

**PROPOSED REGULATION OF THE REAL ESTATE DIVISION OF  
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**LCB FILE No. R130-16**

(The provisions of section 6 have been removed for separate consideration; see LCB File No. R143-16)

EXPLANATION-Matter in *italic* is new; matter in brackets ~~omit material~~ is material to be omitted.

**Section 1.** Chapter 119A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

**Sec. 2.** *NAC 119A.206 Abbreviated registration.*

*1. If the developer files an abbreviated registration for a time-share plan pursuant to NRS 119A.302 and the Division approves another state's public report, public offering statement or other disclosure document issued for such time-share plan, in addition to the information and documents required to be provided by law, the developer must provide to the purchaser the abbreviated registration disclosure document in a form prescribed by the Division which contains:*

*(a) The other state's disclosure document;*

*(b) A cover page which contains the statement required by NAC 119A.205(1);*

*(c) A page which contains the developer's name and address, the initial permit date, the effective date of the abbreviated registration disclosure document, the permit number and the Division's address and telephone number and states that the disclosure document has been approved for use by the Division:*

*(d) The Nevada Permit signed by the Administrator with the effective date of the initial permit, the date of each renewal thereof and the date of each amendment of the abbreviated registration disclosure document.*

- (e) The Time-Share Notice of Cancellation; and*
- (f) The receipt of Nevada Public Offering Statement.*

*2. The abbreviated registration disclosure document must be offered to the prospective purchaser in paper copy. If the prospective purchaser elects to receive the abbreviated registration disclosure document in electronic format, the following information on forms prescribed by the Division must be provided to the purchaser in paper copy:*

- (a) The documents described in section (1) subsections (b) through (f) above; and*
- (b) Disclosures of alternative media delivery in a form prescribed by the Division*

*containing:*

- (1) A list of all documents that will be provided to the purchaser in electronic format;*
  - (2) A description of the software necessary for the purchaser to access the electronic media;*
  - (3) A description of the hardware necessary for the purchaser to access the electronic media;*
  - (4) The instructions the purchaser should follow to access the electronic media;*
- and*
- (5) The purchaser's signature under the following disclosures in red bold 12-point font:*

*(I) I understand that I have the option of receiving certain documents in either written format or electronically, and I have decided to accept these documents which are described herein electronically.*

*(II) 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.*

*3. If the developer elects to offer the abbreviated registration disclosure document and/or other documents in electronic format, the developer must file the form described in section 2 above and a sample copy of the compact disc, flash/thumb drive, or other form of electronic media.*

*4. Abbreviated registration renewal shall be made pursuant to NRS 119A.355.*

*5. An existing permit may be converted to an abbreviated permit through a conversion filing, subject to all requirements of NRS 119A.302. The Division shall review each conversion filing within 60 days after receipt of an application for a permit to sell time shares in a time-share plan containing only one component site, and within 120 days after receipt of an application for a permit to sell time shares in a time-share plan containing more than one component site, and issue either an approval or a request for more information or documentation. Each filing must be submitted electronically, or sent to the Division in paper copy. Additionally, each filing must be:*

*(a) Complete with all information and documentation required by NRS 119A.302;*

*(b) Signed by an officer of the developer;*

*(c) Submitted on a form prescribed by the Division; and*

*(d) Submitted together with the filing fee.*

*6. As used in this section, "conversion filing" means a conversion to an abbreviated registration.*

**Sec. 3 NAC 119A.207 Exchange Company Registration.** *A developer who offers a program for the exchange of occupancy rights among owners or with the owners of time shares in other time-share plans, or both, must file an initial registration with the Division, renew the registration annually, and file an amendment with respect to any material change. Each filing must be submitted electronically, or sent to the Division in paper copy.*

*Additionally, each filing must be:*

- (a) Signed by an officer of the developer;*
- (b) Submitted on a form prescribed by the Division; and*
- (c) Submitted together with the filing fee.*

**Sec. 4. NAC 119A.211 Change of Project Broker.** *A developer shall not change its project broker without first filing with the Division an amendment to the statement of record.*

**Sec. 5. NAC 119A.291 Time-share resale broker registration.** *(NRS 119A.190, NRS 119A.4771)*

*In addition to the information and documents required to be provided by law, a person who registers as a time-share resale broker shall provide the following information and documents with his or her registration on a form prescribed by the Division:*

*1. The date, name, name on license, if different, any fictitious business name (dba) and each County in which such fictitious name is registered, real estate broker license number, home address, business address, e-mail address, phone number and telefax number;*

*2. If the registrant has ever done business under any fictitious name other than the fictitious name as stated in subsection 1 of this section, any other fictitious names and the county and state in which each such other fictitious names were registered;*

*3. If the broker is a corporation, partnership, limited liability company or any other business organization, other than a publicly traded corporation, the entity name, address and state of formation and the name and address and principal occupation of each individual owning or controlling an interest of 10% or more of the broker entity and the position held by the licensee in the broker entity;*

*4. If the broker is a corporation, partnership, limited liability company or any other business organization, whether it is organized for the sole purpose of the resale of time shares;*

*5. Information concerning any criminal convictions or pleas of guilty or nolo contendere;*

*6. If registrant has filed a bankruptcy petition or an involuntary bankruptcy petition has been filed against the registrant within the past 7 years, a copy of any disposition of the petition;*

*7. A brief history of the registrant's business background and experience regarding time-share plans, including current or former job descriptions, job title and employer information;*

*8. Whether or not the registrant will charge or collect an advance fee, and if so, a copy of a sample advance fee listing contract to be used;*

*9. A copy of the business license for each county, city or other municipality in Nevada where the time-share broker intends to conduct business, showing it is in good standing and in active status, including copies of any fictitious name filings for each county where the time-share resale broker intends to conduct business;*

*10. A sample of the sales contract and all other documents or writings to be signed or initialed by a purchaser;*

