

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

LCB File No. R130-16

August 9, 2016

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

AUTHORITY: §§1, 5, 7-12, 14, 16, 18, 19, 24, 26, 27 and 30-47, NRS 119A.190; §2, NRS 119A.190 and 119A.302; §3, NRS 119A.190, 119A.320 and 119A.360; §4, NRS 119A.190 and 119A.360; §6, NRS 119A.190 and 119A.4771; §13, NRS 119A.190 and 119A.365; §15, NRS 119A.190 and 119A.268; §17, NRS 119A.190 and 119A.220; §§20, 22 and 23, NRS 119A.190 and 119A.300; §21, NRS 119A.190 and 119A.290; §25, NRS 119A.190 and 119A.430; §28, NRS 119A.190 and 119A.652; §29, 119A.190 and 119A.400.

A REGULATION relating to time shares; establishing provisions relating to abbreviated registrations; establishing provisions relating to the registration of certain time share exchange companies and time-share resale brokers; revising certain definitions; revising provisions relating to certain persons owing money to the Real Estate Division of the Department of Business and Industry; revising provisions relating to sales agents licensed as provisional licensees; revising provisions relating to branch offices; applying certain provisions to time-share resale brokers; revising provisions concerning time-share permits; revising provisions relating to standards and duties of certain persons; revising provisions concerning advertisements, promotional meetings and promotions; repealing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Real Estate Division of the Department of Business and Industry to adopt regulations which are necessary to carry out the provisions of existing law governing time shares. (NRS 119A.190)

Existing law authorizes the Division to accept in certain circumstances, in lieu of a statement of record, an abbreviated registration from a developer of a time-share plan in which some or all of the units are located outside of this State. If the Division accepts the abbreviated registration, the developer is required to provide to each purchaser, in lieu of the public offering statement, a copy of the disclosure document of the other state or jurisdiction in which some or

all of the units are located. (NRS 119A.302) **Section 2** of this regulation establishes requirements relating to the abbreviated registration disclosure document that the developer is required to provide. **Section 3** of this regulation provides that an existing permit may be converted to an abbreviated registration by filing an application for conversion to an abbreviated registration with the Division. **Section 3** sets forth the requirements for such an application and establishes the time limits within which the Division will review each application and issue an approval or a request for more information or documentation.

Existing law establishes a fee of \$500 for the registration of a time share exchange company. (NRS 119A.360) **Section 4** of this regulation requires a developer that wishes to operate as an exchange company and offer a program for the exchange of occupancy rights among owners or with the owners of time shares in other time-share plans, or both, to file a registration with the Division that is accompanied by such registration fee.

Section 5 of this regulation prohibits a developer from changing the project broker which coordinates the sale of time shares on behalf of the developer without first filing with the Division an amendment to the statement of record.

Existing law requires certain persons to register as time-share resale brokers with the Division by completing a form for registration provided by the Division. (NRS 119A.4771) **Section 6** of this regulation sets forth the information and documents that such a person is required to provide to the Division.

Existing law authorizes the Real Estate Administrator to refuse to issue a license, permit, certificate or registration to, or refuse to renew, or suspend or revoke, the license, permit, certificate or registration of, a person who has failed to pay money owed to the Division. (NRS 119A.365) Existing regulations provide that the Division will charge a fee to a person who submits a check or draft 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 and the check or draft is returned to the Division because of insufficient funds or the person stopped payment on the check or draft. (NAC 119A.073) **Section 13** of this regulation provides that such a fee will also be charged to a person who submits an electronic payment to the Division that is returned because the payment was recalled or cancelled. **Section 13** also provides that until the Division receives a replacement payment for a returned check or draft or electronic payment which was recalled or cancelled and the prescribed fee, the person's license, permit, certificate, registration, approval, accreditation or other type of authorization to engage in an activity is suspended or, if the person has not obtained any such authorization from the Division, the Division may refuse to issue any such authorization.

Existing regulations provide for the issuance of a provisional license to an applicant for a sales agent's license. (NAC 119A.083) **Section 14** of this regulation revises provisions relating to the supervision of a provisional licensee.

