

SENATE JUDICIARY COMMITTEE

MINUTES

2-107

March 29, 1971

Chairman Monroe called the meeting to order at 8:40 a.m.

Committee Members Present: Chairman Monroe  
Senator Close  
Senator Dodge  
Senator Foley  
Senator Swobe  
Senator Wilson  
Senator Young

Others Present: Rupe Cohen - Reno Security  
Carl Hockmeyer - Reno Security  
Grant Davis - Legislative Counsel Bureau  
E. Stratford Smith - Washington, D.C. Attorney  
W. R. Brazeal - Exec. Vice-President, T.C.I.  
Noel A. Clark - Public Service Commission  
Don Wolf - Applewhite Mortgage  
Keith Hendrikson - Nevada Fire Fighters  
Ken Buck - Retirement Board (Retired)  
Donald D. Anderson - Exec. Secretary, Retirement Board  
Keith Horner - First National Bank  
Lou Paley - Nevada State AFL-CIO

S.B. #465 - Enacts model State CATV Regulatory Surveillance Act.  
Senator Monroe.

Mr. E. Stratford Smith of Smith and Pace Attorneys of Washington, D.C. testified on behalf of the National Cable TV Association in support of modifying the existing legislation. This bill would provide that CATV is not a classic type of public utility, and its rates are regulated on a surveillance basis rather than the classic utility basis. He said the Association feels that classic regulation of CATV rates is not necessary since these rates are just and reasonable, and non-discriminatory.

Senator Wilson stated that if this were enacted, it would mean that the public service commission could not fix the level of rates and they could be as high as the Association cares to make them, as long as they were non-discriminatory. This would remove them from the public utility commission regarding the power to fix rates, but keep the requirement for a certificate of convenience and necessity.

Mr. Smith testified that CATV is a high-risk industry. He said that the cost of money is higher than for other utility companies, and they have to pay more points above the premium rates and get shorter terms.

Mr. Smith said that there is some suggestion that if the statutes are changed, the CATV rates will go higher. He said the rates are fixed on what is required to get the signals into the communities. The big cities of Las Vegas and Reno are subject to the indirect competition of off-air signals of TV stations. He felt that CATV lacks the earning capability the public utilities have because of this competition. Mr. Smith stated that the FCC has taken substantial jurisdiction over the cable television industry. They have required

CATV to originate programs the same as program broadcasters. They expect the cost of this programming will be borne out of revenues obtained from subscribers, but they are not able to meet these revenues from advertising.

Mr. Smith testified that the FCC also has a regulation that requires CATV systems to provide more numbers of channels for local government and civil groups without charging them.

Mr. Bill Brazeal, Executive Vice-President of TCI, Denver, Colorado, testified that they have had no problems as far as rates are concerned. The utility regulation has been in existence for a year. They are fearful that if we start determining the needs of local subscribers, it will create problems. He felt it would be a hardship on them with regard to time and the supporting documents the utility commission would need if they felt it necessary to increase or decrease their rates.

Mr. Brazeal also stated that cable TV is a highly competitive business and is not a public utility per se. A public utility is a service that is necessary, and CATV is not a necessity.

Mr. Brazeal said that one thing that is provided for in the statute they have difficulty justifying is the fact that they can not promote services through the normal channels they used to. These promotions were used to attract subscribers with the thinking that if they got used to watching cable TV, they would remain customers. Under the existing statute, they are precluded from that type of promotion. He said many times they voluntarily attach their service free of charge to schools and other institutions. In many cases, the city franchises require this.

Mr. Noel Clark of the Public Service Commission testified that they do not like one single word of the bill. He said they have had litigation up to the supreme court from this law since it was passed 4 years ago. If one single word is changed, it will be litigated again. He said they have spent several thousand dollars litigating this through the court, and they do not feel in the interest of the public they ought to do it again. He suggested seeing what the public service commission does with the rates, and then have the proponents of this bill come back and take care of it at that time if necessary.

Mr. Clark felt that once the rates are set, and then the finance houses rating bureaus will look at them and from those rates CATV will be able to borrow at certain interest levels.

Mr. Clark said that there is much discrimination in both rates and hook-up charges. He said in Reno the rates vary from .75¢ to \$6.50; for a hook-up in Elko it costs \$125.00, where in Reno it would cost \$6.50. This is not in the public interest.