*11. A sample of any advance fee contract for the resale of any time share;*

*12. A sample of a completed Duties Owed By A Nevada Real Estate Licensee, Form 525;*

*13. A sample of a completed Consent to Act, Form 524; and*

*14. A sample of a completed Dual License Application, Form 533.*

**Sec. 6. ~~NAC 119A.292 Time-share resale disclosures. (NRS 119A.190, NRS 119A.4775)~~**

~~*1. The information required to be disclosed by law for the resale of a time share must be given to the purchaser by the time-share resale broker in paper form on a disclosure form prescribed by the Division, and must include a notice of cancellation form prescribed by the Division.*~~

~~*2. The time-share resale broker must:*~~

~~*(a) Obtain from each purchaser of a time share a signed receipt for the disclosure form issued by the Division, and provide each purchaser with a paper copy of the disclosure form, and;*~~

~~*(b) Keep the receipt of the disclosure form signed by the purchaser with a copy of any contract for the resale of a time share at his or her principal place of business.*~~

~~*3. 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 TIME-SHARE RESALE BROKER, 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 TIME SHARE RESALE BROKER.~~

~~(c) THE TIME SHARE RESALE BROKER SHALL, WITHIN 20 DAYS AFTER  
RECEIPT OF THIS NOTICE OF CANCELLATION, RETURN ALL PAYMENTS MADE  
BY THE PURCHASER.~~

**Section 7.** NAC 119A.005 is hereby amended to read as follows:

119A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 119A.020 to 119A.160, inclusive, and NAC 119A.010 to ~~119A.070~~ **119A.065**, inclusive, have the meanings ascribed to them in those sections.

**Sec. 8.** NAC 119A.010 is hereby amended to read as follows:

119A.010 1. Offers for sale any ~~project, unit,~~ time share ~~for interest in any time-share project~~;

2. Causes or induces, directly or indirectly, any person to acquire ~~any interest in~~ a ~~project, unit,~~ time share ~~for interest in any time-share project~~; *or*

3. Is used to induce prospective purchasers to attend sales presentations on time shares; ~~or~~

~~4. Is used substantially for the retention of purchasers after sale.~~

**Sec. 9.** NAC 119A.030 is hereby amended to read as follows:

119A.030 “Declaration” means ~~the document~~ **a time-share instrument** consisting of ~~the~~ **recorded** covenants, conditions and restrictions ~~which regulates~~ **governing** a project or a time-share plan.

**Sec. 10.** NAC 119A.040 is hereby amended to read as follows:

119A.040 “Employment” means the relationship between a broker-salesperson, salesperson, time-share representative or time-share agent and the project broker with whom he or she is associated. ~~{The}~~ *For the purposes of this chapter, the* term includes any employee-employer relationship as well as any relationship involving an independent contractor.

**Sec. 11.** NAC 119A.045 is hereby amended to read as follows:

119A.045 “Principal place of business” means the principal office of a project broker *or timeshare resale broker* which ~~{he or she}~~ *the project broker or the time-share resale broker* uses to conduct the business of selling ~~{real estate}~~ *or reselling* time shares ~~{or both}~~.

**Sec. 12.** NAC 119A.047 is hereby amended to read as follows:

119A.047 “Project instrument” means any document affecting *the* real property *on* which ~~{is the subject of the time share or}~~ *a* project *is located* and which is not a time-share instrument.

**Sec. 13.** NAC 119A.060 is hereby amended to read as follows:

119A.060 “Published material” means anything published in any medium *by or* for any person to whom this chapter or chapter 119A of NRS applies, including:

1. Any newspaper or periodical, except a press release ~~{which meets the standards set forth in NAC 119A.295}~~;
2. Any radio, television, telephonic or other electronic broadcast or display;
3. Written, printed, photographic or artistic matter, including any pictorial display or statement visible to prospective purchasers attending a promotional meeting;
4. Vacation or other gift certificates; ~~{and}~~ *or*
5. Oral statements made by a developer or a representative thereof at any promotional meeting.

**Sec. 14.** NAC 119A.073 is hereby amended to read as follows:

119A.073 1. If a person submits a check, ~~{or}~~ draft *or electronic payment* to the Division to obtain a license, permit, certificate, registration, approval, accreditation or other type of authorization to engage in an activity for which authorization is required pursuant to this chapter or chapter 119A of NRS, and the check, ~~{or}~~ draft *or electronic payment* is returned to the Division because the person had insufficient money or credit with the drawee to pay the check, ~~{or}~~ draft *or electronic payment* or because the person stopped payment on the check or draft, *or the electronic payment was recalled or cancelled, in* ~~{~~

~~——(a) The license, permit, certificate, registration, approval, accreditation or other type of authorization obtained by the person from the Division is automatically invalidated; or~~

~~——(b) If the person has not obtained the license, permit, certificate, registration, approval, accreditation or other type of authorization from the Division, the Division may refuse to issue or reinstate the authorization.~~

~~——2. In~~ accordance with NRS 353C.115 and NAC 353C.400 *and in addition to the remedies or penalties prescribed by law*, the Division will charge a person, for each *such* check or draft returned to the Division ~~{because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft}~~ *or the electronic payment was recalled or cancelled*, a fee ~~{of \$25 or}~~ *in* such ~~{other}~~ amount as may ~~{subsequently}~~ be required by NRS 353C.115 and NAC 353C.400.

