

## Senate

## GOVERNMENT AFFAIRS COMMITTEE

Minutes of Meeting - April 14, 1975

Present: Chairman Gibson  
 Senator Walker  
 Senator Dodge  
 Senator Foote  
 Senator Gojack  
 Senator Hilbrecht

## Also present:

Karen Dennison, attorney  
 Lynn Cooper, N.L.T.A.  
 J. Douglas Dearer, Lander, Stewart  
 David R. Hoy, Spring Trails Corp.  
 Mike Marfisi, McCulloch Properties; Lynn Rose, Elko, Nevada  
 Henry Etchemendy, Carson City  
 Bob Warren, Nev. League of Cities  
 Fred C. Gale, State Archivist  
 Robert Erickson, Div. State Lands  
 C. Lingenfelter, Nevada Land Title Association  
 Don McNelley, McCulloch/Holly Development Co.  
 Senator Monroe

The thirty first meeting of the Government Affairs committee was called to order at 3:00 p.m. with a quorum present.

SB-426 Provides that historical property of bicentennial commission, after its termination be transferred to division of state, county and municipal archives.  
 (BDR 18-816)

Mr. Fred C. Gale, State Archivist, indicated that the wording of historical property is somewhat misleading as most of the documents are paper. Feels that the word "property" should be eliminated.

Motion to "Amend and Do Pass" by Senator Dodge, seconded by Senator Gojack. Motion carried unanimously.

SB-340 Requires land developers to record land sale contracts.  
 (BDR 10-1267)

Senator Hilbrecht reported to the committee that the county commissioners had serious planning problems due to absent recordation. It was suggested to change the recordation statutes to provide for a deed simple type of transfer.

Mike Marfisi, representing McCulloch Properties, had some suggested amendments on SB-340. (see the attached) Mr. Marfisi stated that this bill will destroy the confidentiality between two people who wish to keep their business transactions private. He also suggested that the seller give an informal notice to the assessor as a way of informing that office of the transaction.

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Mr. David Hoy, Spring Trails Corporation, suggested that on a particular month in the year the land developers must file a report with the Division of Land and Real Estate what they have sold and how much they sold it for.

Karen Dennison, Reno Attorney, spoke against SB-340 indicating that this bill would hurt the buyer. Ms. Dennison felt that there was really no compulsion for the seller to record the contract under this bill. Ms. Dennison submitted a written testimony, see the attached for details.

Chairman Gibson felt that there were more serious problems that this bill could not take care of. The immediate problem was that of notifying the assessor.

Senator Monroe stated that the original purpose of this bill was to give notice to the county what the land owners were doing.

Corky Lingenfelter, stated that the law used in Arizona is a very good way to handle the situation that we are now faced with here in Nevada. This law is being incorporated into a bill for the legislature but at this time it has not been introduced.

SB-465 Revises local controls on land subdivision. (BDR 22-1383)

Senator Monroe indicated that the purpose of SB-465 was to require the 40 acre subdivisions be approved by the county commissioners or at least be presented to the county commissioners for their review, especially regarding the easements on the property.

Mike Marfisi, representing Lynn Rose Developers, has some suggested amendments for SB-465 to help streamline this bill. (See the attached on SB-465).

Gene Milligan, Nevada Association of Realtors, indicated that there is a need to have a protective mechanism for the buyer and some knowledge to the county commissioner regarding the easements. Mr. Milligan stated that AB-375 is in direct conflict with SB-465 which is now in the Commerce Committee. Action on this bill should be held until the committee can take a look at AB-375.

David Hoy, felt that by removing the exemptions clause in Chapter 119 and leave the exemption clause in Chapter 278, then repeal the act, you will clear up the problems that have been suggested in previous testimony.

Mr. Marfisi indicated that he approved of the suggestion presented to the committee by Mr. Hoy.

Bob Gardner, Douglas County, Public Works Board, is against SB-465. Feels that SB-424 is a better bill as it requires knowledge of water availability.

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Motion to "indefinitely postpone: by Senator Walker, seconded by Senator Hilbrecht. Motion carried unanimously.

Chairman Gibson said he would get with the counsel bureau regarding the suggested amendments that Mr. Hoy submitted to the committee.

AB-421 Authorizes Nevada Wing 96 of Civil Air Patrol to purchase surplus tools and equipment of department of highways and to use facilities of purchasing division of department of general services. (BDR 27-1280)

Assemblyman Jeffrey stated that the intent of this bill was primarily for the purchase of surplus vehicles. He indicated that the language on page 2, line 3 should conform with the language in lines 10 and 11 on page 1, "Civil Air Patrol or any squadron thereof...."

Motion to Amend and Do Pass" by Senator Gojack, seconded by Senator Foote. Motion carried unanimously.

Chairman Gibson informed the committee that the suggested amendments of AB-84 are as follows: "beginning when the candidate files a declaration of candidacy, or makes an announcement of candidacy, whichever occurs first".

There was discussion regarding the problems with the wording and it was suggested by Senator Gibson to insert the word "public" before announcement. Senator Foote would work on the wording for this bill and bring it back to the committee for their recommendations.

Mr. Henry Etchemendy, Carson City, requested time to give testimony on SB-410 as he was unable to be at the meeting when this bill was on the agenda. Senator Gibson informed Mr. Etchemendy that the bill had been disposed of and in order for it to be revived there would have to be a vote of five from the committee.

Mr. Etchemendy stated that the trouble on this bill seemed to be from the word, "animals" and would suggest that it be changed to "cats".

Chairman Gibson said he would inform Mr. Etchemendy on the action that the committee would take on this bill.

Chairman Gibson had two bills for consideration by the committee for introduction.

1. Authorizes counties to create flood control districts and furthers additional powers.
2. In Clark County, allows the board of commissioners to issue special obligation securities for the hospital facilities.

There was no objection from the committee for introduction of these two bills.

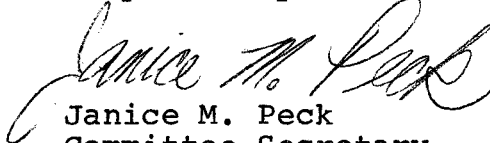
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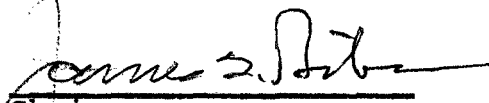
Chairman Gibson also had four bills that were amended by the Assembly committee on Government Affairs, SB-3 and SB-147. SB-3 resolved a conflict with SB-166. Also on SB-147. They deleted, "State Board of Examiners may [with the approval of the legislative auditors] authorize expenditures, sums not to exceed \$2,000. from a reserve of statutory contingency funds. The committee approved of the amendments made on SB-3, SB-147, SB-240 and SB-297.

With no further business the meeting was adjourned at 5:15 p.m.

Respectfully submitted,

  
Janice M. Peck  
Committee Secretary

Approved:

  
Chairman

Note the attachments on SB-340

1. Letter from Mr. Marfisi
2. Statement from Tax Commission
3. Letter from Central Nevada Realty Co.
4. Letter from District Attorney Ney County
5. Amendment from Sen. Gibson on SB-340
6. Written testimony from Karen Dennison

S E N A T E

AGENDA FOR COMMITTEE ON ... GOVERNMENT AFFAIRS .....

MONDAY  
DATE 4-14-75 ..... TIME 2:45 P.M. .... ROOM 345 .....

Bills or Resolutions to be considered	Subject	Counsel Requested*
SB-426	Provides that historical property of bicentennial commission, after its termination be transferred to division of state, county and municipal archives. (BDR 18-816)	
	Notify: <del>Senators Herr and Raggio</del> <del>State Archivist</del> 5210	
SB-467	Authorizes Las Vegas Convention and Visitors Authority in name of Clark County to issue not to exceed \$12,000,000 of bonds for improving the convention hall and exposition buildings. (Bdr S-1446)	
	Notify: <del>Clark County, Richard Bunker</del>	
SB-340	Requires land developers to record land sale contracts. (BDR 10-1267)	
	Notify: <del>Senator Monroe, Real Estate Admin., Mike Melner</del>	
SB-465	Revises local controls on land subdivision. (BDR 22-1383)	
	Notify: Same as above	
AB-421	Authorizes Nevada Wing 96 of Civil Air Patrol to purchase surplus tools and equipment of department of highways and to use facilities of purchasing division of department of general services. (BDR 27-1280)	
	Notify: <del>Assemblymen Jeffrey &amp; Ashworth</del> <del>Senator Blakemore</del>	

\* Please do not ask for counsel unless necessary

VAUGHAN, HULL, MARFISI, GOICOECHEA & MILLER  
ATTORNEYS AND COUNSELORS  
530 IDAHO STREET  
P. O. BOX 831  
ELKO, NEVADA 89801

ROBERT O. VAUGHAN  
JACK E. HULL  
P. MICHAEL MARFISI  
ROBERT B. GOICOECHEA  
JOHN C. MILLER

TELEPHONES  
AREA CODE 702  
738-3191 · 738-6810

April 4, 1975

The Honorable Senator Warren L. Monroe  
Nevada State Legislative Building  
Carson City, NV 89701

RE: SB 340

Dear Snowy:

Thanks for sending the reprint. The bill in this form is worse than ever. Obviously, it goes far beyond the intent of your original bill, which was to provide timely notice to county assessors for property evaluation purposes.