Mr. Clark also mentioned that this bill does require a certificate of public convenience and necessity because of the word "shall". This means CATV gets the benefit of territory protection, without benefit to the public of rate control.

He also said that this bill wipes out mill tax and the commission is wholly supported by mill tax. If this legislation passed, it would mean they are regulated at the cost of the other public utilities of Nevada.

Mr. Smith stated that he didn't realize the mill tax was wiped out, and would be happy to leave it in.

Mr. Clark again stated that there are no provisions which gives the commission any review by any court and no penalties are provided.

After the witnesses left the committee had a brief discussion on this bill. Senator Swobe made a motion to "kill" S.B. #465. Senator Wilson seconded the motion. Motion carried.

S.B. #346 - Makes it illegal to give or turn in false bomb threat or alarm.  
Committee on Judiciary.

Keith Hendrikson representing the Nevada Peace Officers and Fire Fighters testified that the intention of this bill is good, but it does not do the job they are after. He presented a copy of the California Law (Attachment 1) to the committee which pertains to this area of interest. Mr. Hendrikson felt this should cover bombs and explosives as well as the threat of a bomb.

Grant Davis mentioned that A.B. #208 takes care of explosives but not the false alarm aspect, and thought since it was not moving too fast in the Assembly Judiciary, we could draft another bill for Senate Judiciary introduction.

Mr. Hendrikson presented a member of the Reno Fire Department who distributed statistics (Attachment 2) of the major trouble areas they are having.

No final action was taken.

A.B. 293 - Penalizes interference with firemen at all fires and emergencies.

Keith Hendrikson mentioned that this bill was still in the Assembly Judiciary Committee and doesn't look like it will come out. He said they need this bill because they have no authority to evacuate a building in case of a bomb threat or false fire alarm. If the owner of the building tells them to leave, they must leave without investigating the complaint. They only have authority if it is an emergency.

Grant Davis will draft a similar bill for committee introduction.

S.B. #538 - Allows certain state park personnel to be designated as peace officers when exercising police powers.  
Committee on Judiciary.

S.B. #539 - Allows certain foresters and firewardens to be designated peace officers.  
Committee on Judiciary.

Ken Buck, who is now retired from the Retirement Board and Mr. Donald D. Anderson, Executive Secretary of the Retirement Board, testified on these two bills.

Mr. Buck said they have no objection to giving these people status as peace officers for the purpose of necessary authority, but felt the bill should

carry a statement that these peace officers are not eligible for early retirement. He said that there is a bill in the Assembly which would define police officer for the purpose of early retirement. 2-170

Mr. Buck informed the committee that policemen and firemen are not given early retirement because of the hardship nature of the jobs, but because of the communities dependence on the physical fitness of these people.

Mr. Anderson said that the Board agrees with what Mr. Buck testified to, and referred to A.B. #667 which will define peace officer as such. If this bill passes, it will take the load off because it shows who will and who will not be eligible for early retirement.

Grant will draft an amendment on S.B. #538 and S.B. #539 to exclude these peace officers from early retirement.

S.B. #313 - Requires employer's payroll bond.  
Committee on Labor.

Mr. Lou Paley of the Nevada AFL-CIO stated a bill similar to this passed the Senate last session, but was killed in the Assembly because it made the labor commissioner responsible for holding this bond. This bill would make the governing body who issued the license responsible.

Mr. Paley said the bill was directed to those people who come into a community without physical assets and hire employees when they don't have the money to take care of the payroll.

Mr. Paley said he spoke to Mr. Pete Kelly who objected to the word "may" in Line 11, and felt that it should be changed to "shall."

Senator Young made a motion to amend and "do pass." Senator Wilson seconded the motion. Motion carried.

A.B. #194 - Adopts credit card crime act.  
Assemblyman Roy L. Torvinen.

Mr. Keith Horner of the First National Bank testified that this bill covers the problem very well, and they had no changes to recommend. This would crack down on fraudulent credit cards.

Senator Foley objected to Section 21, Line 30 on Page 4. He felt that many people buy discounted tickets and should not be classed as criminals. Senator Wilson felt that the words "reasonable inquiry" should be taken out and the "reasonable man" concept which was incorporated in S.B. #11 should be inserted in this bill.

