

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fourth Session
April 4, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:26 p.m., on Wednesday, April 4, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ocegüera, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Francis Allen
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman William Horne
Assemblywoman Marilyn Kirkpatrick
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman David R. Parks
Assemblyman James Settelmeyer

GUEST LEGISLATORS PRESENT:

Assemblyman Joseph (Joe) M. Hogan, Assembly District No. 10

Minutes ID: 824



STAFF MEMBERS PRESENT:

Brenda Erdoes, Committee Counsel
Dave Ziegler, Committee Policy Analyst
Judith Coolbaugh, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

John P. Sande, III, representing the Nevada Bankers Association
Scott E. Bice, Commissioner, Division of Mortgage Lending
Robert L. Crowell, representing the Nevada Association of Mortgage Professionals
William R. Uffelman, representing the Nevada Bankers Association
Corinne Dale, President, Capella Mortgage, representing the Private Lenders Group
Michael Whiteaker, Vice President, Regulatory Compliance, Vestin Originators, Inc., and representing the Private Lenders Group
Brock Davis, representing U.S. Express Mortgage Corporation and the Mortgage Bankers Association of Nevada
Daniel Ebihara, representing Clark County Legal Services
Carol Wolfe, Private Citizen, Las Vegas, Nevada
Gail Burks, President and Chief Executive Officer, Nevada Fair Housing Center
Anita Webster, Private Citizen, Las Vegas, Nevada
Mary Shope, Coordinator, Silver Haired Legislative Forum
Peter Dustin, Financial Crimes Bureau, Las Vegas Metropolitan Police Department
Barry Gold, Director of Government Relations, representing the American Association of Retired People (AARP) Nevada
Amy Austin, Private Citizen, Las Vegas, Nevada
Nick Schram, Private Citizen, Carson City, Nevada
Charles Randall, representing the International Brotherhood of Electrical Workers, Local 396
Rocky Finseth, Managing Partner, Carrara Nevada, representing the Nevada Land Title Association
Alfredo Alonso, representing HSBC North America
Larisa Cespedes, Director, Government Relations, HSBC North America
David Guinan, Private Citizen, Reno, Nevada
Donna Cangelosi, Private Citizen, Carson City, Nevada
Rusty McAllister, representing the Professional Firefighters of Nevada
Ryan Beaman, representing the Clark County Firefighters
Barbara Gruenewald, representing the Nevada Trial Lawyers Association

John E. Jeffrey, representing the Southern Nevada Building and Construction Trades Council
Patrick T. Sanderson, representing the Laborers Local 872
Robert A. Ostrovsky, representing Employers Insurance
Gary E. Milliken, Government Relations/Public Affairs, GEM Consulting, representing the Builders Insurance Company
George Ross, representing the Nevada Self Insurers Association and PRO Group Inc., including the Retail Association of Nevada, Nevada Motor Transport Association, Nevada Auto Dealers Association, and the Builders Association of Western Nevada
Michael R. Alastuey, representing Clark County
James M. Livermore, representing Alternative Service Concepts and the Public Agency Compensation Trust
Jeanette K. Belz, J. K. Belz & Associates, Inc., representing the Property Casualty Insurers Association of America and the Associated General Contractors, Nevada Chapter
Rose E. McKinney-James, representing the Clark County School District
Ernest Adler, representing the International Brotherhood of Electrical Workers, Local 1245
Judy Stokey, Director, Government Affairs, Nevada Power Company and Sierra Pacific Power Company
Nancy Wenzel, Hearing Officer, Public Utilities Commission of Nevada (PUC)
Ray Bacon, representing the Nevada Manufacturers Association
Kathleen Delaney, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General

Chair Oceguera:

[Roll called.] We will start the work session.

Dave Ziegler, Committee Policy Analyst:

I have distributed the Work Session documents ([Exhibit C](#)). The first bill under consideration is Assembly Bill 215.

Assembly Bill 215: Limits interstate banking by certain entities that open branch offices in this State pursuant to certain statutory provisions. (BDR 55-1125)

This bill will limit interstate banking by certain entities that establish branch offices in this State. It provides that an out-of-state depository institution that establishes or acquires a branch office in a county whose population is less than 100,000 is still considered an out-of-state depository institution under the regulations for bank holding companies and interstate banking.

We received amendments on March 1, 2007, and March 23, 2007, from Mr. Uffelman who is representing the Nevada Bankers Association. He also provided some additional wording by telephone on April 2, 2007. There is an attached mock-up that incorporates all his proposed amendments. In addition, Ms. Erdoes suggested an amendment to the summary of the bill. Her change would insert the words, "clarifies limitations on" for the word, "limits."

Chair Oceguera:

Are there any questions?

Assemblyman Mabey:

On the mock-up it says, "on approval." Who gives the approval?

Dave Ziegler:

The approval comes from the Division of Financial Institutions.

Assemblyman Mabey:

There is one particular bank that is trying to get into the State to do business. Would they come under this provision if they are approved?

Dave Ziegler:

Yes, they would.

Assemblywoman Buckley:

Out-of-state depository institutions currently can establish a branch without acquiring an institution or going through the initial chartering and application process if they are going to a rural area. What exactly are we doing with this bill?

Dave Ziegler:

At the last hearing, there was testimony about three institutions that should be grandfathered in. Two of them had established branches in small counties and one had applied to establish a branch in a small county. Mr. Uffelman has indicated the one who applied has subsequently been approved. The other ones would be grandfathered in.

Brenda Erdoes, Committee Counsel:

There is already a provision stating an institution can establish a branch without going through the licensing process. This bill would say if a bank chooses to do it that way, it will still be considered an out-of-state depository institution; therefore they would not receive all the benefits of being an in-state institution. The difference is in the initial licensing process. This bill would ensure that institutions cannot avoid going through the necessary processing to have a bank

in Nevada. The grandfathering clause is being offered because there are some banks that are already under this provision.

Assemblywoman Buckley:

What differentiates an out-of-state bank from an in-state bank? What has changed or what benefits will these companies no longer receive?

Brenda Erdoes:

The representatives of the financial institutions would have to answer that question. The statutes list different standards. If a bank is already established in-state, they can open another branch. It is a quick process. It is more difficult when a bank is coming into the State for the first time.

John P. Sande, III, representing the Nevada Bankers Association:

In 1985, interstate banking was allowed in Nevada. The authorizing legislation prescribed two ways for a bank to establish itself. An out-of-state bank could acquire an existing bank that was more than five years old or a bank could establish itself as an independent Nevada corporation. To help the rural counties with populations under 100,000, the Legislature added a provision to allow a bank which existed out-of-state to create a branch in those counties. It did not have to become a Nevada bank. However, the bank would not be allowed to establish branches in the more populous counties. The banks argued that once they were in a small county, they should be able to establish branches in the larger counties. This bill is to clarify the legislative intent in 1985. If a bank chooses to open a branch in a smaller county, they cannot use that exception to open branches in the larger counties. Those banks would still be subject to the requirements for establishing a bank in Nevada.

Assemblywoman Buckley:

Your explanation answers my questions.

Chair Ocegueda:

Are there further questions? We are closing the hearing on A.B. 215. I will accept a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO
PASS AS AMENDED ASSEMBLY BILL 215.

ASSEMBLYMAN SETTELMAYER SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will take the vote.

THE MOTION PASSED. (ASSEMBLYMAN ANDERSON WAS
ABSENT FOR THE VOTE.)

Ms. Gansert will take the bill to the Floor. We are opening the hearing on Assembly Bill 562.

Assembly Bill 562: Revises provisions governing persons regulated by the Real Estate Division of the Department of Business and Industry. (BDR 54-584)

Dave Ziegler:

This Committee introduced this bill on behalf of the Real Estate Division. It revises provisions governing a person regulated by the Real Estate Division, requiring that person to notify the Division in writing if he is convicted of—or enters a guilty or nolo contendere plea to—a felony relating to his practice or a crime involving moral turpitude. It also authorizes the disclosure of confidential information on complaints to a licensing board or government agency that is investigating a person who holds a license, permit, or registration from the Real Estate Division.

It also makes a number of other changes. They are itemized in the work session document. There were no amendments submitted to this bill. The main provisions of this bill apply to real estate brokers and salesmen, appraisers of real estate, home inspectors, community managers, subdividers, time-share sales agents, and persons selling memberships in a campground.

Chair Ocegueda:

Are there any questions?

Assemblyman Horne:

Do we have a statute that defines crimes of moral turpitude?

Brenda Erdoes:

To my knowledge there is not one. There is some case law that discusses moral turpitude. Some of the licensing boards—such as the physicians' and the contractors' licensing boards—have different definitions by case law for what constitutes moral turpitude.

Chair Ocegueda:

Are there any other questions? Seeing none, we are closing the hearing on A.B. 562. I will accept a motion.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS
ASSEMBLY BILL 562.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Parks:

I need to disclose that I hold a real estate license. This bill will not affect me any differently than anyone else, so I will be voting on it.

Chair Oceguera:

Seeing no other discussion, we will take the vote.

THE MOTION PASSED. (ASSEMBLYMAN ANDERSON WAS
ABSENT FOR THE VOTE.)

Mr. Settlemeyer will take the bill to the Floor. We are opening the hearing on Assembly Bill 329.

Assembly Bill 329: Requires adoption of regulations concerning nontraditional mortgage loans and lending practices. (BDR 55-1044)

Assemblyman David R. Parks, Assembly District No. 41:

This bill requires the commissioners of financial institutions and mortgage lenders to adopt a set of regulatory guidelines that cover how nontraditional mortgages are marketed by Nevada licensed mortgage lenders and brokers. These guidelines are designed to level the playing field in the mortgage market, and to protect consumers from taking on high-risk mortgages without having a full understanding of the terms of such loans. These guidelines follow the federal guidelines applied to high-risk mortgages. The bill requires banks to tighten lending criteria, and disclose more information to borrowers before they sign for loans that allow them to repay only mortgage interest or a lesser amount. The federal guidelines that were implemented did not cover State regulated banks and mortgage lenders. This bill will include them. There is a handout that covers the specific criteria in this bill ([Exhibit D](#)). I will answer any questions.

Chair Oceguera:

Are there any questions?

Scott E. Bice, Commissioner, Division of Mortgage Lending:

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) passed guidelines for nontraditional mortgage products. The new guidelines would require disclosures and qualifications to be given at fully indexed rates as opposed to just "teaser" rates. More specific information would be required to spell out the fact that "teaser" payments or interest-only payments may add extra principal to the loan. The CSBS and AARMR developed the guidelines to address risks associated with the growing use of mortgage products that allow borrowers to defer payment of principal and sometimes interest. Establishing guidelines does not create a problem for the State. It is the State that typically deals at the level closest to the public. Some of the elements in these types of mortgages will also be covered in other bills this Committee will be hearing today. I will be happy to answer questions.

Chair Oceguera:

Are there any questions?

Assemblywoman Buckley:

Can you give an example of the proposed guidelines? I read through them, but some seem a little vague. How would these guidelines translate at a state level?

Scott Bice:

The most important guideline would be more consumer education. I would suggest we establish clear disclosures, not just "payment streams." Consumers need to know what making a minimum payment will do to the balance of the loan. They also need to know what the characteristics and terms of the loans mean. Terms, such as "no doc/low doc, no income/no asset, stated income or stated assets," need to be spelled out. The consumer needs to read and understand what they are signing. There is already a myriad of paperwork at closing, and adding five or more disclosures will increase the number of documents. However, it is necessary for the consumer to know how "payment streams" affect the balance of the loan and their equity position. Typically, buying a home is a consumer's largest purchase. The consumers need to know that providing improper information on an application is a federal offense. The guidance I envision would be more consumer education. Protections of consumers' interests are the issues I would address.

Chair Oceguera:

Are there any questions? Seeing none, are there others to testify in favor of the bill?

Robert L. Crowell, representing the Nevada Association of Mortgage Professionals:

We support this bill requiring greater disclosure for the nonstandard mortgage industry. We also support the comments made by Commissioner Bice. I will answer any questions.

William R. Uffelman, representing the Nevada Bankers Association:

We support this bill. The banks fell under the October 4 federal guidance rules that apply to insured institutions. This bill will cover all other lenders.

Chair Ocegüera:

Are there any questions? Are there others in support? Is there anyone in opposition to this bill? Is there anyone wishing to speak neutrally on A.B. 329? Seeing none, we are closing the hearing on A.B. 329, and opening the hearing on Assembly Bill 332.

