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Property; subdivisions, time shares, and campgrounds-sales, management, and solvency

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prior to the statutory date, property which in all probability will be presumed abandoned.⁹ Finally, Chapter 326 requires that a security listed on an established stock exchange be sold at the prevailing price on the exchange.¹⁰

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9. *Id. See id.* § 120A.200. All intangible property distributable in the course of a dissolution of a business association, banking organization, or financial organization organized under the laws of Nevada that is unclaimed by the owner within one year after the date for final distribution is presumed abandoned. *Id.* (the statutory date is one year after the date for final distribution). Approval of the administrator of the division of unclaimed property is required. *Id.* § 120A.320 4 (amended by 1987 Nev. Stat. ch. 326, sec. 10, at ____). The administrator may require the holder to send a form to each owner whose balance in an account is more than \$50, not less than 6 months nor more than 12 months before the holder's report is due. *Id.* § 120A.260 2 (amended by 1987 Nev. Stat. ch. 326, sec. 7, at ____). Within 180 days after the holder files a report, the administrator must publish notice that property valued at more than \$50 will be presumed abandoned. *Id.* § 120A.280 4 (amended by 1987 Nev. Stat. ch. 326, sec. 8, at ____). Within 180 days after receiving the holder's report, the administrator must mail a notice to each person who appears to be entitled to the property presumed abandoned with a value of \$50 or more. *Id.* § 120A.290 1 (amended by 1987 Nev. Stat. ch. 326, sec. 9, at ____).

10. 1987 Nev. Stat. ch. 326, sec. 11, at ____ (amending NEV. REV. STAT. § 120A.360 5(a)-(b)) (if the security is not listed on an established stock exchange, the security may be sold over the counter at the prevailing price or by any other method the administrator deems acceptable).

Property; subdivisions, time shares, and campgrounds—sales, management, and solvency

NEV. REV. STAT. § 119B.290 (repealed); §§ 119.____, 119A.____, 119B.____ (new); §§ 119.010, 119.160, 119.182, 119.220, 119.320, 119A.300, 119A.360, 119A.540, 119B.010 (amended).

SB 221 (Committee on Judiciary); 1987 STAT. Ch 473

SB 197 (Committee on Judiciary); 1987 STAT. Ch 131

Existing law requires a developer¹ proposing to offer² or sell³ an interest in a subdivision⁴ to apply for a license⁵ and to submit a

1. NEV. REV. STAT. § 119.040 1, 2 (definition of developer as pertaining to subdivisions).

2. *Id.* § 119.060 (definition of offer).

3. *Id.* § 119.100 (definition of sale).

4. *Id.* § 119.110 (definition of subdivision).

5. *Id.* § 119.140 1-15 (license application and fees). Chapter 473 requires developer's permits to be renewed annually, including any change in information provided to the admin-

statement of record⁶ to the real estate division of the Department of Commerce.⁷ Existing law provides criminal penalties for intentional misrepresentation, deceit, or fraud in connection with the licensing or selling of subdivisions.⁸ Additionally, in the event that a developer's statement of record omits or falsifies a required material fact,⁹ existing law provides a private right of action for a purchaser¹⁰ who was unaware of the untruth or omission.¹¹ Existing law also empowers a purchaser to sue any developer or developer's agent who sells or leases a lot in a subdivision by means of a property report¹² which omits or falsifies a required material fact.¹³ Chapter 473 extends existing law by entitling the purchaser, as an alternative to damages, to a rescission of the contract of sale and a refund of any consid-

istrator or prospective purchaser. 1987 Nev. Stat. ch. 473, sec. 4, at ___ (amending NEV. REV. STAT. § 119.____). Chapter 473 sets the renewal fee at \$250 and makes certain other adjustments in fees charged under this section. See *id.* sec. 8, at ___ (amending NEV. REV. STAT. § 119.320 1, 2).

6. 1987 Nev. Stat. ch. 473, sec. 3, at ___ (amending NEV. REV. STAT. § 119.____) (statement of record is information submitted in developer's application for permit to offer or sell interest in a subdivision).

