a time share in a time-share plan offered by a developer or an affiliate of the developer who has a valid permit under this chapter, if the developer or its affiliate:*

*(a) Authorizes the purchaser to cancel the purchase contract until midnight of the fifth calendar day after the date of execution of the contract; and*

*(b) Provides the purchaser with all the time-share disclosure documents required by law in the jurisdiction where the unit is located.*



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1       3. Any campground or developer who is subject to the  
2 requirements of chapter 119B of NRS and complies with those  
3 provisions is not required to comply with the provisions of this  
4 chapter.

5       ~~3-1~~ 4. The Division may waive any provision of this chapter if  
6 it finds that the enforcement of that provision is not necessary in the  
7 public interest or for the protection of purchasers.

8       ~~4-1~~ 5. The provisions of chapter 645 of NRS apply to the sale  
9 of time shares, except any sale of a time share to which this chapter  
10 applies ~~4-1~~ *and except any provisions of this chapter expressly*  
11 *excluding the applicability of the provisions of chapter 645 of*  
12 *NRS,* and for that purpose the terms "real property" and "real  
13 estate" as used in chapter 645 of NRS shall be deemed to include a  
14 time share, whether it is an interest in real property or merely a  
15 contractual right to occupancy.

16       6. *The provisions of NRS 119A.520 to 119A.580, inclusive,*  
17 *only apply to the management of time-share projects located in*  
18 *this State.*

19       Sec. 12. NRS 119A.172 is hereby amended to read as follows:

20       119A.172 The provisions of this chapter and chapter 645 of  
21 NRS relating to real estate brokers and sales agents do not apply to  
22 an owner, other than a developer, who, for compensation, refers  
23 prospective purchasers to a developer *or an association* or an  
24 employee or agent of the developer ~~4-1~~ *or association,* if the owner:

25       1. Refers to ~~the~~ a developer *or an association* or an employee  
26 or agent of the developer ~~4-1~~ *or association,* or any combination  
27 thereof, not more than 20 prospective purchasers within any 1  
28 calendar year; and

29       2. Does not ~~show a unit to the prospective purchaser,~~ discuss  
30 with the prospective purchaser the terms and conditions of the  
31 purchase or otherwise participate in negotiations relating to the sale  
32 of the time share.

33       Sec. 13. NRS 119A.190 is hereby amended to read as follows:

34       119A.190 The Division may:

35       1. Adopt regulations ~~which~~ :

36       (a) *Which* are necessary to carry out the provisions of this  
37 chapter.

38       (b) *Regarding the content of advertisements relating to time*  
39 *shares.*

40       2. *Publish on its official Internet website, or otherwise make*  
41 *public for at least 30 days before the adoption by the Division, any*  
42 *form proposed to be used by the Division under this chapter. The*  
43 *Division shall consider comments on any such proposed form*  
44 *before its adoption.*



3. Employ such legal counsel, investigators and other professional consultants as are necessary to carry out the provisions of this chapter ~~H~~, *including, without limitation, for the review of a statement of record filed pursuant to NRS 119A.300.*

**Sec. 14.** NRS 119A.210 is hereby amended to read as follows:

119A.210 1. The Administrator shall issue a sales agent's license to each applicant who submits an application to the Division, in the manner provided by the Division, which includes:

(a) Satisfactory evidence, affirmed by the project broker *or time-share resale broker* or another acceptable source, that the applicant has completed 14 hours of instruction in:

(1) Ethics.

(2) The applicable laws and regulations relating to time shares.

(3) Principles and practices of selling time shares.

(b) Satisfactory evidence that the applicant has a reputation for honesty, trustworthiness and competence.

(c) A designation of the ~~{developer for whom the applicant proposes to sell time shares.}~~ *project broker or time-share resale broker who will supervise the sales agent.*

(d) The social security number of the applicant.

(e) Any further information required by the Division, including the submission by the applicant to any investigation by the police or the Division.

2. In addition to or in lieu of the 14 hours of instruction required by paragraph (a) of subsection 1, the applicant may be required to pass an examination which may be adopted by the Division to examine satisfactorily the knowledge of the applicant in those areas of instruction listed in paragraph (a) of subsection 1.

3. Each applicant must submit the statement required pursuant to NRS 119A.263 and pay the fees provided for in this chapter.

4. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and



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1 directly forwarded electronically or by another means to the Central  
2 Repository and that the applicant has given written permission to the  
3 law enforcement agency or other authorized entity taking the  
4 fingerprints to submit the fingerprints to the Central Repository for  
5 submission to the Federal Bureau of Investigation for a report on the  
6 applicant's background and to such other law enforcement agencies  
7 as the Division deems necessary.

8 5. The Division may:

9 (a) Unless the applicant's fingerprints are directly forwarded  
10 pursuant to subparagraph (2) of paragraph (b) of subsection 4,  
11 submit those fingerprints to the Central Repository for submission  
12 to the Federal Bureau of Investigation and to such other law  
13 enforcement agencies as the Division deems necessary; and

14 (b) Request from each such agency any information regarding  
15 the applicant's background as the Division deems necessary.

16 6. A person who is licensed as a real estate salesperson  
17 pursuant to chapter 645 of NRS is not required to obtain a license  
18 pursuant to the provisions of this section.

19 7. *A sales agent is not required to be licensed pursuant to the*  
20 *provisions of chapter 645 of NRS.*

21 8. Each sales agent's license issued pursuant to this section  
22 expires 2 years after the last day of the calendar month in which it  
23 was issued and must be renewed on or before that date. Each  
24 licensee who submits the statement required pursuant to NRS  
25 119A.263 and meets the requirements for renewal may renew his or  
26 her license upon the payment of the renewal fee before his or her  
27 license expires.

28 ~~8.1~~ 9. If a licensee fails to renew his or her license before it  
29 expires, the license may be reinstated if the licensee submits the  
30 statement and pays the renewal fee and the penalty specified in NRS  
31 119A.360 within 1 year after the license expires.

32 ~~9.1~~ 10. The Administrator may adopt regulations establishing  
33 and governing requirements for the continuing education of sales  
34 agents.

35 **Sec. 15.** NRS 119A.220 is hereby amended to read as follows:

36 119A.220 1. A sales agent may work for only one project  
37 broker *or one time-share resale broker* at any one time at the  
38 location *or locations* designated in the license.

39 2. A project broker *or time-share resale broker* shall give  
40 written notice to the Division of a change of association of any sales  
41 agent associated with the project broker *or time-share resale broker*  
42 within 10 days after that change.

43 3. The project broker ~~1.1~~ *or time-share resale broker*, upon the  
44 termination of the employment of any sales agent associated with





1 the project broker ~~††~~ *or time-share resale broker*, shall submit that  
2 agent's license to the Division.

3 4. If a sales agent changes his or her association with any  
4 project broker *or time-share resale broker* or changes ~~this or her†~~  
5 *any* location ~~{with the same project broker,†~~ *designated in the*  
6 *license*, the sales agent must apply to the Division for the reissuance  
7 of his or her license for its unexpired term. The application must be  
8 accompanied by a fee of \$10.

9 5. A sales agent may only become associated with a project  
10 broker *or time-share resale broker* who certifies to the sales agent's  
11 honesty, trustworthiness and good reputation.

