Assembly

MINUTES

COMMERCE COMMITTEE - NEVADA STATE LEGISLATURE - 58TH SESSION

MAY 2, 1975

1159

The meeting was called to order by Vice-Chairman Harmon at 3:40 P.M.

MEMBERS PRESENT: Mr. Benkovich
Mr. Demers
Mr. Getto
Mr. Hickey
Mr. Moody
Mr. Schofield
Mr. Wittenberg
Vice-Chairman Harmon

MEMBERS ABSENT: Mr. Robinson - excused

SPEAKING GUESTS: Assemblyman Dreyer
Tom Cooke, State Contractors Board
Joe McDonald, Builders Association of Nevada
John Madole, Associated General Contractors
Joe Braswell, Governor's Advisory Board on Drug and Alcohol Abuse
George Evans
Dana Coffee, Director of Churchill Council on Alcohol
Pat Bates, Bureau of Alcohol and Drug Abuse
William Reilley, Director of New Frontier Treatment Center in Fallon
Kerry Klegman, Clark County District Health Dept.
Sharon Greene, Nevada Hospital Association
Bill Huffman, Churchill Council on Alcohol and Drugs
Pat Burke, Alcoholics Rehab. Association, Inc.
Dwight B. Spencer, Churchill Council on Alcohol
Milos Terzich, ALIA and HIAA
Frank Fahrenkopf, Nevada Consumer Fin. Ind.
John Sweatt, Nevada Association of Mutual Insurance Agents
Dick Garrod, Farmers Insurance Group
George Ciapusci, State Farm Insurance
David Kuizenga, Western Association of Auto Insurance Plans
Bud Meneley, Nevada Independent Insurance Agents

The purpose of this meeting was to hear testimony on the following bills:

AB 442	AB 659
AB 464	AB 732
AB 631	AB 729

The first bill to be taken up was AB 442 which:

Enacts Nevada Consumer Credit Code.

Assemblyman Dreyer spoke on this bill. He said because of great delay in drafting this bill and because of the late date of the hearing, he did not think the time needed for this bill could be

given to it. He therefore suggested that a resolution be introduced by this committee calling for a study on this subject so that next session the bill will be ready to go and could be handled early in the session in order to allot proper time to it.

Mr. Wittenberg moved that the Assembly Commerce Committee introduce a resolution asking for a legislative interim study on whether Nevada should adopt a Nevada Consumer Credit Code. He said when the bill comes out, it should be referred to the Assembly Legislative Functions Committee. Mr. Wittenberg's motion was seconded by Mr. Moody and carried the committee.

Discussion was then taken up on AB 464 which:

Changes certain limitations on contractors' licenses.

There were no proponents of the bill present to testify.

Mr. Tom Cooke of the State Contractors Board spoke in opposition to the bill. He said this bill would prevent the Contractors Board form imposing a monetary limitation on licensees which the board has been doing for the past 15-20 years. He felt this would be detremental bill. He said by being able to impose these limitations they have been able to grant licenses to small contractors whose financial condition would not be enough to grant them an unlimited license. Even with these limited licenses, a contractor can always apply for an increase. This system has worked exceedingly well and the Board has been able to control the industry better than those states which don't have these provisions. He said this bill was inept and completely unworkable and would destroy a system that over the years has worked very well. He said if the bill was passed and bonds are required, the only beneficiaries would be the insurance companies selling these bonds. He could think of no reason why this bill was ever introduced or by whom. He added that Nevada is really the only state that has this type of law but that other states would like to institute this method. He added that under the rules and regulations of the Board, if a contractor wants to bid on a job over his limitation, he can apply for an increase in his limit for that particular job. There is a great deal of flexibility in the present system. He added that most of the licenses are unlimited. The present arrangement is at allowing the little guy to get started. Mr. Cooke said there are no limited contractors on the Board but the Board is appointed by the Governor who decides who shall serve on it. He went on to say that if the present flexible system were not in effect, many applicants for licenses would have had to be denied. He said he did not know if it was easier to get a license in Nevada but that it was a more fair system than in other states. He said Nevada's contracting law is something Nevada should be proud of and it is known as one of the best methods throughout the states.

Joe McDonald then spoke in opposition to the bill. He felt passage of this bill would create hardships not existing under the present system on contractors and those who wish to go into the contracting business.

John Madole spoke in opposition to AB 464 because the AGC feels this would take the authority to regulate from the Board and also its discretion. He felt if we have a Board, we should use it.

This concluded discussion on this measure and discussion turned to AB 631 which:

> Requires health insurance policies to provide benefits for treatment of alcohol and drug abuse.

Joe Braswell spoke in favor of the bill. He said the State Bureau of Alcohol and Drug Abuse would be accrediting programs and certifying personnel. He said these areas are recognized as growing health problems. He commented that the use of alcohol among our young people is growing and any means of payment for treatment would be a valuable thing. He said there are many statistics about the money lost by employers because of drinking problems.

George Evans also spoke in favor of this bill. He said the reason many companies have exclusions for benefits for alcohol and drugs is because there is no Nevada statute that demands that different provisions be made. He said many companies who do cover these conditions have 50% co-insurance rather than 80%. They may also have a yearly or lifetime limit or a one visit per week limit. He felt provisions for the same benefits for the diseases of alcohol or narcotism should be made as for any other illness. He said there are four states that have enacted this and four more in the process. He said he would also like to see the same third party assignability for this as there is now for doctors. In this way, the prople providing the services are assured of justifiable compensation. He said now people who have the money are getting into hospitals for these illnesses under the guise of other illnesses.

Ben Coffee said because of the lack of coverage in the State of Nevada, they do not get out of state referrals to their clinic in Fallon. He felt this bill was a good starting place.

Pat Bates then spoke in favor of the bill. She also submitted written testimony which is attached hereto as Exhibit A.

She said that if this bill was passed, alcohol will be recognized as a disease and doctors will not have to juggle their diagnosis in order to collect insurance. She said only 5% of the alcoholics are on skid row. The remaining 95% are in the upper middle class and can afford to pay for their coverage. She felt recovered alcoholics are discriminated against simply because they have admitted they have a problem.

Mr. Bill Reilley of Fallon spoke in favor of AB 631. He said the cost of treatment in their facility in Fallon is $35 per day while treatment in a hospital is about $85 per day. He added that an alcoholic should receive three different kinds of treatment. These are detoxification, recovery and follow-up. In hospitals,

an individual receives only one third of the treatment they would receive in a specialized facility although the hospital costs more than twice as much. For this reason, he did not believe adding alcoholism would increase premiums. He felt the bill a wise one because people would be dealing with the problem in an effective and complete way. He added that their center was certified and monitored by the State Bureau.

Kerry Klegman who is the manager of the Methadone Clinic in Las Vegas spoke in favor of the bill. He said the cost of treatment on a monthly basis is about $27 per week and on an out patient basis is about $17 per week excluding overhead. He added that there are about 1000 addicts in Clark County. He said to support a $50 per day habit, it requires about $150 per day in theft to buy that much Heroin and about 50% of property crime in Clark County is drug related. He added that incarceration is an expensive alternative.

Sharon Greene said the Nevada Hospital Association goes on record in support of this bill.

Bill Huffman said they go on record in support of this bill.

Dwight Spencer also went on record in support of this bill.

Milos Terzich then spoke saying ALIA and HIAA is not opposed to the purpose and concept of this bill. He mentioned a $5,000,000 grant to conduct a study on alcoholism which would be a three year study and he suggested that this legislation should be postponed until the results of this extensive study are received. He added that they feel the coverage should be optional rather than mandatory so those people who do not desire this type of coverage are not penalized by having to pay for it. This way the persons receiving the benefits are the ones paying for it. He suggested that on Line 17 on Page 2 after the word "provide" that the following words be inserted: "at the option of the applicant". On the same line, delete the word "the" just before the word "treatment" and insert "expense incurred. On page 3, Line 1, after the word "benefits", insert "at the option of the applicant". Also, in the same line, strike the word "the" before the word "treatment" and insert "expense incurred". He added that if this bill is passed, it should be included in NRS Chapters 695B and 695C also for uniformity.