Senator Swobe made a motion to amend and "do pass." Senator Dodge seconded the motion. Motion carried.

S.B. #349 - Permits appeal from pretrial district court orders in criminal cases.  
Committee on Judiciary.

Grant Davis submitted the proposed amendment on this bill. Senator Young felt the bill had some merit but thought the defense counsels would file every motion they possible could as a delaying tactic. He suggested the committee

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proceed to amend the constitution to provide for advisory hearings. Senator Dodge felt that the prime mover would be the state in the case of not granting a motion to suppress. Senator Dodge also supported Senator Young's request to amend the constitution to permit advisory hearings.

Senator Dodge made a motion to amend and "do pass." Senator Swobe seconded the motion. The vote on the motion was as follows:

Yeas: Senators Wilson, Dodge, Swobe, Foley, Close, and Chairman Monroe. (6)  
Nays: Senator Young (1)

Senator Young will file a minority "do not pass" report, and reserves the right to oppose the bill on the floor.

S.B. #582 - Regulates locksmiths and safe mechanics.  
Committee on Judiciary.

Mr. Carl Hockmeyer and Mr. Rupe Cohen of Reno Security testified on this bill.

Chairman Monroe objected to Subsection 2 of Section 8 on Page 2, saying that if a person pays \$5.00, the sheriff has to give him a permit to operate as a locksmith. The Chairman suggested the language "and meets the requirements as provided in county and city ordinances," at the end of Line 8.

Chairman Monroe asked if there shouldn't be a time limit for reporting change of address. Mr. Hockmeyer suggested either 10 days or 2 weeks.

Senator Foley made a motion to amend and "do pass." Senator Swobe seconded the motion. Motion carried.

S.B. #528 - Makes an exception to bond requirements for  
construction controls.  
Senator Close.

Mr. Don Wolf of Applewhite Mortgage and Mr. Don Brodeen of Southern Nevada Mortgage Bankers Association testified on this bill. They submitted the FHA requirements for approval of construction lenders. (Attachment 3) They informed the committee that the VA requires approval by the FHA, and if either revokes approval, the other does also. Mr. Wolf suggested adding some wording which would require maintenance of that approval by the FHA or VA. Grant Davis suggested deleting "have been previously" in Line 7, and inserting "are" so that this approval would be a continuing thing.

Senator Young asked if this would apply to commercial construction. Mr. Wolf answered that they were interested only in home construction. Grant Davis suggested using the words "construction loans for dwelling units" in Line 7.

Senator Foley made a motion to amend and "do pass." Senator Swobe seconded the motion. Motion carried.

S.B. #315 - Changes method of computing payment of  
delinquent taxes for reconveyance.  
Committee on Judiciary.

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Grant Davis submitted the amendments discussed previously. Senator Wilson made a motion to amend and "do pass." Senator Swobe seconded the motion. Motion carried.

Meeting adjourned at 11:00 a.m.

Respectfully submitted,



Eileen Wynkoop, Secretary

Approved: \_\_\_\_\_

ATTACHMENT 1

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Title 7 OFFENSES AGAINST PUBLIC JUSTICE § 148.4

§ 148.3 False report of emergency; punishment

(a) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that such report is false, is guilty of a misdemeanor and, upon conviction thereof, shall be punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

(b) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that such report is false, and great bodily injury or death is sustained by any person as a result of such false report, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison for not more than five years, or by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(c) "Emergency" as used in this section means any condition which results in, or which could result in, the response of a public official in an authorized emergency vehicle, or any condition which jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, vehicle or of any other place which any individual may enter.

(Added by Stats.1967, c. 134, p. 1167, § 1.)

Library References

Branch of the Peace Code

C.J.S. Branch of the Peace § 1 of seq.

§ 148.4 Fire alarms; tampering with system; false alarms; punishment

(1) Any person who willfully and maliciously tampers with, molests, injures, or breaks any public fire alarm apparatus, wire, or signal, or willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any public fire alarm system or signal or by any other means or methods, is guilty of a misdemeanor and upon conviction thereof shall be punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

(2) Any person who willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any public fire alarm system or signal, or by any other means or methods, and great bodily injury or death is sustained by any person as a result thereof, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison for not less than one year, nor more than five years or by a fine of not less than five hundred dollars (\$500)

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ATTACHMENT 2

False Alarms turned into the Reno Fire Dept from July 1, 1970 ~~184~~ 174

March 16, 1971.