This type of legislation was thoroughly discussed in 1973 and it was opposed not only by land developers, but title companies, brokers, and even, if my memory serves me correct, by county assessors, treasurers and recorders. If it is absolutely necessary that some bill be passed, my only suggestion would be to amend your original legislation as follows:

Section 1. Chapter 119 of NRS is hereby amended by adding thereto a new section which shall read as follows:

All developers shall file a notice of sale with the county assessor in which the real property is located, within thirty (30) days following the execution of such contract or other documents evidencing a sale made on or after July 1, 1975. Such notice of sale to county assessors shall contain the following information, which shall be deemed confidential information and not available to general inquiry by the public.

- a. Name and address of purchaser
- b. Name of seller
- c. Sufficient legal description of the real property
- d. Purchase price or full consideration payable for such purchase

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Section 2. The provision of Section 1. shall not be applicable if the developer, within thirty (30) days of the receipt of any consideration therefore, has recorded in the Office of the County Recorder in the county where the real property is located, any contract or other document evidencing a sale made on or after July 1, 1975.

I have discussed both the original bill and amended bill with John Moschetti, Elko County Assessor. I understand that Mr. Moschetti, County Recorder Jerry Reynolds and Ceasar Salicchi, County Treasurer, are opposed to this legislation. The impact of recordations (keep in mind everyone is affected by this legislation -- not only developers) would substantially increase the existing work load of these respective county offices. In each instance a separate assessment would now have to be made and the Recorder's Office would be flooded with new filing data, together with providing a separate filing system or systems. This would certainly substantially increase the costs of administration and I seriously doubt that recording fees could equal those increased county costs to administer this bill.

From the developer's standpoint, it is costly, cumbersome and extremely time consuming. The marketing procedures would have to drastically be changed to cope with this legislation. Please bear in mind every time you change a procedure it must receive approval by HUD, Nevada Real Estate Division and any other states wherein the property has been filed. The cost of doing business in this manner will have to be passed on to the consumer. These costs will be substantial, when you anticipate the additional recordation fees, contract termination forms, contract forfeiture forms, recording fee for filing of those documents, title clearing search fees, etc. There are no assurances with this legislation that title companies will insure the property over such notices of termination, forfeiture or cancellation. If they do not so insure, then you are forced into the quiet title type action which can involve hundreds of dollars of costs to the developer which must be recouped by passing it on to the consumer.

From a legal standpoint, line 10, page 1 of the bill states, "A contract for the conveyance of real property which by its terms is not required to be fully performed by one or more of the parties within 1 year is not valid for any purpose unless it has been recorded." An option to purchase

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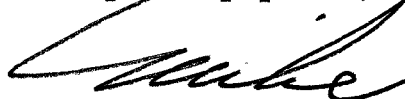
real property is a contract. Perhaps a person would have an option for five years to buy a piece of property or at least the first right of refusal to purchase for several years. Often times these documents are not recorded for good reasons. This legislation would require such recordation. Historically, recording has only been notice to third parties, not a substantive matter affecting legality of contract between parties. This law dramatically affects and changes case precedents where it would now provide that a contract is not valid "for any purpose" unless it has been recorded. The legal rationale of this bill completely escapes me.

Again, I assume that the original intent of your legislation was to provide notice to county assessors. I further assume that the amendments are now pointed at protection of a contract purchaser to have his equitable interest recorded. Apparently there is a great fear that unscrupulous land dealers can sell a buyer's parcel several times over, therefore recordation is a way of protecting that buyer's interest. I have been in practice for fifteen years, six of which were in the District Attorney's office and I have never seen, let alone prosecuted a case, where a parcel of land was sold twice by fraudulent circumstances. There are already consumer protection laws which protect the consumer and punish the unscrupulous in such situations.

The far reaching effects of this legislation require that the State Bar Association be asked for an opinion regarding this bill, as well as title companies, financing institutions and real estate brokers. In addition, because the Elko County officials are concerned with the magnitude of this legislation, it is critical that their respective associations be notified of the impact. This type of legislation should not be passed over lightly due to its large adverse impact. I cannot urge you strongly enough to defeat this legislation.

Kind regards.

Very truly yours,



P. MICHAEL MARFISI

mbe

Enclosures



The Honorable Senator Warren L. Monroe  
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cc: Assemblyman Roy Young  
Mr. John Moschetti  
Mr. Jerry Reynolds  
Mr. Ceasar Salicchi  
William Beko, President  
Nevada State Bar Association

REASONS FOR DO PASS ON SB 340

This bill simply provides for recordation of contracts of sale and any subsequent actions that will effect the contract. It serves to give the purchaser long needed protection from unscrupulous sellers who further encumber or convey property that has already been sold under a contract of sale. It in no way works to the disadvantage of the honest seller but will deter certain actions of the dishonest seller.

The bill further provides a reasonable period of time for a purchaser to be notified if he is in default and also provides a reasonable period of time for the purchaser to redeem the defaulted property. It also provides for a seller to recover the defaulted property when the purchaser does not redeem it.

*Important to NTC*

One side advantage of the recordation of all contracts of sale and actions effecting the contract serves to notify the county assessor of the status of the property at any time. It has been known to happen where an entire subdivision has missed being entered on the tax roll even though every lot had been sold under contracts of sale which were unrecorded. Recordation of the contracts would have served notice to assessor to appraise the subdivision correctly and the proper parties ultimately billed for the property taxes.

~~(The assessor should be aware of all subdivisions in his county and the instance stated above should never have occurred, but recording would have avoided this particular problem.)~~

## CENTRAL NEVADA REALTY CO.

325 SOUTH MARYLAND PARKWAY, LAS VEGAS, NEVADA 89101

March 25th, 1975

Nevada State Senator Warren Monroe  
Legislative Offices  
Carson City, Nevada 89701

Re: Senate Bill No. 340

Dear Senator:

We have just received a copy of your Bill No. 340, which has been referred to the Committee on Governmental Affairs, proposing an amendment to Chapter 119 of the NRS.

The requirement to record any contract evidencing the sale of land would place an undue burden upon the Counties, title companies, Realtors, builders and developers of this State.

Within this State, I would estimate that there are at least four times as many contracts entered into each month as there are Deeds issued. Contracts are subject to cancellation or revocation for a number of reasons, such as rescission under H.U.D. truth in lending, State regulations, default in payment, non-compliance with terms of escrow, etc.

Each time a contract is recorded against a property and subsequently cancelled, for any reason, it will require a release to be recorded, all of which will have to appear in the chain of title and title report. In some cases, it could become an almost impossible task to acquire a properly executed release for recording from an out of state buyer, who has not adequately performed under the contract. This, in turn, could lead to further burdens on our overtaxed court system.

The costs involved will be in the multi thousands of dollars and space requirements for County Recorders' files and offices will proliferate.

Senator Warren Monroe  
March 25th, 1975  
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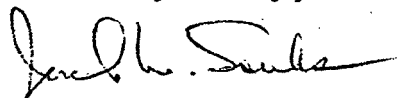
I do not understand the problem that you raise with respect to the County Assessors not being able to determine the true taxable value of lands within their counties, at the present time, under the existing statutes and procedures.

The Board of Realtors cooperates closely with the County Assessors in the two major counties, Washoe and Clark, and current information on sales is readily available and is used in those areas.

In other counties, the problem is not material, except in specific areas and the County Assessor can be - and is provided with ample data. For example, we represent a large subdivision, Calvada Valley, in Nye County, which has made approximately 11,000 sales in the last four years, essentially on ten year contracts. In that time, about 1,000 deeds have been delivered and recorded. We report, monthly, to the Real Estate Division of the Department of Commerce on each sale made. In addition, we provide the County Assessor with a complete list of all lot sales on an annual basis, so that he may take into consideration current sales prices. Thus, he has no problem in determining taxable values without the burden of processing thousands of recordings and releases through the County Recorder's office.

Your review of these considerations and withdrawal of this Bill is urgently requested. We would be pleased to discuss this with you, should you require further information.