12 **Sec. 16.** NRS 119A.230 is hereby amended to read as follows:

13 119A.230 1. The Administrator may impose a fine or  
14 suspend, revoke, reissue, subject to conditions, or deny the renewal  
15 of any sales agent's license issued under the provisions of this  
16 chapter at any time if the sales agent has, by false or fraudulent  
17 application or representation, obtained a license or, whether or not  
18 acting as a sales agent, is found guilty of:

19 (a) Making any material misrepresentation;

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

22 (c) Engaging in any fraudulent, misleading or oppressive sales  
23 techniques or tactics;

24 (d) Accepting a commission or valuable consideration as a sales  
25 agent for the performance of any of the acts specified in this chapter  
26 from any person except a licensed project broker *or registered time-*  
27 *share resale broker* with whom the sales agent is associated or the  
28 developer by whom the sales agent is employed;

29 (e) Failing, within a reasonable time, to account for or remit or  
30 turn over to the project broker *or time-share resale broker* any  
31 money which comes into the sales agent's possession and which  
32 belongs to others;

33 (f) Violating any of the provisions of this chapter or chapter  
34 119B of NRS or of any regulation adopted pursuant to either  
35 chapter, or willfully aiding or abetting another to do so; or

36 (g) A felony relating to the practice of a sales agent or other  
37 crime of moral turpitude or has entered a plea of nolo contendere to  
38 a felony relating to the practice of a sales agent or other crime of  
39 moral turpitude.

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

43 **Sec. 17.** NRS 119A.237 is hereby amended to read as follows:

44 119A.237 1. A provisional licensee shall not:



(a) Conduct sales-related activities unless the provisional licensee is:

(1) Under the supervision of:

(I) His or her project broker; or

(II) A cooperating real estate broker designated by the project broker in accordance with the provisions of this chapter and any regulations adopted pursuant thereto.

(2) At the principal place of business or a branch office of the project broker, or at the physical location of a time-share development.

(b) Collect personal information from a prospective purchaser or purchaser of a time share.

*(c) Engage in the resale of time shares.*

2. A project broker shall not grant to a provisional licensee:

(a) Access to a time-share lockbox; or

(b) The ability to enter a private residence or a time-share unit that an unlicensed person otherwise would not have.

3. A project broker or a cooperating real estate broker designated by the project broker in accordance with the provisions of this chapter and any regulations adopted pursuant thereto shall:

(a) Supervise the provisional licensee employed by the project broker; and

(b) Review and approve in writing any contract prepared by the provisional licensee that relates to the sale of a time share.

4. A provisional licensee may receive a commission for the sale of a time share in which the provisional licensee is involved.

5. As used in this section:

(a) "Personal information" has the meaning ascribed to it in NRS 603A.040.

(b) "Provisional licensee" means an applicant who receives a provisional sales agent's license from the Division pursuant to NRS 119A.233.

**Sec. 18.** NRS 119A.240 is hereby amended to read as follows:

119A.240 1. The Administrator shall register as a representative each applicant who:

(a) Submits proof satisfactory to the Division that the applicant has a reputation for honesty, trustworthiness and competence;

(b) Applies for registration in the manner provided by the Division;

(c) Submits the statement required pursuant to NRS 119A.263; and

(d) Pays the fees provided for in this chapter.

2. An application for registration as a representative must include the social security number of the applicant.



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1        **3. A representative is not required to be licensed pursuant to**  
2 **the provisions of chapter 645 of NRS.**

3        **Sec. 19.** NRS 119A.260 is hereby amended to read as follows:

4        119A.260 1. A representative shall not negotiate ~~for make~~  
5 ~~representations concerning the merits or value of a time share plan~~  
6 ~~or a project.~~ **the sale of, or discuss prices of, a time share.** A  
7 representative may only induce and solicit persons to attend  
8 promotional meetings for the sale of time shares and distribute  
9 information on behalf of a developer.

10        2. The representative's activities must strictly conform to the  
11 methods for the procurement of prospective purchasers which have  
12 been approved by the Division.

13        3. ~~{The representative shall comply with the same standards for~~  
14 ~~conducting business as are applied to real estate brokers and~~  
15 ~~salespersons pursuant to chapter 645 of NRS and the regulations~~  
16 ~~adopted pursuant thereto.~~

17        ~~—4.—~~ A representative shall not make targeted solicitations of  
18 purchasers or prospective purchasers of time shares in another  
19 project **{ with which the representative is not associated.** A  
20 developer or project broker shall not pay or offer to pay a  
21 representative a bonus or other type of special compensation to  
22 engage in such activity.

23        **Sec. 20.** NRS 119A.270 is hereby amended to read as follows:

24        119A.270 A developer shall not:

25        1. Offer to sell any time shares in this state unless the  
26 developer holds either a preliminary permit to sell time shares or a  
27 permit to sell time shares issued **or deemed issued** by the  
28 Administrator **{ pursuant to the provisions of this chapter.**

29        2. Sell any time shares in this state unless the developer holds a  
30 permit to sell time shares issued **or deemed issued** by the  
31 Administrator **{ pursuant to the provisions of this chapter.**

32        3. Offer to sell or sell a time share in this state unless the  
33 developer has named a person to act as a project broker.

34        4. Offer to sell or sell a time share in this state except through a  
35 project broker.

36        **Sec. 21.** NRS 119A.280 is hereby amended to read as follows:

37        119A.280 1. The Administrator may issue an order directing  
38 a developer to cease engaging in activities for which the developer  
39 has not received a permit under this chapter or conducting activities  
40 in a manner not in compliance with the provisions of this chapter or  
41 the regulations adopted pursuant thereto.

42        2. The order to cease must be in writing and must ~~{state that, in~~  
43 ~~the opinion of the Administrator, the developer has not been issued~~  
44 ~~a permit for the activity or the terms of the permit do not allow the~~  
45 ~~developer to conduct the activity in that manner.}~~ **describe the**



*violation in sufficient detail to inform the developer of the aspect in which it has failed to comply with the provisions of this chapter.*

The developer shall not engage in any activity regulated by this chapter after the developer receives such an order.

3. Within 30 days after receiving such an order, a developer may file a verified petition with the Administrator for a hearing. The Administrator shall hold a hearing within 30 days after the petition has been filed. If the Administrator fails to hold a hearing within 30 days, or does not render a written decision within 45 days after the final hearing, the cease and desist order is rescinded.

4. If the decision of the Administrator after a hearing is against the person ordered to cease and desist, the person may appeal that decision by filing, within 30 days after the date on which the decision was issued, a petition in the district court for the county in which the person conducted the activity. The burden of proof in the appeal is on the appellant. The court shall consider the decision of the Administrator for which the appeal is taken and is limited solely to a consideration and determination of the question of whether there has been an abuse of discretion on the part of the Administrator in making the decision.

5. In lieu of the issuance of an order to cease such activities, the Administrator may enter into an agreement with the developer in which the developer agrees to:

(a) Discontinue the activities that are not in compliance with this chapter;

(b) Pay all costs incurred by the Division in investigating the developer's activities and conducting any necessary hearings; and

(c) Return to the purchasers any money or property which the developer acquired through such violations.

