

Amendment No. 296

Senate Amendment to Senate Bill No. 438 (BDR 10-992)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

VG/NCA



Date: 4/17/2017

S.B. No. 438—Revises provisions relating to time shares. (BDR 10-992)



SENATE BILL NO. 438—SENATOR FARLEY

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to time shares. (BDR 10-992)

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

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

AN ACT relating to time shares; authorizing a representative to associate with one or more developers; amending provisions relating to the licensing and registration of representatives; prohibiting a representative from engaging in certain acts related to inducing persons to attend a sales presentation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the registration and regulation of a “representative,” defined as a person who, on behalf of a developer of a time share, induces other persons to attend a sales presentation. (NRS 119A.120, 119A.240, 119A.260) Under existing law, such a representative is required to register with the Real Estate Division of the Department of Business and Industry. (NRS 119A.240) Each application for registration as a representative must include certain information and be accompanied by a fee of \$100. (NRS 119A.240, 119A.360)

Sections 1 and 2 of this bill authorize a representative to associate with one or more developers. **Section 2** further amends existing law governing the registration of a representative to require each application to include: (1) proof that the applicant operates at a fixed location, if the applicant is associated with more than one developer; (2) a complete set of the fingerprints of the applicant; and (3) written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

Existing law sets forth the prohibited acts of representatives. (NRS 119A.260) **Section 3** of this bill prohibits a representative from: (1) making any material misrepresentation; (2) making any false promises of a character likely to induce other persons to attend a promotional meeting; (3) engaging in any fraudulent, misleading or oppressive ~~sales~~ techniques or tactics; **to induce or solicit other persons to attend a promotional meeting;** or (4) failing to disclose to a person the representative’s purpose to induce the person to attend a promotional meeting.

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

Section 1. NRS 119A.120 is hereby amended to read as follows:

119A.120 “Representative” means a person who is not a sales agent and who, on behalf of ~~fa developer, one or more developers,~~ induces other persons to attend a sales presentation. The term does not include a person who only performs clerical tasks, arranges appointments set up by others or prepares or distributes promotional materials.

Sec. 2. 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) *Designates the developer with whom the applicant will associate the application;*

(e) *Lists any other developer with whom the applicant is associated, if any;*

(f) *Submits proof satisfactory to the Division that the applicant operates at a fixed location, if the applicant is associated with more than one developer; and*

(g) 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.

3. *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.*

4. *The Division may:*

(a) *Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, 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.*

5. A representative is not required to be licensed pursuant to the provisions of chapter 645 of NRS.

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

2 119A.260 1. A representative shall not negotiate the sale of, or discuss
3 prices of, a time share. A representative may only induce and solicit persons to
4 attend promotional meetings for the sale of time shares and distribute information
5 on behalf of a developer ~~H~~ *with whom he or she is associated.*

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

8 3. The representative shall comply with any applicable standards for
9 conducting business as are applied to real estate brokers and salespersons pursuant
10 to chapter 645 of NRS and the regulations adopted pursuant thereto.

11 4. *A representative shall not:*

12 (a) *Make any material misrepresentation;*

13 (b) *Make any false promises of a character likely to induce other persons to*
14 *attend a promotional meeting;*

15 (c) *Engage in any fraudulent, misleading or oppressive ~~sales~~ techniques or*
16 *tactics ~~H~~ to induce or solicit other persons to attend a promotional meeting; or*

17 (d) *Fail to disclose to a person the representative's purpose to induce the*
18 *person to attend a promotional meeting.*

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

24 **Sec. 4.** This act becomes effective on July 1, 2017.