

PROPOSED REGULATION OF THE REAL ESTATE ADMINISTRATOR

LCB File No. R123-14

Amended and New Regulations for NAC 119A
Submitted by Nevada Real Estate Division
Gail J. Anderson, Administrator
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New Language - Definitions

“Active in renewal” defined. “Active in renewal” means the period after the expiration of the annual permit, but before the Division has approved the renewal, when the renewal application has been filed and required fees have been paid. The permit is considered active and in good standing when it is “active in renewal.”

“Amenities” means non-recreational facilities and structures that exist or are planned at each project and component site, including but not limited to the buildings, common areas, dining options, meeting spaces, and the physical grounds (property).

“Effective date” defined. “Effective date” means the renewal date of the annual permit, or the date of any amendment to the public offering statement or statement of record.

“Expiration date” defined. “Expiration date” means the last day that the annual permit issued by the Division for a time-share project is valid, at which point the permit must be renewed or terminated.

“First permit issuance date” defined. “First permit issuance date” means the date that the Division issues an initial permit approves for use the developer’s public offering statement for a time-share plan.

“Promotional meeting” defined. “Promotional meeting” means any sales presentation given to any number of potential purchasers at one time at any location.

“Recreational Facilities” means the activity-based facilities that exist or are planned at each project and component site, including, but not limited to, swimming pools, basketball and tennis courts, and boat docks.

New Section – Resale Broker Application

In addition to the information and documents required to be provided by law, an applicant for Time-Share Resale shall provide the following information or documents with his or her application for a resale permit:

1. Concerning the Applicant:

- a. *State the date, name, real estate broker license number, name on license, home address, business address, county, e-mail address, phone number, Social Security Number, Federal Tax Identification Number. If Applicant uses a fictitious business name (dba,) disclose that name;*
 - b. *If the applicant has ever done business under any other name than the fictitious name as stated in this section, subsection (a), provide the other names, county/state registered and the name of the brokerage or business.*
 - c. *If the brokerage is a corporation, partnership, limited liability company or any other business organization, provide the entity name & address as well as the name and address and principal occupation of each individual owning or controlling an interest of 10% or more; also the state of incorporation of applicable;*
 - d. *If the brokerage is a corporation, partnership, limited liability company or any other business organization, state if it is organized for the sole purpose of developing or marketing the resale product.*
 - e. *Information concerning any criminal background convictions or pleas.*
 - f. *If applicant has ever filed bankruptcy. If yes, please provide the date of discharge. If filed within the past 7 years, please provide a copy of the discharge.*
 - g. *A brief history of the applicant's business background and experience in real estate and time-share projects in which the applicant has been involved. Include current or former job descriptions, title and employer information.*
 - h. *State whether or not the applicant will charge or collect an advance fee. If yes, provide a copy of a sample advance fee listing contract to be used.*
2. *Concerning the offering, state:*
- a. *The estimated number of timeshare interests currently available for sale;*
 - b. *The type of timeshare plans available in the offering (ownership, right to use, vacation club, other; also the manner by which title, right or other interest contracted for is to be conveyed to purchaser.*
 - c. *The localities within which the current available timeshares are located;*
 - d. *The location of sales records, Disclosure Form 568A, purchaser receipts and name of the custodian of the records;*
 - e. *Whether the broker/Applicant is providing any financing assistance to purchasers;*
 - f. *What the Applicant has done to assure that the timeshares being included in this resale program are free and clear of any existing liens or encumbrances;*
 - g. *The sales prices range;*
 - h. *Whether any timeshare been offered for sale at any time prior to the date of the application for registration;*
 - i. *Whether there are to be escrows of any type;*
3. *Concerning the promotional activities:*
- a. *A description of the plan of promotion; describe in detail any third party entity and its involvement;*
 - b. *Whether the Applicant will be using direct mail advertising of any type;*

- c. *A description of all other media (internet websites, electronic mail, newspapers, television, cable and radio stations, magazines, any association newsletters, etc.) to be utilized in the promotional plan;*
- d. *A description of the nature of the promotional meetings, location, presenter, general time, phone number to attend and any other pertinent information;*
- e. *Whether prospects will be offered, such as free gifts, bonuses, prizes, free dinners, free transportation, fly and see or site inspection revocation rights, money-back guarantees under other conditions;*
- f. *The names license numbers of all sales personnel and the locations of branch offices at which they will be operating, and the name of the broker or broker-salesperson in charge of each location;*
- g. *Whether the sales program will indicate in any manner that the timeshares will or may appreciate in value or may or will be a hedge against inflation;*