Assembly Bill 332: Makes various changes concerning loans secured by liens on real property. (BDR 55-203)

Assemblyman Joseph (Joe) M. Hogan, Assembly District No. 10:

Since I have submitted my prepared testimony for the record ([Exhibit E](#)), I will summarize the details. This bill is intended to afford protection to consumers who consider investing their savings in mortgage-related instruments offered by so-called hard money lenders. These mortgage investments are not all similar to the more familiar home mortgages. The failure of a series of these lenders in Nevada has caused thousands of citizens to lose their savings. Several sessions ago, in response to earlier failures and resulting investor losses, this Legislature reformed the structure of Nevada's oversight and regulation of this part of the mortgage brokerage business. Also, the Division of Mortgage Lending was created.

Many of these financially injured investors could have protected themselves by doing their own due diligence if relevant information had been available to them. The needed information is in two categories. First, information should be provided concerning the brokers and their regulatory history. It should include the identity of the brokers, their business record with complaint information, examination ratings, and agency investigation results. Second, appraisals upon which the value of the underlying real estate is based should be disclosed. The appraisals need to be provided and identified as an "as is" valuation or "as developed." Having this information available will help consumers avoid the trap of unsound, overvalued, high-yield mortgage offers. After discussion with Commissioner Bice and representatives from the Division of Mortgage Lending, we are also submitting an amendment ([Exhibit F](#)) which addresses their

suggestions and maintains the protective measures I have described. I will answer any questions.

Chair Ocegüera:

Would you walk us through the amendments?

Assemblyman Hogan:

Yes, I will. The first amendment would create a new subsection 2 (g) to Section 1 of the bill. It would identify the method used to obtain the written appraisal. The second amendment to *Nevada Revised Statutes* (NRS) 645B.090, Section 2, lines 29-38, addresses changes recommended by the Division of Mortgage Lending regarding information that would be available to assist an investor in identifying if a lender is reputable and trustworthy. Section 2, subsection 2 (c) would have new language that gives the commissioner the authorization to withhold the release of personal information that may be protected by federal or state privacy laws.

Section 3, subsection 2 (a) (2) would add language that clearly identifies the method used for the written appraisal as an "as is" or "as developed" property evaluation. The information would be restated in Section 3, subsection 3, by adding the words "as is" or "as developed" to the description of the method used for appraisal. I will answer any questions.

Chair Ocegüera:

Are there any questions?

Assemblyman Settlemeyer:

The suggested amending language referring to the number of complaints does not specify making the actual complaints available to the consumer. Is that correct?

Assemblyman Hogan:

It would cover the number of complaints and any action taken by the commissioner, as a result of each complaint, to be made available to the consumer. However, the details of non-consequential complaints would not have to be released. Only the complaints that had some outcome, as determined by the Division of Mortgage Lending, would be provided.

Assemblyman Arberry:

Would you review the amending language on lines 30-38 on page 3 of the bill? Is that part of your amendment?

Assemblyman Hogan:

No, the amendments are in the colored handout.

Assemblyman Arberry:

I need clarification about the purpose of the language on page 3 of the bill, lines 30-38.

Assemblyman Hogan:

The language as it appears in the bill was considered too broad. It would require information that could include material that would raise privacy questions. The language was changed to specify that the application for issuance or renewal documents would not be entirely releasable. The outcome of that change would give the Division of Mortgage Lending considerable discretion in evaluating what information could be released to a prospective investor. It restricts the amount of information that can be released to the investor.

Chair Oceguera:

Are there further questions?

Assemblyman Settelmeyer:

The amendment refers to lines 32 and 33 of the bill. Do you wish those lines removed, because I do not see them on the amendment?

Assemblyman Hogan:

Yes, that language would be removed.

Chair Oceguera:

Are there further questions? Seeing none, does anyone else wish to speak in favor of A.B. 332? Is there anyone in opposition?

Corinne Dale, President, Capella Mortgage, representing the Private Lenders Group:

I am the owner of Capella Mortgage and serve as secretary-treasurer to a private lenders' group. I started out in private lending, both commercial and residential. I represent 14 private lenders, ranging in size from small businesses to large ones. Each lender fills a particular niche in the market. My specialty is loans under a million dollars funded by private investor funds as well as my own. I lend primarily to business people.

One of the main components of private lending is speed. If we can get a better interest rate and a fast loan, we would all go to the banks, but there are many

times when that is not possible. This bill would make appraisals mandatory, and that requirement would slow down the loan process.

In private lending, there are four basic types of commercial loans. We use land loans, acquisition and development loans, construction loans, and existing property loans. I do appreciate the intent of this bill, when I see what has happened over the last three years in this business, but I want to address the negative impact it will have on Nevada consumers. I have ordered hundreds of commercial appraisals. It takes a minimum of three weeks, usually longer, to get a commercial appraisal at a minimum cost of \$2,500. The average cost of a commercial appraisal is \$3,500, but they range from \$7,500 to \$10,000.

For example, I just had a customer who had sold a small apartment complex, and he wanted to buy another one with a partner. Each partner was bringing \$200,000 into the deal. The loan was approved, and the close of escrow was yesterday. He had his money on deposit. His partner gave him a call and said he did not have the money and could not go ahead with the deal. My customer had already released \$50,000 in earnest money to the seller a week ago to get a time extension. Earnest money is common in commercial lending to show good faith on the part of the buyer. My customer will lose his \$50,000 if he pulls out of the deal. In addition, the seller has imposed a daily late penalty of \$500 until the close of escrow. My client is in big trouble. His lender will not lend him any more money. Fortunately, he has a two-and-a-half-acre piece of land that is worth about \$700,000. If my customer has to sell the land fast, he will probably only get \$500,000. He called me up and said he needs \$200,000. That is the market niche that I fill. I provide a service for people who need money and need it fast.

If this law were in place, I would have to tell him it could take four weeks to get the appraisal on his land. That would be another \$15,000 in late fees on the property he is purchasing plus the up-front cost of the appraisal, which would be about \$3,500. In a situation like this, an appraisal is not required because the value of my client's two-and-a-half-acre parcel can be determined by comparables, databases, property lines, and the multiple-listing service. We can quickly determine the property evaluation. It does not make sense to require a borrower to get an appraisal on a privately owned property. There are situations where it probably does make sense, but for people who have equity in their commercial property and need to quickly access cash from it, it does not.

Removing the ability of investors to waive appraisals does not solve the problem, and it adversely affects the ability of a consumer to quickly access the equity in his property. Commercial appraisals already state "as is, as developed

or as completed" value. The bill is also requesting that the method used for the appraisal be identified. Commercial appraisals already have this stipulation, and use the terms "income approach, self-comparable approach, or cost approach" for appraisal method identification. Most appraisals have all three methodologies in them. If this law does pass and it becomes mandatory to have an appraisal on every private loan, the problem is still not solved because investors have to read the appraisal. Commercial appraisals are sometimes two to three inches thick. Limited summary appraisals are at least 30 pages in length. I know from experience that many of the investors I work with do not read the appraisals we provide. An appraisal does not guarantee the value or validate that the property is a good investment.

Chair Oceguera:

Are there any questions?

Assemblywoman Gansert:

Do you have any suggestions on how we can modify this language?

Corinne Dale:

There are some situations where a mandatory appraisal would be beneficial. For example, one might be required for large loans. In our group of 14 private lenders, 75 percent of them are doing large loans, \$3 million and up. They already order the appraisals, and do the acquisition, development and construction loans. The time frame on these types of loans is longer than the type of loans that I handle. Some discussion on the different types of loans that should require mandatory appraisals might be helpful. Even with that, the problem will not be resolved for investors who have lost money in the last few years.

Assemblywoman Gansert:

Is there a threshold amount that you would recommend?

Corinne Dale:

I hesitate to say because I have not gone over that possibility with the group I represent. I would say the larger amounts—\$3 million and up—or an appraisal based on the type of loan—acquisition, development or construction—might be considered.

Assemblywoman Gansert:

You are suggesting limiting the mandatory appraisals to acquisition, development and construction loans with a threshold of \$3 million and up. Is that correct?

Corinne Dale:

I am only suggesting. It is not my field of expertise since I work with loans up to \$1 million. You would need to have discussions with people in the industry to ensure there are no negative consequences for our borrowers and our economy.

Assemblyman Christensen:

I have used lenders from out of State for acquisition, development and construction loans, and I understand your industry concerns. Have you had an opportunity to discuss your concerns with Mr. Hogan to determine what would work?

Corinne Dale:

I have not had that opportunity. I have sent out emails from the Private Lenders Group and personal ones to everyone on the bill stating our concerns. We would welcome the opportunity to meet with Mr. Hogan to see if we can develop more beneficial language.

Assemblyman Christensen:

I ask that you do so because the decisions we make are long-lasting, and will have significant impact on the industry and the consumer. We need to know the outcome of those meetings to assist in our decision making.

Chair Oceguera:

Are there further questions? Seeing none, we will hear from the opposition in Las Vegas.

Michael Whiteaker, Vice President, Regulatory Compliance, Vestin Originators, Inc., and representing the Private Lenders Group:

For twenty-five years, I have been working in the lending industry and as a regulator with the Division of Financial Institutions. Mandating an appraisal is not going to solve the problems that have been discussed here today. Currently under NRS 645B.185, there are written requirements for investors, including a six-page disclosure statement. One of the pages is devoted strictly to appraisals, and a large amount of information is provided in those disclosures. As a possible alternative to mandating appraisals, those disclosures already required by law could be strengthened. Information could be provided to the investor cautioning them on the consequences of their actions if they choose to waive an appraisal. I will answer any questions.

Chair Oceguera:

Are there any questions? Are there others wishing to oppose A.B. 332?

Brock Davis, representing U.S. Express Mortgage Corporation:

Requiring an appraisal in all instances would affect not only mortgage brokers, but also financial institutions. There are loan programs that do not require appraisals, including some of the streamlined refinance products. It goes beyond the private investors.

Chair Oceguera:

Are there any questions? Are there others in opposition? Is there anyone neutral? Seeing none, we will close the hearing on A.B. 332, and open the hearing on Assembly Bill 440.

Assembly Bill 440: Makes various changes concerning loans secured by a mortgage or other lien on residential real property. (BDR 52-879)

Assemblyman Marcus Conklin, Assembly District No. 37:

I have distributed a copy of my PowerPoint presentation ([Exhibit G](#)). This bill addresses a serious problem in our State. Nevada ranks the highest among all states for foreclosures. The current foreclosure rate in Nevada is 1 for every 362 households. This rate is more than three times the national average, and last year's average was three times the previous year's. On page 4 of the PowerPoint, a bar graph shows the foreclosure growth rate from 2005 to 2006. In the first quarter of 2005, there were nearly 2,000 foreclosures and in the fourth quarter there were close to 7,000. This bill also addresses common mortgage fraud schemes. In 2004, the Federal Bureau of Investigation (FBI) identified ten "hot spot" states and Nevada is one of them. On page 5, there is an example of a mortgage fraud scheme. When a property "flipper" purchases a property for \$100,000, he has it fraudulently appraised for \$600,000. He then sells the property for \$600,000 and gains a \$500,000 profit. The person who purchased the home is now "upside down." He stops paying the mortgage, and the property goes into foreclosure. The bank takes a loss of \$500,000 on the home. If the loan had Federal Housing Administration (FHA) insurance, the government absorbs the loss.

Section 2 of this bill deals with unfair lending practices and makes the provisions apply to all home loans including low document (low doc), no document (no doc) or stated-document loans. Currently in NRS 598D.100, the unfair lending practice only applies to high-interest loans as defined under the Housing for Older Persons Act (HOPA) of 1995. The current cap in the law would be eliminated, so all loans would be included. Section 3 creates a crime of mortgage lending fraud with a Class C felony penalty, and a crime of pattern mortgage lending fraud with a Class B felony penalty. Section 4 delineates violations by mortgage brokers or agents that can lead to the voiding of contracts and the inability to collect any payments. If a person is found guilty

of mortgage fraud by creating a loan and selling it to an unsuspecting consumer, the loan contract would become null and void.

Section 9 creates a statutory definition of a foreclosure consultant/purchaser. Section 16 requires that a foreclosure consultant perform their contracted duties before receiving payment, and it lists other prohibited activities. Section 17 creates an administrative, monetary penalty and possible criminal liability for foreclosure consultants who violate these provisions. Section 18 provides for a private right of action against a foreclosure consultant who violates these provisions. Nevada is a hotbed for this type of activity because our State has unique circumstances. In Clark County, the average home price is more than 117 percent of the median income required to purchase the home. This means there is a large market out there for alternative home loan products, including subprime products. This type of lending activity may not be in the best interests of the consumer. The Federal Reserve Board Chairman Ben Bernanke was recently quoted as saying, "...several creditable reports say they are facing a tidal wave of defaults and foreclosures, which constrict families of their major if not only source of wealth and long-term economic security." I urge your support for A.B. 440. Some minor amendments have been suggested, and we are working on them. One amendment will add "title agents" to Section 15, subsection 7, which if brought forward in the agreed upon form is acceptable. Some of the bank representatives are working with us on refining Sections 1, 4, and 5 of the bill.