➤ Except as otherwise provided in NRS 239.0115, the terms of such an agreement are confidential unless violated by the developer.

**Sec. 22.** NRS 119A.290 is hereby amended to read as follows:

119A.290 1. The Administrator shall issue a preliminary permit to sell time shares to each applicant who:

(a) Submits proof satisfactory to the ~~{Division}~~ *Administrator* that all of the requirements for a permit to sell time shares will be met;

(b) Applies for the preliminary permit in the manner provided by the Division; and

(c) Pays the fee provided for in this chapter.

2. A preliminary permit entitles the developer to solicit and accept reservations to purchase time shares.



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1       **Sec. 23.** NRS 119A.300 is hereby amended to read as follows:

2       119A.300 Except as otherwise provided in NRS 119A.310, the  
3 Administrator shall issue a ~~{public offering statement and a}~~ permit  
4 to sell time shares to each applicant who:

5       1. ~~{Submits an application,}~~ *Files by electronic means or in*  
6 ~~{the}~~ *any other* manner ~~{provided}~~ *prescribed* by the ~~{Division,~~  
7 ~~which includes:}~~ *Administrator, a statement of record which*  
8 *includes:*

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

10       (b) A copy of each time-share instrument that relates to the time-  
11 share plan;

12       (c) A preliminary title report for the project and copies of the  
13 documents listed as exceptions in the report;

14       (d) Copies of any other documents which relate to the time-  
15 share plan or the project, including any contract, agreement or other  
16 document to be used to establish and maintain an association and to  
17 provide for the management of the time-share plan or the project, or  
18 both;

19       (e) Copies of instructions for escrow, deeds, sales contracts and  
20 any other documents that will be used in the sale of the time shares;

21       (f) A copy of any proposed trust agreement which establishes a  
22 trust for the time-share plan or the project, or both;

23       (g) Documents which show the current assessments for property  
24 taxes on the project;

25       (h) Documents which show compliance with local zoning laws;

26       (i) If the units which are the subject of the time-share plan are in  
27 a condominium project, or other form of common-interest  
28 ownership of property, documents which show that use of the units  
29 is in compliance with the documents which created the common-  
30 interest ownership;

31       (j) Copies of all documents which will be given to a purchaser  
32 who is interested in participating in a program for the exchange of  
33 occupancy rights among owners and copies of the documents which  
34 show acceptance of the time-share plan in such a program;

35       (k) A copy of the budget or a projection of the operating  
36 expenses of the association, if applicable;

37       (l) A financial statement of the developer; and

38       (m) ~~{Such other information as the Division,}~~ *A public offering*  
39 *statement in a form prescribed* by regulation ~~{requires;}~~ *of the*  
40 *Division;* and

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

42       3. *In lieu of the statement of record, the Division may accept*  
43 *an abbreviated registration from a developer of a time-share plan*  
44 *in which some or all the units are located outside of this State. A*  
45 *developer who files an abbreviated registration pursuant to this*



1 subsection shall, in addition to paying the fee required by  
2 subsection 2, provide:

3 (a) The developer's legal name, any assumed names used by  
4 the developer and the developer's principal office location,  
5 mailing address, primary contact person and telephone number;

6 (b) The name, location, mailing address, primary contact  
7 person and telephone number of the time-share plan;

8 (c) The name and principal address of the developer's  
9 authorized project broker who must be a real estate broker  
10 licensed to maintain offices within this State;

11 (d) The name and principal address of all entities who act as  
12 the manager of the time-share plan;

13 (e) Evidence of registration or compliance with the laws and  
14 regulations of the jurisdiction in which the time-share plan is  
15 located, approved or accepted;

16 (f) A brief description as to whether the time-share plan is a  
17 single-site time-share plan or a time-share plan with more than  
18 one location and a brief description of the types of time shares  
19 offered in the time-share plan;

20 (g) Disclosure of each jurisdiction in which the developer has  
21 applied for registration of the time-share plan and whether the  
22 time-share plan or its developer was denied registration or was the  
23 subject of any disciplinary proceeding;

24 (h) Copies of any disclosure documents required to be given to  
25 purchasers or required to be filed with the state or jurisdiction in  
26 which the time-share plan is located, approved or accepted;

27 (i) A copy of the current annual or projected budget for the  
28 association if not otherwise included in the disclosure documents;  
29 and

30 (j) Any other information regarding the developer, time-share  
31 plan, project broker or managing entities as established by the  
32 Division by regulation;

33 4. A developer of a time-share plan with units located solely  
34 in this State may not file an abbreviated application.

35 **Sec. 24.** NRS 119A.305 is hereby amended to read as follows:

36 119A.305 The terms and conditions of the documents and  
37 agreements submitted pursuant to NRS 119A.300 which relate to  
38 the creation and management of the time-share plan and to the sale  
39 of time shares and to which the applicant or an affiliate of the  
40 applicant is a party must be described in the public offering  
41 statement and constitute ~~additional~~ the terms and conditions of the  
42 applicant's permit to sell time shares.

43 **Sec. 25.** NRS 119A.310 is hereby amended to read as follows:

44 119A.310 1. The Administrator shall deny an application for  
45 a permit to sell time shares if the Administrator finds that:



(a) The developer failed to comply with any of the provisions of this chapter or the regulations adopted by the Division; or

(b) The developer, any affiliate of the developer or any officer of the developer or an affiliate of the developer, has:

(1) Been convicted of or pleaded nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or other crime involving moral turpitude;

(2) Been the subject of a judgment in any civil or administrative action, including a proceeding to revoke or suspend a license, involving fraud or dishonesty;

(3) Been permanently enjoined by a court of competent jurisdiction from selling real estate, time shares or securities in an unlawful manner;

(4) Had a registration as a broker-dealer in securities or a license to act as a real estate broker or salesperson, project broker or sales agent revoked;

(5) Been convicted of or pleaded nolo contendere to selling time shares without a license; or

(6) Had a permit to sell time shares, securities or real estate revoked.

2. The Administrator may deny an application for a permit to sell time shares if the Administrator finds that the developer ~~[-or any affiliate of the developer,]~~ has failed to offer satisfactory proof that it has a good reputation for honesty, trustworthiness, integrity and competence *and the developer is competent* to transact the business of a developer in a manner which safeguards the interests of the public.