4. The following documentation:

- a. *Provide a copy of all licenses issued by the Nevada Real Estate Division (“Division”) for the broker, broker-salesperson and real estate sales agents associated with this Application. It is the broker’s responsibility to provide written notice to the Projects Section of any change of name, business address or and other contact information within 10 days of its occurrence.*
- b. *Provide a copy of all other professional or business licenses held by you in Nevada or other jurisdictions.*
- c. *Submit a copy of the business license for each county, city or other municipality in Nevada where you conduct business, showing you are in good standing and in active status. Also submit a copy of all fictitious name filings for each county where you conduct business.*
- d. *Submit a copy of the business organization submitted and approved by the Division as required by NRS 645.*
- e. *Submit a copy of the business organization or legal entity filing with the Nevada Secretary of State, showing you are in good standing and in active status.*
- f. *Submit a copy of the financials submitted and approved by the Division for the broker’s business organization required by NRS 645.*
- g. *Submit a copy of the documents involved in the litigation or other adverse action listed in Application No. 5. This includes but is not limited to copies of all pleadings, and any decision or other disposition, including the denial or revocation, suspension or other disciplinary action taken in connection with any permit, license, or other document. The list must include the date, issuing authority and status of each permit, license or document.*
- h. *Provide a sample of the sales contract and all other documents or writings to be signed or initialed by the purchaser, including copies of instructions for escrow, deeds, advance fee contract with disclosures and any other documents that will*

be used in the sale. The Division must review the sale documents and any other contractual materials to be signed, initialed or agreed to by purchasers, for the purpose of locating and disclosing any "fine print" hazards.

- i. Submit copies of any third party contracts as stated in the Application.*
- j. Submit original executed and notarized Statement of Project Broker Form 649.*
- k. Submit executed Time Share Permit Processing Form 751 and applicable fee.*
- l. Submit a sample of a completed Duties Owed By A Nevada Real Estate Licensee, Form 525. Submit a sample of a completed Consent to Act, Form 524. Submit a sample of a completed Dual License Application, Form 533.*
- m. Submit copies of any other documents not requested herein that you consider pertinent to this application and briefly state on a separate page the nature and purpose of these documents.*

Disclosure Form: The information required to be disclosed by law before the resale of a time share must be given to the purchaser in hard copy on a form prescribed by the Division, and must include a notice of cancellation form prescribed by the Division.

The resale broker shall obtain from each purchaser of a resale time share a signed receipt for the disclosure form issued by the Division, and:

- (a) Provide each purchaser with a hard copy of the disclosure form, and;*
- (b) Keep the receipt with a copy of any contract of sale or other sales agreement and other material in the files at his or her principal place of business.*

The following additional disclosures must appear on the form:

- a. A 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.*
- b. THE NOTICE OF CANCELLATION MAY BE DELIVERED PERSONALLY TO THE RESALE BROKER/ ENTITY, SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR SENT BY EXPRESS, PRIORITY OR RECOGNIZED OVERNIGHT DELIVERY SERVICE, WITH PROOF SERVICE, TO THE BUSINESS ADDRESS OF THE RESALE BROKER/ ENTITY.*
- c. THE RESALE BROKER/ENTITY SHALL, WITHIN 20 DAYS AFTER RECEIPT OF THIS NOTICE OF CANCELLATION, RETURN ALL PAYMENTS MADE BY THE PURCHASER.*

NAC 119A.083 Provisional licensee: Restrictions; supervision; commissions.

- 1. A provisional licensee shall not:
 - (a) Conduct sales-related activities unless he or she 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 subsection 3 of NAC 119A.100}~~ *A person licensed pursuant to Chapter 645 of NRS.*

(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.

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 subsection 3 of NAC 119A.100}~~ *person licensed pursuant to Chapter 645 of NRS* 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 NAC 119A.081.