This concluded testimony on this bill and discussion turned to AB 659 which:

Makes various changes in small loan law.

Mr. Frank Fahrenkopf spoke in favor of the bill and submitted written testimony which is attached hereto as Exhibit B. He added that Mr. Melnor had informed him that the State of Nevada Banking Division had reviewed this bill and supported it. There were no opponents present to speak on this bill.

AB 732 was then taken up. It:

1069

Enacts the Motor Vehicle Insurance Reinsurance Association Act.

John Sweatt spoke in favor of this bill saying that it would solve the problem of what to do with hard to place auto insurance applicants. He said because of the category they are placed in, it is easier for the higher risk to get insurance than the lesser risk applicant. He felt the residual driver should be taken care of on the State level not the Federal level. With the coming of compulsory auto insurance, we cannot ignore the ability of a driver to make his payments. The introduction of the reinsurance facility will normalize the relationship between the producer, the purchaser, and the company. The applicant will not go into a company and be told he is not eligible because of some stigma. Many companies believe the solution to this is reforming the existing assigned risk plans. He said he believes at the present time in all fairness to the public the solution would be a complet reform of the total auto insurance handling business. He added that unless some voluntary actions are taken, more and more people will become dissatisfied with the private auto insurance business as it now exists. He said much of the financial problems of insurance companies is a result of too much enthusiasm in the competitive processes and as a result, many people become hard to place risks. He mentioned that three states (Massachusetts, South Carolina and North Carolina) have passed this type of legislation. This is a model bill that is being proposed. Mr. Sweatt went on to say that the purpose of a reinsurance facility is to provide full insurance availability to all motorists at a reasonable cost. He said they accept the proposition that auto insurance is not a luxury but rather a necessity. People will no longer be subject to arbitrary and discriminatory action by individual insurance companies. He said that the fact that Nevada does not have a large number of drivers in the current auto assigned risk plan is misleading. At the present time there are a number of high risk companies who thrive by writing policies for the hard to place driver. In Nevada, there are 325,000 cars and 300 drivers are in the assigned risk plan. However, of 325,000 cars, about 67% are insured and between 2,500 and 3,000 drivers are paying up to 300% of the premium that they should be paying. He said that a reinsurance facility does not require that an auto insurance company operate at a loss but simply that cream skimming and reunderwriting practices of many companies work to the detriment of the companies themselves. He said he felt a reinsurance facility will be a giant reform of benefit to the public and the companies alike. He said some people believe Nevada does not need this type of facility and it might be true as far as being able to place a driver somewhere at some price; however, they feel that the public ought to be able to come into any agency of their choice and have a policy written at a reasonable price. If the company then determines through its underwriting that the risk is undesireable, then the risk goes to the reinsurance facility. Like many new ideas, this bill leaves some questions unanswered but there would be time to work out problems and implement a totally new idea. In conclusion, Mr. Sweatt explained that a reinsurance facility is one that involves all of the companies licensed in the State to sell auto insurance. The all share in the profit or loss of the facility. They are required to join. It will replace the present assigned risk plan.

He said an applicant will not be obliged to prove he is a good driver. The plan seems to work well in the states that have it.

Mr. Garrod then spoke in opposition to this bill. He was also speaking on behalf of Virgil Anderson of AAA. He said insurance carriers on the whole feel this would be another bureaucratic layer. It is experimental and it does have faults. With regard to "eligible risk" on Line 16 in Section 6 of the bill, he said there must be an insurable interest. The fact that a man has a valid drivers license makes it hard to know what you are insuring. He said the reckless irresponsible driver is considered an insurable risk under this plan and he felt they should not be eligible.

On Page 2, Section 8, Line 10 under definitions, this language includes all fleets domiciled in the State of Nevada which would include Wells Cargo, P.I.E., etc. However, under this bill, this reinsurance would only have to cover private passenger cars. He said in order to get coverage from Lloyds, an insurance company has to give them all their reinsurance business because they want some of the "cream" along with some of the bad insurance. Insurance companies, under this bill, would be forced to shop all over the world to get reinsurance on their extremely high risks while this facility could cream off the lesser risks.

Mr. Garrod wondered how the Board would be selected and he commented that with the passage of this bill, the average good drivers policy will increase in cost. He also commented that absolute review of this facility is given to the Insurance Commissioner but he felt the provisions on Page 4, Line 16 under Subsection 8 goes beyond the duties of the present Insurance Commissioner. He also felt this bill could take away an insurance companies right to settle its claims. He said the bill provides that the Board may audit a company but that the Board is made up of competitors. He felt Page 4, Line 31, Section 11 was a further intrusion. Mr. Garrod also commented that on Page 6, Line 6d, regarding the right to limit the amount of insurance that a member gets to reinsure a company would be required to insure someone regardless of their record and the facility could refuse to accept him so the insurance company is stuck with him. In conclusion, he felt this bill was entirely unworkable.

George Ciapusci also spoke in opposition to this bill. He said contrary to previous testimony, the reinsurance facility is not designed to result in a profit situation. He gave figures to the committee that a problem in this area of assigned risk does not exist. He said that 10% of the drivers are poor risks and under this plan, the 90% which are good drivers are subsidizing this 10%. He submitted a list of advantages and disadvantages (Exhibit C).

Mr. Kuizenga then spoke in oppostion to this bill. He commented that the three states that instituted this type of law had a very high percentage of high risks (23%). He said the Nevada plan is made up of less than 1/10th of 1% of the insured. He said there were 94 in 1974. He said it was difficult to see the need for this and commented that it would cost considerable money to put this plan into operation.

This concluded testimony on this bill and discussion went to AB 729 which:

Permits private insurance carriers to write workmen's compensation insurance.

Vice Chairman Harmon advised that this bill would be heard again on Monday.

Bub Meneley spoke in favor of this bill saying he believed it to be a solid piece of consumer legislation of benefit to all of Nevada. He said open competition allows for the lowest cost to the consumer. The employer deserves an option as to where he may buy his insurance. Nevada is one of only six states which have retained the monopolistic industrial insurance system. By allowing private insurance carriers to participate, employees and employeers would benefit from the experience and expertise gained. There would be of major importance in the areas of safety engineering and rehabilitation efforts and motivation orientation. He said this should result in improved loss patterns and decrease the probability of occupational injury.

This concluded the hearings for this date. The meeting was adjourned at 6:00 P.M.

Respectfully submitted,

Joan Anderson, Secretary

AGENDA

HEARING

COMMITTEE ON COMMERCE

Date Friday, May 2 Time 3:00 pm Room 316

SUPERSEDES PREVIOUS AGENDA POSTED FOR THIS DATE

	Bill or Resolution to be considered	Subject
	A.B. 442 ✓	Enacts Nevada Consumer Credit Code
	A.B. 464 ✓	Changes certain limitations on contractors' licenses
	A.B. 631 ✓	Requires health insurance policies to provide benefits for treatment of alcohol and drug abuse.
	A.B. 659 ✓	Makes various changes in small loan law
	A.B. 732 ✓	Enacts the Motor Vehicle Insurance Reinsurance Association Act
2	A.B. 729	Permits private insurance carriers to write workmen's compensation insurance
1	S.B. 300	Prohibits unauthorized motor vehicle repair and requires cost estimates and invoices of charges.
3	S.B. 515	Changes funeral director and embalmer licensing quailfications and increases licensing fees.
4	A.B. 697	Substantially revises condominium law.
5	A.B. 754	Substantially revises law relating to condominiums and cooperatives.

Amendment

Terzich

PROPOSED AMENDMENTS TO A.B. 631

1. Amend subsection 8 of section 1, page 2, line 17 by deleting the words "benefits for the" and insert the words ",at the option of the applicant, benefits for expense incurred".

2. Amend subsection 4 of section 3, page 3, line 1 by deleting the words "A provision for benefits payable for the" and inserting the words "At the option of the applicant, provision for benefits payable for expense incurred".