3. The burden of proof is on the developer to establish to the satisfaction of the ~~[Division]~~ *Administrator* that the developer is ~~[qualified to receive a license.]~~ *competent to transact the business of the developer in a manner which safeguards the interests of the public.*

*4. If a developer has substantially complied with the provisions of this chapter in good faith, a nonmaterial error or omission is not sufficient grounds to deny a permit.*

**Sec. 26.** NRS 119A.320 is hereby amended to read as follows:

119A.320 1. The ~~[Division]~~ *Administrator* shall , ~~[issue an order.]~~ within 30 days after the receipt of an application for a permit to sell time shares, ~~[notifying]~~ *notify* the applicant of its decision to:

(a) *Issue a permit to sell time shares;*

(b) *Issue a preliminary permit to sell time shares, including a list of all deficiencies, if any, which must be corrected before a permit is issued; or*





~~1~~ ~~(b)~~ (c) Deny the application and list the reasons for denial ~~H~~  
2 *in sufficient detail to allow the developer to cure the deficiencies.*

3 2. *If the Administrator fails to notify the applicant of its*  
4 *decision within the 30-day period prescribed in subsection 1, the*  
5 *permit to sell time shares shall be deemed issued by the Division.*

6 3. The ~~Division~~ Administrator shall, within ~~45~~ 30 days  
7 after:

8 (a) The receipt of evidence that the deficiencies in the  
9 application for a permit to sell time shares are cured, issue a permit  
10 to sell time shares or deny the application and list the *specific*  
11 reasons for denial; or

12 (b) The issuance of a preliminary permit ~~H~~ *and receipt of proof*  
13 *that all the requirements for the issuance of a permit to sell time*  
14 *shares have been met, issue ~~H~~ the permit to sell time shares.*

15 4. *If the Administrator fails to take any of the actions*  
16 *described in subsection 3, within the 30-day period, the permit to*  
17 *sell time shares shall be deemed issued by the Division.*

18 **Sec. 27.** NRS 119A.330 is hereby amended to read as follows:

19 119A.330 1. If the Administrator denies an application for a  
20 permit to sell time shares, *an amendment to the statement of record*  
21 *or the renewal of a permit to sell time shares*, the applicant may,  
22 within 30 days, file a written request for a hearing. The  
23 Administrator shall set the matter for hearing to be conducted within  
24 ~~90~~ 30 days after receipt of the applicant's request, unless the  
25 applicant requests a postponement of the hearing at least 3 working  
26 days before the date set for hearing. If such a request is made by the  
27 applicant, the date of the hearing must be agreed upon between the  
28 Division and the applicant.

29 2. If the Division fails to:

30 (a) Hold the hearing within ~~90~~ 30 days or within the extended  
31 time if a postponement is requested;

32 (b) Render its decision within ~~60~~ 45 days after the hearing; or

33 (c) Notify the applicant in writing, by its order, within 15 days  
34 after its decision was made,

35 ➔ the order of denial expires and the Division shall issue, within 15  
36 days, a permit to sell time shares to the developer. *If the Division*  
37 *fails to act within the 15-day period for issuing a permit, then the*  
38 *permit to sell time shares shall be deemed issued by the Division.*

39 **Sec. 28.** NRS 119A.340 is hereby amended to read as follows:

40 119A.340 If a project has not been completed before the  
41 issuance *or deemed issuance* of a permit to sell time shares, the  
42 ~~permit~~ *public offering statement* must state the estimated date of  
43 completion and:

44 1. The developer shall ~~deliver to the agency~~ *establish to the*  
45 *satisfaction of the Administrator that* a bond *has been issued* in an





1 amount ~~and upon terms approved by the division~~ *necessary* to  
2 assure completion of the project free of any liens, ~~which is payable~~  
3 ~~to the Division for the benefit of the purchasers of the time share~~  
4 ~~property and~~ which remains in effect until the project is completed  
5 free of all liens;

6 2. A cash deposit to cover the estimated costs of completing  
7 the project must be deposited with an escrow agent under an  
8 agreement which is approved by the ~~Division~~ *Administrator*; or

9 3. The developer shall make any other arrangement which is  
10 approved by the ~~Division~~ *Administrator and necessary to*  
11 *safeguard the interests of the public.*

12 **Sec. 29.** NRS 119A.350 is hereby amended to read as follows:

13 119A.350 1. The Division ~~shall~~ *may*, before issuing any  
14 permit or license pursuant to the provisions of this chapter, fully  
15 investigate all information submitted to it as required by this chapter  
16 and may, if necessary, inspect the property which is the subject of  
17 any application. All reasonable expenses incurred by the Division in  
18 carrying out the investigation or inspection must be paid by the  
19 applicant and no license or permit may be issued until those  
20 expenses have been paid.

21 2. Payments received by the Division pursuant to this section  
22 must be deposited in the State Treasury for credit to the Real Estate  
23 Investigative Account. The Administrator shall use the money in the  
24 Account to pay the expenses of agents and employees of the  
25 Division making the investigations pursuant to this section. The  
26 Administrator may advance money to them for those expenses when  
27 appropriate.

28 **Sec. 30.** NRS 119A.355 is hereby amended to read as follows:

29 119A.355 1. A permit must be renewed annually by the  
30 developer by filing an application with and paying the fee for  
31 renewal to the Administrator. The application must be filed and the  
32 fee paid not later than 30 days before the date on which the permit  
33 expires. The application must include the budget of the association  
34 and any *material* change that has occurred in the information  
35 previously provided to the Administrator or in a *public offering*  
36 statement ~~of disclosure~~ provided to a prospective purchaser  
37 pursuant to the provisions of NRS 119A.400.

38 2. The renewal is effective on the 30th day after the filing of  
39 the application unless the Administrator:

40 (a) ~~Denies~~ *Issues a written denial of* the renewal pursuant to  
41 NRS 119A.654 ~~for for any other reason;~~ *describing the reasons for*  
42 *denial in sufficient detail to allow the developer to cure the*  
43 *deficiencies;* or

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



3. *The Division shall, within 30 days after the receipt of evidence that the deficiencies in the application for renewal of a permit to sell time shares are cured, renew the permit to sell time shares or deny the renewal and list the specific reasons for denial.*

4. *If the Administrator fails to take any action described in subsection 3, the renewal of the permit to sell time shares shall be deemed issued by the Division.*

**Sec. 31.** NRS 119A.357 is hereby amended to read as follows:

119A.357 1. A sales agent, representative, manager, developer, ~~for~~ project broker *or time-share resale broker* shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any crime involving moral turpitude.

2. A sales agent, representative, manager, developer, ~~for~~ project broker *or time-share resale broker* shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a license, registration or permit issued pursuant to this chapter.

**Sec. 32.** 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~~ *shall* provide by regulation:

For each application for the registration of a representative .....	\$85
For each renewal of the registration of a representative .....	85
For each transfer of the registration of a representative to a different developer .....	20
For each penalty for a late renewal of the registration of a representative .....	40
For each preliminary permit to sell time shares .....	275
For each permit to sell time shares, per subdivision .....	500
For each amendment to a public offering statement after the issuance of the report .....	150
For each renewal of a permit to sell time shares .....	500
For each original and annual registration of a manager .....	75
For each application for an original license as a sales agent .....	175
For each renewal of a license as a sales agent .....	175
For each penalty for a late renewal of a license as a sales agent .....	75



1	For each change of name or address of a licensee or	
2	status of a license .....	\$20
3	For each duplicate license, permit or registration	
4	where the original is lost or destroyed, and an	
5	affidavit is made thereof.....	20
6	For each annual approval of a course of instruction	
7	offered in preparation for an original license or	
8	permit .....	100
9	For each original accreditation of a course of	
10	continuing education .....	100
11	For each renewal of accreditation of a course of	
12	continuing education .....	50

13  
14 2. Each developer shall pay an additional fee for each time  
15 share the developer sells in a time-share plan over 50 pursuant to the  
16 following schedule:  
17

18		Amount to be
19	Number of time shares	paid per time share
20		
21	51—250 .....	\$5.00
22	251—500 .....	4.00
23	501—750 .....	3.00
24	751—1500 .....	2.50
25	over 1500 .....	1.00

26  
27 3. Except for the fees relating to the registration of a  
28 representative, the Administrator may reduce the fees established by  
29 this section if the reduction is equitable in relation to the costs of  
30 carrying out the provisions of this chapter.