NAC 119A.100 Branch offices. (NRS 119A.190)

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

2. The project broker *or time-share resale broker* is responsible for all branch offices operated by him or her.

3. If the location of the branch office does not permit ~~{the}~~ a project broker *or a time-share resale broker* to exercise direct supervision *of a branch office*, a real estate broker-salesperson ~~{must}~~ *shall directly* supervise ~~{that} the~~ branch office~~}, or the project broker must designate a cooperating real estate broker who must accept, in writing, the responsibility of supervision of that branch office. The cooperating broker must have the authority and responsibility of a project broker at the designated branch office.~~

4. A supervisor of a branch office may not manage more than one branch office.

5. A branch office is not required to establish a trust account separate from the main office, but if one is established, one of the signatures required on the account must be that of the supervisor of the branch office.

6. A branch office is required for each site for promotional sales.

NAC 119A.190 The following procedures must be followed in filing an application for a time-share permit, ~~{the approval of an advertisement}~~ and other requests for an approval:

1. Required material must be filed with the Division by personal delivery, *filed electronically through the Association of Real Estate License Law Officials Timeshare Registry*, or sent by mail, addressed to the office of the Division in ~~{Carson City}~~ *Las Vegas*.

2. Checks, drafts or money orders used to pay fees must be made payable to the *Nevada* Real Estate Division; *payments in excess of \$10,000 must be submitted as an electronic wire transfer.*

3. The date of a filing is the date when a statement, document or other material is received by the Division in the correct form together with the prescribed fee.

4. An application for a permit to sell time shares must be *filed electronically through the Association of Real Estate License Law Officials Time-Share Registry, or submitted to the Division in hard copy on 8 ½ x 11 inch white paper prepared in Times New Roman font and no smaller than 11 point, with 1-inch margins on all sides of each page. The text should be in full justification.* Supplemental material, except deeds, title policies, maps, plats, ~~advertising~~ and other official documents, must be ~~typed on good quality, unglazed, legal~~ *submitted on letter* size paper with ~~a 2-inch margin at the top and a 1-1/2-inch~~ *1 inch margins* ~~margin~~ on each side. Illegible photocopies must not be submitted

5. The developer shall not incorporate by reference any matter used in a prior application for a time-share permit.

~~6. Copies of movies, videotapes, radio broadcasts, on cassette only, not reel-to-reel, or other bulky items which may be required in order to comply with the provisions of the written plan must be separate from the bound documents filed with the Division but clearly identified with the specific filing.~~

NAC 119A.195 Preliminary permit. If a preliminary permit to sell time shares has been issued by the Administrator, the developer may accept a good faith deposit for a reservation if the document by which the reservation is taken provides for payment to the holder of the reservation of the total deposit plus interest earned, if any, within ~~15~~ **20** days of written notice of cancellation of the reservation.

NAC 119A.200 Application for permit to sell time shares. In addition to the information and documents required to be provided by law, an applicant shall provide the following information in or documents with his or her application for a permit to sell time shares:

1. Concerning the applicant's business experience and background:

(a) His or her name and the address of his or her principal place of business, *and Federal Tax Identification Number.*

(1) The name, address, phone number and e-mail address of the individual to be contacted regarding the application.

(b) His or her ownership or other interest in the project.

(c) If the applicant is a corporation:

(1) A copy of its articles of incorporation and a current certificate of incorporation; and

(2) If it is a foreign corporation, a certificate from the Secretary of State authorizing the corporation to transact business in Nevada, together with a copy of the list of its officers and directors and the designation of its registered agent, when required by the Secretary of State.

(3) A statement of when and where it was incorporated;

(d) If the applicant is not a corporation, his or her consent to the service of process and designation of an agent in the State to accept service.

(e) If the applicant is related to another business entity, a diagram showing his or her business relationship to the other business entity.

(f) A list identifying each permit, license or other document for which the applicant has applied, or which he or she has received from any foreign or domestic governmental agency which allows or authorizes the applicant to sell or to promote the sale of:

- (1) Land;
- (2) Homes;
- (3) Home improvements;
- (4) Time shares;
- (5) Investments; or
- (6) Securities,

□ including the denial or revocation, suspension or other disciplinary action taken in connection with any permit, license or other document. The list must include the date, issuing authority and status of each permit, license or document.