3. Amend section 695B.210 of N.R.S. to make provisions applicable to the Blues.

4. Amend section 695C.090 of N.R.S. which chapter is applicable to H.M.O. to make provisions applicable to the blues.

step in meeting the concern expressed by Congress regarding minimal standards of care. The State of Nevada has also responded to this concern by the instatement of a Comprehensive Health Planning unit under the direction of the Governor. The Bureau has taken an active interest in the Comprehensive Health Planning unit and has provided information and rendered opinion upon request.

It must be recognized that a dynamic problem area such as substance abuse requires the necessary flexibility for program innovation, accompanied by efforts to evaluate the impact of any new treatment or prevention approaches.

In view of these potentially conflicting demands, it is important to note the basic assumptions upon which the standards proposed in this plan are developed. These assumptions include the following elements:

a. It is essential that individuals seeking treatment for alcohol substance or dependence be assured of minimum standards of care and/or re-education. This necessarily calls for attention to the social-psychological aspects of substance abuse as well as medical treatment and other intervention methods.

b. Program accreditation should be viewed as a preventive aspect rather than solely as regulatory. Thus, accreditation entails the assembling of facts to determine whether a service is so planned, implemented and evaluated that a person seeking such service will receive appropriate care.

c. The accreditation procedures are not intended to be exclusively a mechanism to curtail the operation of non-complying agencies. Rather, accreditation implies a responsibility on

the part of the Bureau to provide technical assistance to bring up an agency's services at least to minimum standards. This does not imply that a program continually failing to meet minimum standards should be permitted to continue to operate on funds monitored through the Bureau. Program accreditation should be flexible enough to provide for new services and to assure that some objective evaluation mechanisms are included in the program design.

The accreditation procedures will require documentation of the need for a given facility's service as well as written assurances of cooperation with other existing alcohol, medical and/or social agencies.

Every attempt will be made to guarantee service recipients an acceptable level of quality treatment from qualified agencies and personnel without the fear of public criticism, invasion of privacy, exploitation for profit or hindrance due to overzealous regulatory efforts.

The following minimal standards are viewed as essential in the certification requirements for alcohol abuse services. It should be noted these standards are subject to further revision.

2. Accreditation Standards

a. Scope of Standards

These standards shall apply to any public or private incorporated organization, association, group or individual, offering or purporting to offer specific substance abuse treatment-rehabilitation or prevention services, and which receives or requests public funds, patient fees, third-party

payments or receives or requests funds through public subscription for the treatment-rehabilitation or prevention of substance abuse.

A substance abuse treatment-rehabilitation or prevention service which fails to be accreditated by the Bureau is not eligible to receive either State or Federal funds; however, funding will be possible on a probationary status subject to the Bureau's finding that it would appear the accreditation standards will be met by the facility in a reasonable amount of time (up to six months).

The standards enumerated herein are based on certain fundamental principals that altogether reflect the intent of the Bureau in its endeavor to guide programs in the identification, evaluation and treatment of persons who have problems related to their use of chemicals. Those principals are:

I. The primary functions of any substance abuse program are to identify, evaluate and treat persons who experience problems related to the use of chemicals.

II. A substance abuse program shall operate to enhance the dignity and protect the human and legal rights of all its patients.

III. The substance abuse program shall have a competent staff whose members subscribe to professional standards in their respective fields.

IV. The substance abuse program shall not discriminate against any person desiring treatment services or membership on the governing body or staff, on the basis of race, creed, national origin, sex or age.

V. The substance abuse program shall integrate its services with other community resources in the human service system and shall be responsive to community needs.

VI. The substance abuse program shall have clearly delineated objectives and goals for each of its components or services reflected in its written policies, procedures and organization plans.

VII. The substance abuse program shall maintain a system of evaluation through which it continually examines its goals, objectives, written policies, procedures and organizational plans.

3. Definitions

a. "Department" means the Department of Human Resources.

b. "Director" means the Director of the Department of Human Resources.

c. "Division" means the Division of Rehabilitation.

d. "Administrator" means the Administrator of the Division of Rehabilitation.

e. "Bureau" means the Bureau of Alcohol and Drug Abuse.

f. "Bureau Chief" means the Bureau Chief of the Bureau of Alcohol and Drug Abuse.

g. "Applicant" means a public organization, a private incorporated organization, association or group, or an individual applying for accreditation as treatment-rehabilitation or prevention service provider.

h. "Substance Abuser" means the ingestion of chemicals under conditions and dose levels that increase the physical, psychological, economic and social hazard potential to the user involved or to those around him.

i. "Rehabilitation" is the act of restoring a substance abuser to a state of health or useful activity through vocational or educational training, therapy and guidance.

j. "Facility" provides assistance through a therapeutic milieu to bring about major life style changes.

k. Substance abuse prevention services include but are not limited to:

1) The provision of public information and referral services to substance abusers, their families and/or the general public.

2) The provision of public intervention counseling services for current, potential and former substance abusers.

l. "Accredited organization" means any applicant that has successfully applied for and received approval or certificate of accreditation from the Bureau through the Chief.

4. Requirement for Accreditation

To secure and retain a certificate of accreditation as a substance abuse treatment-rehabilitation or prevention service, each applicant shall comply with the following standards and conditions:

a. An applicant organization applying for a substance abuse service certificate of accreditation shall be licensed to do business in the State of Nevada and be a part of an incorporated organization.

1) Copies of the Articles of Incorporation and By-laws shall be furnished with the application for accreditation.

2) Duties and responsibilities of officers and key employees shall be defined in writing.

3) Policies, principals and guidelines governing the programs' operations shall be provided in writing.

b. A private nonprofit organization accreditated to provide substance abuse services shall be in complete accordance with Nevada Revised Statutes.

c. An applicant shall demonstrate that it is able to meet substance abuse service needs of potential service recipients in the geographic area it intends to serve. The geographic area shall be designated in the applicant's statement of purpose. Proof of such need shall be furnished to the Bureau prior to issuance of the initial certificate of accreditation to operate and shall include:

1) Evidence of a need for the service to be provided to a particular group of people in the geographic area.

2) Assurance that the organization will be used by referral sources and that a relationship of cross referral exists between it and other local resources.

3) Evidence of compliance with the legal requirements of State, county and city statutes.

4) Evidence of cooperation with existing treatment, social and medical resources.

d. An accredited substance abuse treatment facility employing volunteers as counselors shall include evidence of professional supervision of the volunteers.

e. An accredited substance abuse facilities organization shall provide for the routine inservice training of all volunteer and employed treatment staff and be able to provide evidence of such inservice training.

f. An accredited substance abuse facility shall provide evidence of an agreement with a community hospital for emergency medical treatment.

g. Accredited substance abuse treatment facilities receiving public funds should have an intake procedure structured so that no applicant or potential applicant is denied services solely on the basis of being a substance abuser. P.L. 91-616, Section 321, states that in such cases federal monies would be withdrawn from the organization.

h. The organization shall develop and shall identify a person or persons to administer the following fiscal policies and procedures:

1) The recording, handling and disposition of all incoming monies, donations, etc., including the granting of receipts.

2) The budgeting and allocation of funds, including maintenance of appropriate ledgers and securement of receipted bills for case payments or expenditures.

3) The Bureau through the Chief shall have the right to review and examine the organization's fiscal records for substance abuse treatment and prevention services.

i. The organization shall maintain current records of all gifts, grants, patient fees and donations of money, supplies, equipment, negotiable instruments, etc. Receipts should be issued

as a matter of policy. Further, the organization shall review and conform to all tax rules and regulations pertaining to fund raising activities for tax exempt status.

j. A copy of each application for Federal, State and other public funding shall be concurrently submitted to the Bureau for review and comments.

k. An organization accredited as a substance abuse treatment facility or prevention agency shall provide reports and maintain records as required by the Bureau. Patient records shall include but not be limited to:

1) Individual treatment plans including goals and objectives.