Existing law sets forth requirements for the operation and supervision of branch offices at which the business of selling or reselling time shares is conducted, including that if the location of a branch office does not permit a project broker or time-share resale broker to exercise direct supervision of a branch office, a real estate broker-salesperson is required to directly supervise

the branch office. (NRS 119A.035, 119A.268) **Section 15** of this regulation provides that the exercise of direct supervision of a branch office by a project broker or time-share resale broker does not necessarily require the physical presence of the project broker or time-share resale broker at the branch office on a full-time basis, and requires the Administrator, in enforcing the provisions of law concerning branch offices, to consider all facts and circumstances relevant to the ability of the project broker or time-share resale broker to exercise direct supervision of a branch office. **Section 15** also provides that a branch office is required for each site that is separate from the principal place of business, and prohibits a project broker or time-share resale broker from supervising more than one principal place of business and one branch office.

Existing regulations establish provisions relating to the prohibition against the commingling of money or other property and the maintenance of records by a project broker. (NAC 119A.105) **Section 16** of this regulation applies such provisions to time-share resale brokers.

Existing regulations establish provisions concerning the application and issuance of time-share permits. (NAC 119A.190-119A.230) **Sections 20-27** of this regulation revise provisions relating to time-share permits. **Section 20** revises provisions concerning the procedures for filing an application for a time-share permit. **Section 22** sets forth the information that a developer is required to provide to the Division in a statement of record when applying for a permit. **Section 23** sets forth the requirements relating to a public offering statement.

Existing regulations establish provisions concerning the standards and duties of project brokers, developers, broker-salespersons, salespersons, sales agents, real estate brokers and time-share representatives. (NAC 119A.240-119A.290) **Sections 28-34** of this regulation revise certain provisions relating to such standards and duties. **Section 28** provides that the records of a developer and project broker may be inspected and audited by the Division at the discretion of the Administrator. **Section 29** revises the duties of project brokers and requires a project broker to provide to a purchaser of a time share a paper copy of a receipt for a copy of the public offering statement signed by the purchaser and selling agent. **Section 30** establishes requirements concerning the formatting of contracts for the sale of a time share and purchase agreements. **Section 31** requires a time-share representative who represents more than one developer to operate only in a fixed location approved by and registered with the Division.

Existing law authorizes the Division to adopt regulations regarding the content of advertisements relating to time shares. (NRS 119A.190) Existing regulations set forth provisions relating to advertising, promotional meetings and promotions. (NAC 119A.295-119A.370) **Sections 35-43** of this regulation revise provisions relating to advertisements for time-share plans and time shares. **Section 44** of this regulation revises the standards with which sales techniques and tactics must conform, and **section 45** of this regulation revises provisions relating to the advertisement or promotion of a time-share plan with a program which includes the use of a sweepstakes, vacation or other form of a gift certificate.

Section 47 of this regulation repeals certain definitions as well as certain provisions relating to project brokers, escrow accounts, and advertising, promotional meetings and promotions.

Sections 8-12 of this regulation revise certain definitions used for the purposes of existing regulations governing time shares.

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. 1. *If a developer files an abbreviated registration pursuant to NRS 119A.302 and the Division approves the public report, public offering statement or other disclosure document issued for the time-share plan in the state or jurisdiction where the time-share plan is offered or sold, the developer shall provide to each purchaser, in addition to any information and documents required to be provided by law, an abbreviated registration disclosure document, on a form prescribed by the Division, which contains:*

- (a) A copy of the public report, public offering statement or other disclosure document from the other state or jurisdiction;*
- (b) A cover page which contains the statement required by subsection 1 of NAC 119A.205;*
- (c) A page which includes, without limitation:
 - (1) The name and address of the developer;*
 - (2) The effective date of the abbreviated registration disclosure document;*
 - (3) The date on which the permit was originally issued and the permit number;*
 - (4) The address and telephone number of the Division; and*
 - (5) A statement that the disclosure document has been approved for use by the Division;**
- (d) A copy of the permit issued by the Administrator, including the effective date of the permit, the date of each renewal thereof and the date of each amendment to the abbreviated registration disclosure statement;*
- (e) A copy of the Time Share Notice of Cancellation form prescribed by the Division; and*

(f) A copy of the Receipt of Nevada Public Offering Statement form prescribed by the Division.

