

Amendment No. 808

Assembly Amendment to Assembly Bill No. 404 First Reprint (BDR 10-960)

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of A.B. 404 R1 (§ 32).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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 underlining* is newly added transitory language.

SRT/BFG



Date: 5/24/2013

A.B. No. 404—Revises provisions relating to time shares. (BDR 10-960)



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; revising provisions governing certain fees relating to time shares; 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) **Section 14** of this bill maintains the existing law requiring that a sales agent obtain a license from the Real Estate Division of the Department of Business and Industry, but 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~~ to register with the Division, 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. **Section 25** of this bill amends the grounds for denial of an application for a permit to sell time shares. **Section 26** of this bill amends provisions relating to the procedure for approving or denying an application for a permit to sell time shares. **Section 27** of this bill provides for a hearing on the denial of an amendment to the statement of record or a renewal of 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 30 of this bill provides that a renewal of 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 32 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 fees that the Division is required to collect relating to time shares. (NRS 119A.360) Section 32 of this bill increases certain fees and revises the fee based on the number of time shares sold by a developer to provide for a fee based on the number of time shares in a time-share plan. Section 32 also establishes a fee for an amendment to a statement of record, the initial registration of a time-share resale broker and the renewal of the registration of a time-share resale broker.

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

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.

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 adding thereto the
2 provisions set forth as sections 1.2 to 4, inclusive, of this act.

3 **Sec. 1.2.** *“Branch office” means an office operated by a real estate broker*
4 *who is licensed pursuant to chapter 645 of NRS, separate from the principal*
5 *location of the real estate broker, for the purpose of engaging in the business of*
6 *selling or reselling time shares.*

7 **Sec. 1.4.** *“Component site” means the specific geographic location where*
8 *units that are part of a time-share plan are located, including, without limitation,*
9 *new units added to a single project in the same geographic location and under*
10 *common management.*

11 **Sec. 2.** *“Statement of record” means the information provided to the*
12 *Administrator pursuant to paragraph (a) of subsection 1 of NRS 119A.300 or*
13 *subsection 2 of NRS 119A.300, as applicable.*

14 **Sec. 2.5.** 1. *Every branch office must be operated under the supervision*
15 *of a real estate broker or real estate broker-salesperson who is licensed pursuant*
16 *to chapter 645 of NRS and who has had at least 2 years of experience as an active*
17 *real estate broker, real estate broker-salesperson or real estate salesperson in the*
18 *United States.*

19 2. *The project broker or time-share resale broker is responsible for each*
20 *branch office which he or she operates.*

21 3. *If the location of the branch office does not permit a project broker or a*
22 *time-share resale broker to exercise direct supervision of a branch office, a real*
23 *estate broker-salesperson shall directly supervise the branch office.*

24 4. *A supervisor of a branch office may not supervise more than one branch*
25 *office.*

26 **Sec. 3.** 1. *If there is a material change to the time-share plan which is not*
27 *caused by or under the control of the developer, the developer shall file with the*
28 *Division an amended statement of record not later than 10 days before the*
29 *material change occurs or within 10 days after the developer knows or reasonably*
30 *should have known of the material change. For any material change to the time-*
31 *share plan, the developer shall file an amended statement of record, and such an*
32 *amended statement of record is effective on the 60th day after the filing or, in the*
33 *event that additional units are added to the time-share plan which are in a*
34 *component site previously registered with the Division, on the 120th day after the*
35 *filing, unless the Administrator:*

36 (a) *Issues a denial of the amended statement of record pursuant to NRS*
37 *119A.654 describing the reasons for the denial in sufficient detail to allow the*
38 *developer to correct the deficiencies in the amended statement of record; or*

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

40 2. *The Administrator shall, within 30 days after receiving evidence that the*
41 *deficiencies in the amended statement of record are cured, approve or deny the*
42 *amended statement of record and list the specific reasons for denial. If the*
43 *Division fails to take any of the actions described in this subsection within the 30-*
44 *day period, the amended statement of record shall be deemed approved by the*
45 *Division.*

46 3. *Any amendment proposed by the developer to the provisions of a time-*
47 *share instrument must be filed with the Division. Unless the Division notifies the*
48 *developer of its disapproval within 15 days after the developer files the proposed*

1 *amendment to the time-share instrument, the amendment shall be deemed to be*
2 *approved by the Division.*