31 4. The Division shall adopt regulations which establish the fees  
32 to be charged and collected by the Division to pay the costs of:

33 (a) Any examination for a license, including any costs which are  
34 necessary for the administration of such an examination.

35 (b) Any investigation of a person's background.

36 ***5. The Division shall not impose or collect any fee pursuant***  
37 ***to this chapter unless the fee is established by this chapter or by***  
38 ***the adoption of a regulation pursuant to a provision of this***  
39 ***chapter authorizing the fee to be established by regulation.***

40 **Sec. 33.** NRS 119A.380 is hereby amended to read as follows:

41 119A.380 1. Each time-share plan must be created by one or  
42 more time-share instruments.

43 2. A time-share instrument must provide:

44 (a) A legal description and the physical address of the project;

45 (b) The name of the time-share plan;



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(c) A system for establishing the permanent identifying numbers of the time shares;

(d) For assessment of the expenses of the time-share plan and an allocation of those expenses among the time shares;

(e) The voting rights which are assigned to each time share;

(f) If applicable, the procedure to add units and other real estate to, and to withdraw units and other real estate from, the time-share plan, and the method of reallocating expenses among the time shares after any such addition or withdrawal;

(g) The maximum number of time shares that may be created under the time-share plan;

(h) For selection of the trustee for insurance which is required to be maintained by the association or the developer;

(i) For maintenance of the units;

(j) For management of the time-share plan;

(k) A procedure to amend the time-share instrument; and

(l) The rights of the purchaser relating to the occupancy of the unit.

3. A time-share instrument may provide for:

(a) The developer's reserved rights;

(b) Cumulative voting, but only for the purpose of electing the members of the board; and

(c) The establishment of:

(1) Separate voting classes based on the size or type of unit to which the votes are allocated; and

(2) A separate voting class for the developer during the period in which the developer is in control.

4. The provisions of a time-share instrument are severable.

5. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provisions of a time-share instrument.

*6. With respect to time-share plans governed by the law of another state or units located outside of this State, the instrument creating and governing the time-share plans or units must be in compliance with the applicable laws of the state or jurisdiction under which the time-share plan is formed or in which the units are located. If the standards set forth in the law of the state or jurisdiction under which the time-share plan is formed or in which the units are located conflict with the requirements of this chapter, the laws of the other state or jurisdiction control. If the association and the time-share instrument comply with subsections 1 and 2, the association and the developer shall be deemed to be in compliance with the requirements of this section and are not required to revise a time-share instrument to comply with this chapter.*



1     **Sec. 34.** NRS 119A.390 is hereby amended to read as follows:

2     119A.390 A reservation to purchase a time share must:

3     1. Be on a form approved by the Division;

4     2. Include a provision which grants the prospective purchaser  
5 the right to cancel the reservation at any time before the execution  
6 of the contract of sale with the full refund of any deposit;

7     3. Provide for the placement of any deposit in escrow until  
8 *the statement of record is approved or deemed approved and* a  
9 permit is issued *or deemed issued* by the Administrator pursuant to  
10 NRS 119A.300;

11    4. Guarantee the purchase price for the time share for a certain  
12 period after the ~~issuance of~~ *statement of record is approved or*  
13 *deemed approved and* the permit to sell time shares ~~is issued or~~  
14 *deemed issued by the Administrator;* and

15    5. Require that any interest earned on the deposit for the  
16 reservation be paid to the prospective purchaser.

17     **Sec. 35.** NRS 119A.400 is hereby amended to read as follows:

18     119A.400 1. Each developer, through his or her project  
19 broker and sales agents, shall provide each prospective purchaser  
20 with a copy of the developer's public offering statement . ~~which~~  
21 ~~must contain a copy of the developer's permit to sell time shares.~~ *A*  
22 *prospective purchaser may request to receive the public offering*  
23 *statement in electronic format or paper format. If the prospective*  
24 *purchaser requests the public offering statement in electronic*  
25 *format, the developer shall provide to the purchaser the statement*  
26 *of the right of cancellation pursuant to NRS 119A.410 in a single*  
27 *separate document.*

28    2. The project broker or sales agent shall review the public  
29 offering statement with each prospective purchaser before the  
30 execution of any contract for the sale of a time share and obtain a  
31 receipt signed by the purchaser for a copy of the public offering  
32 statement.

33    3. If a contract is signed by the purchaser, the signed receipt for  
34 a copy of the public offering statement must be kept by the project  
35 broker for 3 years and is subject to such inspections and audits as  
36 may be prescribed by regulations adopted by the Division.

37     **Sec. 36.** NRS 119A.420 is hereby amended to read as follows:

38     119A.420 All money, negotiable instruments or other deposits  
39 pertaining to the sale of a time share *which are received from a*  
40 *purchaser* must be placed in *an* escrow ~~[- pursuant to an agreement~~  
41 ~~approved by the Division, with an escrow agent or a trustee.]~~  
42 *account established to the satisfaction of the Division and held*  
43 *until such time as the right to cancel the contract of sale pursuant*  
44 *to NRS 119A.410 has expired. In lieu of placing such deposits in*  
45 *an escrow account, the developer or project broker may establish*



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1 *to the satisfaction of the Division that a surety bond has been*  
2 *posted for the benefit of purchasers in the project in the amount*  
3 *of:*

- 4 1. *Twenty-five thousand dollars; or*
- 5 2. *The highest monthly total amount of deposits received by a*  
6 *project broker,*  
7 *↳ whichever is greater.*

8 **Sec. 37.** NRS 119A.430 is hereby amended to read as follows:

9 119A.430 ~~{Eserow}~~ *The sale of a time share to a purchaser*  
10 may not be closed unless the developer has provided satisfactory  
11 evidence to the Administrator that:

12 1. The project is free and clear of any blanket encumbrance;  
13 2. Each person who holds an interest in the blanket  
14 encumbrance has executed an agreement, approved by the  
15 Administrator, to subordinate his or her rights to the rights of the  
16 purchaser;

17 3. Title to the project has been conveyed to a trustee;

18 4. All holders of a lien recorded against the project have  
19 recorded an instrument providing for the release and reconveyance  
20 of each time share from the lien upon the payment of a specified  
21 sum or the performance of a specified act;

22 5. The developer has obtained and recorded one or more  
23 binding nondisturbance agreements acceptable to the Administrator,  
24 that:

25 (a) Are executed by the developer, all holders of a lien recorded  
26 against the project and any other person whose interest in the project  
27 could defeat the rights or interests of any purchaser under the time-  
28 share instrument or contract of sale; and

29 (b) Provide that any person whose interest in the project could  
30 defeat the rights or interests of any purchaser under the time-share  
31 instrument or contract of sale takes title to the project subject to the  
32 rights of the purchasers; or

33 6. Alternative arrangements have been made which are  
34 adequate to protect the rights of the purchasers of the time shares  
35 and approved by the Administrator.