2. The abbreviated registration disclosure document must be offered to a prospective purchaser in paper format. If the prospective purchaser requests to receive the abbreviated registration disclosure document in an electronic format, the following information must be provided to the prospective purchaser in paper format, on a form provided by the Division:

(a) The documents described in paragraphs (b) to (f), inclusive, of subsection 1; and

(b) A disclosure of alternative media delivery, which contains:

(1) A list of all documents that will be included in the abbreviated registration disclosure document being provided to the prospective purchaser in an electronic format;

(2) A description of the hardware and software necessary for the prospective purchaser to access electronically the abbreviated registration disclosure document;

(3) Any instructions necessary for the prospective purchaser to access electronically the abbreviated registration disclosure document; and

(4) The following disclosure in at least 12-point boldface red type, followed by an area for the signature of the prospective purchaser:

I understand that I have the option of receiving the abbreviated registration disclosure document in an electronic format or paper format, and I have decided to accept the abbreviated registration disclosure document in an electronic format.

I understand that I should not accept the abbreviated registration disclosure document in an electronic format unless I am able to access electronically the

abbreviated registration disclosure document before the end of the 5-day period during which I may cancel the contract of sale pursuant to NRS 119A.410.

3. Upon providing the disclosure of alternative media delivery pursuant to subsection 2, the developer shall obtain from the prospective purchaser a receipt for a copy of the disclosure form signed by the purchaser. The developer shall keep the receipt with any other documents relating to the sale of the time share at the principal place of business of the developer.

4. If the developer provides the abbreviated registration disclosure document in an electronic format, the developer must file with the Division the documents required to be provided to a prospective purchaser in paper format pursuant to subsection 2 and a sample copy of the compact disc, USB flash drive or thumb drive or other form of electronic media on which the abbreviated registration disclosure document is provided.

5. The renewal of an abbreviated registration must be made in accordance with the provisions of NRS 119A.355.

Sec. 3. 1. An existing permit may be converted to an abbreviated registration by filing an application for conversion to an abbreviated registration with the Division, subject to the requirements of this section and NRS 119A.302. The Division will review each application and issue an approval or a request for more information or documentation:

(a) 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

(b) 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.

2. An application for conversion to an abbreviated registration must be submitted to the Division in an electronic format or paper format and:

- (a) Include all information and documentation required by NRS 119A.302;*
- (b) Be signed by an officer of the developer;*
- (c) Be submitted on a form prescribed by the Division; and*
- (d) Be accompanied by the fee specified in NRS 119A.360.*

Sec. 4. 1. A developer that wishes to operate as an exchange company and offer 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 a registration with the Division in an electronic format or paper format. After a registration has been filed pursuant to this subsection, the developer shall file any amendment to the registration with respect to any material change in an electronic format or paper format.

- 2. A registration or amendment filed with the Division pursuant to subsection 1 must be:*
- (a) Signed by an officer of the developer;*
- (b) Submitted on a form prescribed by the Division; and*
- (c) Accompanied by the fee specified in NRS 119A.360.*

Sec. 5. A developer shall not change the project broker which coordinates the sale of time shares on behalf of the developer without first filing an amendment to the statement of record filed with the Division.

Sec. 6. In addition to any other information and documents required to be provided by law, an applicant for registration as a time-share resale broker shall provide the following information and documents with the application for registration, on a form prescribed by the Division:

1. The date of application, the name of the applicant and, if different, the name on the applicant's real estate broker license issued pursuant to chapter 645 of NRS, the license number of such license, the home address, business address, electronic mail address, telephone number and facsimile number of the applicant and, if the applicant does business under an assumed or fictitious name pursuant to the provisions of chapter 602 of NRS, the assumed or fictitious name and each county in which such an assumed or fictitious name is registered.

2. If the applicant has done business as a real estate broker under any assumed or fictitious name other than any assumed or fictitious name provided pursuant to subsection 1, any other such assumed or fictitious name and the counties and states in which each such name was registered.

3. If the applicant is a corporation, partnership, limited-liability company or any other business entity, other than a publicly traded corporation:

(a) The name and address of the entity and its state of formation; and

(b) The name, address and principal occupation of each person owning or controlling an interest of 10 percent or more in the entity and the position held by each such person in the entity.

4. If the applicant is a corporation, partnership, limited-liability company or any other business entity, a statement as to whether the entity is organized for the sole purpose of the resale of time shares.