3 **Sec. 4.** 1. *Except as otherwise provided in subsection 3, a person who*
4 *knowingly participates, for consideration or with the expectation of*
5 *consideration, in any plan or scheme, a purpose of which is to transfer a*
6 *previously sold time share to a transferee who does not pay or provide payment*
7 *for all assessments for that time share commits a false, misleading or deceptive*
8 *act or practice for the purposes of NRS 207.170, 207.171, 598.0915 to 598.0925,*
9 *inclusive, and chapters 598A and 599A of NRS.*

10 2. *The failure of a transferee to pay assessments or taxes that come due*
11 *after the acquisition of a previously sold time share by a person who acquires the*
12 *time share for commercial purposes is prima facie evidence of a violation of this*
13 *section.*

14 3. *An association or manager does not violate the provisions of this section*
15 *by performing such acts and collecting such fees or expenses as are customary*
16 *during the transfer.*

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

18 119A.010 As used in this chapter, unless the context otherwise requires, the
19 words and terms defined in NRS 119A.020 to 119A.160, inclusive, *and sections*
20 *1.2, 1.4 and 2 of this act* have the meanings ascribed to them in those sections.

21 **Sec. 6.** (Deleted by amendment.)

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

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

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

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

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

36 119A.130 "Sales agent" means a person who, on behalf of a developer ~~and~~ *and*
37 *under the supervision of a real estate broker licensed pursuant to the provisions*
38 *of chapter 645 of NRS,* sells or offers to sell a time share to a purchaser or who, if
39 he or she is not registered as a representative, may act to induce other persons to
40 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 registered as a~~
43 ~~time share resale broker pursuant to the provisions of this chapter.~~ *, for*
44 *compensation, lists, advertises, transfers, assists in transferring, promotes for*
45 *resale or solicits prospective purchasers for previously sold time shares on behalf*
46 *of an owner other than a developer.*

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

48 119A.170 1. ~~He~~ *Unless the method of disposition is adopted to evade*
49 *the provisions of this chapter or chapter 645 of NRS, the* provisions of this
50 chapter, except subsection ~~4.1~~ *5,* do not apply to:

51 (a) The sale *or resale* of 12 or fewer time shares in a *time-share* ~~project~~ *plan;*
52 ~~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

~~that~~ *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

~~that~~

(III) At a foreclosure sale that,

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. ~~that~~

~~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.290 to 119A.470, inclusive, and sections 3 and 4 of this act and 119A.480 do not apply to the offer or disposition in this State of a time share in a time-share plan that includes units which are located outside of this State, which are not registered under this chapter and which are offered or sold to an existing owner of a time share in a time-share plan offered by the same developer or an affiliate of the same 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.

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

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

~~that~~ 5. The provisions of chapter 645 of NRS apply to the sale of time shares, except any sale of a time share to which this chapter applies ~~that~~ *and except any provisions of this chapter expressly excluding the applicability of the provisions of chapter 645 of NRS*, and for that purpose the terms “real property” and “real estate” as used in chapter 645 of NRS shall be deemed to include a time share, whether it is an interest in real property or merely a contractual right to occupancy.

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

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

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

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

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

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

119A.190 The Division may:

1. Adopt regulations ~~which~~:

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

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

2. *Publish on its official Internet website, or otherwise make public for at least 30 days before the adoption by the Division, any form proposed to be used by the Division under this chapter. The Division shall consider comments on any such proposed form 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 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 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 directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository 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.

5. The Division may:

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

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

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

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

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

~~8-9~~ 9. If a licensee fails to renew his or her license before it expires, the license may be reinstated if the licensee submits the statement and pays the renewal fee and the penalty specified in NRS 119A.360 within 1 year after the license expires.

~~9-10~~ 10. The Administrator may adopt regulations establishing and governing requirements for the continuing education of sales agents.

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

119A.220 1. A sales agent may work for only one project broker at any one time at the location designated in the license.

2. A project broker shall give written notice to the Division of a change of association of any sales agent associated with the project broker within 10 days after that change.

3. The project broker, upon the termination of the employment of any sales agent associated with the project broker, shall submit that agent's license to the Division.

4. If a sales agent changes his or her association with any project broker or changes his or her location ~~with the same project broker,~~ *designated in the license*, the sales agent must apply to the Division for the reissuance of his or her license for its unexpired term. The application must be accompanied by a fee of \$10.

