

MINUTES

ASSEMBLY COMMERCE COMMITTEE

APRIL 20, 1977

MEMBERS PRESENT

Chairman Harmon
Vice Chairman Mello
Mr. Barengo
Mr. Demers
Mr. Moody
Mr. Price
Mr. Sena
Mr. Weise

GUESTS PRESENT

See Guest List Attached

Chairman Harmon called the meeting to order at 3:30 p.m. He stated that the first bill to be heard would be A.B. 473 and testimony would be received from opponents to the bill. Testimony of proponents was previously heard on April 15. Chairman Harmon also announced that Mr. Jim Bilbray's father had suffered a heart attack and Mr. Bilbray was unable to attend today's meeting. Mr. Bilbray represents certain other opponents to A.B. 473. Chairman Harmon stated he would extend the same courtesy to Mr. Bilbray as was extended to the Mayor of Las Vegas last week, and this matter would again be heard next week in order to give Mr. Bilbray an opportunity to appear.

Mr. Charles Thompson, Attorney at Law, Las Vegas, appeared in behalf of Mr. Erik Rasmussen, President of D & E Enterprises, Inc., dba Theatre Mart. Mr. Thompson stated they were appearing to respond to statements made last week by proponents of the bill plus allegations by the press. They would like to present some positive aspects of the jam auction business so the Committee can be aware of how the business operates. Mr. Thompson further stated that A.B. 473 and the amendment present previously are both unconstitutional and unnecessary.

Chairman Harmon said that a legal opinion as to the constitutionality of the bill would be requested of Mr. Frank Daykin, Legislative Counsel.

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Mr. Thompson introduced Mr. Erik Rasmussen who presented a statement to the Committee, a copy of which is attached as Exhibit 1.

Mr. Harmon stated that jam auctions seemed to be a problem in Las Vegas and no where else in the state. He asked Mr. Rasmussen why the major as well as the city commission could not adopt the appropriate ordinance to correct this situation. Mr. Thompson answered that he did not know, but he did know there were existing state statutes and the State Consumer Affairs Department, as well as the Las Vegas City Attorney, can do the job with the existing statues and there is no need for any additional legislation or ordinances.

Mr. Thompson further stated that the amendment proposed by the City of Las Vegas proposes to classify these retail demonstration sales stores as auctions which they are not. The Las Vegas auction ordinance contains provisions more restrictive than A.B. 473 in its present form, according to Mr. Thompson, who described some of the restrictions contained therein.

Mr. Weise also questioned why Las Vegas could not provide their own ordinances and control over certain businesses and felt that this bill would present some real problems.

Chairman Harmon again announced that no action would be taken until next week when Mr. Bilbray could appear and the Committee had received an opinion from Legislative Counsel as to the constitutionality of A.B. 473.

Assembly Bill 674

Assemblyman Marion Bennett appeared in support of the bill and stated that in his committee on Tourism and Development he had received much testimony that the small businesses in this state are "on their death bed", and A.B. 674 would be the financial transfusion that would enable them to be resurrected.

Mr. Bennett introduced Mr. Bob Bailey of the Nevada Department of Commerce. Mr. Bailey stated that A.B. 674 would act as a funnel through which some kind of guaranteed assistance can be given to the small businesses to compete favorably with the state procurement dollars that go out each year. In answer to a question by Chairman Harmon, Mr. Bailey said that the fiscal impact should not be over \$30,000 a year at the most. He feels that the returns will be 15 to 20 times the amount of money that is expended.

Senate Bill 139

Milos Terzich, Health Insurance Association of America, stated he had no position on the bill but it came out of the Senate

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without an amendment which they had originally approved. Senator Wilson had suggested that it would save time if the Assembly Commerce Committee would add this amendment. A copy of such amendment is attached as Exhibit 2.

Assembly Bills 725 and 726

Mr. Robert Bilbray, representing Mr. George Swallow and Eastern Nevada Realty in Ely, appeared in support of A.B. 725 and A.B. 726. Mr. Bilbray presented the Committee with summaries of the major proposals contained in A.B. 725 and A.B. 726 which are attached as Exhibits 3 and 4, respectively. Mr. Bilbray discussed and explained the various proposals and changes as set forth in his summaries. Exhibit 5 re these bills is attached.

Mr. Demers referred back to the original law passed in 1973 and asked if Mr. Bilbray was suggesting that the regulations should be enforced by the Real Estate Advisory Commission. Mr. Bilbray said they should be adopted, not enforced, by the Commission. He further stated he was a firm believer in separation of duty and the regulations should be adopted and enforced by the Division. Mr. Bilbray said that nothing suggested really changes the substance of enforcement--all it does is provide the local residents and the local developers alternative, less expensive, less duplicative registration and disclosure requirements.