5. Information concerning any criminal conviction of, or plea of guilty or nolo contendere by, the applicant.

6. If the applicant has filed a petition in bankruptcy or has been the object of an involuntary petition within the 7 years immediately preceding the date of the application, a copy of the disposition of any such petition.

7. A brief history of the applicant's business experience and background regarding time-share plans, including, without limitation, all current and former job descriptions, job titles and employer information.

8. A statement regarding whether the applicant intends to charge or collect an advance fee and, if so, a copy of a sample contract for an advance fee listing that the applicant intends to use.

9. A copy of the state business registration of the applicant, a copy of the business license for each county, city or other municipality in this State in which the applicant intends to conduct business, showing that the applicant is in good standing and such a license is in active status, and a copy of any filing for each county in which the applicant intends to conduct business under an assumed or fictitious name.

10. A sample of the sales contract and all other documents that the applicant intends for a prospective purchaser to sign or initial.

11. A sample of the following completed forms prescribed by the Division:

(a) Form 524, Consent to Act;

(b) Form 525, Duties Owed by a Nevada Real Estate Licensee; and

(c) Form 533, Dual License Application for a Licensed Nevada Broker.

Sec. 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 “Advertisement” means published material which:

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.045 is hereby amended to read as follows:

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

Sec. 11. 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. 12. 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
5. Oral statements made by a developer or a representative thereof at any promotional meeting.

Sec. 13. 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 ~~{because}~~ *electronic payment*, the person stopped payment on the check or draft ~~{:~~

~~—(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~~ *or the electronic payment was recalled or cancelled, the Division will, in* accordance with NRS 353C.115 and NAC 353C.400 ~~the Division will~~ *and in addition to all other remedies or penalties prescribed by law,* 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 electronic payment which was recalled or cancelled,* a fee of \$25 or such other amount as may subsequently be required by NRS 353C.115 and NAC 353C.400.

2. Until the Division receives a replacement payment for a returned check or draft or electronic payment which was recalled or cancelled and the fee required by subsection 1:

(a) The person's 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 from the Division 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, the Division may refuse to issue any such authorization.

Sec. 14. 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 ~~the~~

~~(I) His~~ *his* or her project broker . ~~the~~ ~~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. 15. 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.~~ *A project broker or time-share*

resale broker may not supervise more than one principal place of business and one branch office.

2. The *exercise of direct supervision of a branch office by a project broker* ~~is responsible for all branch offices operated by him or her.~~ *or time-share resale broker does not necessarily require the project broker or time-share resale broker to be physically present in the branch office on a full-time basis. In enforcing the provisions of NRS 119A.268, the Administrator shall consider all facts and circumstances relevant to the ability of the project broker or time-share resale broker to exercise direct supervision of a branch office, including, without limitation, the:*

(a) Distance between the principal place of business and the branch office;

(b) Frequency of the physical presence of the project broker or time-share resale broker at the branch office; and

(c) Means and regularity of communications between the project broker or time-share resale broker and the personnel employed at the branch office.

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.}~~ 4. A branch office is required for each site ~~{for promotional sales.}~~ *that is separate from the principal place of business at which the business of selling or reselling time shares, as applicable, is conducted.*

Sec. 16. NAC 119A.105 is hereby amended to read as follows:

119A.105 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 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 {,} and its investigators and employees.*

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

Sec. 17. 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~~ *project* broker.

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. 18. 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. 19. 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. 20. NAC 119A.190 is hereby amended to read as follows:

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 , *by electronic transmission through the Timeshare Registry developed by the Association of Real Estate License Law Officials, or another 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 *or electronic payments* used to pay fees must be made payable to the *Nevada* Real Estate Division. *Any payment 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 *that is filed with the Division pursuant to subsection 1* must be ~~typed in black ink in standard or elite type on a form supplied by the~~

~~Division.}~~ *on white paper that is 8 1/2 by 11 inches in size, have text that is fully justified to the left and right margins and not contain text that is smaller than 11-point font.* Supplemental material, except ~~{deeds, title policies,}~~ maps, plats ~~{, advertising}~~ and other official documents, must be ~~{typed on good quality, unglazed, legal size}~~ *on* paper ~~{with a 2-inch margin at the top and a 1 1/2-inch margin on each side.}~~ *that is 8 1/2 by 11 inches in size.* Illegible photocopies must not be submitted.