*2. Until the Division receives replacement funds for the returned check or draft, or recalled or cancelled electronic payment referenced in NAC 119A.073(1), and such fee required by NRS 353C.115 and NAC 353C.400:*

*(a) The license, permit, certificate, registration, approval, accreditation or other type of authorization to engage in an activity for which authorization is required pursuant to this chapter or chapter 119A of NRS, is suspended; or*

*(b) If the person has not obtained the license, permit, certificate, registration, approval, accreditation or other type of authorization from the Division, the Division may refuse to issue the authorization.*

**Sec. 15.** NAC 119A.083 is hereby amended to read as follows:

119A.083 1. A provisional licensee shall not:

(a) Conduct sales-related activities unless he or she is:

(1) Under the supervision of ~~†~~:

~~————— (I) His} 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.†~~

(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 ~~†for a cooperating real estate broker designated by the project broker in accordance with subsection 3 of NAC 119A.100†~~ 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.

**Sec. 16.** NAC 119A.100 is hereby amended to read as follows:

- 119A.100 1. ~~Every branch office must be operated under the supervision of a real estate broker or broker-salesperson who has had at least 2 years of experience as an active real estate broker, broker-salesperson or salesperson in the United States~~ *Direct supervision of a branch office by a project broker or a time-share resale broker may not necessarily require the project broker or the time-share resale broker to be physically present in the branch office on a full-time basis. In its enforcement of NRS 119A.268, the Administrator shall consider all facts and circumstances relevant to the project broker’s or time-share resale broker’s ability to exercise direct supervision of a branch office, including, but not limited to, the distance between the principal office and the branch office, frequency of physical presence at the branch office, and the means and regularity of communications between the project broker or time-share resale broker and the branch office personnel. A project broker or time-share resale broker may not supervise more than one principal office and one branch office.*
2. ~~The project broker is responsible for all branch offices operated by him or her.~~

~~3. If the location of the branch office does not permit the project broker to exercise direct supervision, a real estate broker salesperson must supervise that 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.]~~ 3. A branch office is required for each site *separate from the principal office* ~~for promotional sales~~ *at which the business of selling or reselling time shares is conducted.*

**Sec. 17.** NAC 119A.105 is hereby amended to read as follows:

119A.105 **Project broker or ~~developer~~ *time-share resale broker*: Commingling of certain money prohibited; maintenance, inspection and audit of records.** (NRS 119A.190, 119A.400, 119A.420, 119A.652)

1. A project broker or ~~developer~~ *time-share resale broker* shall not commingle the money or other property of ~~his or her principal~~ *a client* with his or her own.

2. A project broker *or time-share resale broker* shall keep records of every transaction clearly indicating deposits, disbursements, dates, names of purchasers and salespersons or sales agents, *if applicable, and with respect to a project broker*, the records required to be kept pursuant to NRS 119A.400 and other pertinent information, numbered consecutively or indexed to permit audit by the Division.

3. A project broker *or time-share resale broker* shall notify the Division of the names of banks in which ~~he or she~~ *the project broker or time-share resale broker* maintains trust accounts and specify the names of the accounts on forms provided by the Division. ~~The project broker must consent~~ *All such records are subject* to inspection ~~and audit of the trust accounts~~ by the Division *or its authorized representatives*.

4. The project broker *or time-share resale broker* must give written notice to the Division of the exact location of ~~his or her~~ *the project broker's or time-share resale broker's* records of transactions. The project broker *or time-share resale broker* may not remove ~~them~~ *his or her records of transactions* until ~~he or she has delivered~~ notice ~~to the Division~~ of the new location *is delivered to the Division*.

**Sec. 18.** NAC 119A.110 is hereby amended to read as follows:

119A.110 1. When a sales agent requests a change of project broker and pays the fee, the receipt issued by the Division constitutes a temporary working permit pending receipt of the requested license.

2. A sales agent who is working for a corporation, *limited liability company or partnership* is not considered to have changed employers if the corporation, *limited liability company or partnership* changes its ~~corporate broker~~ *licensee*.

3. A real estate broker-salesperson, salesperson or sales agent shall not sell or offer to sell time shares in association with anyone other than the real estate broker with whom he or she is licensed at the location indicated on his or her license.

**Sec. 19.** NAC 119A.130 is hereby amended to read as follows:

119A.130 If the project broker fails to renew his or her license or it is cancelled, suspended or revoked, the project broker shall notify all broker-salespersons, salespersons and

sales agents ~~{in his or her employ}~~ *employed by the project broker* and deliver the license to the Division with the licenses of ~~{his or her}~~ *such* employees. The employees may, upon proper application and payment of the required fee, transfer to the employ of another project broker within 30 days without need to submit current fingerprint cards. The Division will not make a refund when a license is cancelled, suspended, revoked or otherwise terminated.

**Sec. 20.** NAC 119A.160 is hereby amended to read as follows:

119A.160 1. ~~{A}~~ *The* hearing *described in NAC 119A.150* must be held at such time and place as the Administrator prescribes.

2. A record of the proceedings will be made available to each party upon the payment to the Division of the reasonable cost of transcription.

3. Each witness who appears pursuant to a subpoena may receive for his or her attendance the same fees and mileage allowed by law to a witness in civil cases to be paid by the party at whose request the witness is subpoenaed.

4. A party to a hearing may compel the attendance of witnesses in his or her behalf at the hearing upon making a request to the Administrator and designating the name and address of the person to be served with a subpoena.

5. The Administrator will not participate in the adjudication of a disciplinary proceeding but will carry out the hearing officer's decision.

**Sec. 21.** NAC 119A.190 is hereby amended to read as follows:

119A.190 **Procedure for filing *an application for a permit*** ~~{or approval}~~. (NRS 119A.190, 119A.300, 119A.370) 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 other registry approved by the Division* or 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 of \$10,000 or more must be submitted through an electronic wire transfer in the manner prescribed by the Division. All payments submitted are deemed earned upon receipt and are not eligible to be refunded.*

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 ~~{typed in black ink in standard or elite type on a form supplied by the Division}~~ *filed electronically through the Association of Real Estate License Law Officials Timeshare Registry or other registry approved by the Division or submitted to the Division in hard copy on 8 ½ x 11 inch white paper and prepared in a font no smaller than 11 point. 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 size}~~ *submitted on 8 ½ x 11 inch* paper ~~{with a 2-inch margin at the top and a 1-1/2-inch margin on each side}~~. Illegible photocopies must not be submitted.