Yours very truly,



Jack M. Soules  
President/Broker  
Central Nevada Realty Company

cc: Legislative Committees/Board of Realtors, Chamber of  
Commerce, South Nevada Home Builders  
Committee on Governmental Affairs  
William P. Beko, District Attorney

WILLIAM P. BEKO  
DISTRICT ATTORNEY  
PETER L. KNIGHT  
ASSISTANT DISTRICT ATTORNEY

POST OFFICE BOX 593  
TELEPHONE (702) 482-6666

OFFICE OF  
DISTRICT ATTORNEY NYE COUNTY 921  
COURTHOUSE  
TONOPAH, NEVADA 89049

April 8, 1975

COPY

Honorable Warren L. Monroe  
Senate Chamber  
Legislative Building  
Carson City, Nevada 89701

Re: S. B. 340

Dear Snowy:

I sincerely regret that I was unable to attend any of the legislative hearings conducted on S. B. 340. Had I done so, I feel certain that someone may have been able to have provided me with a good reason for the enactment of this legislation. In a recent letter from Mike Marfisi, Mike mentioned that the basic reason for this legislation would be to provide the county assessors with the true value of property being sold. I am certain that this legislation will not provide such information unless the county assessors are empowered to apply a realistic formula which would establish the distinction between current, full cash value and the value of these lots that are being sold under long-term, low interest rate installment contracts. There is a substantial difference, of course.

The recordation of a contract of sale, without providing for a unilateral method of enabling the seller to cancel the same from the official records upon the purchaser's default, would be a great source of revenue to members of the Bar. In my opinion, the only way that such a cloud could be removed from the title, where the purchaser refuses to execute a quit-claim back or a similar instrument releasing the interest that he acquired through the contract of sale, would be to initiate actions to quiet title. These are not only expensive, but very time consuming. Further, I have no idea of what other purpose would be satisfied by requiring the name and address of the purchaser and similar information relating to him inasmuch as the property cannot be assessed to the purchaser until such time as the conveyance is recorded. The mere recordation of a contract of sale would not authorize the county assessor to assess the property in the name of the purchaser.

If the assessors need additional assistance in obtaining evidence of current market value, I would respectfully

Honorable Warren L. Monroe  
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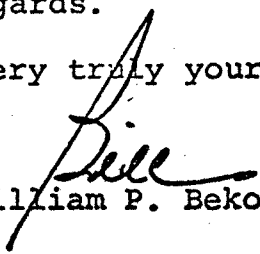
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suggest that NRS 361.265, which authorizes the assessor to demand a declaration under oath concerning personal property, could be amended to make the same authority available to the assessors regarding real property. In those instances where the taxpayer refuses to comply with the mandatory declaration, the assessor is then permitted to impose an arbitrary assessment and the taxpayer is precluded from protesting the assessment before the county and state boards of equalization. This appears to be much more equitable and would eliminate a great deal of unnecessary recording.

Best personal regards.

Very truly yours,

  
William P. Beko

WPB/rt

ASSEMBLY ACTION

SENATE ACTION

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Amendments to ~~Assembly~~ / Senate 923

Bill / JOINT RESOLUTION No. 340 (BDR10-1257)

Proposed by Committee on Government Affairs

Amendment N<sup>o</sup> 5943



Amend section 1, page 1, by deleting lines 16 through 20 and inserting:

"Section 1. NRS 111.315 is hereby amended to read as follows:

111.315 <sup>1c pc</sup> Every conveyance of real property, and every instrument of writing setting forth an agreement to convey any real property, or whereby any real property may be affected, proved, acknowledged and certified in the manner prescribed in this chapter, to operate as notice to third persons, shall be recorded in the office of the recorder of the county in which such real

Form 1a (AMENDMENT BLANK)

3044A



Drafted 3/25/75 By FWD

(more) *Ok in first report*  
*4-2-75*  
 To Bill  
 (5) CF

Amendment No. 5943 to Senate Bill No. 340 (BDR 10-1267) Page 2

property is situated, but [shall be] except as provided in subsection 2 is valid and binding between the parties thereto without such record.

2. A contract for the conveyance of real property which by its terms is not required to be fully performed by one or more of the parties within 1 year is not valid for any purpose unless it has been recorded."

Amend the bill as a whole by adding new sections to be designated sections 2 to 7, inclusive, which shall immediately follow section 1, to read as follows:

"Sec. 2. Chapter 111 of NRS is hereby amended by adding thereto the provisions set *forth* as sections 3 to 5, inclusive, of this act.

Sec. 3. 1. A recorded contract for the conveyance of real property may be terminated, before it has been fully performed by one or more of the parties, by:

(a) The recording of a cancellation signed by all of the parties or their successors in interest, or of a declaration of forfeiture under the circumstances permitted in this chapter.

(b) A judicial proceeding as provided in this chapter.

2. Any modification or assignment of the interest of any party under such a contract is not effective unless it has been recorded.

Sec. 4. 1. If the purchaser under a recorded contract for the conveyance of real property defaults in any material obligation, the vendor may recover the property by declaration of forfeiture or by judicial proceeding only after he has given to the purchaser a written notice of default by registered or certified mail to his address last known to the vendor. The notice shall

(more)



Amendment No. 5943 to Senate Bill No. 340 (BDR 10-1257) Page 3

specify the nature of the default and the amount of money required to be paid or other act required to be performed, to cure it and fully to perform his obligations for the ensuing 35 days.

2. If within 35 days from the date of mailing of the notice of default the purchaser cures the default as stated in the notice and at the end of the 35-day period has fully performed his obligations for that period, no declaration of default or judicial proceeding may be based upon that notice. The notice shall inform the purchaser of this fact.

3. Any provision in such a contract purporting to waive the notice required by this section is ineffective, but the parties may contract for a longer period of grace.

Sec. 5. 1. If the default is not cured and the further obligations of the contract fully performed within the 35-day period or any voluntary extension thereof, the vendor may:

(a) If the default occurred within 1 year after the execution of the contract, record a declaration of the forfeiture of the purchaser's interest in the real property.

(b) Regardless of the date of default, bring an action against the purchaser for the unlawful detainer of the property, which shall be heard and determined as are other such actions except that no notice to quit is required after the notice of default has been given.

2. If judgment is entered for the plaintiff in an action brought pursuant to this section, the plaintiff shall record a certified copy of the judgment in the office of the county recorder where the contract was recorded.

(more)

2487

To Bill

(5) CF

Sec. 6. NRS 247.120 is hereby amended to read as follows:

**247.120**

1. Each county recorder must, upon the payment of the statutory fees for the same, record separately, in a fair hand, or typewriting, or by filing or inserting a microfilm picture or photostatic copy thereof, the following specified instruments in large, well-bound separate books, either sewed or of insertable leaves which when placed in the book cannot be removed:

(a) Deeds, grants, patents issued by the State of Nevada or by the United States, transfers and mortgages of and contracts to convey real estate, releases of mortgages of real estate, assignments, cancellations, certified copies of judgment forfeitures and modifications of contracts to convey real estate, powers of attorney to convey real estate, and leases of real estate which have been acknowledged or proved.

- (b) Certificates of marriage and marriage contracts.
- (c) Wills admitted to probate.
- (d) Official bonds.
- (e) Notice of mechanics' liens.
- (f) Transcripts of judgments, which by law are made liens upon real estate in this state.
- (g) Notices of attachment upon real estate.
- (h) Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.
- (i) Instruments describing or relating to the separate property of married women.
- (j) Notice of preemption claims.
- (k) Births and deaths.
- (l) Notices and certificates of location of mining claims.
- (m) Affidavits or proof of annual labor on mining claims.
- (n) Certificates of sale.
- (o) Judgments or decrees.
- (p) Declarations of homesteads.
- (q) Such other writings as are required or permitted by law to be recorded.

2. Each of the instruments named in paragraph (a) of subsection 1 may be recorded in separate books in the discretion of the county recorder.

3. Before accepting for recording any instrument enumerated in subsection 1, the county recorder may require a copy suitable for recording by photographic or photostatic methods. Where any rights might be adversely affected because of delay in recording caused by such a requirement, the county recorder shall accept the instrument conditionally subject to submission of a suitable copy at a later date. The provisions of this subsection do not apply where it is impossible or impracticable to submit a more suitable copy.