5. ~~{The}~~ *A* developer shall not incorporate by reference any matter used in ~~{a prior}~~ *an* application for a *different* 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}~~ *previously* filed with the Division . ~~{but clearly identified with the specific filing.}~~

Sec. 21. 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. 22. NAC 119A.200 is hereby amended to read as follows:

119A.200 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 information ~~{in or 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* business experience and background ~~{}~~
of the developer:

(a) ~~{His or her}~~ *The* name and ~~{the}~~ address of ~~{his or her}~~ *the* principal place of business ~~{}~~
of the developer.

(b) ~~{His or her}~~ *The federal tax identification number of the developer.*

(c) *The* ownership or other interest *of the developer* in the project.

~~{(e)}~~ (d) 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;}~~ *Certificate of
Good Standing issued by the Secretary of State that is dated within the 30 days immediately
preceding the date on which the statement of record is provided to the Division;* 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 ~~{}~~ *that is dated within the 30 days
immediately preceding the date on which the statement of record is provided to the Division*,
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)}~~ (e) If the ~~{applicant}~~ *developer* is ~~{not}~~ a *closely held* corporation, ~~{his or her}~~ *limited-
liability company, limited partnership or other business entity:*

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

(2) *The consent of the developer to the service of process and designation of an agent in the State to accept service.*

~~(e)~~ (f) 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 ~~this or her~~ *the* business relationship *of the developer* to the other business entity.

~~(f)~~ (g) A list identifying each *state or foreign jurisdiction in which the developer has, within the 10 years immediately preceding the date on which the statement of record is provided to the Division, applied for or received a* 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~~ *to sell time shares that 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~~

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

~~(1) Any conviction of [the applicant, his or her affiliate or, if the applicant is a corporation, any of its incorporators or officers of a], or plea of guilty or nolo contendere to, any felony or gross misdemeanor charge or~~ 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], and the disposition thereof;~~

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

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

(4) Any voluntary or involuntary petition in bankruptcy filed by or against the applicant within the 7 years immediately preceding the date on which the statement of record is provided to the Division; and

~~(5) Any past or pending *criminal prosecution or* 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.~~

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

that has a material adverse effect on the developer or the time-share plan.

(i) A financial statement, which may be consolidated with the developer's parent company, dated within the 6 months immediately preceding the date on which the statement of record is provided to the Division, including a balance sheet and statement of profit and loss.

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 name of the time-share plan and a description of the type of time-share plan to be offered for sale;*

(b) The identification of each *jurisdiction that has granted* 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) *time-share plan*;~~

(c) Maps of ~~{the}~~ *any* project *within the time-share plan*, including recorded plats and location maps;

~~{(f)}~~ (d) Documents concerning *management and* maintenance of ~~{the}~~ *any* project *located within this State that are within the time-share plan*, including the ~~{~~:

~~—(1) Management} *management* agreement {~~;

~~—(2) Subsidy} *and 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~~ *any* project ~~is~~ *within the time-share plan*, a description of ~~is~~:

~~—(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 . ~~is~~;

~~—(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;~~ *project broker and any sales and marketing entity*:

(a) The ~~written plan of the applicant's advertising campaign including a copy of each proposed advertisement and other published material;~~ *name of the real estate broker who will be the project broker and the names of all sales agents within this State*;

(b) ~~A description of each promotional activity which the applicant proposes to conduct in connection with the project;~~ *The location of the principal place of business of the branch office at which each sales agent will be operating*;

(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~~ *The name of the real estate broker or real estate broker-salesperson in charge of each location, if different from the project broker*;

(d) *A list of all other states in which the project broker is licensed*;

(e) A statement ~~[of the agent's or broker's responsibility in connection with the activities mentioned in this subsection.]~~ *as to whether the project broker has been disciplined pursuant to any regulatory agency proceeding; and*

(f) *The name, address, telephone number and electronic mail address of any sales and marketing entity.*

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

6. *The location within this State at which the records of the time-share plan and the sales within this State will be maintained, including 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. 23. NAC 119A.205 is hereby amended to read as follows:

119A.205 ~~[The]~~

1. *A public offering statement ~~[issued]~~ that has been approved or deemed approved* by the Division pursuant to NRS ~~[119A.300 will]~~ *119A.304 or 119A.355 must* have a cover sheet which states in red:

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

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

(a) Be prepared and submitted to the Division in an electronic format which may be edited and with text that is not smaller than 11-point font;

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

(c) If deemed approved by the Division pursuant to NRS 119A.304 or 119A.355, contain the phrase "DEEMED APPROVED FOR USE" in 12-point boldface type, in lieu of containing the signature of the Administrator or his or her designee; and

(d) Contain:

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

(2) The date of the initial permit and the date on which the permit was renewed or deemed renewed.