Total false alarms ----- 70

The following is the breakdown of the false alarms recieved.

University of Nevada ----- 23 alarm boxes

Telephone calls ----- 12

All other City Alarm Boxes ----- 35

Bomb scares ----- 26

(Jan. 1, 1970 to Jan. 1, 1971)

Not included in total false alarms.



<u>Date</u>	<u>Time</u>	<u>Box</u>	<u>Location</u>
7/4/70	4:37 A.M.	3-2-6-5	Billingshurst School
7/30/70	9:41 P.M.	I-3-4-3	UofN. Getchel Library
8/5/70	12:34 A.	3-2-2-7	Court & Clay
8/5/70	12:39 A.	3-2-8-I	St. Lawrence & Lander
8/5/70	12:45 A.	2-2-3-6	City Hall
8/5/70	12:54 A.	2-3-5-3	Ryland & Wells
8/10/70	11:39 A.	2-I-5-6	Ist & Sierra
8/13/70	9:47 P.	3-2-8-I	St. Lawrence & Lander
8/27/70	6:38 P.	I-I-6-2	4th & Ralston
9/9/70	2:51 A.	I-I-I-2	4th & Virginia
9/12/70	2:45 P.	I-3-5-7	U. of N. Nye Hall
9/15/70	12:32 A.	2-2-4-9	St. Lawrence & So. Virginia
9/20/70	8:18 P.	I-3-5-7	U. of N. Nye Hall
10/1/70	7:08 P.	Phone	400 So. Arlington
10/3/70	7:22 A.	I-I-5-6	4th & West
10/3/70	7:32 A.	I-2-4-2	4th & East
10/5/70	8:15 A.	Phone	Matterhorn Blvd. (Lemon Valley)
10/5/70	4:52 P.	Phone	Mayberry Dr.
10/6/70	4:06 A	2-I-3-7	2nd & West
10/6/70	5:18 P.	Phone	Hwy. 395 Lemon Valley turn off
10/10/70	9:40 A.	I-2-7-4	6th & Eureka
10/10/70	3:45 P.	2-I-3-7	2nd & West
10/11/70	2:51 A.	Phone	Starlight
10/14/70	7:51 P.	I-2-4-2	4th & East St.
10/16/70	7:02 P.	Phone	Vine & 5th
10/20/70	11:55 P.	I-I-5-3	5th & Nevada
10/20/70	12:58 A.	I-3-3-4	U. of N. Physical Science Bld.
10/23/70	12:10 P.	Phone	440 Reno Ave
10/24/70	11:55 P.	I-3-I-2	U. of N. Flag Pole

<u>Date</u>	<u>Time</u>	<u>Box</u>	<u>Location</u>
IO/27/70	IO:47 A.	Phone	Vassar & Kirman
IO/27/70	3:39 P.	3-2-8-I	St. Lawrence & Lander
II/5/70	I2:I7 A.	I-I-I-3	5th & Sierra
II/5/70	6:4I A.	I-3-5-7	U. of N. Nye Hall
II/6/70	IO:34 P.	3-2-6-5	Billinghurst Jr. High School
II/IO/70	2:IO A.	Phone	II37 Silverada
II/II2/70	3:38 P.	I-2-4-2	4th & East
II/II4/70	7:23 P.	I-3-5-7	U. of N. Nye Hall
II/II7/70	I2:32 A.	Phone	U. of N. Juniper Hall
II/II9/70	4:34 P.	2-I-4-7	2nd. & Keystone
II/23/70	I2:IO A.	I-3-5-7	U. of N. Nye Hall
I2/6/70	8:27 A.	2-I-7-7	Keystone & Jones
I2/9/70	7:19 P.	Phone	I90I Citron
I2/IO/70	I:52 P.	2-I-7-7	Keystone & Jones
I2/IO/70	IO:46 P.	I-3-I-I	U. of N. Juniper Hall
I2/II/70	2:08 P.	Phone	I695 W. 6th
I2/II9/70	II:29 P.	Phone	733 So. Virginia
I2/22/70	5:29 A.	3-2-6-5	Billinghurst Jr. High School
I2/30/70	I:22 P.	2-I-7-7	Keystone & Jones
I/I/7I	I:43 P.	I-9-2-2	4th & Threkel
I/6/7I	IO:38 A.	2-I-7-7	Keystone & Jones
I/6/7I	3:48 A.	I-3-5-7	U. of N. Nye Hall
I/8/7I	7:53 A.	2-I-7-7	Keystone & Jones
I/II4/7I	IO:38 A.	2-I-7-7	Keystone & Jones
I/20/7I	IO:38 A.	2-I-7-7	Keystone & Jones
I/2I/7I	I:II4 A.	I-3-5-7	U. of N. Nye Hall
I/24/7I	5:50 A.	I-3-5-7	U. of N. Nye Hall
I/26/7I	I2:I2 A.	3-2-8-I	St. Lawrence & Lander