5. The developer shall not incorporate by reference any matter used in ~~{a prior}~~ *an* application for a *different* time-share permit *previously filed with the Division*.

~~{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.~~

**Sec. 22.** NAC 119A.195 is hereby amended to read as follows:

119A.195 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 *after receipt* of written notice of cancellation of the reservation.

**Sec. 23.** NAC 119A.200 is hereby amended to read as follows:

119A.200 ~~{Application for permit to sell time shares}~~ *Contents of statement of record.* (NRS 119A.190, 119A.290, 119A.300) In addition to the information and documents required to be provided by law, ~~{an applicant}~~ *a developer applying for a permit to sell time shares* shall provide *to the Division a statement of record containing* the following *described* information ~~{in or}~~ *and* documents ~~{with his or her application for a permit to sell time shares}~~ *on a form prescribed by the Division:*

1. Concerning the ~~{applicant's}~~ *developer and the developer's* business experience and background:

(a) ~~{His or her}~~ *The developer's* name, ~~{and}~~ the address of ~~{his or her}~~ *the developer's* principal place of business *and the developer's federal tax identification number.*

(b) ~~{His or her}~~ *The developer's* ownership or other interest in the project.

(c) If the ~~{applicant}~~ *developer* is a corporation, *limited liability company or limited partnership:*

(1) A copy of its articles of incorporation, *articles of organization or certificate of limited partnership, as applicable*, and a ~~current~~ certificate of ~~incorporation~~ *status in good standing issued by the Secretary of State dated no earlier than 30 day before submittal to the Division of the statement of record*; and

(2) If ~~it~~ *the developer* is a foreign corporation *or foreign limited liability company*, a certificate ~~from~~ *issued by* the Secretary of State authorizing the *foreign corporation or foreign limited liability company* to transact business in Nevada *dated no earlier than 30 day before submittal to the Division of the statement of record*, 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.

(d) If the ~~applicant~~ *developer* is ~~not a corporation,~~ *a closely held corporation, limited liability company, partnership or other legal entity*:

(1) *The name, address and principal occupation of each individual owning or controlling an interest of 10% or more of the developer and the extent and nature of such ownership; and*

(2) ~~this or her~~ *If an entity, its* consent to the service of process and designation of an agent in the State to accept service.

(e) If the ~~applicant~~ *developer* is related to another business entity *and is not a publicly traded corporation or held by a publicly traded corporation*, a diagram showing his or her business relationship to the other business entity.

(f) A list identifying each *state or foreign jurisdiction in which the developer has applied for or received within the past ten years a permit* ~~, license or other document~~ *to sell time shares* ~~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}~~ *which has been denied, revoked or suspended* or *with respect to which* other disciplinary action *was* taken ~~{in connection with any permit, license or other document}~~. The list must include the ~~{date,}~~ *name of the* issuing authority ~~{and status of each permit, license or document}~~.

(g) ~~{The}~~ *With respect to the developer, and any officers, directors, managers or partners thereof, as applicable, the* identification of:

(1) ~~{any}~~ *Any* conviction ~~{of the applicant, his or her affiliate or, if the applicant is a corporation, any of its incorporators or officers}~~ of, *or plea of guilty or nolo contendere to any felony or gross misdemeanor charge or* a crime involving fraud, misrepresentation or unlicensed activity *and the disposition thereof;*

(2) *Any denial, suspension or revocation of a real estate broker, broker-salesperson or salesperson license in any state, district or territory of the United States or any other country;*

*(3) Any denial, suspension or revocation of, or any pending administrative proceeding regarding denial, suspension or revocation of, any professional or occupational license;*

*(4) Any voluntary or involuntary filing for bankruptcy protection within the past seven years; and.*

~~{(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}~~

*(5) ~~{any}~~ Any past or pending **criminal prosecution or** civil litigation which has a material adverse effect on the developer or the time-share plan ~~{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}~~.*

*(h) A financial statement, which may be consolidated with the developer's parent company, dated no earlier than six months before submittal to the Division of the statement of record, including a balance sheet and statement of profit and loss.*

~~{(j) The location within this State at which the project's records are or will be maintained.}~~

2. Concerning the ~~{proposed project}~~ *time-share plan:*

(a) ~~{A description of the method by which a prospective purchaser may locate and identify an individual unit, time share or other interest}~~ *The common promotional name of the time-share and a description of the type of time-share plan to be offered for sale;*

(b) The identification of each *jurisdiction which has granted* approval ~~{granted}~~ for the ~~{proposed project}~~ *time-share plan*; ~~{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)}~~ (c) Maps of the project *or projects within the time-share plan* including recorded plats and location maps;

~~{(f)}~~ (d) Documents concerning *management and* maintenance of ~~{the}~~ *any project or projects located in Nevada which are within the time-share plan* including the:

(1) Management agreement; *and*

(2) ~~{Subsidy}~~ *Developer subsidy* agreement~~{;}~~.

~~{(3)}~~ *Articles of association; and*

~~————(4) Membership agreement of the association; and~~

~~————(g)}~~ (e) Evidence of *hazard* insurance coverage ~~{providing that proceeds must be disbursed for the repair and restoration of the project}~~.

