

## SENATE JUDICIARY COMMITTEE

## MINUTES OF MEETING

FEBRUARY 27, 1975

The meeting was called to order at 9:05 a.m. Senator Close was in the Chair.

PRESENT:           Senator Close  
                  Senator Bryan  
                  Senator Dodge  
                  Senator Foote  
                  Senator Wilson  
                  Senator Sheerin  
                  Senator Hilbrecht

## ABSENT:

SB196   Abolishes notices to property owner from material suppliers and general contractors as condition precedent to perfecting mechanic's lien.

Senator Sheerin explained the reasoning behind the repeal of Sections 108.2394 and 108.2395.

Testimony was presented before the Committee by the following:

Richard Mason, Carson Builder's Association - Mr. Mason stated that he was in favor of the bill. He expressed concern over the financial or lending institutions being able to come ahead of the remaining lien holders through their deed. Mr. Mason stated that his main objection was that of the general contractor and the sub-contractors having to send out these notices on a day-to-day basis, and the effect these notices have on the home owner.

Pat Bacon, Carson Builder's Association - Stated he was in favor of the bill. It was his contention that the notice of intent to lien should be sent to the lender in that he has a responsibility to the owner insofar as he is acting as the owner's agent.

Burt Goldwater - Stated that the bill as it now stands is important to owners of property who lease to others and who would not otherwise know that their lessee was putting money into their property. The only way an owner can protect himself after making a lease is to file a notice of non-responsibility within 5 days after he makes the lease. If he fails to file the notice within 5 days after the execution of the lease then he exposes himself to liens from his lessee building on his property.

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SB 196 James L. Viano, General Building Contractor - In reply to Mr. Goldwater's remarks, Mr. Viano stated that a lessor and lessee should have an agreement as to what improvements will be made on the property. He stated that on the completion of a job, the owner and the builder must file a notice of completion. He felt that the owner should withhold the last payment until the lien period had expired.

Hale B. Bennett - Stated that he was not opposed to an attempt to clean up or improve the way notices are given, but he is opposed to the elimination of notice to the owner prior to the time a lien is placed. He then cited his personal experience relating to lack of lien notices.

Gene Milligan, Nevada Association of Builders - Stated on behalf of the Association that they are opposed to the removal of the protection of home owners that is now included in the present statutes.

Bob Wells, Southern Nevada Home Builders Association of Las Vegas - Suggested that inasmuch as the general contractor was familiar with the home owner, that the contractor give the owner a list of all his suppliers and additionally, have the contractor file the notice of intent to lien on behalf of the subcontractors. He stated that this would 1) give notice to the home owner and 2) eliminate the burden of paperwork of the small subcontractor.

End of testimony on SB 196.  
There was no action taken on the bill at this time.

SB 202 Requires title insurance companies transacting escrow services to be licensed as escrow agents and places restrictions on escrow accounts.

Testimony was presented before the Committee by the following:

Senator Helen Herr - Stated that she introduced the bill in an attempt to correct some of the injustices to the land owner in dealing with an escrow company. She stated that it is common practice with some title companies to issue a voucher to the escrow company instead of the actual money. If for some reason the owner should want to cancel an escrow, it would be necessary in some cases to go to court to obtain his escrow deposit.

Corky Lingenfelter, Nevada Land Title Association - Stated that Section 2 is very ambiguous, in that it does not clarify whether a deposit is required or the entire payment for the property.

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SB 202 He stated that in some cases money is never transferred, but rather property for property. He informed the Committee that he carries a trust account and the money in his escrow dealings is never placed in the escrow account until the escrow is ready to be closed.

Additionally, Mr. Lingenfelter stated that according to Mr. Rottman of the Commerce Department, Insurance Division, a study is presently underway relative to title insurance companies in Nevada. He felt that any problems found in section 3 would be cleared up through this study and therefore, it would be unnecessary to pass this bill.

Angus McLeod, Division of Real Estate and Nicolaus R. Harkins, Department of Commerce - Mr. McLeod stated that the division is neither a proponent nor an opponent of the bill. At the present, NRS 645 A has so many exemptions to it that there are only 2 companies under their jurisdiction, and that the provisions are so broad that it is a meaningless act. He also stated that the escrow activities of title companies, underwritten title companies and escrow companies domiciled within title companies are not examined or supervised by any agency.

Mr. Harkins informed the Committee that out of 48 companies surveyed, 28 are exempt and therefore, totally unregulated.

Burt Goldwater and Leroy Bergstrom of Kafoway, Armstrong, Turner & Co. - Mr. Goldwater suggested that the bill be amended to read that all funds deposited in escrow should be properly receipted for by the escrow agent and actually held on deposit. He also stated that there was a problem with Section 3 inasmuch as mortgage brokers that have their own escrow will have an interest in the escrow, in that they take their broker's fee for obtaining a loan for a third party out of the escrow. He recommended amending Section 4, Subparagraph 3, Line 26 following "...which lends money" to include "for itself or others." Mortgage brokers lending money to themselves or others are under the Mortgage Brokers Licensing Act and should be exempt.

Judge Roy Torvinan - Judge Torvinan informed the Committee that Mr. Joe Dini had introduced a bill that related to the points that Mr. Goldwater was discussing. He stated that one of the main problems in drafting such a bill was that of exempting people who wanted to loan their own money to mortgages. He also pointed out that the reason so few mortgage brokers are licensed is that when they qualify for the federal agency of Home Owner's Loan Association, they are exempted. He also stated that approximately 90% of all mortgage brokers deal at one time or another with federally insured loans and are therefore, exempt.

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SB 202 Ray O'Brien, Land Title Association - He stated that he agreed with the fact that underwritten title companies should be regulated but that this bill deals solely with escrow companies and was never intended to deal with title or underwritten title companies. In reference to the study discussed by Mr. Lingenfelter, Mr. O'Brien informed the Committee that an amendment to the insurance code is being drawn up that will follow the underwritten title laws in California and because of this, he feels that the title insurance companies are already controlled in total, including escrow companies.

End of testimony on SB 202. There was no action taken on the bill at this time.

AJR 14 (57th Session) Proposes to amend Nevada constitution by providing for merit-plan appointments of judicial officers to fill vacancies.

Testimony was presented before the Committee by Judge Roy Torvinan - Judge Torvinan stated that he would like to see AJR 14, AJR 15, AJR 16 and AJR 18 (all of the 57th Session) passed as one complete package.

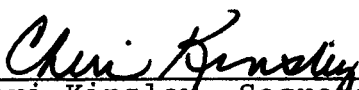
Senator Hilbrecht moved a "do pass",  
 Seconded by Senator Foote,  
 Motion carried unanimously.

AJR 15 (57th Session) Proposes to amend Nevada Constitution by authorizing legislature to fix jurisdiction of justices of the peace.

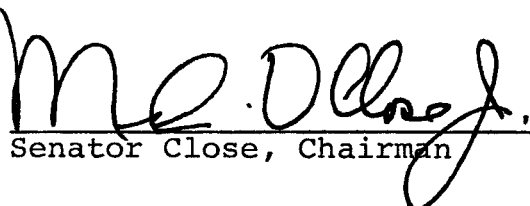
Senator Bryan moved a "do pass",  
 Seconded by Senator Hilbrecht,  
 Motion carried unanimously.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
 Cheri Kinsley, Secretary

APPROVED:

  
 Senator Close, Chairman