2) A continuing assessment of individual progress, and update of treatment plan.

3) Patients should participate in formulation and evaluation of treatment.

4) Provision for appropriate family evaluation should be made.

5) Discharge summaries and final evaluations shall be made in terms of progress toward goals and objectives set forth in the treatment plan.

6) All patients' records are confidential except as authorized specifically by the Bureau for legally authorized data collections.

l. Applicants shall submit a written statement of program goals and objectives to be used by the Bureau as the basis for Program Evaluation and shall agree to cooperate fully with the Bureau in evaluation of services and data collection.

m. An organization accredited facility shall report changes in address, types of services provided, agency director, board of trustees and personnel responsible for the direction of services to the Bureau within fifteen days of such changes.

n. There shall be written policies and procedures designed to enhance the dignity of all patients and to protect their rights as human beings. Specific comments shall include but not be limited to:

1) Protection of legal and human rights.

2) Explanation of risks involved with the use of chemicals or procedures.

3) Guarantee of patient's rights to communication, opinions, recommendations and grievances and procedures for responding.

4) Guarantee of privacy.

o. The program shall establish an environment that enhances a positive self image of the patient and preserves human dignity. Specific comments should be made concerning patient clothing and personal belongings including articles of personal grooming.

Applicants for certification shall address themselves to NRS, Section 449 and demonstrate compliance with State Health and Safety Requirements.

p. Applicants shall submit written personnel policies and procedures and performance standards as well as details of evaluation procedures and salary schedules.

q. All medication shall be carefully controlled in accordance with NRS.

r. Applicants shall specifically address themselves to a plan for patient after-care to insure that patients who can benefit from a level of continued contact with a program will receive appropriate continuing attention.

5. Procedure for Accreditation

a. An applicant for accreditation shall submit the following information on forms provided by the Bureau.

1) The name and address of the applicant.

2) The names and addresses of the executive director and the fiscal officer of such substance abuse service organization.

3) The names and addresses of the members of the board of directors, or advisory boards of such organizations.

4) The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the organization has a direct referral agreement shall forward a confirming letter designating a continuity of care agreement.

5) A description of the nature of intervention services used by such organization, describing the program goals and objectives, a description of the service methodology and a description of the staff organization in light of such goals, objectives, methodology and evaluation criteria.

b. Upon application for accreditation, the applicant will receive notification of approval or denial or request for additional information within 90 days after receipt of the application by the Bureau.

c. Upon receipt of the completed application form, the Bureau may conduct an extensive site visit to determine whether all of the requirements for accreditation have been met.

d. Upon receipt of the application for accreditation, the Bureau may issue a probationary certificate of accreditation which shall be in force for not more than six months from the date of issuance unless revoked by the Bureau Chief. A probationary issuance is not-renewable.

e. A certificate of accreditation is valid for one year. Application for the renewal shall be made at least sixty days before expiration of the certificate submitted on forms provided by the Bureau.

6. Denial of Application for Accreditation

a. Whenever the Bureau Chief determines that an applicant's request for accreditation of its substance abuse service program should be denied, the Bureau Chief shall notify the applicant, by registered mail, return receipt requested, that the Bureau Chief intends to deny the application.

b. Such notice of intention to deny accreditation shall contain a brief statement explaining the specific problem areas that need to be corrected to bring the program to certification standards. Thirty days will be given to correct the deficiencies. If the deficiencies are not corrected within thirty days, the applicant is not eligible to reapply until six months after the thirty day period has passed.

EXHIBIT B

1178

TESTIMONY OF FRANK J. FAHRENKOPF, JR., REGARDING AB 659

A. INTRODUCTION

At the end of 1973 (the most recent Nevada Department of Commerce Banking Division Report), there were 74 offices serving nine Nevada cities licensed and operating by authority of the Nevada Installment Loan and Finance Act. During 1973, these offices made more than 53,000 loans to the people of the State of Nevada. The licensed companies paid $185,270.00 in Nevada taxes and license fees that year.

In any discussion of the Nevada Installment Loan and Finance Act, it is important to bear in mind the declaration of legislative intent relative thereto that is set forth in NRS 675.030 a copy of which I have appended to this presentation as Exhibit A. You will note from an examination of Exhibit A that the Nevada State Legislature found a number of specific conditions to exist which mandated the passage of the Installment Loan and Finance Act:

1. A widespread demand for loans repayable in installments, which loans may or may not be made on substantial security;

2. The danger for the unscrupulous to prey upon potential borrowers;

3. That the expenses of making and collecting installment loans are necessarily high in relation to the amounts lent;

4. That legitimate lenders are inadequately compensated under the general interest statutes of the State when making such loans; and

5. That it is the purpose of the Act to provide for loans that are just and reasonable to the borrower and lender and which permit a fair return to those engaged in such business.

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

In line with the above comments as found by the 1959 Nevada State Legislature, it is also important to identify the people who the consumer finance industry serves in this State. As the population of our State has grown, and as inflation has taken its toll, the demand for money has increased substantially. Those people obtaining loans or attempting to obtain loans under the Act are generally people with marginal credit and limited collateral. These people are generally unable to qualify for bank or other loans and are, therefore, high risk prospects. Due to their usually urgent need for funds, they are particularly susceptible to high-raters and loan sharks who have been known to charge up to 50 percent interest per week and higher. The foregoing statements were confirmed in the report of the National Commission on Consumer Finance entitled "CONSUMER CREDIT IN THE UNITED STATES."

> ". . . Borrowers at finance companies are likely to be in a higher risk category than borrowers at the other institutions and will pay a correspondingly higher rate for the credit service. . . . Finance companies can generally serve some borrowers who cannot be served under the rate ceilings governing other institutional sources of credit. Potential borrowers who cannot be served by finance companies, must either forego credit or seek a source which provides credit at even higher prices - pawn shops and illegal lenders, for example." (Consumer Credit in the United States, page 128)

B. Rates

1. Need for Proposed Increase

An analysis of the consumer finance industry in the State of Nevada from the standpoint of rate structure, as compared to that of other states in the United States, clearly indicates that Nevada lags far behind. In the report "Consumer Credit in

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

the United States," it was reported that the average price of small loan credit in the United States is 25.88 percent. An analysis in the 1973 report of the Nevada Banking Division indicates that the average price in the State of Nevada is 19.44 percent; almost 6-1/2 percent less than the national average.

Another significant factor is that there has not been a rate increase under the Installment Loan and Finance Act since 1959. In 1959, when the present rates were established, the loan prime rate was 4.5 to 4.75 percent. As most of you are aware, the prime lending rate during 1974 rose to 12 percent but has subsequently dropped to somewhere in the neighborhood of 8 or 9 percent. The point I am attempting to make is that when the present rate structure was set forth with the intent as indicated in NRS 675.030 to "permit a fair return to those engaged in such business," the prime rate was one-half of what it is today and almost one-third of what it was during 1974. In other words, there has not been an increase in rate in 16 years while it is clear the cost of money and operation to the finance companies has gone up substantially. In this regard, to indicate how the cost of doing business has risen, the reports of the Nevada Banking Division indicate that the average cost of handling an account per month has risen from $8.45 in 1968 to $11.69 in 1973. Exhibit B which I have appended to this presentation, is an analysis of the years 1970, 1971, 1972 and 1973 with regard to an analysis of gross income less operating expenses which reflect a net income to the companies operating in Nevada under the Nevada Installment Loan and Finance Act. You will note from an examination of the Exhibit that the total net income has decreased from 1970 wherein net income averaged 1.31 percent of the total loans outstanding of $31,567,915.00 to 1973 where

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

C1

the companies in question had a .31 percent loss against loans outstanding of $52,652,692.00. You will also note from the chart that the licensed companies in Nevada also lost money in the year 1972. In summary, the official reports of the Nevada State Division of Banking indicate that expenses for licensees operating under the Nevada Act have risen 64 percent from $4,417,987.00 in 1968 to $7,248,449.99 in 1973. During the same period, the U. S. Department of Labor reports that the Consumer Price Index has only risen 33 percent from 104.2 in 1968 to 138.5 in 1973.