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<u>Date</u>	<u>Time</u>	<u>Box</u>	<u>Location</u>
I/27/7I	9:15 P.	3-2-8-I	St. Lawrence & Lander
I/29/7I	6:08 A.	I-3-5-7	U. of N. Nye Hall
2/4/7I	9:46 P.	2-I-I-4	Harolds Club
2/I0/7I	10:34 A.	2-I-7-7	Keystone & Jones
2/II/7I	12:48 A.	I-3-5-7	U. of N. Nye Hall
2/II/7I	9:06 A.	I-3-5-7	U. of N. Nye Hall
2/I9/7I	8:54 A.	I-3-5-7	U. of N. Nye Hall
2/I9/7I	I:20 P.	I-3-5-7	U. of N. Nye Hall
2/20/7I	12:51 A.	I-3-5-7	U. of N. Nye Hall
2/24/7I	II:20 P.	I-3-5-7	U. of N. Nye Hall
3/I/7I	4:25 A.	I-3-5-7	U. of N. Nye Hall
3/I0/7I	I:06 A.	I-3-5-7	U. of N. Nye Hall
3/I6/7I	4:09 P.	I-3-5-7	U. of N. Nye Hall
3/I6/7I	II:39 P.	I-2-7-4	6th & Eureka

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with the director's recommendation which shall contain a statement that the file has been reviewed and found to be in order, that the lender and its principals are responsible, reputable and knowledgeable in mortgage lending and that he recommends approval.

The director has the responsibility of maintaining a continuing review of all approved mortgagees and their practices, and of referring information to the Assistant Commissioner for Home Mortgages that may affect their further participation in FHA programs.

21123.2 Types of Institutions Which May be Approved:

The following institutions may submit applications for mortgagee approval:

- (a) Federal, State, or Municipal Agencies;
- (b) Non-profit or Charitable Organizations;
- (c) Supervised Institutions;
- (d) Non-supervised Institutions;
- (e) Loan Correspondent Institutions.

21123.3 Lender Application Requirements: Sections

203.1 to 203.6 of the Regulations deal with the approval of mortgagees, giving the type of institutions eligible and the qualifications for such approval. The approval under the above sections gives the applicant the right to make application for mortgage insurance under all sections of the National Housing Act except Title I.

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All lenders desiring mortgagee approval must file a formal application. (See FHA Form Nos. 2001, 2001c, and 2001e.) Requirements for mortgagee approval differ as to type of institution. The requirements for each of the various institutions are described as follows:

- (a) Federal, State, or Municipal Agencies:  
Any federal, state, or municipal governmental agency that is or may hereafter be empowered to hold mortgages insured under Title II is approved as a mortgagee by virtue of the wording of FHA Regulations. Each agency is requested to file a formal application (See FHA Form No. 2001), so that FHA records may be complete. Normally, such institutions are not engaged in the origination of mortgages, but function as purchasers in the secondary market on a nation-wide scale. The mortgagees shall have the necessary facilities for servicing insured loans in the locality of the mortgaged property.
- (b) Non-profit or Charitable Organizations:  
Any such organization which presents evidence (1) that it is responsible, (2) has experience in the field of investment, may be approved as an FHA approved mortgagee upon application. Although these institutions are primarily active in the secondary market, they must have the necessary facilities for servicing insured loans in the locality of the mortgaged property. A director receiving an inquiry from a non-profit or charitable organization concerning approval will supply the applicant with FHA's application (FHA Form No. 2001e) for making application as an approved mortgagee.

