

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, March 7, 1967

Meeting was called to order at 2:10

Present: Wooster, Swackhamer, White, Torvinen, Schouweiler, Dungan, Hilbrecht, Kean

Absent: Lowman (excused)

MR. WOOSTER: I have Mr. McKissick's bill here, which he would like to have the committee introduce. It would provide for review of sentences by the Supreme Court in criminal cases.

There were no objections to a committee introduction.

AB 210: Includes deeds of trust in single action rule for foreclosure proceedings, establishes procedure for determining amount of deficiency judgment, and forbids deficiency judgment for purchase money.

Attorney Robert McGeehee from Reno was present to speak against the bill. He was representing Union Federal Building and Loan Association.

MR. MCGEEHEE: I have no objections to the first two sections, with the exception of the mechanics set forth in section 2 for determining fair market value. These first two sections apply to purchase money and deeds of trust only. It says hearing with notice, but I think the bill should be a little more specific in that area.

I do have objections to section 3. It would exclude from sections 1 and 2 a deficiency judgment. I can't see why this exclusion is necessary. A majority of mortgages and deeds of trust are needed to secure money for purchasing other property. The effect that this would have is to tighten money and slow down home building.

My company lends 70% to 80% of the construction cost at their own appraised value. The effect of this bill will be that they will loan a lower percentage. A person would have to come up with a great deal of money before he could build a home.

I understand the bill is to be amended to provide for waste. The lender has no way to prevent waste. But aside from that, the mechanics would be so cumbersome.

I have no quarrel with the court determining the fair market value and entering deficiency judgment. But why exclude purchase money and deeds of trust? I would like to ask Mr. Hilbrecht for the logic behind the exclusion.

MR. HILBRECHT: I would like to ask you a question. How come the money has not dried up in California and other neighboring states that have this legislation already? They seem to have ample money.

MR. MCGEEHEE: You have answered your question. They have ample money. What will change is that people who are now able to build a house and come up with a down payment will not be able to come up with the greater required down payment. Who are you helping with this bill?

MR. HILBRECHT: The people from Northern Nevada construction came here and recommended we pass the bill. The practice has been to loan money with no relation to the intrinsic real estate market. Financial institutions have sometimes loaned 120% of the value of a property. This practice has destroyed the construction business in southern Nevada.

MR. MCGEEHEE: I represent a federally chartered institution. They have a ceiling on their lending, determined by a percentage of the value. I don't know whether the California laws permit the institutions to send out their own appraisers and lend better than 100% of the value or not. If they get stuck with these, it will take them a long time to sell them and recoup the money they have lent.

We always bid what we have got in the property, so this will not affect us often, but when it does it will be bad.

MR. HILBRECHT: There is a real difference between the person who takes second and first mortgages on a house when he is loaning money. You take a mortgage thinking the house will cover it, but you are not in partners with a developer. We discovered that in Southern Nevada the institutions were damaging the fair market value of homes by their very promiscuous lending activities. This bill is to make a more conservative lending policy and your institution already has that.

MR. TORVINEN: Mr. McGeehee, do you have some other suggestion to solve this real problem that does exist?

MR. MCGEEHEE: In some way, the value should be established by some outside authority rather than lending institutions themselves. I don't know whether this would be too cumbersome to handle or not.

AB 220: Allows certain tort actions between husband and wife.

Mr. Kean moved to postpone indefinitely AB 220  
Mr. White seconded

MR. KEAN: With this bill you might have a plaintiff and a defendant against an insurance company in a suit.

MR. HILBRECHT: Let's take this situation. I own a piece of property and have insurance on it. A customer can come in, trip over a worn piece of carpet, injure himself and sue me. But if my wife or my baby trip over that same piece of property and become injured they cannot sue me. I can't protect them with my insurance policy. I don't think there would be any fraud with this. A lawyer can detect fraudulent cases.

The vote on the motion to postpone indefinitely AB 220 was tied, with White, Swackhamer, Wooster and Kean voting Aye and Hilbrecht, Schouweiler, Torvinen and Dungan voting No.

MR. WOOSTER: We will have to postpone further action on this bill until we have our ninth member with us again, Mr. Lowman.

SB 224: Requires payment of fees and costs by grantor upon reinstatement of loan under deed of trust.

Senator Swobe was present to speak in behalf of the bill.

SENATOR SWOBE: Under procedure passed by the last session of the legislature the grantor would be able to pay the deficiency and reinstate his loan. However, we failed to provide for such expenses as filing for default, preparing notice of default and recording it. Now the man does not have to pay the costs of the preliminary title report or the attorney. We must provide for the costs of reinstatement.

SB 225: Enlarges definition of condominium, exempts condominiums from certain rules of property, and restricts tax deeds of condominium interests.