Amendment No. 5943 to Senate Bill No. 340 (BDR 10-1267) Page 5

Sec. 7. NRS 247.150 is hereby amended to read as follows:

247.150 1. Each county recorder shall keep two separate indexes for each separate book or series of books maintained in his office for the separate recordation of the various classes of instruments alphabetically specified in NRS 247.120. One of the indexes shall be for the grantor, mortgagor, plaintiff, assignee, party benefited by a subordination, waiver or release, or first party to any such instrument, or the vendor under a contract for the conveyance of real estate or any subsequent instrument affecting such contract and the other of such indexes shall be for the grantee, mortgagee, defendant, the party releasing or waiving or assigning or subordinating, or the second party [thereto.] to any such instrument or the purchaser under a contract for the conveyance of real estate or any subsequent instrument affecting such contract.

2. Each of the indexes shall be so arranged as to show:

- (a) The names of each of the parties to every instrument, except as provided in subsection 5.
- (b) The date when such instrument was filed in the office of the county recorder.
- (c) The book and page where such instrument is recorded, or the file number and file where such instrument may be filed.
- (d) Such other data as in the discretion of the county recorder may seem desirable.

*quack* [In the event the index shall be] If the index is of one general series of books for all instruments recorded, it shall also show the character of the instrument indexed.

3. The county recorder may keep in the same volume any two or more of the indexes provided for in this section, but the several indexes must be kept distinct from each other. Every volume of indexes must be distinctly marked on the outside in such a way as to show all of the indexes kept therein.

(more)

Amendment No. 5943 to Senate Bill No. 340 (BDR 10-1267) Page 6

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4. The first column of the several indexes for grantors, mortgagors, vendors, plaintiffs, assignees, parties benefited by subordination, waiver or release, or the first parties to any instrument, shall be properly designated to show the name of each grantor, mortgagor, vendor, plaintiff, assignee, party benefited by a subordination, waiver or release, judgment debtor, lienee or first party, as the case may be, and the first column of the index provided for grantees, mortgagees, purchasers, defendants, the parties releasing or waiving or assigning or subordinating, or the second parties to any instrument shall be properly designated to show the name of each grantee, mortgagee, purchaser, defendant, party releasing or waiving or assigning or subordinating, judgment creditor, lienor or second party, as the case may be, and the names of the parties in the first column of such indexes must be arranged in alphabetical order.

5. When a conveyance is executed by a sheriff, the name of the sheriff and the party charged in the execution must both be inserted in the indexes, and when an instrument is recorded or filed to which an executor, administrator, guardian or trustee is a party, the name of such executor, administrator, guardian or trustee, together with the name of the testator, intestate, or ward, or party for whom the trust is held, must be inserted in the index, except that the name of the trustee in a deed of trust or in a partial or full deed of reconveyance need not be indexed. A trustee's deed given upon exercise of the power of sale under any deed of trust shall be indexed under the names of the original trustor and the grantee named therein.

6. In addition to the indexes above provided for, the county recorder shall also keep and maintain such other indexes as may from time to time be required in the performance of his official duties.

7. Every instrument filed in the office of any county recorder for record or filed, but not for recordation, must be alphabetically indexed in the indexes so provided for each separate book or set of books or file, under the names of each grantor, mortgagor, vendor, plaintiff, assignee, party benefited by a subordination, waiver or release, or the first party thereto,

Amendment No. 5943 to Senate Bill No. 340 (BDR 10-1267) Page 7

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in the index provided for that purpose, and also under the names of each grantee, mortgagee, purchaser, defendant, party releasing or waiving or assigning or subordinating, or second party thereto, in the index provided for that purpose.

8. As an alternative to the method of indexing prescribed by this section, the county recorder may, with the permission of the board of county commissioners, use in place of the index books or volumes card indexes with metal-reinforced hole punched therein for rod insertion, and such card indexes shall be kept in suitable metal file cabinets.

Amend the preamble of the bill by deleting lines 1 through 11.

Amend the title of the bill to read:

"AN ACT relating to real property; requiring the recording of all land contracts, forfeitures of land contracts and other instruments affecting land contracts; providing for their termination by judicial proceeding; and providing other matters properly relating thereto."

TESTIMONY OF KAREN D. DENNISON, ESQ.  
before the SENATE GOVERNMENTAL AFFAIRS COMMITTEE  
on April 14, 1975

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As a lawyer who represents both Buyers and Sellers in land transactions as well as a title company, I am very much concerned about the disastrous effect of S.B.340 upon Buyers, Sellers, and title companies alike.

S.B. 340 is apparently designed as a statutory regulation of the so called "instalment land contract" or "contract of sale". An instalment land contract is a type of security device used by Sellers in lieu of conveying title to the purchaser and securing payment of the balance of the purchase price by a deed of trust or mortgage on the property. In an instalment land contract, the Seller retains title to the land as his security until the full price is paid by the Buyer.

One of the reasons for using this type of security device is that when Buyer defaults under the contract by, for example, failing to pay instalments as they become due, Seller could "take back" the property more easily and quickly since the traditional rules applicable to foreclosure by exercise of the trustees power of sale under a deed of trust (Chapter 107 N.R.S.) or common law judicial foreclosure of mortgages not containing a power of sale do not apply.

Recently, with the sharp increase in interest rates on real estate loans, particularly in 1974, contracts of sale have been used to circumvent what is known as the "due on sale clauses" in deeds of trust held by institutional lenders. Apparently, the practice of such lenders has been to refrain from "calling the loan" under such clause when title to the property remains in the original borrower.

I believe that the problems inherent in unrecorded land sale contracts deserve legislative attention; however, I do not believe that S.B. 340 in any way remedies the problem. The bill drafter's summary of S.B.340 says it is a bill which "requires land developers to record land sale contracts". The most obvious question is: Does S.B. 340 accomplish this purpose? I think not.

over

Section 1 of the bill requires that all contracts for the conveyance of real property which by its terms will not be performed within one year is not valid for any purpose - not even between the original parties - unless it is recorded. This provision which was intended to penalize the developer has the opposite effect of penalizing the consumer - the Buyer.

The purpose of the recording acts is to protect what is known as a bona fide purchaser for value - that is - an innocent third party who has given something of value in exchange for the property, who takes his title in good faith without knowledge of a prior interest of a Buyer before him. As between such an innocent purchaser who records his interest and one who may have purchased the same property at a prior time but failed to record, the recording acts protect the innocent purchaser. If there is no innocent third party involved, there is no need for the recording acts and the law has always recognized the validity of a land contract between the original Seller and Buyer. A.B. 340 does not.

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KDD:sjt

What effect, then, does this have on the Buyer who, not aware of the requirement that his contract be recorded, purchases under an unrecorded contract of sale? He will still pay his money to his Seller in return for Seller's promise in the contract which says he will receive title to the property. If his contract is not valid for any purpose - not enforceable against his Seller - then if Seller refuses to convey title upon payment of the purchase price, he cannot rely upon his contract to compel his Seller to convey. Thus, Buyer may be in a situation where he holds no interest in the real property, and must rely on recovering his money from his Seller - that is - if he can find him, and if the Seller has not already dissipated his assets. (It is unclear whether the poor Buyer would be entitled to a vendee's lien - a lien implied by law if Seller breaches the agreement - since S.B. 340 states the contract is not valid between Buyer and Seller for any purpose.)

It is obvious that the thrust of the bill is not against the Seller - whether he be a developer or individual land owner - since there are no sanctions against him for failing to record and any adverse consequences are borne by the Buyer - the person the law should have been designed to protect.

In addition, Section 1 would apply to an option to purchase which "by its terms is not required to be fully performed within one year". Many options which are contained in leases are not recorded. Again, only the optionee - the Buyer - will be hurt.

Sections 2, 3 and 4, are much broader in their scope and appear to apply to all "recorded contracts for the conveyance of real property". Since the traditional buy-sell agreement falls into this category, that is the contract used as a written memorandum of the agreement of sale and not as a security device, these sections cover such contracts commonly known as the "offer and acceptance" or "deposit receipt" and escrow instructions executed in connection with opening an escrow.

over



Section 3 of S.B. 340 deals with termination of all such recorded sales agreements. Subsection 1(a) of Section 3 says that a Seller may terminate the contract (forfeit Buyer's interest) by recording something called a "declaration of forfeiture" if Buyer materially breaches the contract within a year. Does this mean that the Seller under a buy-sell agreement which has been recorded may unilaterally terminate the agreement upon his own determination that the contract has been "materially breached" - whatever that means? Obviously, a ridiculous result.

Subsection 1(b) of Section 3 allows termination by a "judicial proceeding as provided in this chapter", which is an unlawful detainer proceeding. Unlawful detainer is a summary remedy primarily used by landlords to evict their tenants and may also be used in the circumstances provided for in N.R.S. 40.255 such as when a person holds over after judicial sale of his property in a foreclosure action or in connection with execution on a judgment, or when his property has been sold by a trustee through exercise of a power of sale in a deed of trust. In all such cases, no issues of the validity of plaintiff's title are involved, and such a proceeding is not proper if title is in issue.