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- (c) Supervised Institutions: Any lending institution under the supervision of a governmental agency which is required by law to make periodic examinations of the books and accounts of the institution may be approved as a mortgagee. The lending institution shall submit satisfactory evidence of net worth in an amount not less than \$100,000.

These institutions are extensively engaged in the origination of mortgages for their own portfolios and are also active traders in the secondary market. The areas in which these institutions may operate through home offices or branch offices are generally restricted by charters and state laws and usually permission is obtained from the supervisory agencies prior to the opening of branch offices. Institutions of this kind may submit applications for mortgage insurance to any insuring office or service office. However, applications for home mortgage insurance submitted to directors of insuring offices outside the state in which the main office or a branch office of the mortgagee is located, must be accompanied by written evidence that the originating mortgagee has existing facilities for servicing loans for the state in which the mortgage security is located. The above requirement respecting home mortgage loan servicing would not apply where the main office or a branch office of the mortgagee is so

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located that a portion of a state adjoining the state in which the home office or branch office is domiciled is of such proximity that home mortgages can be satisfactorily serviced in the opinion of the director of the adjoining state.

- (d) Non-Supervised Mortgagee: Any corporation or trust not under supervision and meeting with the following requirements and conditions may be approved upon application:
1. It must be a chartered institution or other permanent organization having succession, or a trust;
  2. Its principal activity must be the lending or investment of funds under its own control in real estate mortgages;
  3. It must have a net worth of not less than \$100,000. Its assets must be adequate for and invested properly in relation to the character and extent of its operations and must be properly proportioned to its liabilities. (In order to retain approval, the mortgagee must at all times maintain a net worth of not less than \$100,000.)
  4. Experience in the mortgage origination and servicing fields and the general reputation of the principals must be acceptable to the director of the insuring office having jurisdiction;

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5. It must present evidence showing credit lines to be available either through banks or other sources to finance properly its proposed mortgage originations;
6. It must agree to submit an annual certified detailed audit of its books made by a CPA or other accountant satisfactory to FHA;
7. It must agree, except with the prior approval of the Commissioner, to segregate and deposit in a special account with a bank or banks whose deposits are insured by the FDIC that portion of the monthly payments received by it on insured loans on account of ground rents, taxes, MIP, hazard insurance, etc., and to use those funds for no other purpose than that for which they were received.

A mortgagee of this type is permitted to originate and service loans throughout the state in which its office is located; however, in those states having two or more insuring offices, consent of the other directors to have the applicant operate in their areas must be secured prior to such operations. If the office of the mortgagee is so located that a portion of a state adjoining the state in which its office is domiciled is of such proximity that



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home mortgages can be satisfactorily serviced and the mortgagee desires to operate in that territory, the director in whose area the mortgagee desires to operate shall review the request and submit the request with his recommendation to the Assistant Commissioner for Home Mortgages.

An institution of this type may conduct operations through branch offices in its home state. It may also establish branch offices in contiguous states to originate and service FHA loans. Should it desire to establish a branch office or offices in a non-contiguous state, it must have a net worth of \$150,000. For each additional non-contiguous state in which it establishes a branch office or offices, it must have an additional \$50,000 in net worth until net worth reaches \$250,000, at which time no further increase in net worth will be required if branches are opened in additional non-contiguous states. Every branch office must be maintained as a separate entity from any other local business, staffed with experienced personnel to handle its business adequately, be under the management of an officer of the company experienced in the mortgage business, have the recommendation of the director having jurisdiction and the approval of Washington Headquarters.

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Institutions of this kind may submit applications for mortgage insurance under all sections of the National Housing Act to any FHA insuring office. Applications for home mortgage insurance submitted to insuring offices outside the state in which the main office or a branch office of the mortgagee is located, must be accompanied by written evidence satisfactory to the director that the servicing of such loans will be handled by a local approved mortgagee unless the purchasing mortgagee has existing facilities for servicing loans for the state in which the mortgage security is located. The above requirement respecting the servicing of home mortgage loans would not apply where the main office or a branch office of the mortgagee is so located that a portion of a state adjoining the state in which the home office or a branch office is domiciled is of such proximity that home mortgages can be satisfactorily serviced. The mortgagee shall by letter to the director request permission to originate and service FHA-insured loans in those counties of the state which are listed in the letter. The director, prior to

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giving his approval, shall inform the Assistant Commissioner for Home Mortgages of the lender's request and ask to be advised as to whether there are any objections to his approving such request.