Chair Oceguela:

Are there any questions?

Assemblyman Christensen:

Is the foreclosure consultant the currently non-regulated person that you mentioned?

Assemblyman Conklin:

Currently, there is no standard form of regulation for the foreclosure industry. This bill is designed to provide that regulation. It is modeled after a Minnesota law. Several states have gone to such an act because the industry is growing, and it will continue to do so. It needs to be regulated so consumers who are about to lose their homes can be treated in a fair and equitable manner.

Assemblyman Anderson:

On page 4, line 17, the bill says, "A person who engages in a pattern of mortgage lending fraud..." will be guilty of a Class B felony. How many events does it take to establish a pattern? Would two or three separate events

underway simultaneously bring a person to this higher standard? Or is it based on the number of convictions?

Assemblyman Conklin:

I would like to ask Mr. Bice to come forward and answer that question.

Scott E. Bice, Commissioner, Division of Mortgage Lending:

A "pattern of mortgage lending fraud" could be the repeat of a previous occurrence or multiple transactions done at the same time. This section of the bill will address perpetrators committing a pattern of mortgage lending fraud. It is not an uncommon practice in Clark County for an unscrupulous mortgage broker to arrange 10 to 12 loans at the same time. They send them out to 8 or 12 different lenders simultaneously and do not disclose all the other purchasing activities that are going on. They significantly understate the debt loan and the consequences. We could clarify the term "pattern" by leaving it open-ended for the regulatory authority to say a "pattern" could be multiple occurrences or multiple transactions negotiated at the same time.

Assemblyman Anderson:

My concern is classifying the crime as a Class B felony, because we have been trying to save those prison "beds" for the worst criminal offenders.

Scott Bice:

A Las Vegas Metropolitan Police Department officer can probably clarify some of your questions when he testifies.

Chair Ocegüera:

We will see when we get there. Mr. Bice, do you have any additional comments while we have you here?

Scott Bice:

The bill's sponsor mentioned some amendments that we are continuing to work on. Mortgage lending fraud is a very serious problem in our State. We do not want to limit capital coming into the State, but we do need to address these issues and problems. Until some of the people who perpetrate this fraud actually go to jail, there will not be a big impact on this industry.

Chair Ocegüera:

Are there questions?

Assemblyman Arberry:

On page 4, lines 30-45, can you explain the language in this section? How many people will be required to enforce these laws? I also need to disclose that I am a mortgage broker.

Scott Bice:

Our budget closes on the tenth and we have made some adjustments for enforcement. More examiners and investigators are always better. We hope our budget will reflect the necessary increases.

Assemblyman Arberry:

If all these bills passed, we have to know the financial impact on your department.

Assemblyman Conklin:

While the Division of Mortgage Lending can always bring suit, there is nothing that precludes a private citizen who has been defrauded from going to the Division and filing his own lawsuit in District Court. Unfair lending practices should apply to all lenders of home loans. Criminal allegations get referred to the Attorney General's Office. They have one and one-quarter deputies assigned to the Division. If we were to define a mortgage loan as a document transaction evidencing a debt with a deed of trust, it would preclude other practices, like foreclosure avoidance. Foreclosure avoidance includes the deeding of properties to other people without a true loan transaction. The definition used tries to encompass all mortgage lending transactions.

Assemblyman Christensen:

Why is Las Vegas at the top of the foreclosure rate chart with more than three times the national average?

Assemblyman Conklin:

Any answer I could provide would be speculation. I can tell you that Georgia recently passed similar statutes for mortgage fraud, and they dropped from first in the nation to third in one year. They did this by imposing a penalty on those people who commit mortgage fraud. There is an appetite in the market because people are desperate to have homes. The disparity between income and home prices is large, but people still need a place to live. We have plenty of jobs, but we do not have plenty of affordable housing. Do we need more affordable housing? Yes, we do. Is it a reality that we will have it any time soon? Probably not. However, there are still lenders out there willing to make home loans to people that they know will not be able to afford the payments. They turn around and foreclose on them taking all of their assets, including their home. That is not a consumer-friendly transaction. Market conditions have

forced us into this situation, but at least we can provide a safe environment for people to invest their money.

Assemblyman Settlemeyer:

I understand the concept and this bill will help alleviate the situation. Sometimes people get involved in transactions they should not have, and that leads to their downfall.

Chair Oceguera:

Are there further questions? We are going to hear from Las Vegas.

Daniel Ebihara, representing Clark County Legal Services:

I have submitted a copy of my testimony for the record ([Exhibit H](#)). I am here with Carol Wolfe, a client of my office. Attached to her testimony ([Exhibit I](#)) is a sample of both the flyer and the contract she received. I am a staff attorney handling real estate issues with Clark County Legal Services. Every week our office receives calls from homeowners who have knowingly or unknowingly conveyed the title to their home to a person who is promising to save their home from foreclosure. I have never seen one home that has been saved by a foreclosure rescue operation. The title of the home is transferred. The homeowner is given a lease with an option to purchase the home back, or a new more expensive loan is placed on the home. Either way, the price is always much greater than the homeowner is able to pay, and the home and the equity in it are lost.

These mortgage consultants or foreclosure purchasers are currently unrestricted in their activities. They do not require a license from the Real Estate Division because they are selling a home for which they own the title. They are not licensed by the Division of Mortgage Lending because they are a "pass-through" organization paying mortgages which exist on the property. These transactions cannot occur without misrepresenting to the homeowner that the existing mortgage will remain in the homeowner's name. The contracts are deliberately made ambiguous and disguise the fact that the foreclosure purchaser is never promising to pay the existing mortgage. The transfer is also disguised from the banks holding the mortgage on the property. Lies and misrepresentations are told to the homeowner, and mortgage fraud is committed on the banks.

The current legal remedies are inadequate. Homeowners in these situations are provided a number of meaningless documents, which are only presented to confuse and intimidate the homeowner. The documents list the existing mortgage on the purchase price, but use the term "subject to" in order to avoid any obligation to pay it off. The Nevada Supreme Court has held that the term "subject to" when applied to the purchase price of property is ambiguous. The

mortgage consultant or foreclosure purchaser can foreclose and clear the title. These transactions are the cause of the increase in Nevada's foreclosure rate. I urge you to pass this bill.

Carol Wolfe, Private Citizen, Las Vegas, Nevada:

Last year, I fell behind on my mortgage payments and was issued a notice of foreclosure. I was contacted by a nonprofit organization called "Safe Harbors." They told me they could prevent the foreclosure and save my home. Safe Harbors told me to sell my home to a company called Keystone Financial. This company is not licensed by the Division of Financial Institutions. I would have a lease with an option to repurchase my home at the end of the lease term. At the time of the sale, my mortgage was approximately \$75,000. In order to repurchase my home, I would have to pay Keystone Financial \$140,000. I had no means to pay that amount, and I could not qualify for a mortgage for that amount. At the end of the lease, I had to leave my home and rent an apartment. Even though Keystone Financial promised to save my credit, it was not saved. Safe Harbors guaranteed a solution to let me stay in my home, but I was forced to leave. I hope you pass A.B. 440 to protect homeowners from these predatory practices.

Chair Ocegüera:

Are there any questions?

Assemblywoman Buckley:

I would like to disclose that I am the Executive Director of Clark County Legal Services. When we are not in session, I am Mr. Ebihara's boss. These are the types of cases we see, and I appreciate them sharing their stories.

Assemblyman Christensen:

Can we get an example of the contracts used? Then, we can determine where the loopholes are that allow these companies to get around paying off the mortgage, and permit them to take advantage of the consumer.

Assemblyman Conklin:

There is a copy of one of these contracts in the testimony Ms. Wolfe has submitted. It is not the only example.

Daniel Ebihara:

Some of the contracts include transferring the property to a trust, which is a "shield" to disguise the title transfer from the mortgage company.

Chair Ocegüera:

We will take further testimony from Las Vegas.

Gail Burks, President and Chief Executive Officer, Nevada Fair Housing Center:

I have submitted a PowerPoint presentation ([Exhibit J](#)) for the record. Nevada Fair Housing Center has worked on these issues across the country to develop national standards. For the most part, consumers obtain mortgages from mortgage brokers. Mortgage loans are no longer done directly through a bank. The broker sells the mortgage to a lender who sells it to an investment house. Lenders do not examine every single loan, so it is not possible for them to catch this type of fraud. The investor then "bundles" the mortgages into a pool of similar mortgages for an investment. This transaction is called securitization. The investment could be part of a pension fund or bond purchase. The investment banks back these investments through mortgage bonds guaranteed by payments on the mortgages. It becomes what is called "collateralized debt." As these types of fraudulent activities end up in investment vehicles, companies lose their bond rating.

In 2005, 63 percent of new mortgages were interest-only or some form of adjustable-rate mortgage. Eighty-three percent of these loans were originated by mortgage brokers. Over an 18-month period in 2004-2005, one-third of homebuyers did not put any money down on their mortgage. In Nevada, 24 percent of mortgages made were negative amortization loans. That means as you pay on the mortgage, your principal does not decrease, and in fact, it may increase. In Nevada, this fraudulent activity consists of recording fraudulent documents, solicitation to negotiate mortgage terms, foreclosure consultants, foreclosure reconveyance, and nonprofit mission theft.

The negative impact on consumers includes mortgage equity decreases, foreclosure increases, servicing overloads, and resource depletions. The bigger problem is the decrease in property values for everyone. This bill is a good solution. There is a need for the definition to extend to all loans. Two years ago, many of the problems we had were with the Housing for Older Persons Act of 1995 (HOPA) loans, which are loans at 8 percent over Treasury yield. That is not the case today because all mortgages are in trouble. This bill helps first lenders because it allows the State to investigate investment pool fraud. It provides civil and criminal penalties. It will regulate the field of foreclosure consultants, and it will clarify what practices are prohibited. It is easy to say this is the consumer's fault. If we just give more disclosure of terms, everything will be okay. Blaming the victim is not going to help. Anyone regardless of their education or profession can be conned.

Anita Webster, Private Citizen, Las Vegas, Nevada:

My husband is a 100 percent disabled veteran, and we are on a fixed income. We moved to Nevada and purchased a home. In 2005, we received an advertisement in the mail offering to lower our mortgage payment and pay off

some debts. We agreed and went with Solstice Capital. They appeared to be a reputable company from the research I did on the Internet. We signed for a two-step program with them. Step one was the payment of a high-interest rate mortgage for six months. At step two we would have a lower mortgage rate, and our debts would be paid off. We were given a certificate that said at the end of six months, we could get the loan at no cost. Near the end of the six months, I called them and said we are ready for step two. They called back and told me we did not qualify. They would not tell us why, and they would not give us a mortgage. There was no doubt in our minds that we would have lost our home. We were desperate, so we started looking for other mortgage lenders. Solstice Capital had put a \$2,000 prepayment penalty into our loan, so every mortgage company we contacted backed away immediately. We went to Nevada Fair Housing, and we found another mortgage lender. They saved us. We were still liable for the taxes and insurance that had not been paid during the entire time. These people are predators, and they should be taken care of.

Chair Oceguera:

We need to know how many other people in Las Vegas are waiting to testify, because we will be losing our telecast to another committee. Is there anyone in Las Vegas waiting for other bills to be heard today? Is there anyone in the hallway?

Mary Shope, Coordinator, Silver Haired Legislative Forum:

There are about 20 people waiting in the hallway to testify on A.B. 440.

Chair Oceguera:

We need to move along in Las Vegas. Can we hear from Mr. Dustin?

Peter Dustin, Financial Crimes Bureau, Las Vegas Metropolitan Police Department:

I have submitted a copy of my testimony ([Exhibit K](#)). I would like to address the question that the Class B felony offender category should be saved for the worst criminals. Those who commit mortgage lending fraud are terrible people. They need to be prosecuted to stop this activity, which has been going on for the last two years. The schemes and scams of this activity represent the largest monetary loss that I have seen in my entire 30-year career. The Division of Mortgage Lending and the Attorney General's Office are strapped for personnel to regulate and monitor these activities. I propose the elimination of the financial burden from the context of the bill. I do not want to have to prove an actual loss was sustained. The federal government has been investigating mortgage fraud activity, but it is no longer a priority. For investigators and prosecutors to be able to successfully prosecute these cases in a timely manner, we need to require a small burden of proof. We only need to use the loan

application and the escrow file, which shows the disbursement of funds. Police refer to a "pattern" of criminal activity as a "common scheme and design." It is usually the same individuals committing the multiple crimes, and it would save investigators time to have this provision in the law.