Another reason other than the higher cost of money to the finance companies that might explain the net income deficit in Nevada, relates to the number of bankruptcy cases filed in this State. Exhibit C appended hereto is an analysis of the bankruptcy actions commenced and terminated in the State of Nevada from 1968 through 1974, and a comparison of the Nevada figures to the national average. Exhibit C clearly reveals that the number of bankruptcies in Nevada per 100,000 population is almost three times the national average. The effect of the reduced net income on companies operating in Nevada has been so disastrous over the last two years, that over 10 offices have been forced to close; six in the Las Vegas area and four in the Reno area. It is respectfully submitted that in view of the above indicated facts and figures and the realization that no increase in rates under the Nevada Installment Loan and Finance Act has been made in the last 16 years, the requested rate increase in AB 659 is justified.

2. Analysis of Proposed Increase

On Exhibit D appended to this presentation is a

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

chart comparing the rate presently in existence in the Nevada Installment Loan and Finance Act (NRS 675.290) as compared with the rates which would be in effect upon passage of AB 659. The chart reflects that the proposed rate increase affects only medium size and larger installment loans. On smaller loans, up to $200.00, the proposed rates result in a reduction in cost. For an example, the monthly payment on a $1,000.00 loan for a period of 12 months would be increased from $93.83 a month to $96.53 a month or in other words, an increase of $2.70. A $1,500.00 loan for 12 months would result in an increase from $97.17 a month to $100.98 a month, an increase of $3.81. A loan of $100.00 for 12 months would result in a reduction in the monthly payment from $10.08 a month to $10.04 a month. An important point to be brought out by examining Exhibit D is that if an individual has borrowed $100.00 and would be charged an annual percentage rate of 36 percent, that borrower does not, in fact, pay $36.00 for the loan. The actual cost of the loan to him is only $20.48 because of the decreasing loan balance.

It is interesting to compare the existing rate-structure with that allowed under the Nevada Retail Installment Act (Chapter 97 of the Nevada Revised Statutes). Under that Act, retailers can charge on their revolving charge accounts up to 1.8 percent per month interest which computes out to an APR of 21.86 percent per annum. There is no loan ceiling for retailers, and they are, of course, unregulated lenders in the State of Nevada. Also by comparison, pawn brokers in the State of Nevada are allowed to charge and receive interest at the rate of 4 percent per month for money loaned for a total of 48 percent per annum (NRS 646.050).

There are presently 34 states in the United States

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

that have a higher rate of interest charge under their installment loan and finance acts than the State of Nevada, and these states include all the states that surround Nevada in the Western United States, namely Arizona, California, Colorado, Idaho, Oregon, Utah, and Wyoming. The requested rates in AB 659 are identical to the rates of charge presently being made in Idaho, Utah, Wyoming, Colorado, and Kansas. In view of the above, it is respectfully submitted that the proposed rates are reasonable and should be approved.

C. Second Mortgages

In addition to adequate rate ceilings, security offered by the borrower is another important factor in determining the availability of credit to the public. Licensees under the Nevada Installment Loan and Finance Act are the only financial institutions in the State which are prohibited from making real estate loans. In addition, all the Western States that surround Nevada allow finance companies to make real estate loans, namely Arizona, California, Colorado, Idaho, Oregon, Utah, and Wyoming. When the Nevada law was originally passed in 1959, the maximum amount a licensee could lend was $2,500.00, and it was apparently felt at that time that this small sized loan need not be secured by a mortgage on real estate. Subsequent Nevada Legislatures, however, have increased the maximum that may be lent to $10,000.00, and for loans of this amount, second mortgages on real estate are a major determining factor in whether or not a loan will be granted or refused. If a prospective borrower is unable to obtain a loan from a regulated finance company because he does not have adequate security, he is either forced to go to a loan shark or to go to a second mortgage broker because in addition to being unable to

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

obtain the loan at a finance company, such marginal loans will not qualify for bank rates. Since mortgage loan brokers in Nevada are really not supervised, official statistics for this State are difficult to assemble. However, a recent study by a Senate Subcommittee in the State of California points out that broker's commission of 20 percent is not uncommon. Balloon payments due after the expiration of the term are common. The study reports that balloon payments average $1,161.00 the re-financing of which triggers an entirely new cycle of brokerage fees, interest charges and more balloon payments. These practices are further aggravated by the prominence of high pre-payment penalties and of late charges used now for revenue purposes rather than as a servicing tool. I am enclosing with this presentation as Exhibits E, F and G, newspaper articles from the Los Angeles Times, Las Vegas Review Journal, and Nevada State Journal indicating some of the problems and abuses that have been prevalent in the unregulated second mortgage money market. A solution to these problems and abuses would be allowing small loan companies which are closely supervised by the Nevada State Banking Division, to secure loans by second mortgages. In addition, the additional flow of money into the marketplace should spur additional construction hopefully providing for improved employment in the trades.

D. Consumer Price Index

AB 659 also proposes to build into the Nevada Installment Loan and Finance Act a Consumer Price Index automatic increase. The application of the Consumer Price Index would be limited to the $300.00 and $1,000.00 loan amounts set forth in subsection 2 of section 6 of AB 659 commencing on line 22 on page 2.

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

The purpose of tying these amounts to the Consumer Price Index as has been done in Idaho, Utah, Colorado, Wyoming and other states, is to allow for economic factors in the industry without having to come back to the Legislature each two years requesting rate increases or modifications.

In conclusion, it is respectfully submitted that AB 659 is a reasonable and fair bill, and is in the best interest of the Nevada consumer, and should be given favorable consideration by this Committee.

SANFORD, SANFORD, FAHRENKOPF & MOUSEL
ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

675.030 Declaration of legislative intent. The legislature finds as facts and determines that:

1. There exists in this state a widespread demand for loans repayable in installments, which loans may or may not be made on substantial security. This demand has been steadily increased by many social and economic factors. The scope and intensity of this demand permits the unscrupulous to prey upon such potential borrowers.

2. The expenses of making and collecting installment loans are necessarily high in relation to the amounts lent and legitimate lenders are therefor inadequately compensated under the general interest statutes of this state when making such loans.

3. The need of legislation is especially apparent in the area of loans of $10,000 or less.

4. It is the purpose of this chapter to bring under public supervision those engaged in the business of making loans of $10,000 or less; to attract adequate commercial capital to the business, so that the demand for such loans may be satisfied; to establish a system of regulation for the purpose of insuring that charges for such loans be established which are fair, just and reasonable to the borrower and lender and which permit a fair return to those engaged in such business; and that there will be established in this state an adequate, efficient and competitive installment loan and finance service.

EXHIBIT A

ANALYSIS OF INCOME AND EXPENSES

of

NEVADA'S CONSUMER FINANCE INDUSTRY

EXHIBIT B

	1970	1971	1972	1973
LOANS OUTSTANDING:	$31,567,915	$37,814,962	$44,659,477	$52,652,692
TOTAL GROSS INCOME AS A PERCENTAGE OF LOANS OUTSTANDING:	23.03%	22.48%	20.40%	19.81%
TOTAL OPERATING AND INTEREST EXPENSE:	21.72	15.81	20.46	20.12
NET INCOME:	1.31	.67	(.06)	(.31)

BANKRUPTCY CASES COMMENCED AND TERMINATED[1]

NEVADA

	Pending	Commenced	Terminated	Pending	Number per 100,00 Population Nevada (2)	Number per 100,000 Population U. S. (2)
1968	1106	1305	1292	1119	N/A	N/A
1969	1119	1344	1300	1163	282	85
1970	1163	1264	1263	1164	260	88
1971	1164	1448	1242	1370	272	89
1972	1370	1341	1410	1301	241	80
1973	1301	1183	1227	1257	198	74
1974	1257	1384	1500	1141	244	81

EXHIBIT C

(1) Tables of Bankruptcy Statistics - Administrative Offices of the United States Courts - Washington, D. C.