7. NEV. REV. STAT. § 119.160 1-4 (issuance of license). Absent grounds for denial, the administrator issues to a developer a property report containing the required disclosures and authorizing the offering or sale of subdivisions. *Id.* See also 1987 Nev. Stat. ch. 473, sec. 2, at ___ (amending NEV. REV. STAT. § 119.____) (definition of property report). See generally 1985 PAC. L.J. REV. NEV. LEGIS. 175, 176 (regarding licensing of land sales).

8. NEV. REV. STAT. § 119.330 2(a), (b) (selling or attempting to sell subdivision or any lot, parcel, unit or interest in a subdivision, or obtaining or attempting to obtain a license by intentional misrepresentation, deceit, or fraud is punishable by imprisonment for 1-6 years or fine of no more than \$10,000 or both).

9. *Id.* § 119.140 1-14 (information required to be submitted in developer's application for permit to offer or sell interest in subdivision).

10. *Id.* § 119.080 (definition of purchaser).

11. NEV. REV. STAT. § 119.220 1 (amended by 1987 Nev. Stat. ch. 473, sec. 7, at ___). A purchaser may sue a developer or developer's agent, in any court of competent jurisdiction, if the purchase was made from a developer or developer's agent during the period any effective part of the statement of record contained an untrue statement of a material fact, or omitted to state a required material fact, unless the developer proves that, at time of acquisition, the purchaser knew of the untruth or omission. *Id.*

12. 1987 Nev. Stat. ch. 473, sec. 2, at ___ (amending NEV. REV. STAT. § 119.____) (definition of property report).

13. NEV. REV. STAT. § 119.220 2(b) (amended by 1987 Nev. Stat. ch. 473, sec. 7 2(b), at ___). Existing law also provides that a purchaser may sue a developer or developer's agent who sells or leases a lot in a subdivision in violation of this chapter. *Id.* § 119.220 2(a). A purchaser bringing a suit authorized under existing law is entitled to recover damages. *Id.* § 119.220 3(a)-(c) (amended by 1987 Nev. Stat. ch. 473, sec. 7 3(a)-(c)) (a purchaser bringing suit is entitled to damages representing the difference between the amount paid for the lot plus the reasonable cost of any improvements, and the lesser of (1) the lot's value at the time the suit is brought, (2) the price at which the lot is disposed of in a bona fide market transaction before suit, or (3) the price at which the lot is disposed of in a bona fide market transaction after suit but before judgment). Chapter 473 eliminates a provision of existing law that limited the amount of damages recoverable to no more than the sum of the purchase price of the lot, reasonable cost of improvements, reasonable appraiser's costs, and reasonable attorney's fees. 1973 Nev. Stat. ch. 792, sec. 11, at 1759.

eration paid.¹⁴ Further, Chapter 473 authorizes the chief of the real estate division of the Department of Commerce (administrator)¹⁵ to bring similar suits.¹⁶ Chapter 473 requires a rescission of a contract of sale to be brought within one year after either the date of purchase or the date of discovery of the misrepresentation,¹⁷ and provides that reasonable attorney's fees may be awarded.¹⁸

Prior law required any contract for the sale of any subdivision, or any lot, parcel, unit, or interest in any subdivision, not exempted,¹⁹ to provide for revocation by the purchaser under certain circumstances.²⁰ Prior law also permitted the contract to limit the purchaser's right of revocation in certain circumstances.²¹ With the enactment of Chapter 131, the contract must permit the purchaser of any subdivision, with specified exceptions, to cancel the contract by written notice within five days.²² Within fifteen days of receipt of the notice of cancellation, the developer must return all payments made by the purchaser.²³

Chapter 473 expands the information that must be submitted by developers²⁴ in connection with the sale and management of time shares²⁵ and campground²⁶ memberships.²⁷ Furthermore, the admin-

14. 1987 Nev. Stat. ch. 473, sec. 7, at ___ (amending NEV. REV. STAT. § 119.220 3(c)).

15. NEV. REV. STAT. § 119.015 (definition of administrator).

16. 1987 Nev. Stat. ch. 473, sec. 7, at ___ (amending NEV. REV. STAT. § 119.220).

17. *Id.* at ___ (amending NEV. REV. STAT. § 119.____).