(g) The identification of any conviction of the applicant, his or her affiliate or, if the applicant is a corporation, any of its incorporators or officers of a crime involving fraud, misrepresentation or unlicensed activity.

(h) The identification of any pending criminal prosecution of the applicant, his or her affiliate or, if the applicant is a corporation, any of its incorporators or officers for a crime involving fraud, misrepresentation or unlicensed activity.

(i) The identification of any past or pending civil litigation to which the applicant or his or her affiliate was or is a party or, if the applicant is a corporation, any of its incorporators or officers were or are parties, *including a copy of the documents involved in the litigation;*

(j) The location within this State at which the project's records are or will be maintained, *and who will be the custodian of the sales records.*

2. Concerning the proposed project:

(a) A description of the method by which a prospective purchaser may locate and identify an individual unit, time share or other interest;

(b) The identification of each approval granted for the proposed project by any governmental agency and the location of the public record of each approval;

(c) The identification of each disclosure statement or other statement of information or other document filed with any governmental agency concerning the project;

(d) A copy of any document which relates to the construction, acquisition or installation of any equipment or service of a utility in connection with the project;

(e) Maps of the project including recorded plats and location maps;

(f) Documents concerning maintenance of the project including the:

- (1) Management agreement;
- (2) Subsidy agreement;
- (3) Articles of association; and
- (4) Membership agreement of the association; and

(g) Evidence of insurance coverage providing that proceeds must be disbursed for the repair and restoration of the project, *in addition to:*

(1) Insurance for medical payments;

(2) Insurance covering the costs of temporary quarters for the owners and other losses commonly insured against;

3. Concerning the physical condition of the project, a description of:

~~(a) The climate and physical condition of the project's site;~~

(b) Each improvement, whether completed or promised, at the project's site;

~~{(c) Each facility or service which is available in the area surrounding the project's site; and
(d) The nature and extent of the fire protection and police services for the project site.}~~

4. ~~{Concerning the proposed promotion, advertising and sale of units, time shares or other interests in the project:~~

~~—(a) The written plan of the applicant's advertising campaign including a copy of each proposed advertisement and other published material;~~

~~—(b) A description of each promotional activity which the applicant proposes to conduct in connection with the project.}~~

(c) A written plan of the method to be used in:

- (1) Procuring a prospective purchaser;
- (2) Accomplishing the sale; and
- (3) Retaining the purchaser after the sale; and

(d) A statement of the agent's or broker's responsibility in connection with the activities mentioned in this subsection, *including:*

(1) The names of all sales personnel and registered locations of branch offices at which they will be operating, and the name of the broker or broker-salesperson in charge of each location;

(2) All states in which the real estate broker is licensed;

(3) Any fines or sanctions against the licensee from all jurisdictions in which the licensee has been licensed

(4) The names, addresses and business telephone numbers of the Nevada licensees and/or entities which will be actively engaged in marketing the offering in Nevada.

□ After an application has been received by the Division, the applicant may be required to provide additional or explanatory information or provide copies of documents identified in the application.

NAC 119A.205 Public offering statement.

1. The public offering statement ~~{issued by the Division}~~ *prepared and signed by the developer and approved by the Division for use by the developer* pursuant to ~~{NRS 119A.300}~~ *NRS 119A.307* will have a cover sheet which states in red:

THE PROSPECTIVE PURCHASER SHOULD READ THIS REPORT BEFORE SIGNING ANY PAPER.

2. *The Public Offering Statement must be prepared and submitted as a Word document. For filings submitted electronically, the Public Offering Statement. must be submitted as an editable Word document. For filings submitted by hard copy, an electronic Word document must also be submitted to the Division.*
3. *Format for the document submitted to the Division is to be in Times New Roman font and no smaller than 11 point, with 1-inch margins on all sides of each page. The text should be in full justification.*
4. *A public offering statement approved by the Division pursuant to NRS 119A.307 will be signed by the Administrator or designee as evidence of the Division's approval for use.*