Gene Milligan, Nevada Association of Realtors, stated they had reviewed the bill with Mr. Bilbray and they are in support of A.B. 725 and A.B. 726.

Angus McLeod, Administrator of the Division of Real Estate, appeared in opposition to A.B. 725 and A.B. 726. Mr. McLeod thought that basically the present concept is working. He said they took over a horrible situation prior to 1973 and no evidence has been given that the present system is not working. Also, no evidence has been given that the Advisory Commission would do a better job than the Division of Real Estate, and Mr. McLeod thinks there would be a conflict of interest since one of the Commission members now is a broker for a land company.

Mr. McLeod stated that the heart of the matter is the HUD exemption--it is a farce and Nevada should not go back to that old standard. Mr. McLeod explained the problems with the HUD Act and his objections to A.B. 725. Mr. McLeod feels that the whole net result of A.B. 725 is that everyone is going to be exempt from the Act, and it will revert back to the chaotic conditions existing prior to 1973 with thieves, crooks and con artists back in business preying upon the citizens of Nevada.

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Mr. Weise asked Mr. McLeod if a developer had HUD reports if there was a possibility of getting an exemption from the State report. Mr. McLeod said they were not in favor of that; they will accept from a developer the exhibits he places in his HUD filing to the extent they satisfy the Division's requirements. The State law is stronger than HUD's and HUD's filing is not sufficient for this. Mr. McLeod also told Mr. Weise there were no big land developers remaining in Nevada.

Mike Melner, State Commerce Director, said that one of the major accomplishments of the Commerce Committee in 1973 was the Land Sales Act which protects the tourists' economy. He feels if A.B. 725 is passed it will affect the tourist economy and now is not the time to turn back from tough legislation.

Mr. Price and Mr. Barengo questioned Mr. Melner about possible ways of assisting Mr. Bilbray without weakening the Division's position. Mr. Melner said the trouble with any kind of regulation was that it does put hardships on the honest man and he knows of no way around that as it is inherent in regulation. In answer to a question by Mr. Demers, Mr. Melner did not think it would be wise to give the authority to the Real Estate Advisory Commission since they are not a full time Commission and have enough trouble covering Section 645, the real estate bill.

Mr. Weise agreed with Mr. Melner in that there is a difference between the Real Estate Advisory Commission handling real estate matters and subdivision problems. Mr. Weise expressed the opinion that the Land Sales Act was tough but he does not think the State has been injured anywhere near as much as it has been benefitted by the Act.

Senate Bill 238

John Crossley, Chief Deputy Legislative Auditor, Legislative Counsel Bureau, explained that this bill provides that an applicant applying for a private employment agency license may put up cash in lieu of a surety bond. An audit revealed this was being done which was not in accordance with the statutes. S.B. 238 will allow the applicant to put up cash or other forms of security. It also allows the commissioner to set up a trust fund rather than deposit the money in the restricted bank account. There is no fiscal impact on the bill.

COMMITTEE ACTION

Senate Bill 238: Mr. Demers moved Do Pass, seconded by Mr. Moody. Motion carried with Messrs. Weise, Harmon, Moody, Sena and Demers present.

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Senate Bill 139: Mr. Weise moved the adoption of the amendment submitted by Mr. Terzich, seconded by Mr. Demers. Motion carried.

Mr. Weise moved Do Pass S.B. 139 as amended, seconded by Mr. Sena. Motion carried. Messrs. Weise, Harmon, Moody, Sena and Demers present.

The meeting was adjourned at 5:30 p.m.

Jane Dunne
Assembly Attache

GUEST LIST

Cyr. 20

<u>NAME</u> (Please print)	<u>REPRESENTING</u>	<u>WISH TO SPEAK</u>	
		Yes	No
ANGUS McLEOD	REAL ESTATE	X	
Robert E. Edmondson	Attorney Gen		X
Jeanne Hannafin	Real Estate	X	X
Bob Baird	NEED	✓	
Ruth E. A.	Funeral Home	✓	
Tom Carpenter	Properties		X
Jacqueline Harten	Chiropractic Assn. / Ill.		X
William Henderson	Telephone		X
John Crossley	LCB - Auds SB 238	✓	
Mildred T. H.	HIAA - ALIA	SB 139	
ROBERT BILBEAN			

D. & E. Enterprises, Inc.

200 N. Casino Center • Las Vegas, Nevada 89101 • (702) 385-6871

STATEMENT OF ERIK RASMUSSEN

To the

Nevada State Legislature Commerce Committee Hearing
regarding AB473, on April 20, 1977
in Carson City, Nevada

My name is Erik Rasmussen. I am a resident of the City of Las Vegas, Clark County, Nevada, and the owner of several businesses located in the downtown area of Las Vegas. Among my various enterprises, I am the President and owner of D & E Enterprises, Inc., doing business as Theatre Mart at 22 E. Fremont Street. D & E Enterprises operates a retail demonstration sales store more commonly known as a "Jam Auction".