5. A sales agent may only become associated with a project broker who certifies to the sales agent's honesty, trustworthiness and good reputation.

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

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.

1 **3. A representative is not required to be licensed pursuant to the provisions**
2 **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 representations~~
5 ~~concerning the merits or value of a time share plan or a project.~~ **the sale of, or**
6 **discuss prices of, a time share.** A representative may only induce and solicit
7 persons to attend promotional meetings for the sale of time shares and distribute
8 information on behalf of a developer.

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

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

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

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

20 119A.270 A developer shall not:

21 1. Offer to sell any time shares in this state unless the developer holds either a
22 preliminary permit to sell time shares or a permit to sell time shares issued by the
23 Administrator ~~+~~ **pursuant to the provisions of this chapter.**

24 2. Sell any time shares in this state unless the developer holds a permit to sell
25 time shares issued by the Administrator ~~+~~ **pursuant to the provisions of this**
26 **chapter.**

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

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

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

32 119A.280 1. The Administrator may issue an order directing a developer to
33 cease engaging in activities for which the developer has not received **or been**
34 **deemed to have received** a permit under this chapter or conducting activities in a
35 manner not in compliance with the provisions of this chapter or the regulations
36 adopted pursuant thereto.

37 2. The order to cease must be in writing and must ~~state that, in the opinion of~~
38 ~~the Administrator, the developer has not been issued a permit for the activity or the~~
39 ~~terms of the permit do not allow the developer to conduct the activity in that~~
40 ~~manner.~~ **describe the violation in sufficient detail to inform the developer of the**
41 **aspect in which it has failed to comply with the provisions of this chapter.** The
42 developer shall not engage in any activity regulated by this chapter after the
43 developer receives such an order.

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

49 4. If the decision of the Administrator after a hearing is against the person
50 ordered to cease and desist, the person may appeal that decision by filing, within 30
51 days after the date on which the decision was issued, a petition in the district court
52 for the county in which the person conducted the activity. The burden of proof in
53 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.

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

119A.300 1. Except as otherwise provided in NRS 119A.310, the Administrator shall issue a ~~public offering statement and a~~ permit to sell time shares to each applicant who:

~~1. Submits an application.~~

~~(a) Files by electronic means or in the any other manner provided prescribed by the Division, which includes:~~

~~(a) Administrator, a statement of record which includes:~~

- ~~(1) The name and address of the project broker;~~
- ~~(b) (2) A copy of each time-share instrument that relates to the time-share plan;~~

~~(c) (3) A preliminary title report for the project and copies of the documents listed as exceptions in the report;~~

~~(d) (4) Copies of any other documents which relate to the time-share plan or the project, including any contract, agreement or other document to be used to establish and maintain an association and to provide for the management of the time-share plan or the project, or both;~~

~~(e) (5) Copies of instructions for escrow, deeds, sales contracts and any other documents that will be used in the sale of the time shares;~~

~~(f) (6) A copy of any proposed trust agreement which establishes a trust for the time-share plan or the project, or both;~~

~~(g) (7) Documents which show the current assessments for property taxes on the project;~~

~~(h) (8) Documents which show compliance with local zoning laws;~~

~~(i) (9) If the units which are the subject of the time-share plan are in a condominium project, or other form of common-interest ownership of property, documents which show that use of the units is in compliance with the documents which created the common-interest ownership;~~

~~(j) (10) Copies of all documents which will be given to a purchaser who is interested in participating in a program for the exchange of occupancy rights among~~

owners and copies of the documents which show acceptance of the time-share plan in such a program;

~~+(k)+~~ (11) A copy of the budget or a projection of the operating expenses of the association, if applicable;

~~+(l)+~~ (12) A financial statement of the developer; and

~~+(m)+ Such other information as the Division;~~

(13) *A public offering statement in a form prescribed by regulation* ~~+~~ *requires;* ~~+~~ of the Division; and

~~+(2)+~~ (b) Pays the fee provided for in this chapter.