5. *A public offering statement deemed approved for use by the Division will state in 12-point bold text “DEEMED APPROVED FOR USE” in lieu of the Administrator or designee’s signature.*
6. *The public offering statement prepared and signed by the developer and approved or deemed approved for use by the Division will state the date of every Permit Amendment and Annual Renewal.*
7. *In addition to the information and documentation required by law, the public offering statement must include:*
 - a. *A summary of the recreational facilities of the time share, in which all recreational facilities that are advertised or promised by the developer, currently or in the future, are identified and described;*
 - b. *A statement of the method of assessing timeshares in the county in which the project is located, and an estimate of the amount of taxes which would be payable on any given interval or unit in the project, showing how the estimate was prepared.*
 - c. *A description of the insurance coverage, including limits and deductibles, provided for the protection of the purchaser.*
 - i. *Include a statement describing how and if the cost of insurance will be assessed to purchasers, and the prospective purchaser’s share of responsibility.*
 - ii. *Include a statement indicating that hazard insurance coverage is provided for the project*
 - d. *A summary of all restrictions that may affect the purchaser’s use of the time share. Not exclusive of others, following are several examples:*
 - i. *Lock-out provisions, restrictions involving children or pets, restrictions affecting personal activity or use of property, restrictions on use and occupancy by friends or non-relatives, the existence of a co-owner’s right of partition, limitations on use of accommodations or facilities, noise or disturbance policy, holdover owners policy, floating time use of vacation weeks, fixed and floating plan rules and regulations, and biennial and triennial restrictions.*
 - e. *A summary of all easements that may affect the purchaser’s use of the time share. Not exclusive of others, following are several examples:*
 - i. *Recreational easements, common area easements, utilities and drainage, encroachments, pedestrian and traffic access, parking, developer’s easement right to establish models, maintain sales, management, leasing and operations offices, conduct tours, conduct sales presentations, conduct closings and to erect, post, maintain and relocate signs and advertisements.*
8. *The public offering statement must be offered to the prospective purchaser in hard copy. If the prospective purchaser chooses to receive the public offering statement in electronic format, a form prescribed by the Division must be provided to the purchaser in hard copy and must contain:*
 1. *Time Share Notice of Cancellation*
 2. *Receipt of Nevada Public Offering Statement*
 3. *Cover page containing the permit number and the Division’s phone number*

4. *Developer's Alternative Media Disclosures containing:*
 - a. *A list of all documents that will be provided to the purchaser in electronic format*
 - b. *The software necessary for the purchaser to access the electronic media*
 - c. *The hardware necessary for the purchaser to access the electronic media*
 - d. *The instructions the purchaser should follow to access the electronic media*
 - e. *The purchaser's signature under the following disclosures that must appear in red bold 12-point text:*
 1. *I understand that I have the option of receiving certain documents in either written format or electronically, and I have decided to accept the following documents electronically.*
 2. *I understand that I should not accept these documents electronically unless I am able to access the alternative media prior to the expiration of my 5 day cancellation period.*
9. *In the event a renewal or amendment has been deemed approved, the Division has the remedy on acts of errors, omissions, mistakes, misrepresentations and/or fraud, to inform the developer that the 'deemed approved' is no longer in effective and an amendment is required to correct the acts.*

Abbreviated registration If the developer files an abbreviated registration and statement of record pursuant to NRS 119A.302, and the Division approves the issuance of another state's public report, the public offering statement must be on a form prescribed by the Division and must contain:

1. *A notice of cancellation in hard copy;*
2. *A receipt of the public offering statement in hard copy;*
3. *A cover page with red lettering pursuant to NAC 119A.205(1);*
4. *A page containing the permit number and the Division's phone number*
5. *The Administrator's or designee's signature as evidence of the Division's approval for use;*

NAC 119A.210 Material change in plan.

1. A material change in the time-share plan includes, but is not limited to, the following:
 - (a) Any material change in the ~~time-share instruments or the project instruments~~ *information or documentation that is part of the statement of record which renders the statement of record inaccurate, incomplete or misleading in such a way as to adversely affect the rights or obligations of a purchaser;*
 - (b) A change in the escrow instructions, sales contract or other documents made available to or executed by a purchaser;
 - (c) If a trust is established pursuant to NRS 119A.430, the resignation or proposed resignation of the trustee or any change in the trust agreement;
 - (d) A material change adverse to the financial condition of the developer, the project or the association;
 - (e) Any governmental action or proposed governmental action which would have an adverse effect on a time-share plan or on the developer;

(f) Any action by the owners' association or other management entity of the project in which the time-share property is located which would have a material adverse effect on the time-share plan;

(g) Any change which would cause the information in the permit to sell time shares to be materially incorrect or misleading, including the suspension or expiration of a permit to sell time shares issued by another state;

(h) A change in any project broker; and

(i) Suspension of the project by an exchange program.