(2) National Consumer Finance Association - Division of Research Services - Washington, D. C.

EXHIBIT D

NEVADA YIELDS

Amount Financed	12 Months		36 Months		60 Months	
	Present	Proposed	Present	Proposed	Present	Proposed
$ 100	36.72	36.00				
200	36.72	36.00				
300	33.40	36.00				
500	28.70	33.00				
1,000	22.50	28.00	22.20	27.50		
2,000	18.50	23.10	18.40	22.70		
3,000	17.70	20.80	17.70	20.40		
4,000			17.70	19.20	17.30	18.90
5,000			17.70	18.40	17.40	18.20
7,500			17.70	18.00	17.50	18.00
10,000			17.70	18.00	17.60	18.00

B

1190

Second Mortgage Firms Under Fire

Critics Say New Law to End Only Some of Abuses

Los Angeles Times
Outlook
Business & Finance
PART VII
SUNDAY, NOVEMBER 11, 1973

BY JOHN A. JONES
Times Staff Writer

There's money in your home, the ad in the TV magazine says. We can wrap all your debts together and get your monthly payments down to a fraction of your present bills, the ad says, just by tapping the equity you've built up in your home.

The companies that run those ads are called mortgage loan brokers. They're called a lot of other things by legislators and consumer crusaders who picture the brokers as suede-shoe bandits who drive little old ladies out of their homes. They trap unsophisticated borrowers in a web of exotic financing charges and fine-print finagling that can lead a homeowner deeper into debt after months of payments, the critics contend.

Understandably, the brokers deny this. There may be a few bad apples, as in any business, they say, but they note they help a lot of people who can't get a loan elsewhere.

Some of the abuses charged against various mortgage loan brokers will be outlawed Jan 1 when a reform measure, signed by Gov. Reagan in September, takes effect. The measure limits the fees and late charges brokers may add on to such loans and it will put limits on the practice of setting up a loan with a big "balloon" payment still owing after months of regular payments have been made. (In some cases documented by California state officials, the balloon payment is almost as big as the original loan.)

The new law has been praised by Robert W. Karpe, California real estate commissioner, whose department regulates mortgage loan brokers, and by some industry spokesmen who are anxious to improve the image of their business.

Some legislators and consumer lawyers—including one of the originators of the state legislation—are not satisfied with it, however. They say the law doesn't go far enough and that the Department of Real Estate is not really trying to control the abuses of the business.

The basis of this type of loan is the equity built up in a home through payments on the first mortgage. If a homeowner has paid a mortgage down to $10,000 on a home worth $20,000, he's got $10,000 equity and a loan broker will arrange a loan of up to $10,000 to be secured by a second trust deed on the home. If the borrower defaults, the home can be sold to pay off the lender.

Unlike a bank, savings institution or finance company, a mortgage loan broker is not lending his own money. In theory his job is to find a lender for each borrower. In addition to the interest paid to the lender (limited to 10% under the state usury law) the broker himself charges a commission of up to 15% for arranging the loan.

The broker can levy a lot of other charges, too.

A study by the California Department of Corporations showed total expenses of $1,044.60 to set up a loan for $5,400. Charges were levied for appraisal and escrow fees, credit clearance, notary fee, drawing documents, title charges, recording fees, fire and credit life insurance as well as the broker's commission. Since the charges were deducted from the loan principal, the borrower received only $4,355.40 in cash. After 36 monthly payments of $100, there was a balloon payment $3,102 still owing.

Critics of the mortgage-broker loan say many borrowers are unable to

Please Turn to Page 2, Col. 1

EXHIBIT E

make the balloon payment—and have no choice but to take another loan to pay it off. When that happens, the borrower has to pay the broker's commission and other fees all over again.

The standard mortgage loan disclosure statement approved by the California Department of Real Estate makes all this very clear; there's even a printed box on the front page, labeled "Caution to Borrower."

Some borrowers have found themselves in terrible trouble, just the same, because of heavy charges for late payments. The late charge may be as much as 1% of the loan principal—almost equal to the payment itself—until the new law takes effect. Under the new law, the limit starting next year will be 10% of the installment due and a late charge can be levied only once for any one late payment.

In the past brokers also could "pyramid" the charges. If a borrower missed his February payment, for example, but paid in March, the March payment and all subsequent payments would also be tagged "late" or incomplete because the late charge had been deducted from the payment when it arrived.

That way, high late charges were added each month and the big balloon payment at the end of the loan was inflated even further. Investigators say some borrowers didn't even know they were being charged for late payments and wound up owing a final payment of more than they originally borrowed — even after months of payments.

And if a loan was refinanced before its full term had run, heavy prepayment penalties were often added and made part of the new loan. The new law includes a formula for limiting such prepayment charges.

Brokers also have been accused of forcing creditor life insurance and fire insurance on borrowers as a condition of the loan—sometimes from companies affiliated with the broker. The new law prohibits forced insurance sales.

Finally, some brokers have been accused of lending their own or their relatives' money instead of finding an independent lender. If that happens, as charged in a number of court cases, the broker is collecting a commission for a matching service he did not perform and the more than the usury law limits.

Peter Wallin, a Los Angeles lawyer and former Legal Aid staffer who has studied the mortgage loan business, said most of the brokers he has encountered "do have a fairly enlightened approach—they don't want to take a homeowner's property." But there are some in the business, he added, who "see a $10,000 equity and set out to steal it."

Sometimes the broker will simply lose patience with a deadbeat borrower and sell the note to someone who specializes in buying up foreclosed property.

"They take shortcuts," said Wallin. "They sell the defaulted note to a speculator and some of those speculators will employ almost any trick to get the property."

Although most of the loan brokerage business is handled by about 20 big companies that specialize in it, there are about 190 loan brokerage companies in the state and more than half of them are in Southern California. Any licensed real estate broker may also function as a loan broker, however, and many of them do so at least occasionally.

The total business in California turns over about $150 million a year in loans, interest and other charges, according to a report issued last May by the Real Estate Research and Action Project, a volunteer student and citizen group sponsored by State Sen. Mervyn M. Dymally (D-Los Angeles), a leading campaigner for reform.

The report cites several cases of gross abuse, including that of Mrs. Belle Shaw, an 81-year-old Sausalito widow who originally borrowed $1,400. After her original loan went through five refinancings she would up with a debt of $27,096, was obligated to pay a total of $19,670 in commissions, expenses, fees and interest in return for having borrowed a total of $7,426.

She also lost her home, in which she had $27,000 equity before she arranged her loan, the report said.

The most startling conclusion of the report, however, was this: "The Department of Real Estate is not adequately regulating the industry; it has little grasp of the scope of the industry and its operations; makes little effort to seek out aggrieved borrowers and offer assistance; is strongly influenced by the real estate interests which it is supposed to be regulating; has proposed little legislation aimed at halting the abuses."

Dymally's researchers recommended that the department's authority over mortgage brokers be transferred to the Department of Corporations or some other agency.

The report said the DRE, based on the department's own records, pursues few cases and imposes only mild penalties, usually brief license suspensions, on those rare occasions when brokers are found guilty of violations.

Commissioner Karpe, like his predecessors, came to the job from the real estate industry. He was president of the Karpe Real Estate Center, a Bakersfield firm which his father owns.

Karpe said in an interview, however, that his interest in the Bakersfield business—which arranges real property loans, among its other business—is being held in a blind trust while he serves as commissioner.

By law, Karpe pointed out, the real estate commissioner must be someone who has held a real estate broker's license for five years.

His staff, he said, is doing the best enforcement job it can—and with the new legislation that takes effect next year it will be able to do even better.

"If you check with people in our department, with responsible people in the Legislature, with major mortgage loan brokers — people who are not grinding some sort of political ax—I think they will say our enforcement posture is as strong as we can make it," Karpe said.

The new legislation, he said, is "the most meaningful in years. We helped plan it, and we pushed it from beginning to end."