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

(a) The cover sheet required pursuant to subsection 1;

(b) A page which includes, without limitation, the:

(1) Name and address of the developer;

(2) Effective date of the public offering statement;

- (3) Date on which the initial permit was originally issued and the permit number; and*
- (4) Address and telephone number of the Division;*
- (c) A copy of the Time Share Notice of Cancellation form prescribed by the Division;*
- (d) A copy of the Receipt of Nevada Public Offering Statement form prescribed by the Division;*
- (e) A disclosure of alternative media delivery, which contains:*
- (1) A list of all documents that will be included in the public offering statement being provided to the prospective purchaser in an electronic format;*
- (2) A description of the hardware and software necessary for the prospective purchaser to access electronically the public offering statement;*
- (3) Any instructions necessary for the prospective purchaser to access electronically the public offering statement; and*
- (4) The following disclosure in at least 12-point boldface red type, followed by an area for the signature of the prospective purchaser:*

I understand that I have the option of receiving the public offering statement in an electronic format or paper format, and I have decided to accept the public offering statement in an electronic format.

I understand that I should not accept the public offering statement in an electronic format unless I am able to access electronically the public offering statement before the end of the 5-day period during which I may cancel the contract of sale pursuant to NRS 119A.410.

4. Upon providing the disclosure of alternative media delivery pursuant to subsection 3, the developer shall obtain from the prospective purchaser a receipt for a copy of the disclosure form signed by the purchaser. The developer shall keep the receipt with any other documents relating to the sale of the time share at the principal place of business of the developer.

5. If the developer provides the public offering statement in an electronic format, the developer must file with the Division the documents required to be provided to a prospective purchaser in paper format pursuant to subsection 3 and a sample copy of the compact disc, USB flash drive or thumb drive or other form of electronic media on which the public offering statement is provided.

Sec. 24. NAC 119A.210 is hereby amended to read as follows:

119A.210 ~~{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. 25. 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;]~~ *that complies with the laws of the jurisdiction under which it was 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, the amendment must be submitted to the Division as an amendment to the statement of record within 10 days after the effective date of the amendment.*

Sec. 26. 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. 27. 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~~ *a* declaration either by jointly executing the declaration or by a separate recorded instrument.

Sec. 28. NAC 119A.240 is hereby amended to read as follows:

119A.240 1. ~~The~~ *A* project broker shall share with ~~the~~ *a* 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 *of a developer, project broker or sales agent* 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}~~ A project broker is responsible for the activities of each sales agent, salesperson, broker-salesperson and registered representative.

5. ~~{A developer's}~~ *At the discretion of the Administrator, the records of a developer and project broker* may be inspected and audited by the Division and , *in accordance with subsection 6*, must be made available to the Division at the location of the records , if they are located in Nevada , or at the Division's office in ~~{Carson City or}~~ Las Vegas, if *they are located* outside of Nevada.

6. A developer must produce the records within 10 days ~~{of his or her receipt of}~~ *after receiving* 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. 29. 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}~~ A project broker shall:

~~{(a)}~~ 1. Obtain from each purchaser of a time share ~~{in the project}~~ , *on a form prescribed by the Division*, a receipt for a copy of the public offering statement signed by the purchaser and selling agent;

~~{(b)}~~ 2. *Provide the purchaser with a copy of the receipt in paper format;*

3. 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*

~~{(c) Teach}~~

4. *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. 30. NAC 119A.255 is hereby amended to read as follows:

119A.255 1. Each contract, agreement and other document used in the sale of ~~{the project}~~ *a time-share plan* is subject to the standards for advertising that are set forth in this chapter.