Chair Oceguera:

Are there any questions? Mr. Gold, I realize you have many people there to testify, but we do not have the time to hear the testimony from everyone. We will hear from you and a panel of three representatives.

Barry Gold, Director of Government Relations, representing the American Association of Retired People (AARP) Nevada:

I am the only person from our group planning on testifying today. You have heard about the problematic features of these new types of mortgage loans, and their predatory foreclosure practices. When loans are made without consideration of the borrower's ability to pay, they meet the definition of predatory lending making them hazardous to borrowers. Many of these loans are offered to the most vulnerable segments of our population, including the elderly. We are concerned that the current combination of minimal underwriting standards and complex mortgage products has created the perfect storm. It is forcing homeowners into foreclosure. Research conducted by the Mortgage Bankers Association has revealed that these products are open invitations to fraud. In a sampling of 100 stated-income loans, they found 60 percent of the stated-income amounts were inflated by more than 50 percent. By increasing penalties for those who perpetrate fraud or engage in misleading trade practices, these activities can be slowed down. Our organization supports A.B. 440, and we ask that you pass it to protect Nevada families from predatory lending practices. I have submitted a copy of my testimony for the record ([Exhibit L](#)).

Chair Oceguera:

Are there questions? Thank you for bringing your group. Are there others wishing to testify on something we have not heard?

Amy Austin, Private Citizen, Las Vegas, Nevada:

I am a victim of identity theft and mortgage fraud. A real estate agent took my identity and went to a loan officer to purchase two homes with four mortgages, a first and second mortgage loan on each property. The loans totaled over \$600,000. I never met with the loan officer about applying for a loan. I never signed any loan documents for these transactions. An employer gave a fraudulent verification of employment. A property management company provided a verification of rent for a property where I did not live. The loan officer in these transactions has been fined, and her license has been suspended for three months. The processor involved in these transactions now has a loan

officer's license. The Mortgage Lending Division was unable to do anything about the processor since she was not licensed as a loan officer. The real estate agent who committed this fraud now has a loan officer's license through the State.

My credit has gone from a score of 720 to 505. One of the banks involved has released me from two mortgages because of identity theft and fraud. The second bank has deleted the information from my credit, but I am still working with them to resolve the other transactions. Ultimately, the sales agent transferred the title of one property to her mother's trust account, even though the lender was not notified of the transaction. I urge you to pass this bill. These people are criminals, and they have conspired to commit identity theft and fraud. The brokers involved in these transactions have also been fined for their negligence. The loan officer allowed these transactions to go through without holding a license with each individual broker, which is a violation of the law. I would be happy to answer any questions.

Chair Oceguera:

Are there any questions?

Assemblywoman Buckley:

My question is probably more for Scott Bice. Ms. Austin, we sympathize with you and wonder how this can happen. It is criminal. Is the problem that the Mortgage Lending Division lacks the jurisdiction because the people are unlicensed? Is it because the Metropolitan Police have so much work to do because of their growth rate? Is the problem because our statutes are not clear enough?

Scott Bice:

We took what we believed were the appropriate sanctions based on the evidence in this case. Part of the problem is we need to focus on the concept of mortgage fraud. We have various authorities under our statute. Some of the agents mentioned in Ms. Austin's testimony were not licensed. We have another bill in the works that will tie in some of the loose ends involved in these transactions. For example, loan processors are not required to have state licenses. In addition, when the statutes for loan officer licensing became effective, the licensing only required a person to submit the application documents, a fingerprint card, and pay the fees. Then, the agency has to disprove them after the fact. The law was there before the Mortgage Lending Division was created. We need some specific fraud language, and we need to create the appropriate penalties. This is an industry issue; it is not just the mortgage brokers creating the problem. Our Division has submitted a table

showing a summary of complaint findings ([Exhibit M](#)). We want to make the law consistent to require licensure of all types of agents.

Chair Oceguera:

Are there further questions?

Amy Austin:

Can I say something else? I have dealt with Detective Dustin and the Secret Service for the last six months. Unfortunately, the Secret Service will not take my case because a bank has not suffered a financial loss greater than \$50,000. The Secret Service cannot step in until the homes are foreclosed on, and the banks lose their money. I did not do anything to create this problem, but it has caused me serious financial damage. It will follow me the rest of my life. There should be penalties. It is a white-collar crime that affects everyone.

Chair Oceguera:

We will continue with testimony in support of A.B. 440.

Nick Schram, Private Citizen, Carson City, Nevada:

My wife and I have been through an ordeal because of lack of disclosure in transactions that we had with a California mortgage broker and lender. We filed a complaint with the Mortgage Lending Division. We purchased a home in Carson City in 2003. In 2005, we commenced a business relationship with Capital Investment and Mortgage, Inc., in Sacramento, California, and a mortgage broker named Mr. Kim. Mr. Kim and his investment group bought and sold homes strictly for the purpose of short-term appreciation. These activities are called "flipping." We wanted to refinance the home we were living in to build the house of our dreams on Gay Circle in Carson City. We would keep the first house as a rental property.

We told Mr. Kim we wanted conventional loans for both properties. Mr. Kim told us he would get us two loans—one for refinancing our current home, and one for construction of the Gay Circle home. Not once did Mr. Kim inform us of the negative amortization features on both loans. When we asked for the amortization schedule and terms, we received nothing. We are now faced with having to sell the rental property. The good faith estimate and all of the communications from Mr. Kim and the initial lender, Wilson Resources, Inc., never provided printed explanations of the negative amortization, the amount of points charged, or the impact of those points on our financing.

Mr. Kim stated he would only make \$500 on our deal because we were referred by a friend. In reality, he earned \$4,450 for a loan origination fee and an additional \$5,940 for a 2-percent yield premium. As a result of the two points

on the "back-end" of our loan, we were subject to a \$10,000 prepayment penalty for 36 months. We only discovered the extent of Mr. Kim's deceptive and misleading conduct when he failed to obtain us the new home financing. He submitted our application to the same lender, and it was rejected. We were desperate to find a new lender. We went to Mortgage Options in Carson City and met with Kathy Jackson. She explained the type of loan Mr. Kim had secured for us. We were stunned to learn the amount of fraud involved. The closing documents on the loan obtained by Mr. Kim were so confusing that the escrow officer stated she could not explain them. We also discovered that Mr. Kim is not licensed to do business in Nevada. We listed our rental house for 238 days and have reduced the price. We are now ready to turn it over to the lender for foreclosure. This all happened as a result of a lack of disclosure. If we had known what we were getting into, we never would have done it.

Chair Oceguera:

We appreciate your telling us your story. Are there questions?

William Uffelman, representing the Nevada Bankers Association:

The deletion of the HOPA requirements from the bill would reach into the subprime sector of the market. By striking that provision, prime loans will be included in all the provisions of the bill.

Chair Oceguera:

We need to interrupt you for a minute to go to Las Vegas because we are going to lose our telecast there.

Brock Davis, representing the Mortgage Bankers Association of Nevada:

We agree that this problem exists. We represent the "good" lenders in Nevada. The problem has been created by Internet telemarketing and by multi-level marketing companies. In Nevada, there are too many loan officers who are in the multi-level marketing business, not the mortgage lending business. The negative amortization schedules and the "suicidal" loan programs that people have been put into through misrepresentation have created the problems. Our concern is that as the bill now stands, it is a "scorched earth" approach to solving the problem. It would remove the ability of a third of the consumers to receive normal loans, including those people who would have to refinance to get out of the suicidal loans they have. This could actually increase the default rate of loans.

Assemblywoman Buckley:

Which portion of the bill will harm good lenders?

Brock Davis:

It is Section 2 of the bill.

Assemblywoman Buckley:

In what way?

Brock Davis:

It refers to all types of loan programs, including low doc, no doc, and stated income.

Assemblywoman Buckley:

It does not prohibit low doc or no doc loans. It states it would be an unfair lending practice if a person knowingly or intentionally uses one of these programs to make a loan based solely on the equity or without determining or verifying ability to repay. It would cover all home loans. This bill clarifies loan provisions. Currently, protective legislation only applies to the HOPA-covered loans. Which portion of this new bill will hurt the honest mortgage brokers?

Brock Davis:

When you talk about stated income, low doc and no doc loans, the intent of those programs is not to verify income. If the new provisions require verifying income, these loan programs are eliminated. It is a contradiction in terms. Eighty-five percent of the people nationwide who have these types of loans are making their payments on time.

Assemblywoman Buckley:

How do we not hurt those people who legitimately need these types of loans? While at the same time, we need to prevent a person from getting into loans granted by a mortgage professional who clearly knows that the consumer will default.

Brock Davis:

In NRS 645, there are provisions that regulate lenders and loan officers and require them to be educated and prepared to be professional in their industry. The secondary market is already taking steps to prevent this subprime market from engaging in predatory lending. These steps will help eliminate this problem.

Assemblywoman Buckley:

I am not sure I understand all of that.

Assemblyman Conklin:

I have been working with Mr. Uffelman and others in the industry. We have agreed to take out the term "verifying" on page 3, line 6. The onus is on the lenders to determine ability to repay the loan. "Verify" is in the definition of low-doc and no-doc loans. The problem is not the secondary market buying the loan, but it is the fact that someone made the loan before they sold it to the secondary market. This bill is trying to help the person who originally made the loan.

Brock Davis:

To the borrower the mortgage is an asset. If people are able to make their payments, they should. Those payments are being made to someone even if it is a receiver. If you remove the ability for these marginally qualified people to get out of these suicidal loan programs in the future, you will create another wave of foreclosures. The unscrupulous segment of the foreclosure industry is committing real estate fraud. That does not have much to do with mortgage fraud, except for the fact they took some loans on a "due on sale" clause. It is up to the servicing lender to discover and pursue that problem.

Chair Oceguera:

Are there any questions?

Charles Randall, representing the International Brotherhood of Electrical Workers, Local 396:

I wanted to speak on another bill. Since we are losing the telecast from Las Vegas, I would like to request that we go to Assembly Bill 524, or can you give me three minutes to testify? We are in support of the bill.

Chair Oceguera:

Since we are going to hear A.B. 524 later in this hearing, can you provide us with written testimony? We can make it part of the record and use it in our work session. Or, I can let you come back to testify in the work session.

Charles Randall:

I would appreciate that. Can you tell me when it will be heard in the work session?

Chair Oceguera:

I will. Just make sure you sign in, so we have your name and phone number. We will contact you for the work session.

William Uffelman:

If we bring the HOPA language back into the bill or insert the word "or," it would help resolve the problem. The secondary mortgage market knows the provisions of the HOPA. If we create this new provision, the secondary market may not recognize the change for a while, and it could have an impact on availability of capital. There is a potential impact on the prime market. On page 3, line 6, we suggested removing the term "or verifying."

Our other concern is in Sections 4 and 5 of the bill. It might be more appropriate for the new language to be in the licensing portion of the law in NRS 205. Our suggested language would be under the criminal portion and inserted on page 4, after line 16 in this bill. The amending language we are submitting for this insertion is in [\(Exhibit N\)](#). The language would mean the loan purchaser on the secondary market would not be pursued for criminal activity. We also discussed whether or not a civil action against the criminal could be pursued simultaneously or whether it would be an additional penalty. This provision was subject to some discussion with the Attorney General's Office.

Another concern was on page 6, line 3, and to the end of the bill. We suggested this entire section be removed and language from a Colorado law be inserted, but Mr. Conklin indicated this language came from a Minnesota law. I made some phone calls and the industry can live with this Minnesota model of the law. We appreciate the opportunity to continue to work on the language of this bill.

Assemblyman Conklin:

I missed your opening remarks. We have discussed Section 1 and your concern with the HOPA provision. When you strike the HOPA language, a reverse negative is created because it will open up the unfair lending practices to all loans. You are okay with opening up these provisions to all loans, but you want to leave the HOPA language in the bill so people know what it means. Is that correct?

William Uffelman:

Yes, that is correct.

Assemblyman Conklin:

If we are going to find a compromise, the language needs to say something to this effect, "Home loan means any credit transaction, not limited to, but including the HOPA loans."

William Uffelman:

Yes, something similar to that. I am sure acceptable language can be devised.