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Terminating a Buyer's interest in any type of land sale contract always involves questions of title - that is, Buyer's equitable interest in the land. The summary proceeding of unlawful detainer is obviously not proper for such purpose. The nature of the judicial proceeding should be either a quiet title action or a judicial foreclosure where the contract is used as a security device.

I believe it to be the consensus of the real estate bar in Nevada that the proper method of handling the instalment land contract or contract of sale is through the use of an escrow device. Two deeds are conditionally delivered to the escrow holder - one by the Seller conveying title to the Buyer with instructions that Buyer receive the deed upon full payment of the purchase price, and the other is a quitclaim deed delivered by the Buyer wherein he releases his interest in the property to the Seller with instructions that it be delivered to Seller upon Buyer's default after certain notice and opportunity to cure is given to Buyer. I also believe it to be the consensus among lawyers who practice in the field that some legislative guidelines are needed with respect to how much time Buyer must be given to reinstate his position before recordation of the quitclaim deed terminating his interest. This area is replete with uncertainty.

However, I do not believe S.B. 340 in any way clarifies the situation. From a title company's point of view, there would be too many risks in insuring title after a Buyer's interest is terminated by the "declaration of forfeiture".

How does the title insurer know that the forfeiture was proper? Did the Buyer breach the contract? Was the breach material? Did it occur within one year after the contract was executed? Was a notice of default property given by registered mail?

This is obviously going to adversely affect the Seller of land as well if no title company will insure his title after he has terminated Buyer's interest by recording a declaration of forfeiture.

Over

Thus, it appears that neither Buyer nor Seller benefit from this bill. If they don't benefit, who does? Since there is no sanction imposed upon the Seller who doesn't record (indeed, it is the unknowing Buyer who is hurt), then why should he record the land sale contract? If there is no compulsion to record, then there is no incidental benefit to the assessor. It appears that no one benefits from S.B. 340.

I would recommend that any legislation which is passed this session on the subject of "requiring land developers to record land sale contracts" be (1) directed specifically at "developers", however defined, and (2) impose some type of sanction on only the developer for failure to record.

With respect to the need for clarification in the area of how a Buyer's interest under a contract of sale may be terminated after default, I suggest that a committee composed of members of the Nevada bar study the matter and propose new legislation in 1977.

*Karen D. Denison*

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sjt

SUGGESTED AMENDMENTS TO SENATE BILL 465

Page 1, Line 8, subparagraph (a) as follows:

(a) The term "subdivision" does not apply to any division of land which creates lots, parcels, sites, units or plots of land, each of which comprises 40 or more acres of land, including roads and roadway easements, if a plot map of the proposed division is filed with the governing body and the Nevada Real Estate Division. The plot map shall illustrate the easements for ingress and egress to each parcel. The governing body shall fully cooperate to obtain grants of easements over public lands if necessary to provide easements for ingress and egress purposes to said parcels, however, the governing body shall have no obligation to construct or maintain any roads or roadway easements in this regard.

(b) (1) Lines 20 through 24 should remain and not be deleted.  
Page 2, Lines 28 through 30 should remain and not be deleted.  
Page 2, Line 36: Delete the word "final" and substitute "plot".  
Page 2, Line 37 should be changed to read:

2. Determined that there is designated mapped access to buyer's parcel; and

Page 2, Line 40 should read: that the addition of any such roads, utilities of other facilities in the future will not be made at the expense of or obligation of the seller or governing body.

Page 2, Line 47: Delete "with and obtain the approval of".

Line 47 should be changed to read as follows:

act, is not required to file a map with the governing....

S. B. 426

SENATE BILL NO. 426—SENATORS HERR AND RAGGIO

APRIL 1, 1975

Referred to Committee on Government Affairs

SUMMARY—Provides that historical property of bicentennial commission, after its termination, be transferred to division of state, county and municipal archives. Fiscal Note: No. (BDR 18-816)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to the bicentennial commission; providing that on termination of the commission all its historical property shall be transferred to the division of state, county and municipal archives in the office of the secretary of state.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 233E.140 is hereby amended to read as follows:
- 2 233E.140 The commission shall be terminated on June 30, 1977. All
- 3 historical property of the commission shall then be transferred to the
- 4 **[Nevada historical society.]** *division of state, county and municipal*
- 5 *archives in the office of the secretary of state.*

S. B. 467

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SENATE BILL NO. 467—COMMITTEE ON  
GOVERNMENT AFFAIRS

APRIL 7, 1975

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Referred to Committee on Government Affairs

SUMMARY—Authorizes Las Vegas Convention and Visitors Authority in name of Clark County to issue not to exceed \$12,000,000 of bonds for improving the convention hall and exposition buildings. Fiscal Note: No. (BDR S-1446)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

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AN ACT authorizing the Las Vegas Convention Authority on the behalf and in the name of Clark County to construct, extend, better and otherwise improve the convention hall and exposition buildings, and the acquisition of improvements incidental thereto, sites and grounds, equipment and furnishings therefor; authorizing the issuance of bonds for such purpose in not to exceed the aggregate principal amount of \$12,000,000; providing for the payment of the bonds and the interest thereon by the levy and collection of general (ad valorem) taxes and optionally with revenues derived from the county's exposition and convention hall buildings and appurtenant recreational facilities and from license taxes fixed and imposed for revenues upon certain operators of hotels and motels and upon gaming; concerning other securities relating to such project and such bonds; otherwise stating powers, rights, privileges, duties, immunities, liabilities, disabilities, other limitations and other details in connection therewith, including, without limitation, by reference to the Local Government Securities Law; ratifying, approving and confirming all action heretofore taken toward such project and the issuance of such bonds, including without limitation, the pledge of such revenues for their payment; and providing other matters properly relating thereto.

1 WHEREAS, The Las Vegas Convention Authority, in the county of  
2 Clark, State of Nevada (sometimes designated in this act as the "Author-  
3 ity," the "County" and the "State," respectively), ordered the submission  
4 of, and there was submitted, at the general election held in the County  
5 on Tuesday, the 5th day of November, 1974, to the duly qualified elec-  
6 tors of the County, a question authorizing it to incur an indebtedness by  
7 the issuance of the County's negotiable, coupon, general obligation bonds,  
8 in one series or more, in the aggregate principal amount of \$12,000,000,  
9 or so much thereof as may be necessary, for the purpose of constructing,  
10 extending, bettering, and otherwise improving the convention hall and  
11 exposition buildings, the acquisition of improvements incidental thereto,  
12 sites and grounds, equipment and furnishings therefor (sometimes desig-  
13 nated in this act as the "1975 bonds" and merely the "bonds," and as the  
14 "Project," respectively), the bonds to bear interest at a rate or rates of  
15 not exceeding 8 percent per year, to mature serially commencing not  
16 later than 3 years from the date or respective dates of the bonds and  
17 ending not later than 20 years therefrom, payable from general (ad

1 valorem) taxes (sometimes designated in this act as "taxes"), except to  
2 the extent other moneys are available therefor, and to be issued and sold  
3 at, above or below par at an effective interest rate (including any sale  
4 discount) of not more than 8 percent per year to maturity, and otherwise  
5 in such manner, upon such terms and conditions, with such covenants  
6 and agreements, and with such other detail as the Authority may deter-  
7 mine, subject to ratification by the County's board of commissioners  
8 (sometimes designated in this act as the "Board"), including at the  
9 Authority's option, but without limitation, provisions for the redemption  
10 of bonds prior to maturity without or with the payment of a premium,  
11 and provisions for securing additionally the payment of the bonds by  
12 pledging all or any part of the revenues derived from the operation of the  
13 County's recreational facilities, including, without limitation, the con-  
14 vention hall and exposition buildings, from license taxes fixed and  
15 imposed for revenues upon certain operators of hotels and motels and  
16 upon gaming, and from any other sources legally made available therefor;  
17 and

18 WHEREAS, The bond question was approved by a majority of the quali-  
19 fied electors of the County voting upon such question; and