An institution of this type may originate or purchase insured loans for its own portfolio or for sale to any other approved mortgagees and service the same.

- (e) Loan Correspondent: Any corporation having a net worth in excess of \$5,000 in acceptable assets may be approved as a loan correspondent mortgagee. Qualifications for approval are identical to those of a non-supervised mortgagee, except as to net worth. Its approval must be requested by (1) a supervised institution doing business in five or more states and investing in insured mortgages for its own permanent portfolio, or (2) a supervised institution doing business in less than five states but able to present satisfactory evidence that it is investing in insured mortgages for permanent investment in a volume that will enable its correspondent to maintain its servicing accounts satisfactorily.

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The director of the area in which the office of the applicant is located will be requested to make an investigation of the applicant and give his comments as to approval or disapproval. Although a mortgagee of this type is permitted to originate mortgages for sale to its sponsor and to service insured loans throughout the state in which its office is located in those states having two or more insuring offices, consent of the other directors to have the applicant operate in their areas must be secured prior to such operations. If the office of the mortgagee is so located that a portion of a state adjoining the state in which it is domiciled is of such proximity that home mortgages can be satisfactorily serviced and the mortgagee desires to operate in that territory consent of the director in whose area the mortgagee will operate will be required.

Sponsorship of a loan correspondent mortgage is limited to two sponsors, except where definite evidence can be submitted to show that this number cannot absorb the output of the correspondent, in which case a third sponsor may be permitted. Further, should a situation arise where one or more of the sponsors are temporarily out of the market, additional sponsors up to the number out of the market will be permitted for a limited period of time, not to exceed one year.

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## 21123.3

The loan correspondent mortgagee is restricted in that he may originate or purchase insured loans for sale to his sponsor or sponsors only. The only exception to this rule is where the sponsor will not purchase a particular loan originated in its behalf. Such loan may be sold to an approved mortgagee other than the sponsor upon the permission of the FHA insuring office having jurisdiction.

- 21123.4 Servicing Agents: The FHA does not approve servicing agents' contracts. Servicing agents are employed by the principal to perform certain services. These services may vary in accordance with the agreement between the parties.

Servicing agents are not permitted to file or process any papers to FHA field offices. If an application for a commitment is received from a servicing agent, it is to be promptly returned by letter.

FHA imprint stamps are issued to servicing agents for use in processing transfer notices, prepayment reports, etc. For this reason, the director must make certain that an application for a commitment is from an institution approved to submit applications for mortgage insurance. Possession of an imprint stamp by an institution does not necessarily mean that it is an approved mortgagee.

- 21123.5 Authorized Agents: An authorized agent may be a corporate entity, partnership, firm, or individual authorized by a principal to act in its name and behalf in the origination or servicing of mortgages. There are no requirements as to financial worth or succession.

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GENERAL RULINGS

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21123.5

Only supervised institutions approved by FHA as a mortgagee are permitted to originate insured loans through authorized agents.

FHA must receive two copies of the resolution by which the principal grants authority to the agent. This resolution must clearly and completely set forth the authority granted to the agent, as well as specify the geographical area in which the agent will operate and whether the agent will service self-originated mortgages. In forwarding the copies to the Mortgagee Approval Section, the director may include appropriate comments in the transmittal memorandum.

~~21123.6~~ Mortgage Servicing: FHA regulations for mortgagee approval require lenders to service insured loans in accordance with acceptable mortgage practices of prudent lending institutions. The holder of the mortgage is responsible to the Commissioner for proper servicing, even though the actual servicing may be performed by a servicer for such holder. Proper servicing includes convenient facilities for mortgagors to obtain information and advice regarding the terms of their mortgage obligations, the status of mortgage payments, related mortgage requirements and the application made of funds remitted.

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FHA-Wash., D. C.