2. *In lieu of the statement of record required pursuant to subsection 1, the Division may accept an abbreviated registration from a developer of a time-share plan in which some or all the units are located outside of this State if:*

(a) *The developer provides evidence that the time-share plan is registered with the applicable regulatory agency in the state or jurisdiction where the time-share plan is offered or sold or that the time-share plan is in compliance with the laws and regulations of the state or jurisdiction in which some or all of the units are located; and*

(b) *The disclosure requirements of the other state or jurisdiction are substantially equivalent to or greater than the information required to be disclosed to purchasers in this State pursuant to paragraph (a) of subsection 1.*

3. *A developer who files an abbreviated registration pursuant to subsection 2 shall, in addition to paying the fee required by paragraph (b) of subsection 1, provide:*

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

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

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

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

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

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

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

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

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

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

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

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

2 119A.305 The terms and conditions of the documents and agreements
3 submitted pursuant to NRS 119A.300 which relate to the creation and management
4 of the time-share plan and to the sale of time shares and to which the applicant or
5 an affiliate of the applicant is a party must be described in the public offering
6 statement and constitute ~~additional~~ *the* terms and conditions of the applicant's
7 permit to sell time shares.

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

9 119A.310 1. The Administrator shall deny an application for a permit to sell
10 time shares if the Administrator finds that:

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

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

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

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

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

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

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

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

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

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

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

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

42 119A.320 1. The ~~Division~~ *Administrator* shall, ~~issue an order,~~ within
43 ~~30~~ *60* days after the receipt of an *initial* application for a permit to sell time shares
44 ~~is, notifying~~ *in a time-share plan containing only one component site, regardless*
45 *of whether additional component sites may be added later by an amendment to*
46 *the filing, notify* the applicant of its decision to:

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

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

50 ~~(b)~~ (c) Deny the application and list *all* the reasons for denial ~~is~~ *in sufficient*
51 *detail to allow the developer to cure the deficiencies.*

2. *The Administrator shall, within 120 days after the receipt of an initial application for a permit to sell time shares in a time-share plan containing more than one component site, 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*
- (c) *Deny the application and list all the reasons for denial in sufficient detail to allow the developer to cure the deficiencies.*

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

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

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

4. *If it is in the public interest that the Administrator issue a second notice regarding the inadequate cure of any deficiencies in the application for a permit to sell time shares, then the Administrator shall issue such a second notice within 15 business days after the developer submits evidence to cure the deficiencies identified pursuant to paragraph (c) of subsection 1 or paragraph (c) of subsection 2, as applicable.*

5. *If the developer fails to cure all the deficiencies after a second notice is issued pursuant to subsection 3, the Administrator may deny the application and require the developer to pay a new filing fee pursuant to NRS 119A.360.*

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

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

2. If the Division fails to:

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

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

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

the order of denial expires and the Division shall issue, within 15 days, a permit to sell time shares to the developer.

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

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

1. The developer shall ~~deliver to the agency~~ *establish to the satisfaction of the Administrator that a bond has been issued* in an amount ~~and upon terms approved by the division~~ *necessary* to assure completion of the project free of any liens, ~~which is payable to the Division for the benefit of the purchasers of the time-share property and~~ which remains in effect until the project is completed free of all liens;

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

3. The developer shall make any other arrangement which is approved by the ~~{Division; Administrator and necessary to safeguard the interests of the public.}~~

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

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

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

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

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

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

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

(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, ~~{or}~~ 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, ~~{or}~~ 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;} the time of filing;*

For each application for the registration of a representative	185 <u>100</u>
For each renewal of the registration of a representative.....	185 <u>100</u>
For each transfer of the registration of a representative to a different developer.....	20 <u>25</u>
For each penalty for a late renewal of the registration of a representative.....	140 <u>75</u>
For each preliminary permit to sell time shares	275 <u>400</u>
For each <u>initial</u> permit to sell time shares 1 per subdivision	500 <u>1,500</u>
For each amendment to a public offering statement of <u>record</u> after the issuance of the report <u>permit to sell</u> <u>time shares, where no new component sites are added</u>	150 <u>200</u>
<u>For each amendment to a statement of record after the</u> <u>issuance of the permit to sell time shares, where one or</u> <u>more new component sites are added, not including the</u> <u>addition of units to a component site previously permitted</u>	<u>500</u>
<u>For each annual renewal of a permit to sell time shares with</u> <u>only one component site</u>	<u>750</u>
For each <u>annual</u> renewal of a permit to sell time shares <u>with</u> <u>more than one component site</u>	1500 <u>1,500</u>
<u>For each initial registration of a time-share resale broker</u>	<u>300</u>
<u>For each renewal of the registration of a time-share resale</u> <u>broker</u>	<u>150</u>
For each original and annual registration of a manager	175 <u>100</u>
For each application for an original license as a sales agent	175 <u>200</u>
For each renewal of a license as a sales agent.....	175 <u>200</u>
For each penalty for a late renewal of a license as a sales agent	175 <u>100</u>
For each change of name or address of a licensee or status of a license	20 <u>25</u>
For each duplicate license, permit or registration where the original is lost or destroyed, and an affidavit is made thereof	20 <u>25</u>
For each annual approval of a course of instruction offered in preparation for an original license or permit.....	1500 <u>150</u>
For each original accreditation of a course of continuing education	100 <u>150</u>
For each renewal of accreditation of a course of continuing education	150 <u>75</u>