2. A developer may not make or cause to be made a material change in the time-share plan without giving the Division at least 10 days advance notice in writing of the intended change.

3. An order to cease issued pursuant to NRS 119A.280 must be served upon the project broker or developer personally or by certified mail to the last known business address on file with the Division.

NAC 119A.245 Project brokers.

1. Before a broker may accept the position as project broker, he or she must make a personal inspection of the project for which he or she is to be responsible.

2. The project broker shall:

(a) Obtain from each purchaser of a time share in the project a receipt for a copy of the public offering statement signed by the purchaser and selling agent *on a form prescribed by the Division*;

(b) Provide each purchaser with a hard copy of the receipt;

(c) Keep the receipt with a copy of any contract of sale or other sales agreement and other material in the files at his or her principal place of business;

(d) Teach his or her salespersons, sales agents and registered representatives the contents of this chapter and chapter 119A of NRS and exercise strict supervision over their activities and over the operation of his or her business; and

(e) Accept from the Division service of any notice, communication, correspondence or complaint on behalf of the developer or the project.

NAC 119A.255 Contracts and other documents used in sale of project.

1. Each contract, agreement and other document used in the sale of the project is subject to the standards for advertising that are set forth in this chapter.

2. The following words must be printed clearly and conspicuously in a 12-point boldface type at the top of each contract for the sale of a time share:

This is a binding contract by which you agree to purchase an interest in a time-share project. You should examine the statement of your right to revoke this contract within 5 days which is contained elsewhere in this contract.

3. The following words or words of a similar import may not be used in a contract of sale for a project, time-share unit or interest in a project:

The purchaser agrees that no representation, oral or implied, has been made to the purchaser other than what is contained in this contract.

4. The following words must be printed clearly and conspicuously above the purchaser's signature line in each contract for the sale of a time share:

(a) "The purchaser of a time share may cancel, by written notice, the contract of sale until midnight of the fifth calendar day after the date of execution of the contract."

(b) "The right of cancellation may not be waived. Any attempt by the developer to obtain a waiver results in a contract which is voidable by the purchaser."

(c) "The notice of cancellation may be delivered personally to the developer, ~~for~~ sent by certified mail, *return receipt requested*, or ~~teletype~~ *sent by express, priority or recognized overnight delivery service, with proof of service*, to the business address of the developer."

(d) "The developer shall, within ~~15~~ 20 days after receipt of the notice of cancellation, return all payments made by the purchaser."

5. Each contract of sale of a time-share property located outside Nevada which is sold within this State must contain one of the following sentences:

(a) "This contract is to be construed according to the laws of Nevada and specifically chapter 119A of NRS"; or

(b) "This contract is to be construed according to the laws of (name of the state or country). Any purchaser solicited in Nevada retains those rights granted under chapter 119A of NRS."

6. A developer, real estate licensee or other agent shall not make any written or oral statement which seeks to change the true nature or legal rights or obligations of any contract or legal document approved by the Division.

7. Each major improvement which is promised in an offer must be stated in the contract so as to legally bind the developer to provide it. The Administrator will determine which improvements are considered to be subject to this requirement. With the prior approval of the Division, a major improvement which is promised in a project may be included in the contract by reference to another document.

8. The Administrator will schedule an informal meeting to attempt to resolve a question regarding an advertisement or a document as provided in NAC 119A.215.

NAC 119A.258 Escrow accounts for purchasers. (NRS 119A.190, 119A.420) All deposits, negotiable instruments and money received in the sale of a time share must be placed in a separate escrow account *established to the satisfaction of the Division and held until such time as the right to cancel the contract of sale pursuant to NRS 119A.410 has expired and the purchaser has failed to cancel the contract of sale* ~~[for each purchaser for the duration of the period of revocation provided in this chapter]~~ unless:

1. The *developer or* project broker has posted a surety bond naming the Division for the benefit of the purchasers in the minimum amount of \$25,000 or in an amount equal to the highest monthly total amount of deposits received by that project broker, whichever sum is greater; and

2. All such money or negotiable instruments are deposited in one trust account established solely for the project and the purposes set forth in this section.