20 WHEREAS, There have been issued heretofore and there are now out-  
21 standing the following County securities:

22 (a) The Clark County, Nevada, General Obligation Public Building  
23 and Recreational Facilities Refunding Bonds, Series July 1, 1973,  
24 (sometimes designated in this act as the "1973 bonds") issued in the  
25 original aggregate principal amount of \$6,960,000, payable from taxes  
26 (except to the extent other funds are available therefor), which payment  
27 is additionally secured by an irrevocable pledge of revenues derived by  
28 the County from the operation of the County's exposition and convention  
29 hall facilities and incidental recreational facilities therefor (sometimes  
30 designated in this act as the "Convention Hall Facilities") and of rev-  
31 enues derived by the County from the collection of certain license taxes  
32 fixed and imposed for revenues by the County and the cities of Boulder  
33 City, Henderson, Las Vegas and North Las Vegas upon certain operators  
34 of hotels and motels and upon gaming, excluding the costs of collecting  
35 such license taxes not exceeding for any collection period an amount  
36 equal to 10 percent of the gross revenues collected therefrom, and after  
37 the deduction of operation and maintenance expenses of the Convention  
38 Hall Facilities (sometimes collectively designated in this act as the "Net  
39 Pledged Revenues"), of which issue there are now outstanding and  
40 unpaid 1973 bonds in the aggregate principal amount of \$6,770,000,

41 (b) The Clark County, Nevada, Installment Note (sometimes desig-  
42 nated in this act as the "1971 note"), dated as of August 30, 1971, issued  
43 in the original principal amount of \$716,000, and bearing interest from  
44 the date thereof on the unpaid balance of principal at the rate of 4.20 per-  
45 cent per year, and payable annually, the principal of which note is payable  
46 annually in the amount of \$143,200 on August 30 in each of the years  
47 1972 through 1976, together with an annual installment of interest, the  
48 unpaid principal of which note is \$286,400, and

49 (c) The Clark County, Nevada, Installment Note (sometimes desig-  
50 nated in this act as the "1974 note"), dated as of June 1, 1974, issued in

1 the original principal amount of \$2,700,000, and bearing interest from  
2 the date thereof on the unpaid balance of principal at the rate of 7 percent  
3 per year, and payable semiannually, the principal of which note is pay-  
4 able annually in substantially equal installments on January 1 in each of  
5 the years 1975 through 1979, the unpaid principal of which note is  
6 \$2,356,363.63; and

7 WHEREAS, Both the 1971 note and the 1974 note are also payable from  
8 taxes (except to the extent other funds are available therefor), which pay-  
9 ment is also additionally secured by such Net Pledged Revenues; and

10 WHEREAS, The Authority has publicly stated that upon the issuance of  
11 the 1975 bonds proceeds of the bonds shall be used to fund and pay in full  
12 the 1974 note, both as to principal and interest, but the principal of  
13 and the interest on the 1971 note shall be paid as the same become due as  
14 provided in the note with a part of such Net Pledged Revenues; and

15 WHEREAS, The Authority has authorized the issuance of the 1975  
16 bonds and their public sale by the adoption of 2 resolutions respectively  
17 designated by the short titles "5-1-75 Bond Resolution" and "5-1-75  
18 Public Sale Resolution;" and

19 WHEREAS, It is hereby declared, as a matter of legislative determina-  
20 tion, that it is in the public interest to avoid any question about the  
21 legality of the authorization of the 1975 bonds by the approval of such  
22 bond question at such election, the legality of any provision in the 5-1-75  
23 Bond Resolution and the 5-1-75 Public Sale Resolution, the legality of  
24 using proceeds of the 1975 bonds to fund and pay the unpaid principal  
25 of and interest on the 1974 note or the 1971 note, or both notes, as the  
26 Authority may determine, and the legality of the pledge of and lien on  
27 such Net Pledged Revenues to secure the payment of the 1975 bonds  
28 on a parity with the pledges of and liens on such Net Pledged Revenues  
29 to secure the payment of the outstanding 1973 bonds, 1971 note and  
30 1974 note; now, therefore,

31  
32 *The People of the State of Nevada, represented in Senate and Assembly,*  
33 *do enact as follows:*  
34

35 SECTION 1. The County, acting by and through the Authority, in  
36 addition to the powers elsewhere conferred upon the County, is by this  
37 act as supplemented by the provisions of the Local Government Securi-  
38 ties Law, authorized and empowered, without the necessity of another  
39 election or other or further preliminaries, to issue and to sell at public or  
40 private sale, independent of any debt limitation or other restriction, in  
41 one series or more at any time or from time to time but not after 6 years  
42 from the effective date of this act, as the Authority may determine, the  
43 County's negotiable, coupon, general obligation bonds, in an aggregate  
44 principal amount of \$12,000,000, or such lesser amount as may be deter-  
45 mined by the Authority, for the purpose of defraying wholly or in part  
46 the cost of the Project, including, without limitation, funding the 1974  
47 note or the 1971 note, or both notes, and otherwise defraying incidental  
48 costs pertaining to the Project, the 1975 bonds bearing interest at a rate  
49 or rates of not exceeding 8 percent per year, maturing serially com-  
50 mencing not later than 3 years from the date or respective dates of the



1 bonds and ending not later than 20 years therefrom, payable from taxes  
2 (except to the extent other moneys are available for such payment), and  
3 being issued and sold at public or private sale at, above or below par at  
4 an effective interest rate (including any sale discount) of not exceeding  
5 8 percent per year, each such bond issue being subject to ratification by  
6 the Board by ordinance, which may be adopted pursuant to NRS 350.579.

7 SEC. 2. The Authority may additionally secure the payment of the  
8 bonds by a pledge of the Net Pledged Revenues without any other or  
9 further preliminaries.

10 SEC. 3. The bonds and any coupons shall be executed in the manner  
11 provided in the Local Government Securities Law, as from time to time  
12 amended; but the bonds shall also bear the manual or facsimile signature  
13 of the chairman of the Authority.

14 SEC. 4. Except as otherwise provided in this act and in the Local  
15 Government Securities Law (except to the extent of any conflict of any  
16 provision therein with this act), the 1975 bonds may be issued pursuant  
17 to the 5-1-75 Bond Resolution and the 5-1-75 Public Sale Resolution,  
18 except to the extent the provisions thereof, after the adoption of such  
19 resolutions, are subsequently amended, superseded or otherwise supple-  
20 mented.

21 SEC. 5. Except as otherwise provided in this act, the Authority or  
22 the Board, or both such governing bodies, as either or both may deter-  
23 mine from time to time, on the behalf and in the name of the County,  
24 may borrow money, otherwise become obligated and evidence such obli-  
25 gations by the issuance of bonds and other securities of the County, consti-  
26 tuting its general obligations, the payment of which may be additionally  
27 secured by a pledge of such Net Pledged Revenues, and in connection  
28 with the Project or any recreational facilities pertaining thereto, either or  
29 both such governing bodies may otherwise proceed as provided in the  
30 Local Government Securities Law, as from time to time amended.

31 SEC. 6. The powers conferred by this act shall be in addition and sup-  
32 plemental to, and the limitations imposed by this act shall not affect, the  
33 powers conferred by any other law, general or special; and securities may  
34 be issued under this act without regard to the procedure required by any  
35 other such law except as otherwise provided in this act or in the Local  
36 Government Securities Law (except to the extent of any conflict of any  
37 provision therein with this act). Insofar as the provisions of this act are  
38 inconsistent with the provisions of any other law, general or special, the  
39 provisions of this act shall be controlling.

40 SEC. 7. This act being necessary to secure and preserve the public  
41 health, safety, convenience and welfare shall be liberally construed to  
42 effect its purposes.

43 SEC. 8. If any provision of this act or the application thereof to any  
44 person, thing or circumstance is held invalid, such invalidity shall not  
45 affect the provisions or application of this act that can be given effect  
46 without the invalid provision or application, and to this end the provisions  
47 of this act are declared to be severable.

48 SEC. 9. This act shall become effective upon passage and approval.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 340

SENATE BILL NO. 340—SENATOR MONROE

MARCH 17, 1975

Referred to Committee on Government Affairs

SUMMARY—Requires land developers to record land sale contracts.  
Fiscal Note: No. (BDR 10-1267)EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to real property; requiring the recording of all land contracts, forfeitures of land contracts and other instruments affecting land contracts; providing for their termination by judicial proceeding; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. NRS 111.315 is hereby amended to read as follows:  
2 111.315 1. Every conveyance of real property, and every instrument  
3 of writing setting forth an agreement to convey any real property, or  
4 whereby any real property may be affected, proved, acknowledged and  
5 certified in the manner prescribed in this chapter, to operate as notice to  
6 third persons, shall be recorded in the office of the recorder of the county  
7 in which such real property is situated, but [shall be] *except as provided*  
8 *in subsection 2* is valid and binding between the parties thereto without  
9 such record.

10 2. *A contract for the conveyance of real property which by its terms*  
11 *is not required to be fully performed by one or more of the parties within*  
12 *1 year is not valid for any purpose unless it has been recorded.*

13 SEC. 2. Chapter 111 of NRS is hereby amended by adding thereto the  
14 provisions set forth as sections 3 to 5, inclusive, of this act.