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

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

Within 10 days after receipt of written notification from the Administrator of the
approval of the application for a permit to sell time shares and before the
issuance of the permit to sell time shares, or within 10 days after an amendment

that adds time shares to the time-share plan is approved or deemed approved, each developer shall, for each time share that the developer includes in the initial time-share plan or adds to the time-share plan by amendment, pay a one-time fee of:

(a) For each such time share up to and including 1,499 time shares, \$3.

(b) For each such time share over 1,499 time shares, \$1.50.

↪ For the purposes of calculating the amount of the fee payable under this subsection, "time share" means the right to use and occupy a unit for 7 days or more per calendar year.

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

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

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

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

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

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

2. A time-share instrument must provide:

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

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

(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

1 *time-share plans or units must be in compliance with the applicable laws of the*
2 *state or jurisdiction under which the time-share plan is formed or in which the*
3 *units are located. If the standards set forth in the law of the state or jurisdiction*
4 *under which the time-share plan is formed or in which the units are located*
5 *conflict with the requirements of this chapter, the laws of the other state or*
6 *jurisdiction control. If the association and the time-share instrument comply with*
7 *subsections 1 and 2, the association and the developer shall be deemed to be in*
8 *compliance with the requirements of this section and are not required to revise a*
9 *time-share instrument to comply with this chapter.*

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

11 119A.390 A reservation to purchase a time share must:

- 12 1. Be on a form approved by the Division;
- 13 2. Include a provision which grants the prospective purchaser the right to
- 14 cancel the reservation at any time before the execution of the contract of sale with
- 15 the full refund of any deposit;
- 16 3. Provide for the placement of any deposit in escrow until *the statement of*
- 17 *record is approved and* a permit is issued by the Administrator pursuant to NRS
- 18 119A.300;
- 19 4. Guarantee the purchase price for the time share for a certain period after
- 20 the ~~issuance of~~ *statement of record is approved and* the permit to sell time shares
- 21 ~~is issued by the Administrator;~~ and
- 22 5. Require that any interest earned on the deposit for the reservation be paid
- 23 to the prospective purchaser.

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

25 119A.400 1. Each developer, through his or her project broker and sales
26 agents, shall provide each prospective purchaser with a copy of the developer's
27 public offering statement ~~which must contain a copy of the developer's permit to~~
28 ~~sell time shares, and any pending amendments that have been submitted to the~~
29 *Division but have not yet been approved, along with a statement to the purchaser*
30 *that the amendment has been submitted to the Division for approval. The public*
31 *offering statement must contain the date the permit was originally issued and its*
32 *annual expiration date. A prospective purchaser may request to receive the public*
33 *offering statement in electronic format or paper format. If the prospective*
34 *purchaser requests the public offering statement in electronic format, the*
35 *developer shall provide to the purchaser the statement of the right of cancellation*
36 *pursuant to NRS 119A.410 in a single separate document.*

37 2. The project broker or sales agent shall review the public offering statement
38 with each prospective purchaser before the execution of any contract for the sale of
39 a time share and obtain a receipt signed by the purchaser for a copy of the public
40 offering statement.