AC 119A.305 General standards.

1. An advertisement must conform to the following standards:

(a) Statements and representations contained in the advertisement must be accurate and true;

(b) An advertisement must fully state the factual material so as not to misrepresent the facts or create misleading impressions; and

~~[(c) Each advertisement must be consistent with the information filed with the Division.]~~

2. An advertisement or a piece of promotional material will be judged on the basis of the positive representations contained in it and the reasonable inferences to be drawn from it. An inference which may be reasonably drawn from an advertisement or a piece of promotional material is deemed to be a positive assertion unless the inference is negated in clear and unmistakable terms, or unless adequate safeguards have been provided by the developer to assure the accuracy of the thing inferred.

NAC 119A.365 Standards for sales techniques and tactics.

Sales techniques and tactics must conform to the following standards:

1. Decoys or false buyers must not be used in a promotional meeting for any purpose.
2. Each oral statement made to a prospective purchaser at a promotional meeting must be completely consistent with written advertising ~~for other material filed with and approved by the Division.~~
3. Any prospective purchaser who expresses a desire to leave a promotional meeting at any time during or after the sales presentation may not be impeded in any manner from departing or coerced or pressured to remain.
4. Investigators and other employees of the Division must be allowed to attend any promotional meeting.
5. Excessively loud music must not be played during a promotional meeting, and it must be turned off or down at the request of employees of the Division who are present at the meeting.
6. Except for a speaker making a speech from a podium, after a salesperson initially meets with a prospective purchaser, the developer or project broker may allow only one additional salesperson to attempt a sale.
7. If an employee of the Division is present at a sales presentation, he or she must not be identified, singled out or asked questions in such a way that a potential purchaser might hear the question or the employee's remarks.
8. If a project broker or developer at any time before, during or after a promotional meeting uses any electronic surveillance, recording, eavesdropping or listening device, he or she must disclose its use orally at the beginning of the meeting and also by means of a placard prominently displayed in the meeting room.
9. Each gift advertised must be given to a prospective purchaser whether or not he or she purchases a time share. The advertisement must disclose, in writing, any condition or restriction of the offer of a gift.
10. An employee of the developer shall not keep a prospective purchaser's credit card for a period longer than is reasonably necessary to check the purchaser's credit rating.
11. The public offering statement and exchange information, the sales contract and other documents which the purchaser would be signing if a purchase were consummated must be reviewed by the sales agent, salesperson, broker-salesperson or project broker with the potential purchaser.
12. Upon the purchaser's request, the purchaser must be allowed time to discuss the documents with another person, review the documents and, if he or she so desires, consult an attorney before signing any document.
13. Before signing an offer to purchase, the purchaser must be informed of his or her unconditional right to rescind the sales contract.
14. The Division may not be mentioned in such a manner as to suggest that the Division has approved the project, documents or sales techniques of the project.

15. No false or misleading statements may be made regarding the future economic success, any recreational facilities or the location of the project.

NAC 119A.370 Sweepstakes, vacation or other gift certificate.

1. Before a developer advertises or promotes a project with a program which includes the use of a sweepstakes, vacation or other form of a gift certificate, the developer must:

~~{(a) Provide copies of the vacation or gift certificates and any other published materials to be used in the program;~~

~~—(b) Provide the names of the companies with which he or she has contracted to provide the goods or services offered;~~

~~—(c) Provide evidence satisfactory to the Division that he or she has firm commitments with the suppliers of goods or services which will be used as part of the program;}~~

(d) If required by the Administrator, provide proof of financial assurance that he or she can and will honor his or her commitments to the recipients and the suppliers; and

(e) Comply with the provisions of NRS 598.131 to 598.139, inclusive.

2. A sweepstakes, vacation or other form of a gift certificate must conform to the standards for advertising that are set forth in this chapter and must:

(a) Contain a fixed date for the expiration of rights afforded recipients; and

(b) Disclose the nature of the gift or other benefit. The disclosure must include a description of:

(1) What the prospective purchaser will actually receive;

(2) When he or she will receive it;

(3) His or her obligations, if any;

(4) All other material conditions or limitations;

(5) The actual value of the gift or benefit; and

(6) If the offering constitutes a chance to win a gift or other benefit, the probability of winning conspicuously stated in plain language.