15 SEC. 3. 1. *A recorded contract for the conveyance of real property*  
16 *may be terminated, before it has been fully performed by one or more of*  
17 *the parties, by:*

18 (a) *The recording of a cancellation signed by all of the parties or their*  
19 *successors in interest, or of a declaration of forfeiture under the circum-*  
20 *stances permitted in this chapter.*

21 (b) *A judicial proceeding as provided in this chapter.*

22 2. *Any modification or assignment of the interest of any party under*  
23 *such a contract is not effective unless it has been recorded.*

1       SEC. 4. 1. If the purchaser under a recorded contract for the convey-  
2       ance of real property defaults in any material obligation, the vendor may  
3       recover the property by declaration of forfeiture or by judicial proceeding  
4       only after he has given to the purchaser a written notice of default by  
5       registered or certified mail to his address last known to the vendor. The  
6       notice shall specify the nature of the default and the amount of money  
7       required to be paid or other act required to be performed, to cure it and  
8       fully to perform his obligations for the ensuing 35 days.

9       2. If within 35 days from the date of mailing of the notice of default  
10       the purchaser cures the default as stated in the notice and at the end of the  
11       35-day period has fully performed his obligations for that period, no decla-  
12       ration of default or judicial proceeding may be based upon that notice.  
13       The notice shall inform the purchaser of this fact.

14       3. Any provision in such a contract purporting to waive the notice  
15       required by this section is ineffective, but the parties may contract for a  
16       longer period of grace.

17       SEC. 5. 1. If the default is not cured and the further obligations of the  
18       contract fully performed within the 35-day period or any voluntary exten-  
19       sion thereof, the vendor may:

20       (a) If the default occurred within 1 year after the execution of the con-  
21       tract, record a declaration of the forfeiture of the purchaser's interest in  
22       the real property.

23       (b) Regardless of the date of default, bring an action against the pur-  
24       chaser for the unlawful detainer of the property, which shall be heard and  
25       determined as are other such actions except that no notice to quit is  
26       required after the notice of default has been given.

27       2. If judgment is entered for the plaintiff in an action brought pur-  
28       suant to this section, the plaintiff shall record a certified copy of the judg-  
29       ment in the office of the county recorder where the contract was recorded.

30       SEC. 6. NRS 247.120 is hereby amended to read as follows:

31       247.120 1. Each county recorder must, upon the payment of the  
32       statutory fees for the same, record separately, in a fair hand, or typewrit-  
33       ing, or by filing or inserting a microfilm picture or photostatic copy  
34       thereof, the following specified instruments in large, well-bound separate  
35       books, either sewed or of insertable leaves which when placed in the book  
36       cannot be removed:

37       (a) Deeds, grants, patents issued by the State of Nevada or by the  
38       United States, transfers and mortgages of *and contracts to convey* real  
39       estate, releases of mortgages of real estate, *assignments, cancellations, cer-*  
40       *tified copies of judgment forfeitures and modifications of contracts to con-*  
41       *vey real estate*, powers of attorney to convey real estate, and leases of real  
42       estate which have been acknowledged or proved.

43       (b) Certificates of marriage and marriage contracts.

44       (c) Wills admitted to probate.

45       (d) Official bonds.

46       (e) Notice of mechanics' liens.

47       (f) Transcripts of judgments, which by law are made liens upon real  
48       estate in this state.

49       (g) Notices of attachment upon real estate.

- 1 (h) Notices of the pendency of an action affecting real estate, the title  
2 thereto, or the possession thereof.
- 3 (i) Instruments describing or relating to the separate property of mar-  
4 ried women.
- 5 (j) Notice of preemption claims.
- 6 (k) Births and deaths.
- 7 (l) Notices and certificates of location of mining claims.
- 8 (m) Affidavits or proof of annual labor on mining claims.
- 9 (n) Certificates of sale.
- 10 (o) Judgments or decrees.
- 11 (p) Declarations of homesteads.
- 12 (q) Such other writings as are required or permitted by law to be  
13 recorded.
- 14 2. Each of the instruments named in paragraph (a) of subsection 1  
15 may be recorded in separate books in the discretion of the county  
16 recorder.
- 17 3. Before accepting for recording any instrument enumerated in sub-  
18 section 1, the county recorder may require a copy suitable for recording  
19 by photographic or photostatic methods. Where any rights might be  
20 adversely affected because of delay in recording caused by such a require-  
21 ment, the county recorder shall accept the instrument conditionally sub-  
22 ject to submission of a suitable copy at a later date. The provisions of this  
23 subsection do not apply where it is impossible or impracticable to submit  
24 a more suitable copy.
- 25 SEC. 7. NRS 247.150 is hereby amended to read as follows:
- 26 247.150 1. Each county recorder shall keep two separate indexes for  
27 each separate book or series of books maintained in his office for the  
28 separate recordation of the various classes of instruments alphabetically  
29 specified in NRS 247.120. One of the indexes shall be for the grantor,  
30 mortgagor, plaintiff, assignee, party benefited by a subordination, waiver  
31 or release, or first party to any such instrument, *or the vendor under a*  
32 *contract for the conveyance of real estate or any subsequent instrument*  
33 *affecting such contract* and the other of such indexes shall be for the  
34 grantee, mortgagee, defendant, the party releasing or waiving or assign-  
35 ing or subordinating, or the second party [thereto.] *to any such instru-*  
36 *ment or the purchaser under a contract for the conveyance of real estate*  
37 *or any subsequent instrument affecting such contract.*
- 38 2. Each of the indexes shall be so arranged as to show:
- 39 (a) The names of each of the parties to every instrument, except as  
40 provided in subsection 5.
- 41 (b) The date when such instrument was filed in the office of the county  
42 recorder.
- 43 (c) The book and page where such instrument is recorded, or the file  
44 number and file where such instrument may be filed.
- 45 (d) Such other data as in the discretion of the county recorder may  
46 seem desirable.
- 47 [In the event the index shall be] *If the index is* of one general series of  
48 books for all instruments recorded, it shall also show the character of the  
49 instrument indexed.

1 3. The county recorder may keep in the same volume any two or  
2 more of the indexes provided for in this section, but the several indexes  
3 must be kept distinct from each other. Every volume of indexes must be  
4 distinctly marked on the outside in such a way as to show all of the  
5 indexes kept therein.

6 4. The first column of the several indexes for grantors, mortgagors,  
7 *vendors*, plaintiffs, assignees, parties benefited by subordination, waiver  
8 or release, or the first parties to any instrument, shall be properly desig-  
9 nated to show the name of each grantor, mortgagor, *vendor*, plaintiff,  
10 assignee, party benefited by a subordination, waiver or release, judgment  
11 debtor, licensee or first party, as the case may be, and the first column of  
12 the index provided for grantees, mortgagees, *purchasers*, defendants, the  
13 parties releasing or waiving or assigning or subordinating, or the second  
14 parties to any instrument shall be properly designated to show the name  
15 of each grantee, mortgagee, *purchaser*, defendant, party releasing or  
16 waiving or assigning or subordinating, judgment creditor, lienor or second  
17 party, as the case may be, and the names of the parties in the first column  
18 of such indexes must be arranged in alphabetical order.

19 5. When a conveyance is executed by a sheriff, the name of the  
20 sheriff and the party charged in the execution must both be inserted in  
21 the indexes, and when an instrument is recorded or filed to which an  
22 executor, administrator, guardian or trustee is a party, the name of such  
23 executor, administrator, guardian or trustee, together with the name of  
24 the testator, intestate, or ward, or party for whom the trust is held, must  
25 be inserted in the index, except that the name of the trustee in a deed  
26 of trust or in a partial or full deed of reconveyance need not be indexed.  
27 A trustee's deed given upon exercise of the power of sale under any deed  
28 of trust shall be indexed under the names of the original trustor and the  
29 grantee named therein.

30 6. In addition to the indexes above provided for, the county recorder  
31 shall also keep and maintain such other indexes as may from time to time  
32 be required in the performance of his official duties.

33 7. Every instrument filed in the office of any county recorder for rec-  
34 ord or filed, but not for recordation, must be alphabetically indexed in the  
35 indexes so provided for each separate book or set of books or file, under  
36 the names of each grantor, mortgagor, *vendor*, plaintiff, assignee, party  
37 benefited by a subordination, waiver or release, or the first party thereto,  
38 in the index provided for that purpose, and also under the names of each  
39 grantee, mortgagee, *purchaser*, defendant, party releasing or waiving or  
40 assigning or subordinating, or second party thereto, in the index provided  
41 for that purpose.

42 8. As an alternative to the method of indexing prescribed by this sec-  
43 tion, the county recorder may, with the permission of the board of county  
44 commissioners, use in place of the index books or volumes card indexes  
45 with metal-reinforced hole punched therein for rod insertion, and such  
46 card indexes shall be kept in suitable metal file cabinets.