3. Concerning the physical condition of the project *or projects within the time-share plan*, a description of ~~{}~~:

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

~~————(b) Each}~~ *each* improvement, whether completed or promised, at ~~{the project's}~~ *each component* 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 project broker and any sales marketing entity* ~~[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]~~ *The Nevada real estate broker who will be the project broker and the names of all sales personnel within the State of Nevada, the location of the principal office of the branch office at which each will be operating, and the name of the broker or broker-salesperson in charge of each location, if different from the project broker ;*

(b) ~~[A description of each promotional activity which the applicant proposes to conduct in connection with the project]~~ *Identification of all other states in which the project broker is licensed;*

(c) ~~[A written plan of the method to be used in]~~ *A statement as to whether the project broker has been disciplined pursuant to any regulatory agency proceeding; †*

~~—————(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]~~ *The name, address, telephone number and e-mail address of any sales and marketing entity as defined in NRS 119A.133.*

*5. The name, address, telephone number and e-mail address of the individual to be contacted regarding the matters contained in the statement of record.*

*6. The location within this State at which the time-share plan records and Nevada sales records are or will be maintained and the name and address of the custodian of such records.*

After ~~{an application}~~ *the statement of record* has been received by the Division, the ~~{applicant}~~ *developer* may be required to provide additional or explanatory information or provide copies of documents identified in the ~~{application}~~ *statement of record*.

**Sec. 24.** NAC 119A.205 is hereby amended to read as follows:

119A.205    *1. The public offering statement ~~{issued by the Division pursuant to NRS 119A.300 will}~~ prepared and signed by the developer and either approved by the Division for use or deemed approved for use pursuant to NRS 119A.355 or NRS 119A.304 must* have a cover sheet which states in red:

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

*2. In addition to the information and documents required to be provided by law, the public offering statement must:*

*(a) Be prepared and submitted as an editable Word document in a font no smaller than 11 point;*

*(b) Except as provided in subsection (c) below, be signed by the Administrator or his or her designee as evidence of the Division's approval for its use;*

*(c) If deemed approved for use pursuant to NRS 119A.355 or NRS 119A.304, state in 12-point bold text “DEEMED APPROVED FOR USE” in lieu of the Administrator’s or designee’s signature; and*

*(d) Contain:*

*(1) The effective date of the public offering statement, the date of the initial public offering statement and the dates of every amendment thereto;*

*(2) The date of the initial permit and the dates the permit was renewed or deemed renewed.*

*3. The public offering statement must be offered to the prospective purchaser in paper copy. If the prospective purchaser elects to receive the public offering statement in electronic format, the following information on forms prescribed by the Division must be provided to the purchaser in paper copy:*

*(a) A cover page with the language required by NAC 119A.205(1) printed in red;*

*(b) A page containing the developer’s name and address, the date of the initial permit, the effective date of the public offering statement, the permit number and the Division’s address and telephone number;*

*(c) The Time Share Notice of Cancellation;*

*(d) The Receipt of Nevada Public Offering Statement;*

*(e) Disclosures of alternative media delivery on a form prescribed by the Division containing:*

*(1) A list of all documents that will be provided to the purchaser in electronic format;*

*(2) A description of the software necessary for the purchaser to access the electronic media;*

*(3) A description of the hardware necessary for the purchaser to access the electronic media;*

*(4) The instructions the purchaser should follow to access the electronic media; and*

*(5) The purchaser's signature under the following disclosures in red bold 12-point font:*

*(I) I understand that I have the option of receiving certain documents in either written format or electronically , and I have decided to accept these documents which are described herein electronically.*

*(II) 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.*

*4. If the developer elects to offer the public offering statement and/or other documents in electronic format, the developer must file with the Division the form described in section 3 and a sample copy of the compact disc, flash/thumb drive, or other form of electronic media.*

Sec. 25. NAC 119A.210 is hereby amended to read as follows:

119A.210 ~~[Material change in plan]~~ *Order to Cease.* (NRS ~~[119A.190,]~~ 119A.280~~[, 119A.490]~~)

~~[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;~~

- ~~——(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.~~

**Sec. 26.** NAC 119A.220 is hereby amended to read as follows:

119A.220 If a trust is used to satisfy the requirements of subsection 2 of NRS

119A.430:

1. The trust must be established pursuant to an agreement ~~{approved by the Administrator}~~ *which complies with the law of the jurisdiction under which it is formed*; and
2. ~~{The trustee must be the party executing the sales contract as seller and is accountable for all unsold units and interests in the project}~~ *A copy of the trust agreement must be submitted to the Division with the initial statement of record and if the trust agreement is amended, all such amendments must be submitted to the Division as amendments to the statement of record within 10 days after the effective date of such amendment.*

**Sec. 27.** NAC 119A.225 is hereby amended to read as follows:

119A.225 The developer, in lieu of paying the assessments on all unsold intervals, may enter an agreement with the association whereby ~~{he or she}~~ *the developer* agrees to pay the difference between the total of the assessments paid by owners to the association and the actual operating costs, together with the budgeted reserves for repair and replacement. In addition to the agreement, the Division may require security in the form of a bond, letter of credit or other liquid asset to be placed in escrow.

**Sec. 28.** NAC 119A.230 is hereby amended to read as follows:

119A.230 Any holder of a lien which is secured by any ~~{collateral}~~ interest in the real property ~~{of the}~~ *on which a project is located* shall subordinate his or her interest to ~~{the}~~ *any* declaration either by jointly executing the declaration or by a separate recorded instrument.

**Sec. 29.** NAC 119A.240 is hereby amended to read as follows:

119A.240 1. The project broker shall share with the developer the responsibility for all activities involving advertising, sales, solicitations and the inducement of persons to purchase time shares.

2. If a developer wishes to use more than one location to conduct sales activities, the project broker shall establish and maintain appropriate branch offices.

3. A location devoted exclusively to attempting to induce persons to attend a sales presentation for a time-share ~~project~~ *plan* which is not located at the developer's, project broker's or a sales agent's regular place of business is not a branch office ~~although the project broker is responsible for the conduct of such an effort to induce attendance and must inform the Division in advance of his or her proposed establishment or relocation of such an effort.~~

4. The project broker is responsible for the activities of each sales agent, salesperson, broker-salesperson and registered representative.