36 **Sec. 38.** NRS 119A.460 is hereby amended to read as follows:

37 119A.460 If a trust is created pursuant to ~~{a requirement of this~~  
38 ~~chapter,}~~ *subsection 3 of NRS 119A.430*, the:

39 1. Trustee must be approved by the Administrator.

40 2. Trust must be irrevocable, unless otherwise provided by the  
41 ~~{Division.}~~ *Administrator.*

42 3. Trustee must not be permitted to encumber the property  
43 unless permission to do so has been given by the ~~{Division.}~~  
44 *Administrator.*



4. Association or each owner must be made a third-party beneficiary.

5. Trustee must be required to give at least 30 days' notice in writing of his or her intention to resign to the association, if it has been formed, and to the ~~Division,~~ *Administrator*, and the ~~Division~~ *Administrator* must approve a substitute trustee before the resignation of the trustee may be accepted.

**Sec. 39.** NRS 119A.470 is hereby amended to read as follows:

119A.470 1. If title to a project is conveyed to a trustee pursuant to subsection 3 of NRS 119A.430, before escrow closes for the sale of the first time share, the developer must provide the ~~Division~~ *Administrator* with satisfactory evidence that:

(a) Title to the project has been conveyed to the trustee.

(b) All proceeds received by the developer from the sales of time shares are being delivered to the trustee and deposited in a fund which has been established to provide for the payment of any taxes, costs of insurance or the discharge of any lien recorded against the project.

2. The trustee shall pay the charges against the trust in the following order:

(a) Trustee's fees and costs.

(b) Payment of taxes.

(c) Payments due any holder of a lien recorded against the project.

(d) Any other payments authorized by the document creating the trust.

3. The Administrator may inspect the records relating to the trust at any reasonable time.

**Sec. 40.** NRS 119A.475 is hereby amended to read as follows:

119A.475 1. Where any part of the statement of record, when that part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein, the Administrator or any person acquiring a time share from the developer or his or her agent during the period the public offering statement remained uncorrected (unless it is proved that at the time of the acquisition the Administrator or purchaser knew of the untruth or omission) may sue the developer in any court of competent jurisdiction.

2. Any developer or agent who sells a time share:

(a) In violation of this chapter; or

(b) By means of a public offering statement which contained an untrue statement of a material fact required to be stated therein,  
➤ may be sued by the Administrator or purchaser of the time share.

3. If a suit authorized under subsection 1 or 2 is brought by the purchaser, the purchaser is entitled to recover such damages as





1 represent the difference between the amount paid for the time share  
2 and the reasonable cost of any permanent improvements thereto, and  
3 the lesser of:

4 (a) The value thereof as of the time the suit was brought;

5 (b) The price at which the time share has been disposed of in a  
6 bona fide market transaction before suit; or

7 (c) The price at which the time share has been disposed of after  
8 suit in a bona fide market transaction but before judgment,

9 ➔ or to rescission of the contract of sale and the refund of any  
10 consideration paid by the purchaser.

11 4. If a suit authorized under subsection 1 or 2 is brought by the  
12 Administrator, the Administrator may seek a declaration of the court  
13 that any person entitled to sue the developer or his or her agent  
14 under this section is entitled to the right of rescission and the refund  
15 of any consideration paid by him or her.

16 5. Every person who becomes liable to make any payment  
17 under this section may recover contribution as in cases of contract  
18 from any person who, if sued separately, would have been liable to  
19 make the same payment.

20 6. Reasonable attorney's fees may be awarded to the prevailing  
21 party in any action brought under this section. Any action to rescind  
22 a contract of sale under this section must be brought within 1 year  
23 after the date of purchase or within 1 year after the date of the  
24 discovery of the misrepresentation giving rise to the action for  
25 rescission.

26 7. The provisions of this section are in addition to and not a  
27 substitute for any other right of a person to bring an action in any  
28 court for any act involved in the offering or sale of time shares or  
29 the right of the state to punish any person for any violation of any  
30 law.

31 ~~{8. For the purposes of this section, "statement of record"~~  
32 ~~means the information submitted to the Administrator by the~~  
33 ~~developer in its application for a permit to offer to sell or sell time~~  
34 ~~shares.}~~

35 **Sec. 41.** NRS 119A.4771 is hereby amended to read as  
36 follows:

37 119A.4771 1. A person who, on behalf of an owner other  
38 than a developer ~~{wishes}~~ *and for compensation, undertakes* to  
39 list, advertise, *transfer, assist in transferring* or promote for resale,  
40 or solicit prospective purchasers of, *more than* 12 ~~{or more}~~ time  
41 shares *in any 12-month period* that were previously sold must:

42 (a) Be licensed as a real estate broker pursuant to the provisions  
43 of chapter 645 of NRS; ~~{and}~~

44 (b) Register as a time-share resale broker with the Division by  
45 completing a form for registration provided by the Division ~~{}~~ *; and*





1 *(c) Pay any applicable fees.*

2 2. A time-share resale broker shall renew his or her registration  
3 with the Division annually on a form provided by the Division ~~†~~  
4 *and pay any applicable fees.*

5 3. Unless the method of resales of time shares is made to evade  
6 the provisions of this chapter, a person is not required to register  
7 *pursuant to this section or to be licensed under chapter 645 of*  
8 *NRS* as a time-share resale broker if the person:

9 (a) ~~Has acquired fewer than 12 time shares and~~ *Is a purchaser*  
10 *who acquires time shares for his or her own use and occupancy*  
11 *and who* later ~~resells or~~ offers to resell ~~one or more~~ *12 or less*  
12 *those time shares* ~~†; or~~ *in any one calendar year;*

13 (b) Is a project broker *or sales agent* who resells or offers to  
14 resell a time share in a project as an agent for a developer who holds  
15 a permit for the project ~~†~~ *; or*

16 *(c) Is an owner, operator or publisher of a newspaper,*  
17 *periodical or Internet website, unless the owner, operator or*  
18 *publisher, alone or in combination with its affiliate, parent,*  
19 *subsidiary or agent, derives more than 10 percent of its gross*  
20 *revenue from providing advance fee listings. For the purposes of*  
21 *this paragraph, the calculation of gross revenue derived from*  
22 *providing advance fee listings includes the revenue of any*  
23 *affiliate, parent, agent and subsidiary of the owner, operator or*  
24 *publisher of the newspaper, periodical or Internet website. As used*  
25 *in this paragraph, "advance fee listings" has the meaning ascribed*  
26 *to it in NRS 645.004.*

27 **Sec. 42.** NRS 119A.4775 is hereby amended to read as  
28 follows:

29 119A.4775 1. ~~†Before~~ *If the purchaser of a previously sold*  
30 *time share purchases the time share through a time-share resale*  
31 *broker, the contract of sale must provide, in not less than 10-point*  
32 *boldface type, that the purchaser may cancel, by written notice, the*  
33 *contract of sale until midnight of the fifth calendar day after the*  
34 *date of execution of the contract.*

35 2. *Regardless of whether a time-share resale broker charges*  
36 *or collects an advance fee, before* a purchaser signs any contract to  
37 purchase a time share that is offered for resale ~~†~~ *through a time-*  
38 *share resale broker, the* ~~†person who is reselling the time share,†~~  
39 *time-share resale broker, other than a developer, shall disclose* ~~†by~~  
40 *a written document separate from* ~~†~~ *in the contract to purchase* ~~†a~~ *the*  
41 *time share:*

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

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



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(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 plan and the project;

(e) The place where the documents of formation of the association and documents governing the time-share plan and the 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;

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

(i) ~~Any other information required to be disclosed pursuant to the regulations adopted by the Administrator pursuant to subsection 2.~~

~~2.~~ *The right to cancel the contract in subsection 1.*

3. The Administrator shall adopt regulations prescribing the form and contents of the ~~disclosure statement~~ *disclosures* described in this section.