## S. B. 465

## SENATE BILL NO. 465—SENATOR MONROE

APRIL 7, 1975

Referred to Committee on Government Affairs

SUMMARY—Revises local controls on land subdivision.  
Fiscal Note: No. (BDR 22-1383)EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to the subdivision of land; changing the definition of subdivisions; requiring developer to obtain the limited approval of the governing body in additional cases; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. NRS 278.320 is hereby amended to read as follows:  
2 278.320 1. "Subdivision" means any land, vacant or improved,  
3 which is divided or proposed to be divided into [two] *three* or more lots,  
4 parcels, sites, units, plots, separate interests or interests in common, for  
5 the purpose of any transfer, development or any proposed transfer or  
6 development; unless exempted under [subparagraphs] *paragraphs* (a) or  
7 (b).

8 (a) The term "subdivision" does not apply to any division of land  
9 which creates lots, parcels, sites, units or plots of land, each of which  
10 [comprise] *comprises* 40 or more acres of land, including roads and  
11 roadway [easements.] *easements, if a tentative map of the proposed*  
12 *division is filed with and approved by the governing body. The govern-*  
13 *ing body may require reasonable additions to or modifications of the*  
14 *tentative map to provide for adequate access to each parcel. After the*  
15 *required additions to or modifications of the tentative map have been*  
16 *made, the governing body shall approve the plan.*

17 (b) Unless a method of [disposition] *division* is adopted for the pur-  
18 pose of evading this chapter, the term "subdivision" does not apply to  
19 any division of land:

20 (1) [Which creates lots, parcels, sites, units, or plots of land such  
21 that the land area of each of the lots, parcels, sites, units, or plots, when  
22 divided by the number of interests in every such lot, parcel, site, unit or  
23 plot results in 36 or more acres, exclusive of roads and roadway ease-  
24 ments, per interest;

25 (2) [Which is created by order of any court in this state or by  
26 operation of law;

27 [(3)] (2) Which is created by a lien, mortgage, deed of trust or  
28 any other security instrument;

29 [(4)] (3) Which is created by a security or unit of interest in any

1 investment trust regulated under the laws of this state or any other interest  
2 in an investment entity;

3 ~~[(5)]~~ (4) Which creates cemetery lots;

4 ~~[(6)]~~ (5) Which creates an interest or interests in oil, gas, miner-  
5 als or building materials, which are now or hereafter severed from the sur-  
6 face ownership of real property;

7 ~~[(7)]~~ (6) Which is created by the acquisition of an interest in land  
8 in the name of a husband and wife, or ~~[other]~~ persons who are related to  
9 each other within the first or second degree of consanguinity ~~[.]~~ or pur-  
10 suant to adoption in accordance with law, which interest is established or  
11 created by a joint tenancy, community property, or as tenants in common.  
12 Any such interest shall be deemed for purposes of this subsection, as only  
13 one interest.

14 2. For subdivisions containing not more than four lots, parcels, sites,  
15 plots or interests, there shall be filed a parcel map pursuant to the provi-  
16 sions of NRS 278.500 to 278.560, inclusive.

17 3. In any county having a population of 100,000 or more but less  
18 than 200,000, as determined by the last preceding national census of the  
19 Bureau of the Census of the United States Department of Commerce, the  
20 board of county commissioners may exempt any parcel or parcels of land  
21 from the provisions of NRS 278.010 to 278.630, inclusive, if:

22 (a) Such land is owned by a railroad company or by a nonprofit corpo-  
23 ration organized and existing pursuant to the provisions of chapter 81 of  
24 NRS which is an immediate successor in title to a railroad company, and  
25 such land was in the past used in connection with any railroad operation;  
26 and

27 (b) Other persons now permanently reside on such land.

28 ~~[4.~~ Nothing contained herein shall apply to the division of land for  
29 agricultural purposes, in parcels of more than 10 acres, not involving any  
30 street, road, or highway opening or widening or easements of any kind.]

31 SEC. 2. Chapter 278 of NRS is hereby amended by adding thereto  
32 a new section which shall read as follows:

33 *Upon the sale of land divided as described in paragraph (a) of sub-*  
34 *section 1 of NRS 278.320, the seller shall obtain from the buyer a written*  
35 *statement acknowledging that the buyer has:*

36 1. *Seen the final map of the proposed division;*

37 2. *Determined that there is sufficient access to each parcel; and*

38 3. *Determined the availability or lack of availability of utilities,*  
39 *including water and sewage disposal facilities, and roads and understands*  
40 *that the addition of any such facilities in the future will be made at his*  
41 *expense.*

42 SEC. 3. Any person who proposes to divide property in the manner  
43 described in paragraph (a) of subsection 1 of NRS 278.320, who has  
44 prepared a map of such proposed division and who has applied for the  
45 approval of the real estate division of the department of commerce pur-  
46 suant to subsection 7 of NRS 119.180, prior to the effective date of this  
47 act, is not required to file with and obtain the approval of the governing  
48 body as provided in paragraph (a) of subsection 1 of NRS 278.320, and  
49 is not required to obtain a statement from any buyer as provided in sec-  
50 tion 2 of this act.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 421

ASSEMBLY BILL NO. 421—ASSEMBLYMEN JEFFREY, MANN, BARENGO, BREMNER, VERGIELS, DEMERS, PRICE, HAYES, CRADDOCK, YOUNG, MOODY, POLISH, BROOKMAN, MURPHY, GLOVER, JACOBSEN, HOWARD, HARMON AND SENA

MARCH 18, 1975

Referred to Committee on Government Affairs

SUMMARY—Authorizes Nevada Wing 96 of Civil Air Patrol to purchase surplus tools and equipment of department of highways and to use facilities of purchasing division of department of general services. Fiscal Note: No. (BDR 27-1280)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to Nevada Wing 96 of the Civil Air Patrol; authorizing purchases of surplus tools and equipment from department of highways; authorizing the use of the facilities of the purchasing division of the department of general services; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. NRS 333.462 is hereby amended to read as follows:  
 2 333.462 Whenever the department of highways declares any tools,  
 3 implements, machinery or other equipment in its possession to be surplus  
 4 or not necessary for the use of such department, or requests that any  
 5 such tools, implements, machinery or other equipment be replaced, and  
 6 if such tools, implements, machinery or other equipment are not trans-  
 7 ferred to another agency in accordance with subsection 2 of NRS 333.-  
 8 220, the chief shall, notwithstanding the provisions of subsection 4 of  
 9 NRS 333.220, offer the same for sale to the various counties, incor-  
 10 porated cities, volunteer fire departments, *Nevada Wing 96 of the Civil*  
 11 *Air Patrol or any squadron thereof*, and Indian tribes organized under  
 12 the Indian Reorganization Act (25 U.S.C. § 461 et seq.), in this state  
 13 in accordance with the provisions of NRS 333.463 to 333.468, inclusive.  
 14 SEC. 2. NRS 333.463 is hereby amended to read as follows:  
 15 333.463 1. Whenever any tools, implements, machinery or other  
 16 equipment become available for purchase [by counties, cities or volun-  
 17 teer fire departments] as provided in NRS 333.462, the chief shall give  
 18 written notice thereof to the board of county commissioners of each



1 county, the chief executive officer of each incorporated city in the state  
2 [and.] , each volunteer fire department in the state, *Wing 96 of the*  
3 *Civil Air Patrol* and each Indian tribe in this state organized under the  
4 Indian Reorganization Act (25 U.S.C. § 461 et seq.).

5 2. The notice shall contain:

6 (a) A description of the specific items or lots of items available for  
7 purchase, including the make, model, type, age and serial number or  
8 other identification of machinery or equipment;

9 (b) A statement of the time and place where such items will be  
10 available for inspection;

11 (c) A statement of the place where such items will be delivered to  
12 the purchaser;

13 (d) A statement of the time and place at which sealed bids for the  
14 purchase of such items or lots of items will be accepted and the time  
15 and place such bids will be opened; and

16 (e) Such other information as the chief may deem appropriate.

17 SEC. 3. NRS 333.469 is hereby amended to read as follows:

18 333.469 1. Any agency, bureau, commission or officer of the legis-  
19 lative department or the judicial department of the state government or  
20 *Nevada Wing 96 of the Civil Air Patrol* may obtain supplies, materials  
21 and equipment on a voluntary basis through the facilities of the purchas-  
22 ing division.

23 2. From time to time the chief shall issue bulletins to all of such  
24 agencies, bureaus, commissions and officers indicating the supplies,  
25 materials and equipment available and the prices thereof.