5. *At the discretion of the Administrator, a [A]* developer's records *and the project brokers' records* may be inspected and audited by the Division and must be made available to the Division at the location of the records if they are located in Nevada or at the Division's *Las Vegas* office ~~in Carson City or Las Vegas~~, if *located* outside of Nevada.

6. A developer must produce the records within 10 days of his, ~~her~~ *or its* receipt of the Division's request. Failure to provide the Division with the records will result in suspension of the developer's sales activities until the records requested are produced.

**Sec. 30.** NAC 119A.245 is hereby amended to read as follows:

119A.245 ~~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 paper 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; *and*

~~(e)~~ (d) ~~Teach~~ *Review with* 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~~

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

**Sec. 31.** NAC 119A.255 is hereby amended to read as follows:

119A.255      **Contracts and other documents used in sale of ~~project~~ time-share plan.** (NRS 119A.190)

1. *Each sales contract or purchase agreement must be printed in a font not smaller than 11 point and have margins of approximately one inch (1") on each page.*

2. Each contract, agreement and other document used in the sale of the ~~project~~ *time-share plan* is subject to the standards for advertising that are set forth in this chapter.

~~2.~~ 3. 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.

~~3.1~~ 4. The following words or words of a similar import may not be used in a contract ~~for~~ *for the* sale ~~for~~ *of* 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.~~

~~4.1~~ 5. 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, ~~or~~ sent by certified mail *return receipt requested* or ~~telegraph~~ *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."

~~5.1~~ 6. Each contract of sale ~~for~~ *for the* 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."

~~16.1~~ 7. 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.

~~17.1~~ 8. 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.

~~18.1~~ 9. 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.

**Sec. 32.** NAC 119A.260 is hereby amended to read as follows:

119A.260 1. A person who desires to become a representative for a developer must file an application for registration on a form furnished by the Division. The fee required by NRS 119A.360 is not refundable. An application for registration must be filed with the Division for each developer represented. *A time-share representative who represents more than one developer may only operate in a fixed location approved by and registered with the Division.*

2. A person who is registered shall refer to himself or herself only as a time-share representative.

**Sec. 33.** NAC 119A.270 is hereby amended to read as follows:

119A.270 In determining whether a licensee has engaged in a fraudulent or misleading sales technique or tactic, the Commission or hearing officer shall consider whether the licensee has, in connection with the act complained of:

1. Demonstrated an acceptable level of professional conduct to protect the public against fraud, misrepresentation or unethical practices in the promotion and sale of time shares.
2. Endeavored to ascertain all the pertinent facts concerning the ~~project~~ *time-share plan* with which he or she is dealing.
3. Made a representation that is outside of his or her field of experience or competence without the assistance of a qualified authority, unless the fact of the lack of experience or competence is fully disclosed to his or her client.
4. Adequately documented any required disclosure of his or her interest in the ~~project~~ *time-share plan* with which he or she is dealing.
5. Kept himself or herself informed of the current laws and regulations governing the promotion and sale of time shares and related fields in which he or she attempts to provide guidance.
6. Breached his or her obligation of absolute fidelity to his or her principal's interest or his or her obligation to deal fairly with all parties to a transaction.
7. Obtained each change in the terms of the contract for sale and related documents in writing and determined that each change is signed or initialed by the parties concerned.
8. Understood and properly applied relevant federal and state law relating to protection of potential purchasers.
9. Demonstrated an acceptable level of professional conduct in seeking to provide all material facts of common or express concern to the parties to the transaction.
10. Violated any of the provisions of this chapter or chapter 119A of NRS.
11. Employed oppressive sales tactics or methods as described in this chapter.

**Sec. 34.** NAC 119A.280 is hereby amended to read as follows:

119A.280 A sales agent may not attempt to sell or offer to sell any ~~{unit,}~~ time share ~~{or interest in the project}~~ with knowledge that the title is unmerchantable.

**Sec. 35.** NAC 119A.285 is hereby amended to read as follows:

119A.285 If a licensee owns or has an interest in a ~~{unit,}~~ time share ~~{or interest in the project}~~ which ~~{he or she}~~ *the licensee* is attempting to sell *or has an interest in the time-share plan of the time share*, the licensee shall disclose the interest and the fact and nature of his or her ~~{license}~~ *interest* in writing to a prospective purchaser before or at the time of his or her receipt of an offer to purchase.

**Sec. 36.** NAC 119A.305 is hereby amended to read as follows:

119A.305 **General standards.** (NRS 119A.190, ~~{119A.370}~~)

1. An advertisement must conform to the following standards:

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

(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.}~~

**Sec. 37.** NAC 119A.310 is hereby amended to read as follows:

119A.310 **Price; predevelopment sale; discount; future price; increase in value.** (NRS 119A.190, ~~119A.370~~) An advertisement, a piece of promotional material or an oral representation regarding a ~~project~~ *time-share plan*:

1. Which refers to the purchase price of any ~~unit,~~ time share ~~for any interest in a unit or time share~~ must also clearly disclose any additional compulsory assessment or cost to the prospective purchaser.

2. Which refers to a predevelopment sale being at a lower price, because ~~the~~ *a* project *within the time-share plan* has not yet been ~~developed in some manner~~ *completed*, must disclose whether there is a good faith plan for ~~development~~ *such completion* and, if there is such a plan, the ~~prospective~~ *estimated* completion date.

3. ~~Which offers a discount which reduces the advertised price may do so only if the discount is offered for a purchase in quantity, payment in cash, a large or accelerated payment or on other reasonable grounds.~~

~~4.~~ Must not contain any statement concerning a future increase of the price by the developer which is not specific as to the amount and the date of the increase, and a future increase of the price may not be alluded to unless it is anticipated in good faith.