18. *Id.*

19. *See* NEV. REV. STAT. §§ 119.120, 119.122. The specified exceptions include the following: (1) Single purchases of large lots; (2) purchases by contractors and government agencies; (3) purchases pursuant to a court order; (4) cemetery lots; (5) investment trusts and secured evidences of indebtedness; (6) personally inspected real estate free of encumbrances; and (7) subdivisions exempted by the real estate division). *Id.*

20. 1983 Nev. Stat. ch. 102, sec. 5, at 277.

21. *Id.* (a contract for sale of a subdivision may have stipulated that the right to revoke was inapplicable if the purchaser had received information and inspected the subdivision prior to signing the contract). *See generally id.* § 119.140 (information required to be given to purchaser).

22. 1987 Nev. Stat. ch. 131, sec. 1, at ___ (amending NEV. REV. STAT. § 119.182). Notice of cancellation may be delivered personally to the developer or sent to the developer's business address by certified mail or telegraph. *Id.* Chapter 131 does not permit the right of cancellation to be waived, and specifies that any attempt by the developer to obtain the waiver will result in a contract being voidable by the purchaser. *Id.*

23. *Id.* This requirement replaces the provision of prior law regarding repayment in the event of revocation. *See* 1983 Nev. Stat. ch. 174, sec. 8, at 414.

24. NEV. REV. STAT. §§ 119A.040 (definition of time share developer); 119B.070 (definition of campground developer).

25. *Id.* § 119A.140 (definition of time share).

26. *Id.* § 119B.050 (definition of campground).

27. 1987 Nev. Stat. ch. 473, sec. 14, at ___ (amending NEV. REV. STAT. § 119A.300 1(d)) (chapter 473 requires an applicant for a permit to sell time shares to submit to the administrator copies of any documents that will be used to provide for management of the project or to create and maintain a time share owners' association); *see generally* 1983 PAC. L.J. REV. NEV.

istrator's and purchaser's rights of civil action, damages, and remedies against a subdivision developer are also applicable against a timeshare or campground developer.²⁸

Finally, Chapter 473 mandates that if the administrator determines that an association of campground members or time share owners, or a developer if there is no association, is insolvent or in imminent danger of insolvency, or if the administrator ascertains that the association's or developer's affairs are being mismanaged, the administrator may arrange for the appointment of a receiver.²⁹ The

LEGIS. 117-28 (regarding time share sales). NEV. REV. STAT. § 119B.080 (definition of membership). An applicant for a permit to sell campground memberships must include with the application (1) prices to be charged for memberships, (2) amounts and purpose of other fees to be paid by members, (3) copies of contracts or forms to be used in sale of memberships, and (4) copies of documents relating to creation and operation of the members' association responsible for operating and maintaining the common area and amenities of the campground. NEV. REV. STAT. § 119B.130 4, 5; *see also id.* § 119B.300 (association of members). Under Chapter 473, the terms and conditions of these campground documents and agreements constitute additional terms and conditions of the permit, and must be described in the public offering statement. 1987 Nev. Stat. ch. 473, sec. 21, at ___ (amending NEV. REV. STAT. § 119B.____); *see also id.* sec. 18, at ___ (enacting NEV. REV. STAT. § 119B.____) (definition of public offering statement). Similarly, those terms and conditions of documents and agreements submitted with permit applications, relating to sale of time shares and the creation and management of time share projects, constitute additional terms and conditions of the developer's permit, and must be described in the public offering statement. *Id.* sec. 12, at ___ (enacting NEV. REV. STAT. § 119A.____); *see also* NEV. REV. STAT. § 119A.080 (definition of project). Chapter 473 also adds the requirement that the developer's permit be renewed annually at a fee of \$250. 1987 Nev. Stat. ch. 473, sec. 15, at ___ (amending NEV. REV. STAT. § 119A.____). The renewal application must include: (1) any change in information the developer submitted to the administrator or provided to the prospective purchaser; (2) copies of the public offering statement and the permit; and (3) the budget of the time share owners' association, or of the developer if there is no association. *Id.* sec. 13, at ___ (enacting NEV. REV. STAT. § 119A.____). Prior law specified that only the initial budget need be approved by the real estate division. NEV. REV. STAT. § 119A.540 (amended by 1987 Nev. Stat. ch. 473, sec. 16, at ___) (providing for adoption of annual budget for revenues, expenditures, and reserves). Chapter 473 imposes the additional requirement of annual approval of the budgets until the association is controlled by members other than the developer. 1987 Nev. Stat. ch. 473, sec. 16, at ___ (amending NEV. REV. STAT. § 119A.540 1).