SENATOR SWOBE: When the act was passed, we failed to provide that a condominium could be built with many buildings on one piece of property without being joined. We have an example of this in Hidden Valley. A condominium was built there and little windways had to be built from one to another in order to adhere to the law.

Page 2 of the bill explains the law of perpetuity--life in being plus 21 years. This is the rule under which condominiums will operate. We took the rule verbatim from the California law so that we would have the benefit of their experience.

MR. SWACKHAMER: Aren't you making a pretty radical departure from the first concept of the condominium that you presented to us? I thought you just owned the air space.

SENATOR SWOBE: You own an undivided interest in all the real estate. Now you spread these all out on a parcel of land with no common wall. You still own undivided interest in the whole thing.

SWACKHAMER: If we are going to spread them out in separate building, why have joint ownership?

SENATOR SWOBE: Joint ownership allows for the entire group to maintain the entire common area. You have undivided interest in your own space and in a coop you just have a share in everything.

MR. KEAN: Didn't we pass this law two years ago?

SENATOR SWOBE: Yes, but under that concept it had to be one building. The bill was killed in the Senate Judiciary Committee.

SB 171: Clarifies procedure on appeal from Municipal Court to District Court.

Senator Farr was present to speak in behalf of the bill.

SENATOR FARR: We are having difficulty in auditing reports from Municipal Court. This is because the District Court does not notify the Municipal Court what they did about the case and we are, therefore, unable to close the files. We ask this bill which would require that they do report back to the Municipal Court their disposition of each case which is referred to it from Municipal Court. If they do this, then we can close the files on each case.

MR. TORVINEN: On line 21, why refer to the District Court rather than to the Clerk of the District Court?

SENATOR FARR: I don't know why 'clerk' was not written in there. I have no objections to amending to put it there. All we want is to get a report back to our city from the District Court.

MR. TORVINEN: I think it would be better to tell someone else instead of the District Judge.

Mr. Kean moved Do Pass SB 171 and to trust Mr. Torvinen's judgment on the amendment  
Miss Dungan seconded  
Motion passed unanimously

SB 224: Requires payment of fees and costs by grantor upon reinstatement of loan under deed of trust.

## Assembly Committee on Judiciary

Mr. Hilbrecht moved Do Pass SB 224  
Miss Dungan seconded  
Motion passed unanimously

SB 225: Enlarges definition of condominium, exempts condominiums from certain rules of property, and restricts tax deeds of condominium interests.

SENATOR SWOBE: Section 3 is to give these units life beyond life in being, such as we give corporations. The Nevada law hasn't yet decided which rule to follow.

Mr. Hilbrecht moved Do Pass SB 225  
Mr. Kean seconded  
Motion passed unanimously

AB 221: Prohibits intentional concealment, destruction, or alteration of certain medical records.

MR. SWACKHAMER: There is nothing wrong with the purpose of the bill, but it is too broad, is practically unworkable.

MR. HILBRECHT: I move to limit this to a misdemeanor.

MISS DUNGAN: Couldn't we just have them maintain all the regular hospital records. That would include committee reports?

MR. TORVINEN: In order to have a violation of this ordinance, committee meeting reports would have to go in as part of the hospital records.

MR. SWACKHAMER: We don't want to go so far that too many things can be used as violations

MR. HILBRECHT: Let's eliminate "c" and make what is now "d" to be "c".

MR. WOOSTER: I appoint Swackhamer, Torvinen and Hilbrecht to be a subcommittee on AB 221, to come up with some different language.

MR. WHITE: I move to hold over AB 222, 223, and 224.

Mr. Wooster; Without objection, we will hold these bills over.

AB 222: Creates presumption of negligence of operator of motor vehicle who dies in accident not involving another vehicle.

MR. HILBRECHT: I would rather see exceptions to "Dead Man's Rule" than to pass this.

MR. WOOSTER: Mr. Hilbrecht, would you please work up an amendment on this bill?

AB 223: Bases allowance of attorney's fees by plaintiff in civil action upon amount recovered.

MR. HILBRECHT: We should have a condition precedent to put up a bond. Why don't we just increase the action to \$10,000?

MR. WOOSTER: Mr. Hilbrecht, would you please get an amendment to this bill, also?

MR. KEAN: Why don't we just make it ten and ten and ten?

AB 224: Provides for admission of evidence of prior accidents to show existence or notice of dangerous conditions.

MR. KEAN: I would vote no on this because the court has discretion on this now anyway.

MR. HILBRECHT: The problem they are trying to reach is something that by its very nature disappears. For instance, the chlorine gas escaping at the plant in Henderson. 27 men got lung hemorrhage because of this. They did not store all the gas in one place where it could not escape.

Meeting was adjourned at 3:20.