Assemblyman Conklin:

We have covered leaving out the term "verifying." In Sections 4 and 5, I have consulted with Ms. Erdoes, and we think the language can be moved to NRS 205. I want to make sure we agree on this suggested language. If a person who makes the transaction makes a knowingly and an intentionally fraudulent transaction, the homeowner is the person who has been defrauded. There is no reason for that loan, no matter who holds it, to be legal because the loan was made in the commission of a fraud. I do not want to have the consumer going through a criminal trial, and then have to turn around and file for a civil trial to get the loan voided. If the loan was made in the commission of a fraud, it should be null and void. Is that language acceptable to you?

William Uffelman:

If a judge finds the person guilty at the criminal trial, and the loan has been voided, the loan is cancelled and the consumer would have no obligation.

Assemblyman Conklin:

There need to be some options for both parties because they were defrauded. The secondary market lender was also defrauded.

William Uffelman:

That is correct. I do not want to leave the secondary market lender with no recourse for action.

Assemblyman Conklin:

I will meet with Ms. Erdoes to deal with that problem.

Robert Crowell, representing the Nevada Association of Mortgage Bankers:

We agree with Mr. Uffelman's comments, and we look forward to continuing to work with Mr. Conklin. The correct language for the HOPA provision should say something to the effect that the consumer credit transaction is secured by a mortgage loan that involves real property located in this State, including but not limited to the HOPA provision of the law. With respect to voiding a loan made in the commission of a fraud, I would agree that a loan made on the basis of fraud should be voided. However, we need to be careful how that language is drafted. We agree that the language should be in NRS 205. I have been told there is a Mortgage Lending Division budget account for fines and fees that has a substantial amount of money in it. Is it possible that those funds paid by the mortgage lenders could be used in the enforcement area of this bill?

Chair Oceguera:

Are there any questions?

Rocky Finseth, Managing Partner, Carrara Nevada, representing the Nevada Land Title Association:

We want to applaud Mr. Conklin for bringing this bill forward. We have submitted an amendment ([Exhibit O](#)). We are requesting an amendment to Section 15, subsection 7, to add the term "title agent," and to the appropriate chapter of the NRS, namely 692A, which covers them.

Chair Oceguera:

Are there others wishing to speak in favor of the bill?

Alfredo Alonso, representing HSBC North America:

We echo Mr. Uffelman's comments. We have some issues with respect to voiding the loan contract, and we would like them addressed. We will continue to work with Mr. Conklin.

Larisa Cespedes, Director, Government Relations, HSBC North America:

We support this bill.

Chair Oceguera:

Is there anyone in opposition who wishes to testify? Is there anyone neutral?

David Guinan, Private Citizen, Reno, Nevada:

I have a business which would come within the definition of a foreclosure purchaser under this legislation. I would agree that much of this bill is needed. I have witnessed some egregious abuses in the loan industry. My concern is the language relating to foreclosure purchasers. The definition is too broad. Many of us who are real estate investors are operating with integrity. The inclusion of the term "foreclosure purchaser" would have a chilling effect on people who are already in the industry and find that their only way out is to sell the property to a foreclosure purchaser. With this language in the bill, investors may be unwilling to deal with consumers who are in foreclosure for fear that they might be guilty of fraud under these criminal sanctions.

Another comment I would like to make relates to deleting the term "subject to" from an existing mortgage. The comments made today have indicated that the term is improper and somehow fraudulent. There is nothing wrong with buying a property "subject to" an existing mortgage. Under the "due on sale" clause, which is contained in most commercial or institutional mortgages, the lender has the right to accelerate the loan if there is a transfer of interest. It does not require them to accelerate the loan, and it does not prohibit purchasing the property subject to the existing mortgage. That is a calculated risk an investor takes. If the lender chooses to accelerate the loan, then a new loan has to be obtained, or some other form of financing has to be found. I would like the

references to "foreclosure purchaser" deleted from this bill because they have the potential to create harm.

Chair Oceguera:

Are there any questions?

David Guinan:

Real estate investors are performing a valuable service to homeowners who are having financial difficulties. A foreclosure purchaser who purchases a home and permits the homeowner to stay in possession by giving them an option to buy the home back is a recipe for disaster, but an outright purchase is appropriate.

Chair Oceguera:

Leslie James has submitted her testimony for the record ([Exhibit P](#)). She did not choose to testify. We are closing the hearing on A.B. 440, and taking a recess [at 3:51 p.m.]. This hearing is called back to order [at 4:10 p.m.]. I am turning the chair over to Vice Chair Conklin.

Vice Chair Conklin:

We are opening the hearing on Assembly Bill 375.

Assembly Bill 375: Revises certain provisions governing mortgages. (BDR 54-393)

Assemblyman John Oceguera, Assembly District No. 16:

This measure revises statutes governing mortgage brokers and mortgage bankers. It exemplifies our continuing efforts to ensure the integrity of this industry, and to protect Nevada citizens. Legislation recommended by a 1999 interim study committee appointed to investigate the regulation of mortgage investments was passed. The study was authorized in response to concerns expressed by investors. Many of the investors were senior citizens concerned about the failure of a mortgage investment company in Clark County. The legislation created a new Chapter 645E in the NRS to regulate mortgage banking. Also, it provided more stringent regulatory controls on licensing requirements for mortgage brokers and agents who solicit funds from the general public. Since that time, we have continued to fine-tune these laws to address the problems created by companies who operate on the fringes of this industry. Any investment does include some element of risk, but we must ensure that these risks are fully disclosed. The State needs to protect people who do not fully understand the risks or the potential for deception. The bill includes six proposals to strengthen our statutes. Some of these proposals have been formulated in response to the problem created when a private southern Nevada lender that controlled approximately \$962 million in

investment assets declared bankruptcy. This company maintained an illusion of financial health by making payments to investors while many of the company loans were actually overdue. Investors lost their homes when they could not recover their investment after the company when bankrupt. An article ([Exhibit Q](#)) and a news release from the United States Department of Justice ([Exhibit R](#)) on this problem have been submitted for the record.

The provisions in this bill are important steps to protect investors and the integrity of the industry. I have met with representatives of the mortgage and banking industry. I have some amendments to propose ([Exhibit S](#)) based on those discussions. There are some additional amendments you may receive today. Some of them are consistent with the bill's language, and some contradict or are in addition to my proposals.

The amendments I propose would delete parts of Sections 1 and 7 on servicing of loans by a third party. As drafted, the bill would require mortgage brokers and banks to ensure "...that each loan secured by a lien on real property for which he engages in activity as a mortgage broker: Is serviced by a third party who is not affiliated with the mortgage broker...." This requirement raises an important area that is ripe for abuse. Most companies honestly broker and service the loans. However, fraud and mishandling can occur in subsequent servicing of loans in-house. The ready access to cash provides opportunity for mishandling or improper diversion of funds. The new amending language would require mortgage brokers and bankers to maintain separate trust accounts for funds accrued from servicing loans. This requirement can be addressed under existing statutes, such as NRS 645B.175. However, we may want our legal staff to review our existing statutes to see if stronger language is needed. Another amendment to the bill would require mortgage brokers and bankers to submit quarterly financial statements for these accounts to the Commissioner of the Division of Mortgage Lending.

In Sections 1 and 7, instead of requiring a fee that is not less than 0.25 percent of the total amount of the loan, the amending language would require that loans include a reasonable fee, and state the amount of that fee. The purpose of this requirement is to provide standardization of the fee structure, and to ensure that a minimum fee is in place.

The language in Section 2 of the bill would prohibit someone who is licensed as both a mortgage broker and a securities dealer from inappropriately commingling funds from their mortgage and security operations. The proposed amending language would delete Section 2 and substitute the following language: "Revise the appropriate statutes to prohibit commingling of mortgage-related funds and

securities-related funds if a person has both a mortgage broker's license and a securities license."

Section 3 of the bill requires the commissioner to establish by regulation the financial conditions for an investor to acquire that ownership or beneficial interest in a loan. It is not overly burdensome to require suitability standards to protect someone who clearly should not be investing—for example, an elderly person paying living expenses on the yield from the investment. Concerns have been raised that potential investors will simply lie or misrepresent themselves to qualify under the standards. Mortgage brokers may be justified in the approval if they did not know of the deception, and if they use due diligence in following the suitability standards as established by regulation. The bill will also require the commissioner to establish limitations on loans made by mortgage brokers and bankers to directors, officers, and employees of the mortgage broker or banker. The purpose of this restriction is to prevent self-dealing.

Section 4 of the bill requires the mortgage broker to obtain the approval of each investor before assigning his interest or part of his interest in a loan secured by a lien on real property. This would be required if at the time of the assignment the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan. This section ensures openness and full disclosure in these types of business transactions.

I had an additional amendment to revise the banking exception that exists under Chapter 645B and 645E of NRS. The amendment would have expanded these exemptions for large national lenders, and for those approved by the Federal National Mortgage Association. However, I have decided not to propose this amendment today as I am concerned about its merits and its history. In 2003, this Legislature removed from law this type of exemption. In fact, I was informed a week ago that a bank with a large mortgage subsidiary or affiliate with a net worth of over \$10 million just filed for bankruptcy in Nevada. This concludes my presentation, and I would be happy to answer any questions.

Vice Chair Conklin:

Are there any questions? Is there anyone else in support of A.B. 375?

Alfredo Alonso, representing HSBC North America:

We are in support of this bill. We would like to see the federally-chartered banks exempted from this bill's provisions. We have discussed this issue with Mr. Ocegueda.

Vice Chair Conklin:

Are there questions?

William Uffelman, representing the Nevada Bankers Association:

We support those provisions of the bill which do not affect banks. I have offered an amendment to the bill ([Exhibit T](#)). It will amend Section 8, subsection 1, language under NRS 645E.150, to exempt certain persons and entities listed in the language of NRS 645E.160. The company, New Century, which Mr. Ocegüera referred to, is not one of these persons or entities, nor is it an affiliate of any of them. They were a company under NRS 645B and they do not fall into this exclusion.

Vice Chair Conklin:

Would you explain why the banking industry feels it should be exempt from a practice that all other financial institutions have to abide by?

William Uffelman:

The various provisions in this bill for mortgage brokers and bankers regulate those specific industries at the state level. Banks are under the regulations of the Federal Deposit Insurance Corporation (FDIC). Also, there is a whole litany of regulations for banks that address these same provisions as provided in this bill for other financial institutions. A bank services its own loans. The holding company is subject to federal law, which includes provisions for regulation by the Office of the Comptroller of the Currency (OCC) and the FDIC.

Vice Chair Conklin:

The federal statute as it pertains to a bank's mortgage practices are tougher than the ones provided in this bill. Is that correct?

William Uffelman:

To the best of my knowledge, they are comparable to what is contained in this bill.

Assemblywoman Kirkpatrick:

Does that mean banks in all states just listen to the requirements of the federal government?

William Uffelman:

The items delineated in NRS 645E.150 are the requirements for regulation on a nationwide basis under home state rules.

Assemblywoman Kirkpatrick:

What does home state rules mean? I find it hard to believe that all the other states let the federal government set the requirements provided in this bill.

William Uffelman:

A bank chartered in Nevada carries with it all provisions required under Nevada law, and the same is true for all the other states. Some banks are regulated under the Office of Thrift Supervision (OTS); some are covered by the FDIC, and others are under the Federal Reserve Banks. All banks are FDIC insured, so they are required to come under the federal banking rules in addition to the state ones.

Vice Chair Conklin:

If Nevada has a statute that is more restrictive than the federal statutes, the requirements ought to apply to all financial institutions. That was the purpose of my question. Are there any other questions?

Donna Cangelosi, Private Citizen, Carson City, Nevada:

I am a lender who was involved in the recent bankruptcy of a company called USA Capital. It was the largest mortgage lender for fractional interest mortgages in the State. Not only am I a direct lender/investor in this type of vehicle, but also I represent 800 direct lenders who were involved in USA Capital, and who were holding approximately \$300 million of the assets in USA Capital. I am not an attorney. I am a lender who has brought people together because of the harm caused by this bankruptcy. Most of the investors involved are unsophisticated, so I support an "acid test" to ensure that we have certain lender suitability standards. We currently have 3,600 direct lenders in USA Capital holding approximately 115 loans. Now the direct lenders have been left to fend for themselves, and to figure out how best to resolve the asset distribution of this company. It is difficult to bind the lenders together to work through the resolution asset by asset. Some of the loans have as many as 400 to 500 lenders on them. We have to go out on an individual basis and gather 51 percent permission in order to be able to negotiate with the borrowers. Ultimately, it will be to the borrower's advantage. We support the whole bill.