2. *Each contract for the sale of a time share or purchase agreement must be printed with text that is not smaller than 11-point font and have a margin of approximately 1 inch on the left and right sides and at the top and bottom of each page.*

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.}~~ 4. 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.

~~14.1~~ 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."

~~15.1~~ 6. Each contract of sale ~~or~~ for 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. 31. 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.

2. *A person who is registered and represents more than one developer may only operate in a fixed location approved by and registered with the Division.*

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

Sec. 32. 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. 33. 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. 34. 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 an interest in a time share}~~ which he or she 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}~~ *thereof* in writing to a prospective purchaser before or at the time of his or her receipt of an offer to purchase.

Sec. 35. NAC 119A.305 is hereby amended to read as follows:

119A.305 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}~~ *The* 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. 36. NAC 119A.310 is hereby amended to read as follows:

119A.310 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 ~~{or 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 ~~{}~~ *or* 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. 37. NAC 119A.315 is hereby amended to read as follows:

119A.315 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 a time-share plan* may be advertised unless it has been completed or installed and is available for use, or 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}~~ *required to pay additional fees for use or access* must ~~{clearly and fully}~~ disclose the ~~{assessment}~~.

~~—4.—~~ ~~An advertisement which contains a statement regarding taxes and their amount must state the latest available information.}~~ *existence of such fees.*

Sec. 38. NAC 119A.325 is hereby amended to read as follows:

119A.325 ~~{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}~~.

~~—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.}~~ *statement of record.*

Sec. 39. NAC 119A.330 is hereby amended to read as follows:

119A.330 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}~~ *is 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 . ~~{along a road is given together with}~~ *If the road or street leading to the facility is not traversable year-round by a conventional automobile, the developer must disclose* 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.}~~

~~—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.—~~ *that is incomplete.* As used in this ~~{section,}~~ *subsection*, “public facility” means any facility which is available or will be available for use by the general public , including purchasers of ~~{the project}~~ *time shares* and their successors in interest.

Sec. 40. NAC 119A.335 is hereby amended to read as follows:

119A.335 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. 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.}~~ *available for occupancy.*

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. 41. NAC 119A.340 is hereby amended to read as follows:

119A.340 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. 42. NAC 119A.345 is hereby amended to read as follows:

119A.345 1. Each orally presented or written advertisement which is designed to induce attendance at or participation in a sales presentation must conspicuously include:

~~1.~~ (a) 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.}~~ (b) A disclosure of any restrictions or conditions on the sale of ~~{the time share interest}~~ a *time share* or the attendance or participation in the sales presentation.

2. The disclosure required by paragraph (b) of subsection 1 must be provided to a prospective purchaser in writing or electronically at least once before any scheduled sales presentation, but does not need to be included in every advertisement provided to a prospective purchaser before the sales presentation.

Sec. 43. NAC 119A.355 is hereby amended to read as follows:

119A.355 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 ~~{or 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” *that are not traversable year-round by a 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 ~~{, time share unit or interest}~~ being offered actually fronts on a body of water and ~~{has}~~ *a purchaser of a time share within the project will have* full and usable access along the frontage.

Sec. 44. NAC 119A.365 is hereby amended to read as follows:

119A.365 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 . ~~{or 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]~~ **a prospective** 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]~~ **prospective** purchaser.

~~{12.}~~ 8. Upon the ~~{purchaser's}~~ request ~~{, the}~~ *of a prospective* purchaser, *he or she* 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}~~ *a prospective* 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 *a time-share plan* or the ~~{project,}~~ documents or sales techniques of the ~~{project.}~~

~~—15.}~~ *time-share plan.*

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 the time-share plan.*

Sec. 45. NAC 119A.370 is hereby amended to read as follows:

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.}~~ 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.}~~ *time-share plan.*

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. 46. 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 this State* 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.

Sec. 47. NAC 119A.015, 119A.020, 119A.035, 119A.070, 119A.115, 119A.258, 119A.295, 119A.300, 119A.320 and 119A.360 are hereby repealed.

TEXT OF REPEALED SECTIONS

119A.015 “Blanket encumbrance” defined. (NRS 119A.190) “Blanket encumbrance” means any lien which encompasses more than one time share.

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.035 “Director” defined. (NRS 119A.190) “Director” means the Director of the Department of Business and Industry.

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.