**Sec. 43.** NRS 119A.4777 is hereby amended to read as follows:

119A.4777 1. An agreement for ~~a time share~~ *the resale of a time share* entered into by an owner *of that time share* and a ~~person~~ *time-share resale broker* who ~~resells a~~ *lists or offers to resell that* time share must:

(a) Be in writing; ~~and~~

(b) *Contain a provision in not less than 10-point boldface type that the owner may cancel, by written notice, the agreement with the time-share resale broker until midnight of the fifth calendar day after the date of execution of the agreement; and*

(c) Contain a *written* disclosure that sets forth:

(1) Whether any person other than the purchaser may use the time share during the period before the time share is resold;

(2) Whether any person other than the purchaser 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 person who resells the time share and any other person who receives any benefit from the use of the time share ~~and~~ *; and*



1           ***(5) The right to cancel the agreement provided pursuant to***  
2 ***paragraph (b).***

3           2. ~~A person~~ ***The time-share resale broker*** who resells a time  
4 share shall provide a fully executed copy of the written agreement  
5 described in subsection 1 to the owner on the date that the owner  
6 signs the agreement.

7           3. ~~A person~~ ***The time-share resale broker*** who resells a time  
8 share shall make the disclosures required pursuant to paragraph ~~(b)~~  
9 ***(c)*** of subsection 1 before accepting anything of value from the  
10 owner.

11       **Sec. 44.** NRS 119A.4779 is hereby amended to read as  
12 follows:

13       119A.4779 ***1.*** In addition to the provisions of NRS 645.322,  
14 645.323 and 645.324, a time-share resale broker who charges or  
15 collects an advance fee shall place 80 percent of that fee into his or  
16 her trust account. If the time-share resale broker closes escrow on  
17 the time-share resale, the time-share resale broker shall be deemed  
18 to have earned the advance fee. If the listing of the time share  
19 expires before the time-share resale broker closes escrow on the  
20 time-share resale, the time-share resale broker must return the  
21 money held in the trust account to the owner of the time share  
22 within 10 days after the date of the expiration of the listing.

23       ***2. The contract for an advance fee listing must include the***  
24 ***following disclosures to the owner of any previously sold time***  
25 ***share:***

26       ***(a) A description of any fees or costs related to the services that***  
27 ***the owner or any other person is required to pay to the time-share***  
28 ***resale broker or to any third party;***

29       ***(b) A description of when any fees or costs are due; and***

30       ***(c) The disclosures required by NRS 119A.4777.***

31       ***3. A time-share resale broker who charges or collects an***  
32 ***advance fee shall not:***

33       ***(a) State or imply to an owner that the time-share resale***  
34 ***broker has identified a person interested in buying or renting the***  
35 ***time share without providing the name, address and telephone***  
36 ***number of such person;***

37       ***(b) State or imply to an owner that the time share has a***  
38 ***specific resale value;***

39       ***(c) Fail to honor any cancellation notice sent by the owner by***  
40 ***midnight of the fifth day after the date of execution of the***  
41 ***contract; or***

42       ***(d) Fail to provide a full refund of all money paid by an owner***  
43 ***within 20 days after receipt of a notice of cancellation or within 5***  
44 ***days after receipt of immediately available funds, whichever is***  
45 ***later.***



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1     4. *If a time-share resale broker executes a contract that fails*  
2 *to comply with the provisions of subsection 2, such contract is*  
3 *voidable at the option of the owner for a period of 1 year after the*  
4 *date of execution.*

5     5. *Notwithstanding the obligations placed upon any other*  
6 *person by this section, the time-share resale broker shall*  
7 *supervise, manage and control all aspects of the resale offering of*  
8 *a time share by any sales agent or employee of the time-share*  
9 *resale broker. Any violation of the provisions of this section that*  
10 *occurs during such offering shall be deemed a violation by the*  
11 *time-share resale broker and by the person who actually*  
12 *committed the violation.*

13     6. *The use of any unfair or deceptive act or practice by any*  
14 *person in connection with the offering of a time share for resale is*  
15 *a violation of this section.*

16     7. *A violation of this section is an unfair or deceptive act or*  
17 *practice pursuant to NRS 207.170, 207.171, 598.0915 to 598.0925,*  
18 *inclusive, and chapter 598A and 599A of NRS.*

19     8. *Notwithstanding any other penalty provided for in this*  
20 *chapter or chapter 645 of NRS, a person who violates any*  
21 *provision of NRS 119A.4771 to NRS 119A.4779, inclusive, is*  
22 *subject to a civil penalty of not more than \$1,000 for each*  
23 *violation.*

24     **Sec. 45.** NRS 119A.480 is hereby amended to read as follows:

25     119A.480 1. If the interest of the developer is a leasehold  
26 interest, the lease, unless otherwise determined by the ~~Division,~~  
27 *Administrator*, must provide that:

28     (a) The lessee must give notice of termination of the lease for  
29 any default by the lessor to the association.

30     (b) The lessor, upon any default of the lessee including  
31 bankruptcy of the lessee, shall enter into a new lease with the  
32 association upon the same terms and conditions as the lease with the  
33 developer.

34     2. The ~~Division~~ *Administrator* may require the developer to  
35 execute a bond or other type of security for the payment of the rental  
36 obligation.

37     **Sec. 46.** NRS 119A.530 is hereby amended to read as follows:

38     119A.530 1. ~~1A~~ *During any period in which the developer*  
39 *holds a valid permit and the developer or an affiliate of the*  
40 *developer is the manager, the* developer or an affiliate of the  
41 developer shall provide for the management of the time-share plan  
42 and the project, by a written agreement with the association or, if  
43 there is no association, with the owners. The initial term of the  
44 agreement must expire upon the first annual meeting of the  
45 members of the association or at the end of 5 years, whichever



1 comes first. All succeeding terms of the agreement must be renewed  
2 annually unless the manager refuses to renew the agreement or a  
3 majority of the members of the association who are entitled to vote,  
4 excluding the developer, notifies the manager of its refusal to renew  
5 the agreement.

6 2. The agreement must provide that:

7 (a) The manager or a majority of the owners may terminate the  
8 agreement for cause.

9 (b) The resignation of the manager will not be accepted until 90  
10 days after receipt by the association, or if there is no association, by  
11 the owners, of the written resignation.

12 (c) A fidelity bond must be delivered by the manager to the  
13 association.