On April 13, 2006, USA Capital filed for bankruptcy taking with it \$962 million in lender assets. During the last year, we have discovered the following information: The directors of USA Capital took approximately \$40 million of principal repaid by borrowers and diverted those funds to pay interest payments on non-performing loans in order to cover up their scheme. USA Capital had depended upon its stated reputation, which said they had never had any loans default or missed any interest payments, to attract new investors. The directors had the ability to divert the payments because they had access to the "cookie jar." They had the collection account under their control. Currently, we have spent \$35 million in professional fees trying to sort out the problem. The money is coming out of the direct lenders' pockets. Had USA Capital not had

access to the "cookie jar," we may not have been in this mess. We also discovered many of the loans were underfunded. As a result, there was no complete disclosure on the loans nor was there transparency to the lenders.

Borrowers have now brought numerous lawsuits because they are claiming their projects have been harmed by being underfunded. Since USA Capital is a bankrupt entity, the borrowers are going after the lenders, and we are in a ferocious litigation situation. The directors of USA Capital had also set up an unregulated membership fund. They swept money out of this fund to cover up the "sins of the portfolio" and to put money into their own special-interest private projects. They made their interest payments out of these funds. It gave the appearance that the projects were performing when they were not. The lenders also received significantly misrepresented material. The appraisals were misleading and overstated. They were based upon future value instead of current value. The marketing material for the projects was misleading, indicating some of the projects had entitlement, whereas in reality they were years away from entitlement. In the current down market, a lot of our projects have negative equity. We also found out that the personal guarantees that were represented on these loans were fraudulent or fabricated. We have no recourse but to go back to the actual borrower and sue against their personal guarantees.

If a mortgage broker cannot meet the minimum requirements to do business in the State, they should not be doing business here. This industry has been good for the development of the State. For example, many of the projects in the South Meadows area of Reno were developed using private lender investments. Mortgage brokers will tell you they are currently having a difficult time raising money because investor confidence is extremely low. In order to restore investor confidence, consumers need to know there are enough regulations in place; there is enough "juice" behind the regulations; and there is enough money sitting in the budget to conduct the necessary audits. I would be happy to answer any questions.

Vice Chair Conklin:

Your testimony is appreciated. You have given us a lot of information affirming this bill is absolutely necessary. Are there any questions?

Assemblyman Christensen:

You mentioned underfunded loans. What does that mean?

Donna Cangelosi:

I will give an example. A loan is initiated for Project A at a face value of \$10 million to acquire or complete the project. The lenders get together and

finance the loan. However, the loan servicer gives only \$8 million to the borrower at this particular point in time, and promises the additional \$2 million at a later date. Because of the bankruptcy situation, the borrower never receives the additional \$2 million. They should have received the entire amount when the loan was initially funded. The loan servicer who had access to the trust account took the \$2 million and put it in another project to cover up a shortfall. Later on, when they got the money from someplace else, they would go back and fund the additional \$2 million.

Assemblyman Christensen:

They are "robbing Peter to pay Paul" because they are trying to cover up their other problem projects. How long did it take for the group of lenders who provided the first \$8 million to realize that the other \$2 million payment was never made?

Donna Cangelosi:

Until the bankruptcy happened, the lenders were unaware of any financial irregularities; USA Capital had been in business since 1989. They had been sophisticated enough to cover up all their unscrupulous operations. Out of the \$960 million USA Capital had in assets, if we can recover an estimated \$600 million for the lenders, we will be doing well. Most of the investors were retirees. They are now going to suffer a \$300 million loss on money they earned and paid taxes on.

Robert Crowell, representing the Nevada Association of Mortgage Professionals:

We do support the amendments to the bill.

Vice Chair Conklin:

Are there any questions? I am going to ask Mr. Bice to return to the witness table to answer some questions. [Mr. Bice returned to the witness table.] I asked Mr. Uffelman why the federally-regulated banking industry should be exempted from this bill. Do you have an opinion on the amendment to remove them from this bill? Is there a reason the banks should be excluded, or is there a reason they should be included?

Scott Bice, Commissioner, Division of Mortgage Lending:

Mr. Uffelman was discussing the national banks and their federal preemption. As money depositories, they have substantial requirements to meet on a national level. With regard to the amendment being discussed, I would agree that banks and their affiliates should be exempt from the bill's provisions. However, they should be held responsible for the other criteria. Whether we like it or not, banks are preempted from mortgage laws. They do have to

comply with the general state laws and regulations. They are being stringently regulated by federal regulatory laws. Banks are not the problem.

Vice Chair Conklin:

Are there any questions?

Assemblywoman Gansert:

Are you saying the banks can be excluded?

Scott Bice:

Yes, banks are not the issue. A distinguishing definition in our law is the use of the term "mortgage bankers," as opposed to just saying "banks." Not all bankers are mortgage bankers. In fact, most mortgage bankers are not banks.

Assemblyman Ocegüera:

I would leave the banks in the amendment. The rest of the language is troublesome because some of the businesses that have filed for bankruptcy in the last two weeks would fall into those categories.

Scott Bice:

The banks are not the issue, but when you broaden the terms in the language of the amendment, the problem is created. It would appear to read that banks are included.

Vice Chair Conklin:

I am looking at the amendment for affiliates, subsidiaries, and holding companies. The affiliates are not the problem. It is the subsidiaries and holding companies. Is that correct?

Scott Bice:

I am not sure which amendment you are referring to. I have seen a couple of amendments to the bill, but I do not have them in front of me.

Vice Chair Conklin:

Mr. Ziegler is bringing you a copy. We are looking at the amendment to A.B. 375 that Mr. Uffelman proposed.

Scott Bice:

This amendment does not cause me any concern. It is expanding the language to include new categories, and creating new statuses of exemption that concerns me.

Vice Chair Conklin:

Are there any questions?

Corrine Dale, President, Capella Mortgage, representing the Private Lenders Group:

We are in support of this bill and the amendments. A lot of the actions taken by USA Capital were direct violations of existing law. More regular audits of mortgage brokers, and increased staffing in the Mortgage Lending Division would detect violations earlier. I will answer any questions.

Vice Chair Conklin:

Are there questions? Is there anyone else wishing to testify in support of the bill? Is there anyone in opposition or wishing to testify from a neutral position? Seeing none, we will close the hearing on A.B. 375, and I will accept a motion.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 375.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

Is there any discussion on the motion? Seeing none, we will take the vote.

THE MOTION PASSED. (ASSEMBLYMAN HORNE WAS ABSENT
FOR THE VOTE. ASSEMBLYMAN ARBERRY ABSTAINED FROM
THE VOTE.)

[Chair Oceguera presided over the remainder of the hearing.]

Chair Oceguera:

We are opening the hearing on Assembly Bill 496.

**Assembly Bill 496: Makes various changes concerning workers' compensation.
(BDR 53-897)**

Rusty McAllister, representing the Professional Firefighters of Nevada:

This bill was brought forward as a Committee introduction to address a problem we have identified with the workers' compensation system. We know there are good workers' compensation insurers out there. Typically, when this type of legislation is brought forward, it is because there are a few bad "actors" in the industry who cause problems. Enacting legislation is the only way we can address those problems. Ryan Beaman, who identified the problem with the workers' compensation system, will go over the sections of the bill.

Ryan Beaman, representing the Clark County Firefighters:

I am here today to support A.B. 496 on behalf of firefighters and injured workers in this State. This bill contains three changes to existing workers' compensation statutes. The first change will require a written response to a claim. The written response is to be sent within 30 days of the claim, or the written request for the claim will be deemed to be granted. The law will require the acceptance/denial of the claim to be sent by certified mail. Also, this bill will formally eliminate any requirements to prove the onset of an occupational disease if the claim is being pursued as a disease of the lung [NRS 617.455], the heart [NRS 617.457], caused by cancer [NRS 617.453], caused by hepatitis [NRS 617.485], or any other contagious disease pursuant to NRS 617.481.

Workers' compensation has grown more complex over the last decade. The filing and pursuing of workers' compensation claims has been made increasingly more difficult. Claimants have been precluded from pursuing claims, requesting benefits, and obtaining appropriate compensation for technical reasons. These proposals will make it simpler and more fair for a claimant to file and pursue a claim, and if necessary appear at a claim's determination hearing. Currently, if a claimant makes a written demand to the claims administrator, the administrator is required to respond within 30 days. If the administrator fails to respond within 30 days, the claimant can file a request for a hearing from the de facto denial. This bill will require a written response within 30 days, or the written request by the claimant will be deemed to have been granted. The claims administrator's decision to accept or deny a claim must be sent within 30 days after a workers' compensation claim has been perfected. If a claim is denied, the claimant then has 70 days to file a request for a hearing.

Recently, a number of claims have not been received by the claimant. After not receiving a claim denial, the claimant might receive a medical bill for the injury. Upon further investigation, the claims administrator will produce a copy of the claim denial letter that was sent to the claimant, but the denial was never received by the claimant. Often, the discovery of the denial of claim is received past the time frame to file for a hearing. If the claimant wants to pursue the denial of the claim, he must convince the hearing officer or the appeals officer that they did not receive the claim letter. If a claims administrator wants to circumvent the process and frustrate the claimant's ability to pursue an appeal, all he has to do is type a letter of denial saying it was sent out to the employee.

As an example, one of our firefighters responded to Hurricane Katrina. The employee fell from a rescue boat into the polluted water. The employee was totally submerged and suffered an injury from that exposure. After returning, he filed his claim. He never received a denial. After researching the problem, it

was found that the denial letter was in his file. He has lived at the same address for the last seven years.

With this new requirement the acceptance or denial of the claim will be sent by certified mail. Also, it will assist the administrator in making an accurate decision regarding a claim if the claimant does not respond within the 70-day time frame. It protects both the claimant and the administrator. If an employee goes to appeal, a certified letter can be produced showing the claimant did receive it.

Firefighters and police officers have been granted certain conclusively presumptive benefits due to the nature of their occupations. However, claims are being denied even on conclusively presumptive benefits. For example, I had an employee who served for 25 years. He was a healthy employee, but he discovered on his last department physical, required by law, that he had a heart condition. He filed a claim. The claim was denied under NRS 617.440. Ultimately, the employee had to have open-heart surgery, and he was medically retired. He was not afforded his right per NRS 617.457. Under this statute, heart disease is considered a conclusively presumptive occupational disease for police officers and firefighters. When these cases are pursued through appeals, the claimant has been asked to prove the case pursuant to NRS 617.440. In NRS 617.455, 617.457, 617.453, 617.485, and 617.481, requirements are outlined for the claimant to prove a compensable occupational disease. The change proposed in this bill will clearly show the mandates of NRS 617.440 are unnecessary in cases where firefighters and police officers are filing a claim pursuant to a statute in which an occupational disease is considered to be conclusively presumptive. I will answer any questions.

Chair Ocegüera:

Are there any questions? I am not sure I understand the last part of your statement. In the first portion of the bill, the claims administrator will send a certified letter if the claim is accepted or denied. That seems to make sense for both sides. However, I imagine the claims administrators will say there are costs involved in sending a certified letter. Can you give me a practical application of the second part of the bill?

Rusty McAllister:

If we file a claim under NRS 617.455 or 617.457, the law says, "...notwithstanding any other provisions of the law, it is conclusively presumed..." that the disease arose out of a person's occupation. What the employers are doing is applying NRS 617.440 to the claim. They are saying the employee has to show a causal relationship between the disease and his occupation. They are not looking at the other statutes. They are saying only

NRS 617.440 regulates an employee's claim. I talked to one of the State's insurance representatives, and he said the statutes are redundant. I responded that it is because they are interpreting the statute in their own way. This bill will clarify for them what the law really means when it says, "conclusively presumed."

Chair Ocegüera:

Are there other questions?

Rusty McAllister:

I have talked to several insurers about these provisions. A couple of the issues they brought up included the cost of certified mail. The only requirement for sending a claim by certified mail will be under the provisions of NRS 617, which covers occupational diseases. The cost would be minimal because most insurers do not deal with occupational diseases that often.

There are actually four changes in this bill. Section 1 of the bill addresses another problem. The law currently requires an employer to provide an employee with a list of one or more doctors. Some employers are providing employees with a list that only has one doctor on it. In Clark County, there are over 1.5 million people, and there are numerous doctors practicing there. The law says you are not required to go to a specific doctor, but when the employer gives an employee a list of one, the employee has no choice. This bill requests that at least two or more doctors should be on the insurer's list.

Chair Ocegüera:

Is there anyone else in support?