28. *See supra* notes 12, 14, 15, 17-20 and accompanying text (pertaining to subdivisions). Chapter 473 repeals prior law which limited a campground member's remedy, for error or omission in a membership contract or related materials or disclosures, to rescission and refund of consideration. 1985 Nev. Stat. ch. 553, sec. 38, at 1668. *See generally* 1985 PAC. L.J. REV. NEV. LEGIS. 178 n.19 (discussion of 1985 Nev. Stat. ch. 553). Chapter 473 recognizes that anyone liable to pay under these provisions may recover contribution from any person who would have been liable for the same payment if sued separately. 1987 Nev. Stat. ch. 473, secs. 10, at ___ (enacting NEV. REV. STAT. § 119A.____) (pertaining to time shares); 19, at ___ (enacting NEV. REV. STAT. § 119B.____) (pertaining to campgrounds). The provisions of Chapter 473 granting the administrator and purchasers the right to sue developers are added to existing law, and do not replace any other rights of persons or the State to bring actions. 1987 Nev. Stat. ch. 473, secs. 7, at ___ (amending NEV. REV. STAT. § 119.____) (pertaining to subdivisions); 10, at ___ (amending NEV. REV. STAT. § 119A.____) (pertaining to time shares); 19, at ___ (amending NEV. REV. STAT. § 119B.____) (pertaining to campgrounds).

29. *Id.* secs. 11, at ___ (amending NEV. REV. STAT. § 119A.____) (pertaining to time share owners); 20, at ___ (amending NEV. REV. STAT. § 119B.____) (pertaining to campground members).

receiver must take possession of the business, property, and assets of the association or developer within the State and, upon court approval, take other necessary and reasonable actions for the conduct of the business.³⁰

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30. *Id.* secs. 11, at ___ (amending NEV. REV. STAT. § 119A.____) (pertaining to time shares); 20, at ___ (amending NEV. REV. STAT. § 119B.____) (pertaining to campgrounds). The receiver must inventory the association's or developer's assets and liabilities, the inventory and creditors' claims must be open for inspection, the receiver's actions upon claims are subject to court approval, and the liquidation expenses, attorney's fees, and receiver's expenses are paid out of the assets controlled by the receiver. *Id.* secs. 11, at ___ (amending NEV. REV. STAT. § 119A.____) (pertaining to time shares); 20, at ___ (amending NEV. REV. STAT. § 119B.____) (pertaining to campgrounds).

Property; unlawful detainer

NEV. REV. STAT. §§ 40.253, 118A.460 (amended).
SB 404 (Wagner and Townsend); 1987 STAT. Ch 544

Existing law provides that a landlord¹ can dispose of personal property left or abandoned on premises² by a tenant³ without incurring civil or criminal liability by providing for the safe storage of property for thirty days after abandonment, eviction, or the end of the rental period.⁴ After the thirty day period expires, the landlord may dispose of the property and recover any reasonable storage costs out of the value of the property if the landlord has made reasonable attempts to locate or has located the tenant and has notified the tenant of the impending disposal.⁵ With the enactment of Chapter 544, the tenant may file a motion with the justice of the peace to

1. NEV. REV. STAT. § 118A.100 (definition of landlord).

2. *Id.* § 118A.140 (definition of premises).

3. Tenant under this section includes any tenant of a dwelling, apartment, mobile home, or commercial premises with rent paid monthly or any shorter period. *Id.* § 40.253 1; *see also id.* § 118A.170 (definition of tenant).

4. *Id.* § 118A.460 (amended by 1987 Nev. Stat. ch. 544, sec. 2, at ___).

5. *Id.* (amended by 1987 Nev. Stat. ch. 544, sec. 2, at ___). The landlord must wait until 14 days have elapsed since the notice was given to the tenant. *Id.* The notice must be mailed to the tenants present address or last known address. *Id.* This section does not apply to the tenant of a mobile home lot in a mobile home park. *Id.* § 40.253.