

## SENATE JUDICIARY COMMITTEE

## MINUTES OF MEETING

April 3, 1975

The meeting was called to order at 9:10 a.m. Senator Close was in the Chair.

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

SB 369 Limits deficiency collectible upon repossessed vehicles.

Mr. Darrell Cappuro, Nevada Franchised Auto Dealer's Association appeared in opposition to this bill. He informed the Committee that new car dealers are involved primarily in what is called "recourse financing." In effect, recourse financing works like this. When the credit is allowed by a financial institution on a recourse situation and the vehicle is subsequently repossessed or comes into default, the lending institution has 90 days after the default within which to return that vehicle to the dealer. At which point, because of the recourse nature of the contract, the dealer is in effect, buying the vehicle back from the bank. The bank is released from any liability with respect to the security interest. You have, in effect, the switching of the secured party from the financial institution to the dealer. Another problem with the bill is that there is no clear definition as to what is "fair market value."

Senator Hilbrecht stated that he failed to see where this bill does anything but conform this section of the law, which is not covered under the sections of the Uniform Commercial Code because of the title laws of this, with the remaining laws of the state.

Mr. Cappuro replied that the change being made is that the current law says that "such persons shall be liable for a deficiency after sale of the repossessed vehicle only if notice is prescribed", etc. That the notice shall state that you are subject to "suit and liability if the amount obtained upon sale of the vehicle is insufficient to pay the balance and any other amounts due." The reason for the language that is currently in the law, is that if the vehicle is reconditioned and resold, the secured party will be allowed to collect the reconditioning cost.

Senator Bryan suggested amending Chapter 482 of the UCC to make it clear that it is applicable in terms of the reasonable commercial standard.

No action was taken at this time.

SB 404 Imposes additional filing fee in civil actions for support of legal aid programs.

Mr. James Porter, Director of the Clark County Legal Service Program; Mr. Chuck Zea, Director of the Washoe County Legal Services Program; and Mrs. Arlene West, Clark County Legal Service Program testified in behalf of this measure.

Mr. Porter stated that this would provide to the legal services program in the State, additional monies for the support of those programs. He informed the Committee that for the past four years, the program has received federal funds in the amount of \$80,600 (Clark County only). He stated that unless they receive additional funds, they will be forced

into a staff cutback as soon as June of this year.

In discussing the bill, Senator Dodge stated he felt it was somewhat unfair to place the burden of users of the court to subsidize a legal aid program. He felt it would be just as consistent to ask the users of the court to help support the court system through a filing fee.

Senator Hilbrecht agreed that litigants would be supporting it to some extent but that there was a precedent for such things and cited the law library as an example.

Senator Bryan stated that it should be made clear that they are not imposing a filing fee on any action or proceeding which presently does not require a fee. He suggested amending line 7 by inserting "for which a filing fee is required."

Senator Hilbrecht moved to amend and do pass,  
Seconded by Senator Wilson,  
Motion carried unanimously.

SB 320 Eliminates certain legal disparities based on sex.

Mr. Jim Kosinski, Bill Drafter reviewed the bill in its amended form with the Committee. He informed them that Section 1 was to be deleted and that it would be taken up in the community property bill.

Senator Bryan moved to amend and do pass,  
Seconded by Senator Hilbrecht,  
Motion carried unanimously.

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

Senator Close informed the Committee that he had the amendments to the bill but that he would like to see the bill in its final form before taking action.

Senator Bryan moved to amend and rerefer,  
Seconded by Senator Sheerin,  
Motion carried unanimously. Senator Hilbrecht was absent from the vote.

The following items were presented for Committee introduction and were approved unanimously:

BDR 1-718 revises schedule of maximum fees for counsel for indigent defendants;  
BDR 16-498 administrative reform for the State Prison;  
BDR 54-1340 deals with provisions pertaining to contractors.

The meeting was adjourned at 10:30 a.m. and will resume at 12:00 p.m. this afternoon to continue discussion on the community property draft.

Senator Close called the meeting to order at 12:10 p.m. Senator Hilbrecht was absent. Jim Kosinski, Bill Drafter went over the bill with the Committee. Discussion began on page 5, Section 10.

Mr. Kosinski suggested that one of the possible approaches to this would be to insert language at the beginning of the new provision to indicate that "except as provided in 123.090 and 123.110." Those are the provisions that require the husband to provide the necessities. If you put in that provision and "subject to the provisions of 123.100" and then go on to say "when the husband and wife are living separate and apart" and delete everything relating to abandonment. Then the only abandonment provisions would be those on page 2.

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Senator Dodge suggested putting in some language about showing intent to dissolve the community as a matter of proof to creditors.

Senator Bryan agreed with this and suggested putting the affirmative burden on the parties to show intent to live separately and apart. The three exceptions would be: 1) the marriage situation; 2) separate maintenance; or 3) separation agreements.

Section 11- Mr. Kosinski suggested adding in paragraph (e) "clothing and wearing apparel of the spouses and the minor children."

Senator Close suggested that the probate provisions should be looked at. It was the decision of the Committee that upon the death of one spouse, one-half of the community property would be subject to probate.

The Committee requested that Mr. Kosinski redraft the BDR into bill form for introduction. No action was taken at this time.

SB 293 Revises provisions relating to marriage.

Senator Sheerin moved that this bill be killed in lieu of SB 433,  
Seconded by Senator Foote,  
Motion carried unanimously. Senators Hilbrecht and Wilson were absent from the vote.

SB 433 Revises provisions relating to marriage of minors.

On line 18, Senator Close felt that the term "presumed" may be conclusive or rebuttable and suggested using "a person 18 years of age is capable." He further stated that the intent of the bill was that persons over 18 could be married; persons between the ages of 16 and 18 needed parental consent; and persons under 16 needed both parental consent and a decree from the district court, with the understanding that this would be given only under extraordinary circumstances.

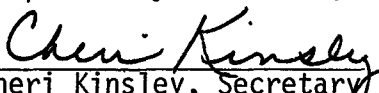
After further discussion, Senator Bryan moved to amend and do pass,  
Seconded by Senator Foote,  
Motion carried unanimously. Senators Hilbrecht and Wilson were absent from the vote.

ACR 35 Recalls AJR 15 of the 57th Session from Secretary of State.

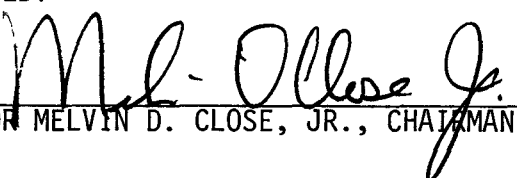
Senator Bryan moved a do pass, seconded by Senator Dodge, motion carried unanimously. Senators Hilbrecht and Wilson were absent from the vote.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

  
SENATOR MELVIN D. CLOSE, JR., CHAIRMAN