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

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

46 119A.420 All money, negotiable instruments or other deposits pertaining to
47 the sale of a time share *which are received from a purchaser* must be placed in an
48 escrow ~~is pursuant to an agreement approved by the Division, with an escrow agent~~
49 ~~or a trustee,~~ *account established to the satisfaction of the Division and held until*
50 *such time as the right to cancel the contract of sale pursuant to NRS 119A.410*
51 *has expired and the purchaser has failed to cancel the contract of sale. In lieu of*
52 *placing such deposits in an escrow account, the developer or project broker may*

establish to the satisfaction of the Division that a surety bond has been posted for the benefit of purchasers in the project in the amount of:

1. *Twenty-five thousand dollars; or*
2. *The highest monthly total amount of deposits received by a project broker,*

↪ whichever is greater.

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

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

1. The project is free and clear of any blanket encumbrance;
2. Each person who holds an interest in the blanket encumbrance has executed an agreement, approved by the Administrator, to subordinate his or her rights to the rights of the purchaser;
3. Title to the project has been conveyed to a trustee;
4. All holders of a lien recorded against the project have recorded an instrument providing for the release and reconveyance of each time share from the lien upon the payment of a specified sum or the performance of a specified act;
5. The developer has obtained and recorded one or more binding nondisturbance agreements acceptable to the Administrator, that:

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

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

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

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

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

1. Trustee must be approved by the Administrator.
2. Trust must be irrevocable, unless otherwise provided by the ~~{Division}~~ *Administrator*.

3. Trustee must not be permitted to encumber the property unless permission to do so has been given by the ~~{Division}~~ *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 represent the difference between the amount paid for the time share and the reasonable cost of any permanent improvements thereto, and the lesser of:

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

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

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

➤ or to rescission of the contract of sale and the refund of any consideration paid by the purchaser.

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

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

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

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

~~18. For the purposes of this section, "statement of record" means the information submitted to the Administrator by the developer in its application for a permit to offer to sell or sell time shares.~~

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

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

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

(b) Register as a time-share resale broker with the Division by completing a form for registration provided by the Division ~~+~~ ; and

(c) Pay any applicable fees.

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

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

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

(b) Is a project broker who resells or offers to resell a time share in a project as an agent for a developer who holds a permit for the project ~~+~~ ; or

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

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

119A.4775 1. ~~Before~~ *If the purchaser of a previously sold time share purchases the time share through a time-share resale broker, the contract of sale must provide, in not less than 12-point boldface type, that the purchaser may cancel, by written notice, the contract of sale until midnight of the fifth calendar day after the date of execution of the contract.*

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

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

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

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

(d) The name, address and telephone number of the agent managing the time-share 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 ~~12-~~
~~2;~~ 4; and

(j) *The right to cancel the contract in subsection 1.*

3. If the time-share plan includes more than one component site, the purchaser must be provided, in either paper or electronic form, copies of the time-share instrument governing the time-share plan.

4. 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 12-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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) *Fail to provide a full refund of all money paid by an owner within 20 days after receipt of a notice of cancellation.*

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

5. *Notwithstanding the obligations placed upon any other person by this section, the time-share resale broker shall supervise, manage and control all aspects of the resale offering. Any violation of the provisions of this section that occurs during such offering shall be deemed a violation by the time-share resale broker and by the person who actually committed the violation.*

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

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

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

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

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

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

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

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

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

119A.530 1. ~~It is~~ **During any period in which the developer holds a valid permit and the developer or an affiliate of the developer is the manager, the developer or an affiliate of the developer shall provide for the management of the time-share plan and the project, by a written agreement with the association or, if there is no association, with the owners. The initial term of the agreement must expire upon the first annual meeting of the members of the association or at the end of 5 years, whichever comes first. All succeeding terms of the agreement must be renewed annually unless the manager refuses to renew the agreement or a majority of the members of the association who are entitled to vote, excluding the developer, notifies the manager of its refusal to renew the agreement.**

2. The agreement must provide that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The form for registration must be accompanied by:

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

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

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

5. As used in this section, “responsible managing employee” means the person designated by the manager to:

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

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

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

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

2. ~~[[The Administrator may require that the association or, if there is no association, the developer provide, at the association’s or the developer’s expense, an opinion from an independent professional consultant as to the sufficiency of the budget to sustain the time-share plan offered by the association or the developer.]]~~ The association or the developer shall place any money collected for assessments and any other revenues received by or on behalf of the association in an account established by the association.

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

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

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

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

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

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

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

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

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

Sec. 51. (Deleted by amendment.)

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

TEXT OF REPEALED SECTIONS

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.4773 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.