~~{3. Any change in the expiration date or in the identity of a supplier of goods or services used in the program is a material change in the written plan, and notice of the change must be given to the Division for its written approval before the change becomes effective.}~~

4. When the developer, real estate licensee or other agent meets with a recipient he or she shall clearly identify himself or herself and his or her status of employment with regard to the project.

5. The Administrator will schedule an informal meeting to attempt to resolve a question regarding an advertisement or a document as provided in NAC 119A.215.

Repeal NAC 119A.020

~~{NAC 119A.020 “Branch office” defined. (NRS 119A.190) “Branch office” means an office operated by a licensed real estate broker or corporation, separate from the principal location of the project broker, for the purposes of engaging in the business of selling real estate or time shares.}~~ (Was put in Statute)

Repeal NAC 119A.065

~~{NAC 119A.065 “Salesperson” defined. (NRS 119A.190) “Salesperson” means any person who is licensed under chapter 645 of NRS and is employed or engaged by a licensed real~~

~~estate broker for compensation or otherwise to perform any act or transaction to which chapter 119A or 645 of NRS applies.} (Was put in Statute)~~

Repeal NAC 119A.295

~~{NAC 119A.295—Requirements for advertisement: Submission by developer or agent; changes in item; identification of name of developer; press release. (NRS 119A.190, 119A.370)~~

~~—1. A proposed advertisement must be submitted to the Division by the developer or an employee or agent thereof.~~

~~—2. Any change in an item of advertising which has been previously filed with the Division must be submitted to the Division with the changes clearly marked on the item. The modified advertisement voids the prior filing.~~

~~—3. The name of the developer must be clearly identified to the satisfaction of the Division in any advertising used by the developer.~~

~~—4. A press release issued in good faith is exempt from this section if it is intended for publication without payment of any consideration.~~

~~—(Added to NAC by Real Estate Div., eff. 12-3-84; A 2-28-90; R135-01, 12-13-2001)}~~

Repeal NAC 119A.300

~~{NAC 119A.300—Fees. (NRS 119A.190, 119A.370)~~

~~—1. Each item of advertising and each modification of an item of advertising which was previously filed constitutes a separate filing, and a fee will be assessed for each item submitted.~~

~~—2. A fee may be paid in cash or by cashier's check, certified check, personal check, company check or money order. If payment is made by a personal or company check, the Division will not file the advertisement until the check has been honored by the bank on which it is drawn.~~

~~—3. The following schedule of fees is established for the filing of advertising:~~

~~—(a) For each item of advertising 8 1/2 by 14 inches or less in size, the fee is \$5 per page to a maximum of \$25. If the item is a newspaper line advertisement or a classified display of 15 words or less, without any illustrations, the fee is \$2.~~

~~—(b) For a full page advertisement in a newspaper, approximately 15 by 22 inches, the fee is \$20.~~

~~—(c) If an advertisement contains matter on both sides of a page, the advertisement is considered to be two pages in length.~~

~~—(d) If the size of the advertisement, including, but not limited to, a map, poster or billboard, is larger than 15 by 22 inches, or if the length of a written advertisement, including, but not limited to, a radio or television script, speech script, book, pamphlet or similar item, contains five or more pages, the fee is \$25.~~

~~—(e) For a television or motion picture presentation, the fee is \$25. If a script is submitted simultaneously with the television tape or motion picture film, there is no extra charge. The developer is responsible for making the advertisement available for review by the Division.~~

~~—(Added to NAC by Real Estate Div., eff. 12-3-84; A by R135-01, 12-13-2001)}~~

Repeal NAC 119A.360

~~{NAC 119A.360—Approval of promotional meeting~~

~~—1. Before a developer may conduct a promotional meeting, a statement of the nature and manner of conducting the meeting must be submitted in writing and approved by the Division.~~

~~— 2. In reviewing material submitted by an applicant pursuant to NRS 119A.370, the Administrator will investigate whether the nature and manner of conducting a promotional meeting will bring about a full disclosure of all the material facts concerning the project.
— (Added to NAC by Real Estate Div., eff. 12-3-84) }~~