Barbara Gruenewald, representing the Nevada Trial Lawyers Association:

We support this bill. We have one procedural amendment ([Exhibit U](#)), which addresses the provision on page 3, line 33 of the bill. Currently, if an insurer fails to respond within 30 days to a letter from the claimant requesting benefits, the claimant has the right to appeal. The appeal would be heard before a hearing officer to resolve the matter. In 2006, I wrote a stack of letters on behalf of my claimant clients to insurers to get them to do something they were already required to do by law. This provision does work. Our amendment asks that we leave the law the way it is with the words, "...a denial of the request." Those words permit the claimant to request physical therapy, surgery, and payment of medical bills. We added an extra sentence that says, "...an acceptance of the claim." This amendment will retain the provisions Mr. McAllister is requesting, and will provide the language we are requesting.

Chair Oceguera:

Are there questions?

Assemblyman Mabey:

How does the insurer prove that they received the denial of the request?

Barbara Gruenewald:

We send the claim by regular mail. If the insurer does not respond, we file an appeal with the hearing officer after the 30-day waiting period. If for some reason the insurer did not receive it, he will have appeal documents to prove that it was received. It then takes another 30 days to get a hearing set up to correct the problem.

Assemblyman Mabey:

Can you prove that they did get the claim?

Barbara Gruenewald:

There is a statute in the general jurisdiction law that says if you show a document that says you sent the claim, it is presumed to be sent.

John E. Jeffrey, representing the Southern Nevada Building and Construction Trades Council:

We are in support of this bill.

Patrick T. Sanderson, representing the Laborers Local 872:

We support this bill.

Chair Oceguera:

Is there anyone wishing to testify in the opposition?

Robert A. Ostrovsky, representing Employers Insurance:

In Section 1, the bill addresses the employer providing a list of doctors. Each employer who has a managed care contract for the provision of these services is required to have a list that has options on it. That is already covered under statute. If it is not provided in a timely fashion at the time of the injury, we can comply with that provision. There is a problem on page 2, line 13, where the word "may" is being replaced with the word "shall." We do not want the language to imply that an employee can turn down all doctors on the list, and select a third-party doctor not on the managed care list. If there is no managed care list provided, then the employee can use any doctor on the Division of Industrial Relations' list of providers, which shows all licensed providers in the State, unless one has requested removal. I would be happy to meet with the parties to resolve this issue.

On page 2, lines 18-20, the insurance company needs to have access to appropriate and complete medical information to determine payment responsibility for subsequent injury claims. If they do not have the medical records, they cannot determine which insurer would be responsible for paying the claim, or whether it would be a shared responsibility. There was no testimony presented to give a reason for this change in language.

Chair Oceguera:

Mr. Ostrovsky, let us pause for a minute to ask why the language change was requested.

Ryan Beaman:

That provision was requested because medical insurers are requesting medical records for lengthy prior periods of time. We have seen requests for the last 20 years of medical records that have no relationship to the employee's injury.

Robert Ostrovsky:

Our request to have the medical records available is for the purpose of determining validity of subsequent injury. In Section 2, there is a concern that the language will refer to all claim requests that are submitted. Automobile accident claim acceptance is a double-edged sword. The current appeal process allows the injured worker to make the appeal. This language would switch the parties around, and the appeals would come from the insurance companies. We are trying to prevent insurers from having an automated denial system. It is difficult to determine when a claim was originated. Is it the date of injury, or is it the date the insurance company received the C-3 and C-4 claim forms, which is the employer's report and the report from the medical service provider. There are issues about that language. If claims are being denied, there is a statute, NRS 611.120, which permits benefit penalties and fines to be assessed against illegal activity on the part of the third-party administrator. It should be used to address this problem.

On page 3, line 39, striking the word "claimant" indicates that the claimant no longer has a responsibility to the insurance company to provide a current address. It becomes the employer's responsibility. If you have a large employer, it is difficult to track employees' addresses. In particular, the construction industry would have difficulty in keeping track of employees' addresses. There should be some responsibility on the part of the claimant to keep the insurer apprised of their proper address.

In Section 3, we have a concern about the cost of certified mail. However, if the language only applies to NRS 617, and there are few claims involved, we would not have a problem with that provision. In Section 4, we do not

understand why the language is needed because it already is addressed by the law. It does not provide the claimant with any new benefits. If the purpose is to clarify the benefits under NRS 617, we would not have a problem with the provision.

Chair Oceguela:

Are there any questions?

Assemblyman Anderson:

Why did the bill's originator request the removal of the word "claimant" on page 3, line 39?

Rusty McAllister:

The word "claimant" is part of a phrase that says "claimant or employer." When you have an either/or situation, it permits inaction. If you limit the responsibility for action to one person, you can get the action requested. We have found that the employers are saying it is the claimant's responsibility, and the claimants are saying it is the employer's responsibility. Confusion is created.

Gary E. Milliken, Government Relations/Public Affairs, GEM Consulting, representing the Builders Insurance Company:

We have many of the same concerns that Mr. Ostrovsky mentioned about subsequent injuries. The insurance company I represent insures construction companies. We are a very large preferred provider organization (PPO), and we have many doctor choices for an injured employee. We are also opposed to the 30-day determination and the responsibility for maintaining the employees' addresses. In Clark County, we have many workers who are transient and short-term employees. It should be the responsibility of the employee to give the insurance company their current address.

Chair Oceguela:

Are there any questions?

George Ross, representing the Nevada Self Insurers Association and PRO Group, Inc., including the Retail Association of Nevada, Nevada Motor Transport Association, Nevada Auto Dealers Association, and the Builders Association of Western Nevada:

The City of Las Vegas, one of our members, suggests the language contained on page 2, lines 18-20, which would prevent access to medical records, would cost them \$100,000 per year. It would make it impossible to obtain necessary medical records for making a determination on subsequent injury claims. We have a concern about the acceptance and denial of the claim request. We do

not want the employer to assume the responsibility for maintaining the employees' addresses. It should be an individual's responsibility. We live in a transient community, and it would be virtually impossible to track those employees' addresses. Certified mail may be a more difficult method to communicate with someone. If a person gets a piece of certified mail, you have to be there to sign for it, or go to a post office to sign and pick it up. The person may never bother to go and pick it up since he does not know if it is a workers' compensation claim or something else. We request the notification be left just the way it is, using the normal mail.

Chair Oceguera:

Do we have any questions?

Michael R. Alastuey, representing Clark County:

All of the previous witnesses in opposition to this bill captured the entirety of my remarks. We would like to make particular reference to Section 3. We would like more clarification on the intent and the operation of this particular section. If you look at the fiscal note Clark County submitted, we did submit ample comments on our concerns. We look forward to working with the different parties represented here to resolve any issues with this bill.

Chair Oceguera:

Are there any questions?

Assemblyman Conklin:

I do not have a question; I have a comment. Mr. Alastuey, I understand you only represent Clark County, but for the last six years, we have heard the same story. This Legislature has tried to make it clear that denying claims that should be undeniable is not an acceptable practice. I ask that you make it clear to Clark County that the particular claims dealt with in this statute are undeniable.

Michael Alastuey:

Your remarks will be taken to heart. I am not sure that the two cases that Mr. Beaman cited would find remedy in this bill, but nonetheless, it is an important issue for us to pursue.

Chair Oceguera:

I do not see a fiscal note from Clark County. Looking at the fiscal notes we have, I see a range of estimated costs going from \$1,360 to \$1.6 million.

Michael Alastuey:

Clark County did respond to the fiscal note. Many of the costs associated with this bill, as it would be amended, were not subject to our determination. We

were not able to estimate the costs, but we did pose a number of potential concerns about the bill.

James M. Livermore, representing Alternative Service Concepts and the Public Agency Compensation Trust:

The Public Agency Compensation Trust is a group self-insurance program for public entities throughout Nevada, but primarily our operations are in rural Nevada. We have some concerns about how the bill will affect our rural membership. We cover about 10,000 insured employees, including police and fire liability policies. From my first reading of the bill, the aspects of workers' compensation that this bill tries to address were not "broken," and do not need "repair." The current provisions work well for us. We have little litigation. We evaluate the benefits due, and we pay them. It would seem that most of the provisions in the bill are directed toward Clark County. It is unfortunate that changes brought about by their activities should impact us in an adverse manner. The other speakers in opposition voiced many of our objections. I would like to highlight a few points. When it comes to rural Nevada, the provisions in Section 1 which ask that employees be provided with two names of doctors would be difficult to do. In many areas, it is impossible. We may not have two doctors in a particular area of rural Nevada. That is just the way it is.

I would like to suggest an amendment, which states that the requirement for two or more doctors be in accordance with the requirements of NRS 616C.090. That statute already governs the way an employee must choose their treating physician. Section 1 simply applies to the employer's ability and right to direct the employee to seek medical care. The employee may say the injury is no problem, and he does not want to see a doctor. However, the employer may want to determine that there is no substantial injury. This section says the employer can tell the employee that he has to go to the doctor. The section already says the employer cannot require the employee to pick any particular doctor. We would like to see amending language that says this provision is in accordance with a managed care plan's structure.

We fully agree with the other testimony about not making it possible for the employer to ask questions about medical conditions other than those directly related to the injury. In order to determine the liability on a claim, we have to know whether or not the person has had previous injuries. We have to know if they have special conditions, such as diabetes.

Chair Ocegüera:

You are repeating items we have already heard, so we will ask you to meet and work with the other parties.

Jeanette K. Belz, J. K. Belz & Associates, Inc., representing the Property Casualty Insurers Association of America and the Associated General Contractors, Nevada Chapter:

We do not believe it is fair that the insurer might incur penalties if they cannot locate the insured. The employer/employee relationship may no longer exist. To put the responsibility of maintaining the employee's address on the employer is not acceptable to us.

Rose E. McKinney-James, representing the Clark County School District:

The comments I have come from our legal staff and our benefits team. They are consistent with the testimony you have already received with respect to Section 2, subsection 3 (b). In their view, this requirement would be the equivalent of a sales telemarketer sending you mail with a message saying if you do not respond, you are automatically signed up for the credit card or magazine and are financially responsible for it. They are concerned about the potential for this language to "backfire."

In Section 3, subsection 1, our staff takes issue with the use of the word "payment." They would suggest using the word "benefits" instead. Finally, we are in opposition to an employer having the responsibility of maintaining the employee's current address. It should be the responsibility of the claimant.

Chair Oceguera:

Are there any questions? Is there any other opposition testimony? Mr. McAllister, I would like you to get the different parties together and address the issues brought forward by the end of the business day on Friday.

Assemblyman Settlemeyer:

Mr. McAllister, I agree with your concept that having two people in charge of submitting the correct address is problematical. However, I do feel that the claimant is probably the best person to be responsible for their address. Would you object to making the claimant responsible?

Rusty McAllister:

That is something we have talked about with the insurers, and we will look at ways to alleviate their concerns. Our purpose in bringing this bill is to get some form of denial within 30 days. If a claimant does not contact the insurer within 30 days, the claim is accepted. Most people do not move within 30 days, but we would accept language that says the address on the C-4 form for the first 30 days is the address to use for contact. Mr. Ostrovsky told me he would be available tomorrow to work on the language, and I have Ms. Gruenewald's number for contact.

Chair Oceguera:

We need any revisions by the end of the business day on Friday.

Assemblyman Anderson:

I will volunteer to facilitate the discussions.

Chair Oceguera:

You can work with Mr. Anderson. We are closing the hearing on A.B. 496, and opening the hearing on Assembly Bill 524.

Assembly Bill 524: Requires an electric utility to increase the reliability of its electric service. (BDR 58-899)

Ernest Adler, representing the International Brotherhood of Electrical Workers, Local 1245:

I am testifying in support of A.B. 524 and, unfortunately, I have lost all my witnesses to other commitments. The International Brotherhood of Electrical Workers (IBEW) represents the electrical workers of Sierra Pacific Power Company. This bill has two purposes, both of which will improve public safety. The first purpose is to increase the reliability of electrical service by 20 percent over the next 10 years. This Legislature set a benchmark for renewable energy, which is to be used by the power company for consumers within the State. The second goal is a requirement that emergency call personnel manning the dispatch centers have geographic knowledge of the areas where crews are being dispatched. For reasons of safety, the electrical workers do not want to be dispatched to an emergency by someone from another state or foreign country who has no knowledge of the geography of Nevada.