~~5.~~ 4. Must not state that the value of the land, unit, time share or an interest in the land, unit or time share has increased in the project or the area ~~unless the interest used for comparison is directly comparable to that being advertised for sale.~~

**Sec. 38.** NAC 119A.315 is hereby amended to read as follows:

119A.315 ~~Easements; improvements;~~ *Improvements; assessment for improvements* ~~taxes.~~ (NRS 119A.190~~, 119A.370~~)

1. ~~{An advertisement which states the size of a unit, a time share or an interest being offered must also disclose any easement to which any unit is subject and the nature of the easement. If an easement has a significant effect on the use of a unit, a time share or an interest, each map, plat or other representation of the unit, time share or interest must show the extent to which the use is affected by the easement.}~~

~~{2.}~~ No improvement in or related to ~~{the}~~ a project *within the time-share plan* may be advertised unless it has been completed or installed and is available for use, or *unless* the completion or availability is assured through an adequate financial arrangement approved by the Division, ~~{including}~~ *and there is* a contractual obligation of the developer to the purchaser *to complete the improvement*.

~~{3.}~~ 2. An advertisement which refers to any promised improvement for which the prospective purchaser ~~{will be assessed must clearly and fully disclose the assessment}~~ *must pay additional fees for use or access must disclose the existence of such fees*.

~~{4. An advertisement which contains a statement regarding taxes and their amount must state the latest available information.}~~

**Sec. 39.** NAC 119A.325 is hereby amended to read as follows:

119A.325 **Potential use of time share.** (NRS 119A.190~~, 119A.370~~)

~~{1.}~~ An advertisement must not imply *that* the use of a ~~{time share project, unit or other interest or other reason for its purchase which is not}~~ *time share is other than as* set forth in the ~~{application for a permit to sell time shares}~~ *statement of record*.

~~{2. An advertisement which contains a statement, photograph or sketch portraying the use to which an advertised property may be put by the purchaser must set forth a qualified~~

~~estimate of cost for preparation for the advertised use if the preparation will not be done by the developer and the cost is not included in the purchase price.~~

**Sec. 40.** NAC 119A.330 is hereby amended to read as follows:

119A.330 **Reference to facilities ~~away from~~ *not within the project.*** (NRS 119A.190, 119A.370)

1. An advertisement must not contain any statement, photograph or sketch relating to a facility for recreation, sports or any other conveniences which are ~~away from~~ *not within* the project or not in existence, unless it is clearly and prominently disclosed in conjunction with the statement, photograph or sketch that the facility is only proposed or is not a part of the project, and the distance to it in miles. *If the road or street is not traversable year-round by a conventional automobile, the developer must disclose ~~along a road is given together with~~ the types of roads to be traversed. If the facility is only proposed, the developer must state a good faith date of completion in the advertisement.*

2. An advertisement ~~which refers~~ *must not contain any statement, photograph or sketch relating* to a public facility ~~must fully disclose the financial arrangement and completion date for the facility~~ *that is incomplete.*

3. ~~An advertisement must not refer to a public facility which is only proposed or under study unless it fully and clearly discloses that the facility is proposed or under study. If the advertisement refers to a proposed location or date of completion for a proposed facility, it must also disclose whether a decision to construct the facility has been officially rendered by the governmental authority responsible for the decision.~~

~~4.~~ As used in this section, “public facility” means any facility which is available or will be available for use by the general public including purchasers of the ~~project~~ *time share* and their successors in interest.

**Sec. 41.** NAC 119A.335 is hereby amended to read as follows:

119A.335 **Use of maps, pictures and sketches.** (NRS 119A.190~~, 119A.370~~)

1. An advertisement may not include a map unless it is drawn to scale and the scale is stated, or the map clearly and obviously bears the label “not to scale.”
2. A map, plat or other representation of a project must indicate the *estimated* date on which the project will be ~~completed~~ *available for occupancy* . ~~If multiple dates of completion extend over a period of years, then a series of shadings, outlines or other graphic coding may be used to indicate the dates of completion.~~
3. If an advertisement contains a picture, the picture must fairly and accurately depict the existing conditions of the project being advertised for sale.
4. An advertisement must not contain an artist’s sketch which portrays proposed improvements or nonexistent scenes unless the sketch is accompanied by a clear statement that the portrayal is an artist’s sketch and that the improvements are proposed or the scenes do not currently exist.

**Sec. 42.** NAC 119A.340 is hereby amended to read as follows:

119A.340 **Misleading use of ~~reprints,~~ testimonials, symbols or names.** (NRS 119A.190~~, 119A.370~~) An advertisement must not include:

1. ~~Reprints of previously published material unless the information contained in the reprint is true, relates to the project being offered and complies with all other provisions of this chapter.~~

~~2.]~~ A testimonial or endorsement which contains any statement that the developer or project broker is precluded by law or regulation from making in his or her own behalf.

~~3.—An asterisk or other reference symbol which refers to explanatory material that contradicts or changes, or tends to contradict or change, the meaning of any prior statement or which obscures or tends to obscure any material fact asserted elsewhere in the advertisement.~~

~~4.]~~ 2. A name or symbol which implies that the advertiser is a public agency or a nonprofit, research or other similar organization unless it is such an organization.

**Sec. 43.** NAC 119A.345 is hereby amended to read as follows:

119A.345 **Required disclosures.** (NRS 119A.190~~, 119A.370~~) ~~Each orally~~ *Orally* presented or written advertisements which ~~is~~ *are* designed to induce attendance at or participation in a sales presentation must conspicuously include:

1. The following statement: “~~The purpose of (the event or activity) is to attempt to sell you a time-share interest in (name of state in which property is located)~~ *This advertising material is being used for the purpose of soliciting sales of time shares*”; and

2. A disclosure of any restrictions or conditions on the sale of the time-share ~~interest~~ or the attendance or participation in the sales presentation.