It is, in fact, the first legislation of any significance since 1955 as far as mortgage loan brokers are concerned, according to Dymally's staff. There have been attempts to reform the industry before but the powerful real estate lobby overcame them all until this year, Dymally's people say.

Even the 1973 legislation was so watered down in its final form, Dymally claims, that he decided to withdraw his name as a sponsor, leaving the bill under the authorship of Sen. James Whetmore (R-La Habra).

Dymally was invited to speak at the first organizational meeting of a trade group called California In-

B

Los Angeles Oct. 24.

When the first "reform" statute was passed in 1955, he recalled, the restrictions—including a ban on balloon payments — applied only to loans of three years or less.

"The response from the industry was predictable," said Dymally. "The vast majority of loans are now written for 37 months or more."

The new legislation prohibits balloon payments on loans of less than six years.

"I am forced to the unhappy prediction that the 73-month loan (six years and one month) will become the new norm for the mortgage broker industry as the result of our halfhearted attempt at reform this year," the legislator said.

"This means that the balloon payment will still be plaguing the poor, and that six-year balloon payment will probably be at least twice as crippling as the three-year version that is now causing lifetimes of debt and the loss of homes."

Dymally wanted to ban the balloon altogether, and make other restrictions much tougher. He promised to try again.

Gary Judis, President of Capitol Home Loan Co., Los Angeles, and president of CIMBA, stoutly defended his industy in an interview last week.

He said Dymally's preoccupation with balloon payments and the poor may be "somewhat subjective"--and other industry spokesmen back him on that. Not all mortgage loans are made in poverty-stricken areas to people who may be ignorant of the finer points of finance, they say.

"You'd be amazed at some of the people who borrow from us," one broker said.

Judis stressed that the industry has got to overcome an "image problem" which may result in part from obsolete attitudes about the evils of borrowing money.

Banks, savings and loan firms and even the Veterans Administration foreclose when their loans aren't repaid, he pointed out.

The new trade group, Judis said, will be a successor to the old Mortgage Brokers Institute which represented the business in the past but which has eroded in recent years.

Union Home Loans, the biggest broker in the business, is a member of CIMBA but dropped out of the MBI some time ago, a Union spokesman confirmed.

CIMBA, armed with a 10-commandment code of ethics which binds its members to lofty standards of business conduct, must do battle, said Judis, with "those who would seek to carry the banner of consumerism to excess."

Anyway, Judis said, "if our product wasn't desirable and didn't fill a need, how could we have grown so much in the past decade?"

Nevertheless, he said, he supports the new legislation. When it takes effect, "99% of the grievances against the mortgage loan brokerage community will have been eliminated."

Judis defends the balloon payment as a valid way out of a temporary financial bind. The second trust deed often taken by a homebuyer to scrape together his down payment usually has a balloon at the end, he pointed out, "and it serves a good purpose: if there were no balloon the payments would be higher and the buyer couldn't afford to buy the house.

"Why not do the same thing here?

"Our customers usually want to consolidate their bills because of a temporary emergency such as illness or layoff from work. If a mortgage broker can refinance down to $75 a month from a total of $125 or $150, hasn't that balloon payment served a purpose by giving that borrower a breather, a chance to get his economic house in order?"

Judis said most of his firm's loans run five years now, but "soon they'll all be six years or more."

That's not because the firm is stretching its loans to get around the ban on balloons, Judis said, but because borrowers want to keep their payments as low as possible.

A fully amortized loan (which is paid off in full with roughly equal payments and no balloon at the end) is easier to place with the investors (many of them elderly people) who put up the money for the loans, Judis said.

Whether Judis or the reformers are right, it seems likely that loans of six years or longer will become the norm for the industry--leaving room for balloon abuses and other hazards.

1193

B

24—Las Vegas Review-Journal—Sunday, December 29, 1974

BBB warns against 2nd mortgages

Homeowners whose debts exceed their capacity to repay their first mortgage may be attracted by the advertising of second mortgage brokers which is spreading like wild-fire throughout our community.

The Better Business Bureau states there are substantial and responsible firms and individuals engaged in the business of making second mortgage loans and this article is not intended as a criticism. Rather, it is intended to aid the home owners in obtaining necessary information about the obligations they assume in their transactions with money-funding intermediates.

The advertising tactics employed by these new mortgage brokers are reminiscent of those used by "debt pooling" firms whose activities have now been placed under a strong degree of regulation by the State of Nevada.

Many of these second mortgage brokers who purport to offer over-burdened homeowners an easy way out of their financial troubles do not lend money themselves. The names adopted by some of the concerns suggest they are "investment" "finance" or "mortgage" companies. Seldom do they engage in any of these functions. They are simply brokers who arrange with lenders to lend the money to the homeowner.

Banks, savings and loan associations, personal finance companies and most other lending institutions are governed by Federal and State laws for the protection of the public. However, second mortgage brokers do not have such stringent regulations, although they do require a State and local license and bonding ($50,000). Properly licensed real estate brokers are exempted along with brokers registered with FHA. They may charge any fee (points) they wish for arranging a loan. Frequently, these "brokers" lead a precarious existence, often the only address given in the advertising may be a post office box, or a telephone number which, upon investigation, proves to be that of a telephone answering service. This is a convenient way to cease their operations and leave a trail of over-charged victims in their wake.

Many homeowners seem to be confused as to the amount of "interest" they are being charged on their loan. Actually, the interest rate is within legal limits. What those people do not understand is that, in addition to the money they will receive, charges for various service fees also become part of the total loan. Most notable is the broker's "placement" or "money finders" fee which can be quite substantial. In addition, the second mortgage broker will frequently demand an initial deposit for investigating a loan application and this deposit is not refundable if the application is turned down. There may also be an appraisal fee, an attorney's fee, fees for photographs, fees for "searches", "preparation of instruments," "recordings," etc. Even if the loan itself is paid off in advance none of these charges are refunded or pro-rated. The net result is total loan which, in most cases reported to the Better Business Bureau, is approximately double the amount the borrower received.

In most cases, according to the Better Business Bureau, the best protection to the home owner against questionable second mortgage brokers lies in the homeowners willingness and determination to investigate thoroughly before he signs any contract. He should make inquiry of the BBB to determine what facts they have on a particular mortgage broker and his methods of operation. He should also make inquiry of the financial institution that holds the first mortgage on his home. They may not be authorized to make a second mortgage loan but may be able to refinance the first mortgage or refer the customer to a reliable source of second mortgage money.

Above all, the homeowner, who is deeply in debt and desperately searching for a way out, should never sign any blank papers. He should never sign any document until he has read it carefully and is sure that he fully understands its meaning and implications. He should be sure that all fees and charges are listed and understood by him. If he is in any doubt, he should consult an attorney of his own choosing.

EXHIBIT F

1196

B

Nevada State Journal
May 9, 1974

Mortgage Firm Law Disputed

CARSON CITY (UPI) — The 1973 Nevada Legislature passed a law to license mortgages companies in an effort to protect the public against misuse of their funds.

But the law isn't helping much, according to officials of the State Commerce Department.

The law is so full of loopholes that of the 300 companies and individuals in the mortgage business, only 12 are licensed. The others don't have to register or be licensed because of the many exemptions granted by the law, officials said.

"We didn't ask for this bill," says State Commerce Director Mike Melner. There is no doubt revaluation is needed, he says, but the present law is inadequate.

One major problem with mortgage companies is they can misapply impounded funds of the customers. For instance, the homeowner pays in taxes and insurance to the mortgage companies, which in turn are supposed to take care of the payments to the county assessor and the insurance company.

But there have been complaints both in the past and recently that these mortgage companies are late or actually fail to pay the property tax or the insurance premiums.

This can be disastrous for the persons whose home burns down and then finds himself uninsured," says Melner. Or a person can be facing a property tax delinquency through no fault of his own.

Melner and his staff say the mortgage firrs contend that a mixup in the computer program sometimes is to blame for the late or nonexistent payments.

In another case, a man in Las Vegas involved in theee mortgage business lied to his investors and to his borrowers and then went bankrupt, according to state officials here. There was nothing that could be done to protect the investor.