Sections 1 through 6 deal with electrical reliability. In August 2003, the United States suffered the great Northeastern blackout. In that situation, within 3 minutes Genscape, a company that monitors power plants, identified 21 major power plants in the Northeastern and Midwest states that had shut down their operations. The outage rippled across a large area affecting New York, Cleveland, Detroit, and Toronto. It stopped commuter trains, elevators, and traffic lights. In Michigan, water supplies were compromised in Detroit because the water pumps, which move the water from Lake Erie to the city, stopped running. The city was running out of water as a result of this emergency. Something similar could happen in Clark County, as a large portion of its water is taken from Lake Mead. There is no question that our power systems need to be more reliable. The problem is cost. The current estimate nationwide to increase the reliability of electricity is between \$50 billion and \$100 billion. I have provided you with a summary article ([Exhibit V](#)) that was prepared from a study conducted by the Lawrence Berkeley National Laboratory. They stated

that \$80 billion a year is lost by consumers as a result of electrical interruptions. The improvements we need to make are costing us each year they are not completed. The range in any given year is estimated to be \$30 billion to \$130 billion. Most of these costs fall upon the industrial and commercial customers of the power companies, and very little of the total cost is absorbed by residential customers. Reduction in outages can save consumers billions of dollars at a relatively moderate rate.

Sierra Pacific Power Company will represent that their system is above average in reliability. The problem the IBEW has with that statement is in Las Vegas we seem to be moving in the wrong direction. About a year and a half ago, Las Vegas had eight electrical crews dedicated to reliability and maintenance. That is eight four-person crews. This amount has been reduced to three crews of four. We are decreasing electrical reliability throughout the State.

The second portion of this bill addresses matters of safety. Call center personnel should be familiar with areas that crews are being dispatched to. Recently, Sierra Pacific on a pilot basis has been experimenting with transferring call center calls to Portland, Oregon. You need to have people familiar with the area and streets when an emergency occurs. Contracting out-of-state call centers is going in the wrong direction. Is contracting call centers to a foreign country next? It does not increase safety within the State.

Chair Ocegueda:

I have a question since you brought up the fire scenario. If I get on a scene and I call dispatch to contact Nevada Power for a transformer power fire, my dispatch would call the emergency number they always call for Nevada Power. Nevada Power sends an emergency response truck to that address. Why do they need to know anything more than that? The guy who is responding is from the local area.

Ernest Adler:

Whoever is calling could talk a person to the location.

Chair Ocegueda:

I am not disagreeing with your outsourcing argument. I am saying that "Joe Dispatcher" would not know all the streets in Las Vegas or anywhere else. I do not know all the streets in North Las Vegas, and I have been working there for 17 years. I do not know if it makes a difference where the call center is located.

Ernest Adler:

I am sorry our IBEW guys are not here to address that issue.

Chair Oceguera:

We had to get through a lot of bills.

Ernest Adler:

In talking to the IBEW crews, I learned there are differences in response procedures and equipment for crews from different parts of the country. Electrical boxes are different depending on the region of the country. That is why IBEW crews believe there needs to be some dispatch training. I have a proposed amendment ([Exhibit W](#)). We are requesting a deletion of Section 7, which involves the assessment of penalties against the power companies for violations of the provisions of this law. This bill was meant to cover call centers and dispatchers. The amendment adds language to Section 8, subsection 1 (b), to include call centers and dispatchers.

Assemblywoman Kirkpatrick:

What is the cost for these improvements? Who would pay for it, the rate payers?

Ernest Adler:

It would be the rate payers. If you look at the cost of a catastrophic outage of electricity, it is much greater than the cost of increasing your utility reliability over the short-term.

Assemblyman Settlemeyer:

I appreciate the reliability issue. However, there is a relationship to cost. Are we willing to have our constituents pay more? We have heard testimony on other bills where witnesses are asking for assistance in paying current rates. I am not comfortable with utility increases.

Ernest Adler:

If you had a catastrophic power failure in Las Vegas, it would cost millions of dollars. Paying for more maintenance workers could prevent such a catastrophe.

Chair Oceguera:

Many facilities have backup generators.

Ernest Adler:

In New York City, many of their generators failed after a short time.

Chair Oceguera:

After a short time they would. Are there any questions? Are there others wishing to testify in support? Is there any opposition?

Judy Stokey, Director, Government Affairs, Nevada Power Company and Sierra Pacific Power Company:

We oppose this bill. The reason is the process in the bill is a duplicative one. We already do a lot of this with the Public Utilities Commission (PUC). We are ordered to have reliability and customer satisfaction surveys completed, and we report the results to the PUC. We just completed that survey this week, and our numbers are improving. Power companies take concerns for reliable electrical service very seriously. We can appreciate and understand the problems that have occurred across the nation. However, we do not have that problem here.

Nevada Power and Sierra Pacific Power companies' service reliability ranked among the highest across the nation as rated by an Edison Electrical Institute (EEI) survey. Seventy-five utilities did participate in that survey. Our customers experienced fewer outages and durations of outages than the other utilities. We are in the first quartile in all instances, except for one where we rated in the second quartile. In addition, this bill would impose higher costs on our rate payers. There is a fiscal note on this bill. We have estimated this bill would cost \$240 million over the ten-year period. I will answer any questions.

Assemblywoman Gansert:

Is Sierra Pacific Power installing a north-south line, so there would be redundancy? The north has always been isolated from the south on the electrical grid.

Judy Stokey:

Yes, we have been approved to continue working on an Ely Energy Center with the transmission line portion of that development to connect the two utilities. We are not connected right now. That connection will help when more power is needed in the north in the winter, and more is needed in the south in the summer.

Chair Ocegueda:

Are there further questions? Are there others opposed? Is there anyone speaking from a neutral position?

Nancy Wenzel, Hearing Officer, Public Utilities Commission of Nevada (PUC):

The PUC is testifying from a neutral position on this bill. Although we support the policy behind the bill, the PUC already requires the two Nevada power companies to file an annual quality of service report pursuant to its order in Docket No. 04-70009. The PUC has received the reports for 2005 and 2006. In addition, the regulatory operations staff of the PUC receives the same report on a monthly basis, and has done so for the last eight years. The PUC is

already actively monitoring the utility companies' quality of service, including reliability, outages, and interruptions. Any additional reporting would be redundant and not an efficient use of administrative resources. The quality of service report measures reliability and customer service and safety. The report includes the objective indices outlined in the bill. Both the objective and the subjective matrix indicate that the utilities are providing a good quality of service.

Therefore, a 20 percent increase in reliability seems unwarranted because customers are indicating they are satisfied with the reliability of their electric service. If there was degradation in service over time, our staff would open an investigation, or the Commission could address the problem in the context of a general rate case. Disallowances can be made for poor quality of service if it was left uncorrected, customer dissatisfaction left unaddressed, and other operational deficiencies left unresolved. We agree with the removal of the penalty provision because the PUC does not believe an automatic penalty is appropriate. It would remove the Commission's ability to consider and judge all the evidence in a particular case. The Commission already has existing authority to impose civil penalties on companies that violate any Commission rule or regulation, or that disobey a Commission order.

Chair Oceguera:

Are there any questions?

Ray Bacon, representing the Nevada Manufacturers Association:

When a power system has a regional interruption in service, industrial users are the first ones curtailed. We find that this seldom happens. The power companies, both north and south, have been exceedingly good in working with us. They advise us if there is going to be a line cut or a cutback with as much possible time to phase in a shutdown without interrupting processes any more than necessary. There is another bill in a different committee, A.B. 545, which allows local governments to demand more utilities be put underground. Anytime you put transmission lines underground, the repair time increases. These bills are in conflict, and send conflicting messages. I do not think this bill is necessary.

Chair Oceguera:

Are there questions? Are there others in opposition or testifying from a neutral position? We are closing the hearing on A.B. 524 and opening the hearing on Assembly Bill 560.

Assembly Bill 560: Establishes requirements concerning agreements between debtors and third parties for assistance in the recovery of certain proceeds of a foreclosure sale. (BDR 3-502)

Kathleen Delaney, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General:

This is a modest bill, but it is a nice complement to A.B. 440 heard previously today. This bill addresses one problem our office has seen as fraud perpetrated on people who are particularly vulnerable because their properties are already in foreclosure. Homeowners in foreclosure are subject to fraud and unfair dealings from the time the notice of default is recorded until the time surplus funds from any foreclosure sale are distributed to the homeowner or his successor. Certain third-party operators represent that they can assist homeowners who have defaulted on obligations secured by their residences. However, the third-party operators often charge high fees. The payment of the fees is secured by an assignment of the excess proceeds from the property sale. These operators perform very little, if any, service, and the services performed are not essential or worth the amounts being charged. The homeowner would have obtained the excess proceeds from the sale of the property directly from the trustee, following the statutorily required notices, without any assistance.

The intent of this bill is simple. It will require any assignment agreement for excess proceeds from foreclosure sales to be in writing. The agreements need to be signed and notarized by the debtor. They may not be made for at least 30 days following the foreclosure sale. This delay will allow time for the actual existing process to work for the homeowner who is entitled to those excess proceeds. The need for this bill was brought to our attention by several local law firms handling foreclosure sales. They were encountering these assignments when they were distributing the excess proceeds. When the law firms did the interpleaded actions and went to court to work out the details, they found that sometimes homeowners did not even know their property was in foreclosure. When the homeowners realized it was, they had been persuaded by these "slick" operators to get assistance in obtaining the excess proceeds.

In some cases, they were offered loans for a small amount as long as they would assign their excess proceeds. The operators knew exactly what the property was worth and how much they would get. In one particularly egregious case, a \$5,000 loan for minimal services was exchanged for \$35,000 in excess proceeds. The courts have not been able to address the problem in interpleaded actions because people had signed the agreements. Supposedly, the homeowners received what they had bargained for. We have investigated some of these cases, but we need to adopt legislation, similar to what was

done in California and Arizona, to put some limitations and restrictions on these transactions. I can answer any questions.

Chair Oceguera:

Are there any questions?

Kathleen Delaney:

One last point of clarification, this bill is identical to the legislation that exists in Arizona. We felt it was a comparable market. Our bill is not as in-depth as the California legislation. There is precedence for this type of legislation, and it will help a lot of people.

Assemblyman Anderson:

Common interest communities have experienced problems with foreclosure proceeds being handled in their internal agreements. Would this legislation help in those types of cases?

Kathleen Delaney:

I do not believe so. This is a modest proposal intended to deal specifically with a true foreclosure situation where there is likely to be some excess proceeds available. It is to protect homeowners in the process of foreclosure from being bilked out of their excess proceeds by unscrupulous operators. This bill will prevent such practices by establishing a time period before such agreements can be entered into, and by putting some reasonable limitations on what would be appropriate fees for those services. It would not help on the front-end to prevent questionable foreclosure practices.

Chair Ocegüera:

Is there anyone else wishing to testify on this bill? We are closing the hearing on A.B. 560. On Friday this hearing will start at noon.

[The meeting was adjourned at 5:59 p.m.]

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblyman John Ocegüera, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 4, 2007

Time of Meeting: 1:26 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|------------------|----------------|--|---|
| | A | | Agenda |
| | B | | Attendance Roster |
| AB 215 AB 562 | C | Dave Ziegler, Committee Policy Analyst | Work Session Documents |
| AB 329 | D | Assemblyman Parks | Guidance on Nontraditional Mortgage Product Risks Article |
| AB 332 | E | Assemblyman Hogan | Testimony |
| AB 332 | F | Assemblyman Hogan | Proposed Amendment |
| AB 440 | G | Assemblyman Conklin | PowerPoint Presentation |
| AB 440 | H | Daniel Ebihara, Clark County Legal Services | Testimony |
| AB 440 | I | Carol Wolfe, Private Citizen | Testimony |
| AB 440 | J | Gail Burks, Nevada Fair Housing Center | PowerPoint Presentation |
| AB 440 | K | Peter Dustin, Las Vegas Metropolitan Police Department | Testimony |
| AB 440 | L | Barry Gold, AARP Nevada | Testimony |
| AB 440 | M | Scott Bice, Division of Mortgage Lending | Complaint Findings |
| AB 440 | N | William Uffelmann, Nevada Bankers Association | Proposed Amendment |
| AB 440 | O | Rocky Finseth, Nevada Land Title Association | Proposed Amendment |
| AB 440 | P | Leslie James, Private Citizen | Testimony |
| AB 375 | Q | Assemblyman Ocegüera | Article |
| AB 375 | R | Assemblyman Ocegüera | News Release |
| AB 375 | S | Assemblyman Ocegüera | Proposed Amendment |
| AB 375 | T | William Uffelmann, Nevada Bankers Association | Proposed Amendment |

| | | | |
|--------|---|---|--------------------|
| AB 496 | U | Barbara Gruenewald, Nevada Trial Lawyers Association | Proposed Amendment |
| AB 524 | V | Ernest Adler, International Brotherhood of Electrical Workers, Local 1245 | Article |
| AB 524 | W | Ernest Adler, International Brotherhood of Electrical Workers, Local 1245 | Proposed Amendment |