14 3. An agreement entered into or renewed on or after October 1,  
15 2001, must contain a detailed, itemized schedule of all fees,  
16 compensation or other property that the manager is entitled to  
17 receive for services rendered to the association or any member of  
18 the association or otherwise derived from the manager's affiliation  
19 with the time-share plan or the project, or both, unless the manager  
20 is the developer or an affiliate of the developer. Upon the request of  
21 the association, the manager shall disclose to the association annual  
22 revenue received by the manager from the manager's affiliation with  
23 the time-share plan or the project, or both.

24 4. Except as otherwise provided in this subsection, if the  
25 developer retains a property interest in the project, the parties to  
26 such an agreement must include the developer, the manager and the  
27 association. In addition to the provisions required in subsections 1  
28 and 2, the agreement must provide:

29 (a) That the project will be maintained in good condition.  
30 Except as otherwise provided in this paragraph, any defect which is  
31 not cured within 10 days after notification by the developer may be  
32 cured by the developer. In an emergency situation, notice is not  
33 required. The association must repay the developer for any cost of  
34 the repairs plus the legal rate of interest. Each owner must be  
35 assessed for his or her share of the cost of repairs.

36 (b) That, if any dispute arises between the developer and the  
37 manager or association, either party may request from the American  
38 Arbitration Association or the Nevada Arbitration Association a list  
39 of seven potential fact finders from which one must be chosen to  
40 settle the dispute. The agreement must provide for the method of  
41 selecting one fact finder from this list.

42 (c) For the collection of assessments from the owners to pay  
43 obligations which may be due to the developer for breach of the  
44 covenant to maintain the premises in good condition and repair.



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1 ➡ If the developer is not made a party to this agreement, the  
2 developer shall be considered to be a third-party beneficiary of such  
3 an agreement.

4 *5. The provisions of this section do not apply to the*  
5 *management of a project located outside of this State.*

6 **Sec. 47.** NRS 119A.532 is hereby amended to read as follows:

7 119A.532 1. A person who wishes to engage in the business  
8 of, act in the capacity of, advertise or assume to act as a manager *of*  
9 *a project located in this State* shall register with the Division on a  
10 form prescribed by the Division.

11 2. The form for registration must include, without limitation:

12 (a) The registered name of ~~the~~ *each* time-share plan or ~~the~~  
13 project, or both, that the manager will manage;

14 (b) The address and telephone number of the manager's  
15 principal place of business;

16 (c) The social security number of the manager; and

17 (d) The name of the manager's responsible managing employee.

18 3. The form for registration must be accompanied by:

19 (a) Satisfactory evidence, acceptable to the Division, that the  
20 manager and his or her employees have obtained fidelity bonds in  
21 accordance with regulations adopted by the Division; and

22 (b) The statement required pursuant to NRS 119A.263.

23 4. The Division shall collect the fee specified in NRS  
24 119A.360 upon registering the manager and annually thereafter to  
25 maintain the registration.

26 5. As used in this section, "responsible managing employee"  
27 means the person designated by the manager to:

28 (a) Make technical and administrative decisions in connection  
29 with the manager's business; and

30 (b) Hire, superintend, promote, transfer, lay off, discipline or  
31 discharge other employees or recommend such action on behalf of  
32 the manager.

33 **Sec. 48.** NRS 119A.540 is hereby amended to read as follows:

34 119A.540 1. The association or, if there is no association, the  
35 developer shall adopt an annual budget for revenues, expenditures  
36 and reserves and collect assessments for the expenses of the time-  
37 share plan and the project from the owners. The annual budgets of  
38 ~~the~~ *an* association *governing a project within this State* must be  
39 submitted to ~~and approved by~~ the Division until such time as the  
40 association is controlled by members other than the developer.

41 2. ~~The Administrator may require that the association or, if~~  
42 ~~there is no association, the developer provide, at the association's or~~  
43 ~~the developer's expense, an opinion from an independent~~  
44 ~~professional consultant as to the sufficiency of the budget to sustain~~  
45 ~~the time share plan offered by the association or the developer.~~ The



1 association or the developer shall place any money collected for  
2 assessments and any other revenues received by or on behalf of the  
3 association in an account established by the association.

4 3. The developer shall pay assessments for any time shares  
5 which are unsold or enter into an agreement with the association, in  
6 a form approved by the Division, to pay the difference between the  
7 actual expenses incurred by the association and the sum of the  
8 amounts payable to the association as assessments by owners, other  
9 than the developer, and other revenues received by the association.  
10 The Division may require the developer to provide a surety bond or  
11 other form of security which is satisfactory to the Division, to  
12 guarantee payment of the developer's obligation.

13 **Sec. 49.** NRS 119A.670 is hereby amended to read as follows:

14 119A.670 The Real Estate Commission may take action  
15 pursuant to NRS 645.630 against any project broker *or time-share*  
16 *resale broker* who fails to adequately supervise the conduct of any  
17 sales agent or representative , *as applicable*, with whom the project  
18 broker *or time-share resale broker* is associated.

19 **Sec. 50.** NRS 119A.680 is hereby amended to read as follows:

20 119A.680 1. It is unlawful for any person to engage in the  
21 business of, act in the capacity of, advertise or assume to act as a:

22 (a) Project broker or ~~{sales-agent}~~ *time-share resale broker*  
23 within the State of Nevada without first obtaining a license from the  
24 Division pursuant to chapter 645 of NRS . ~~{or NRS 119A.210.}~~

25 (b) *Sales agent within this State without first obtaining a*  
26 *license from the Division pursuant to NRS 119A.210, unless he or*  
27 *she is licensed as a real estate salesperson pursuant to chapter 645*  
28 *of NRS.*

29 (c) Representative, manager or time-share resale broker within  
30 the State of Nevada without first registering with the Division.

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

33 **Sec. 51.** NRS 119A.690 is hereby amended to read as follows:

34 119A.690 Any person who willfully submits, in the application  
35 for a *public offering statement and* permit to sell time shares or an  
36 application for a sales agent's license, any materially false or  
37 misleading information or fails to submit an annual report on a  
38 program for the exchange of occupancy rights among owners or  
39 with the owners of time shares in other time-share plans, or both, is  
40 guilty of a misdemeanor.

41 **Sec. 52.** NRS 119A.370, 119A.4773 and 119A.490 are hereby  
42 repealed.



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**TEXT OF REPEALED SECTIONS**

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**119A.370 Filing of advertisement or offering.**

1. A time share must not be advertised or offered for sale within this state until the advertisement or offering is filed with the Division.
2. Each such filing 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.

**119A.473 Filing of advertisement or offering required.**

1. A time share must not be advertised or offered for resale within this state until the advertisement or offering is filed with the Division.
2. Each such filing must include:
  - (a) The form and content of advertising to be used;
  - (b) The nature of the offer of gifts or other free benefits to be extended; and
  - (c) The nature of promotional meetings involving any person or act described in NRS 119A.300.

**119A.490 Filing of amendment of time-share instrument required.**

1. Any proposed amendment by the developer of the provisions of a time-share instrument must be filed with the Division.
2. Unless the Division notifies the developer of its disapproval within 15 days, the amendments shall be deemed to be approved by the Division.