A mortgage firm is exempt if it has Federal Housing Authority approval. But Melner says the FHA doesn't conduct audits or supervision to see the funds are being administered properly.

"The FHA doesn't have a policy of examining," he said. A mortgage firm or individual is exempt from the law if it has a state real estate or insurance license. In these cases, the real estate or insurance divisions look only at the problems in their respective fields and not at mortgage finances.

Another problem is that California has just adopted a strict mortgage code. Melner said when a sister state tightens up, then the neighboring state becomes a "dumping ground" for the questionable company or individual dealing in mortgages.

EXHIBIT G

EXHIBIT C

1195 AB732

REINSURANCE FACILITY

DISADVANTAGES

1. It is said to discriminate against 90% of the public for the benefit of 10%.

2. Eliminates any form of risk selection.

3. Creates the illusion that there is no residual market.

4. Disrupts the competitive nature of the business. Competition is eliminated or at least seriously eroded by forcing rate to or closely at common level.

5. Homogenizes the market. Unable to determine costs of the residual market.

6. 100% subsidy of the residual market despite evidence through opinion studies that the majority of the driving population object to paying the same rate as the high risk driver.

7. The mechanism is expensive to operate. Canadian Facility cost is $3.05 per vehicle. Western Association of AIP cost is about 75¢ per vehicle.

8. Difficult to establish and maintain ceding control.

9. Difficult to police company activity.

10. Consumer service controls are impossible to maintain.

11. The more efficient companies are penalized for their efficiency.

12. Little incentive to settle losses on ceded business economically.

13. Permits irresponsible companies to carry on business through the growth of the surplus of other companies by using the facility pool as the dumping ground or temporary storage place for unwanted business.

14. High potential for fraud through falsification of accounts.

15. Inadequate pricing and claim handling.

16. Lack of effective population controls with result in excessive growth of the residual market.

17. Will cause market constriction in the form of agency cancellations, quota restrictions, etcetera, to slow down the inflow of new business as a company cessions approach the allowable limit.

REINSURANCE FACILITY

DISADVANTAGES - continued

18. Promotes the quota system--agent is told the company will only take its "fair share".

19. Minimizes the need for professional field underwriting agents and facilitates the rapid entry into the market place by companies with little or no field underwriting expertise but with large numbers of order-taking producers.

AUTOMOBILE INSURANCE PLAN

Advantages

1. It is a proven effective method for handling the residual market.
2. Preserves the competitive structure of the business.
3. Low operating expense.
4. Voluntary market subsidizes the residual market but to a controlled degree.
5. Residual business is kept separate from voluntary business providing a distinct experience picture.
6. Coverage availability can be comparable to that in the voluntary market.
7. True immediate coverage is available.
8. Payment plans are available that equal or are better than those available from companies in their voluntary business.
9. Depopulation devices are available.
10. Performance standard to improve services are available.

AUTOMOBILE INSURANCE PLAN

Disadvantages

1. The so called "stigma" effect on the AIP insurance.*

2. Applicant does not have a free choice of companies.

3. High premium costs. Even so, most state plans lose money, indicating the rates charged are not excessive.

4. "Clean" risks find themselves in the plan paying high rates.**

5. Losses are not pooled. "Luck of the draw" applies on high cost losses.

6. Poor service to insured and producers. See item 10 under the advantage column.

* The "stigma" is questionable. Opinion studies have indicated 60% of assigned risks do not realize they are insured in the plan. Only one out of four complete a three year assignment.

** The percentage of clean risks present in any plan bears a strong relationship to the condition of the insurance market. In a market that is tight due to inadequate rate or poor agency access, there will be a high percentage of clean risks. North Carolina and New York have had up to 50% clean risk in their plans. California has not had more than 16% clean risks in their plan. An effective clean risk take out procedure is available for easing this problem where it is a problem.

GUEST REGISTER

COMMERCE COMMITTEE

DATE: 5/2

ADDRESS & NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
MIKE MELNER CC	DEPT. OF COMMERCE	✓
JOHN REISER	N I C	✓
Joe Braswell	Gov's Adv Board on Drug and Alcohol Abuse	✓
CLAUDE EVANS	N.I.C.	✓
George C. Evans	Detox/Rehab.	✓
Pat Bates	Bu Alcohol & Drug Abuse	✓
Mason Greene	Nev. Hosp. Assn.	✓
Kerry Klegman	Clark County Dist. Health Dept	✓
Lauren R. House, CPCU	Nev. Independent Ins. Agents	
Pat Burke	Alcoholics Rehab Assoc., Inc.	✓
Dan Norton	alcholics rehab. assoc., Inc.	✓
Pete Kelley	Nev. Retail Assn	✓
William R. Reiley	DIRECTOR Nev. Frontier Insurance Ex.	✓
DANA COFFEE	DIRECTOR Churchill County Council of Mental Health	✓
JOHN SWEATT	NEVADA ASSN. OF MUTUAL INSURANCE AGENTS	✓
Frank Fahrenkopf	Nev. Consumer Fin. Inst.	✓ 659

GUEST REGISTER

COMMERCE COMMITTEE

1200

DATE: 5/2

ADDRESS & NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
JOHN MADOLE	ASSOC. GEN. CONTR.	✓
Miles Terrich	American Life Ins Assoc Health Ins Assoc. of Am.	✓ AB631
Richard R Garrod	Farmers Ins Group	AB 732 & 729
Thomas A Cooke	State Contractors Bd	AB 464
ROBERT STOKER	STATE CONTRACTORS BD	AB 464
Joseph F McDonald Jr	Builder Associations of Northern Nevada	AB 464 ✓
George W. Wenrich	Hirsch & Sons Garage	SB 300 ✓
Shirley Katt	Washoe County D.A. Office	S.B. 300 ✓
Dwight B. Spencer	Churchill Council Alcohol	AB631
Bill W. Huffman	Churchill Council Alcohol & other Drugs.	AB631
Anne Rubin	Reno. —	B 464
Don Younghans	Builders Assoc. of Northern Nevada	AB 464
Robert A Rochon	Builders Assn of Northern Nevada	AB 464 - No
[illegible]	IWS Service - Ind.	A.B. 732
William D Parish	NIA	AB 732 - AB 729

GUEST REGISTER

1201-02

COMMERCE COMMITTEE

DATE: 5-2-75

ADDRESS & NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
GEORGE CIAPUSCI 1735 VASSAR RENO	STATE FARM INS. COS.	✓ AB 732
DAVID E. KUIZENGA 425 CALIFORNIA ST. SAN FRANCISCO, CALIF.	WESTERN ASSOCIATION OF AUTO INS PLANS	✓ AB 732
Gail Bishop 100 West Grove St. Reno Suite 195	Operating Engineers JAC	✓ AB 729
Bud Manelaff 13470 Mahogany Dr. Reno, Nevada	Nevada Independent Insurance agents	✓ AB 729
BRUCE ROSS 12 ROSE WAY RENO, NV. 89501	NEVADA FUNERAL DIRECTORS ASS'N	✓ SB 515
Ramsey Ward Washoe C.O.A.'s office Reno, Nevada 89501	Washoe County District Attorney	SB 300
GEORGE HAWES - Assistant to Lou Paley - Teamsters Local Union - Reno	NEVADA AFL-CIO and Affiliated Unions and Councils	✓ AB 729
RANDALL CAPURRO P.O. BOX 7575 RENO 89502	NEV IND. INS. AGENTS	AB 729
John C. Hafeli 2135 Langley St. Reno, Nv.	Scott Motor Co. NEV. FRANC. AUTO DEAL.	SB 300
DON F. Hellwinkel P.O. BOX 7 MINDEN, NEV. 89423	C.O.D. GARAGE CO MINDEN PRES. NEV. FRAN. AUTO DLR ASS'N	SB 300
DARYL E. CAPURRO	NEVADA FRANCHISED AUTO DEALERS ASSOCIATION	SB 300