*3. The required disclosure in subsection 1 above shall be provided to prospective purchasers in writing or electronically at least once prior to any scheduled sales presentation. The required disclosure need not be included in every orally presented or written advertisement provided to the prospective purchaser prior to the sales presentation.*

**Sec. 44.** NAC 119A.350 is hereby amended to read as follows:

119A.350 **Reference to right of exchange, resale or repurchase.** (NRS 119A.190~~, 119A.370~~) An advertisement which refers to:

1. A privilege on the part of the owner to exchange his or her time share must clearly state any qualification or limitation on the privilege.
2. A resale or repurchase of the time share by the developer must fully disclose the terms and conditions of the resale or repurchase.

**Sec. 45.** NAC 119A.355 is hereby amended to read as follows:

119A.355     **Use of certain terms.** (NRS 119A.190~~, 119A.370~~)

1. An advertisement must not contain the term “appraised,” “appraised value” or any other similar term without specifying the statistics or materials which support the conclusion, including:

- (a) The date of the appraisal;
- (b) The appraiser’s name, address and telephone number;
- (c) Any limiting conditions and other special factors of the appraisal; and
- (d) The relationship of the appraiser to the developer.

2. ~~An advertisement must not contain terms such as “minutes away,” “short distance,” “only miles,” “near” or similar indistinct or indefinite terms which are intended to indicate distance unless the actual distance in miles along a road is stated together with the types of roads traversed.~~

~~3.~~ A promotional offer which is advertised must not use the terms “free,” “no obligation” or a term of similar import to describe that which is offered unless the offer is unequivocally without conditions.

~~4.~~ 3. A ~~unit,~~ time share ~~or interest~~ must not be advertised as being “free” if the prospective purchaser is required to give any consideration, or if any additional ~~unit,~~ time share ~~or interest~~ must be purchased to render the “free” ~~unit,~~ time share or interest usable. A ~~unit,~~

time share ~~for interest~~ may be advertised as being offered “for closing costs only” if the closing costs are fully disclosed.

~~5.~~ 4. An advertisement which refers to or depicts “roads” or “streets” *which are not traversable year-round by conventional automobile*, must affirmatively disclose the nature of those roads or streets ~~including whether the roads or streets are paved, gravel or dirt, and if a road or street is not traversable year-round by a conventional automobile~~.

~~6.~~ 5. An advertisement may use the term “waterfront” project or other terms of similar import only if the project ~~is time-share unit or interest~~ being offered actually fronts on a body of water and ~~has~~ *purchasers of time shares within the project have* full and usable access along the frontage.

**Sec. 46.** NAC 119A.365 is hereby amended to read as follows:

119A.365      **Standards for sales techniques and tactics.** (NRS 119A.190

~~119A.370~~) 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.] 6. 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.] 7. 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.}~~ 8. 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.}~~ 9. Before signing an offer to purchase, the purchaser must be informed of his or her unconditional right to rescind the sales contract.

~~{14.}~~ 10. The Division may not be mentioned in such a manner as to suggest that the Division has approved the ~~{project}~~ *time-share plan*, documents or sales techniques of the ~~{project}~~ *time-share plan*.

~~{15.}~~ 11. No false or misleading statements may be made regarding the future economic success, any recreational facilities or the location of ~~{the}~~ *any project within a time-share plan*.

**Sec. 47.** NAC 119A.370 is hereby amended to read as follows:

119A.370 **Sweepstakes, vacation or other gift certificate.** (NRS 119A.190~~{, 119A.370}~~)

1. Before a developer advertises or promotes a ~~{project}~~ *time-share plan* 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)~~ (b) 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; *and*

(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.] 3.~~ 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] time-share plan.~~

~~5.] 4.~~ 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.

**Sec. 48.** NAC 119A.450 is hereby amended to read as follows:

119A.450 1. A form for registration submitted pursuant to NRS 119A.532 by 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 Nevada* must be:

(a) Completed personally by the person who wishes to register. A member of the Commission or employee of the Division may not prepare a form for registration on behalf of a person who wishes to register.

(b) Accompanied by the fees prescribed by the Division.

(c) Except as otherwise provided in subsection 3, accompanied by satisfactory evidence, acceptable to the Division, that the person who wishes to register and his or her employees have obtained fidelity bonds, insurance policies or cash deposits deemed comparable by the Division for the benefit of the association or, if there is no association, the owners.

2. A separate form for registration must be filed for each agreement to manage a time-share plan or project ~~{that a person wishes to enter}~~.

3. A person who has not entered into an agreement to manage a time-share plan or a project, but who files a form for registration for the purpose of advertising, soliciting or otherwise offering his or her management services in this State, must indicate this purpose on the form in the space provided for the registered name of the time-share plan or the project, or both. Within 30 days after entering into an agreement to manage a time-share plan or a project, a person who has registered pursuant to this subsection must:

(a) File a separate form for registration that indicates the registered name of the time-share plan or the project, or both; and

(b) Submit satisfactory evidence, acceptable to the Division, that he or she has complied with the provisions of paragraph (c) of subsection 1.

### **TEXT OF REPEALED SECTIONS**

**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.

**119A.070 “Time-share plan” defined. (NRS 119A.190)** “Time-share plan” means the rights, obligations and program created by the time-share instruments for a time-share project.

**119A.115 Project broker: Explanation of termination of sales agent. (NRS 119A.190, 119A.220)** The project broker shall explain the circumstances surrounding the discharge or termination of employment of any sales agent and supply an impression of his or her character, integrity and competence as well as any other pertinent information requested by the Division.

**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 for each purchaser for the duration of the period of revocation provided in this chapter unless:

1. The 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.

**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.

**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.

**119A.320 Reference to community or geographical area. (NRS**

119A.190, 119A.370) An advertisement which refers to a community or a geographical area in connection with a project, unit, time share or interest must state the mileage from a specific point in that community or area, together with the types of roads to be traversed.

**119A.360 Approval of promotional meeting. (NRS 119A.190, 119A.370)**

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.