I wish to address this committee basically in support of any Legislation that reasonably controls any licensed business. However, I must speak against AB473 as it exists and as it is suggested to be amended because it is ill-founded, ill-intended, and meant to put me out of business, not to control my business. Furthermore, it is my opinion and my counselor's opinion, that it is unconstitutional, discriminatory, and burdensome.

I take personal pride in what I consider to be an outstanding record in my involvement with the auction business I presently operate. During the years 1975, 1976, and 1977,

Exhibit 1

we have had a total of only 65 written complaints through the Better Business Bureau, the Consumer's Affairs Division, and the City Attorney's Office, many of which were duplications. Unfortunately, unlike Sears & Roebuck or other large retail establishments, we do not have enough room to house a complaint department right on the premises. If we did, it is quite likely that even these few complaints would not have surfaced through the various local bureaus because the customer would have been able to seek remedy directly with us. We probably have the most liberal refund policy in the entire State of Nevada in that any customer for any reason can obtain a refund just for the asking by simply returning the merchandise within any reasonable amount of time. Refunds have been granted in excess of one year after purchase.

As reflected in Exhibits A, B, & C, you will note that my company is rated very well with all of the regulatory agencies. As stated before and documented by these exhibits, we have had a total of only 65 written complaints during the years 1975, 1976, and 1977, many of which are duplications.

On April 15, 1977, at your first hearing on AB473, our Mayor, Mr. Bill Briare, specifically stated, and I quote:

" . . . we average about three letters a day in the Mayor's office. The letters are probably double that to the Chamber of Commerce, to the Better Business Bureau, to the Consumer Affairs Division of the City Attorney's Office. . ."

End quote.

In all due respect, I am sure that the Honorable Mayor Bill Briare meant no malice and because of his busy schedule has not been able to find the time to get the true facts of the matter. I am sure he would agree that the exhibits I have placed before you today, one of which came directly out of his own City Attorney's Office, is a far more accurate representation of the facts. During this 2 1/2 year period of time, Theatre Mart has transacted in excess of 300,000 sales. I believe that I could fairly surmise that very few businesses could point to this percentage ratio of complaints against sales.

We have cooperated fully with the Better Business Bureau, the Consumer's Affairs Office, and the City Attorney's Office in policing our own business, satisfying any and all these few complaints and operating our business on the highest standards of moral and business ethics.

A retail demonstration sales license is a privileged license and is presently under the direct state enforcement arm of the Attorney General through the Consumer's Affairs Department. We are now directly controlled through a specific assurance of discontinuance with the Consumer's Affairs Office. We are also under direct control through a local city ordinance and an assurance of discontinuance with the City Attorney's Office. I can only represent myself and as President of D & E Enterprises, Inc., doing business as Theatre Mart, in this matter.

The major evidence produced here last week indicates a volume of complaints were received by the Las Vegas City Attorney's Office directly against one of the auctions located in downtown Las Vegas. My business is in no way or am I in any way affiliated with that particular operation. My company's record speaks for itself and I might suggest that it is the responsibility of the present enforcement agencies namely the City Attorney's Office and the Consumer Affairs Department to do their jobs and enforce the statutes. Their failure to do so has obviously caused a reflection on me and is not in any way a representation of how I have operated my auction business. In other words, if these regulatory agencies were doing their jobs based on the existing statutes, there would not be a problem.

I am aware that our Honorable Mayor Briare has sent a telegram to this committee that in part states, and I quote:

"We cannot afford another two years of fraud, misrepresentation, false advertising, overcharging, harrassment, and bunko charges levied against jam auction carnival-type business. . ."

End quote. I realize that our Mayor is of high character and of good sound moral and spiritual values. He has either been misquoted or possibly ill-advised to have made such broad and offensive statements. His intentions are good and always in the best interest of the City, but in my particular case, I believe that a grave injustice is being done.

If there is a problem, as outlined in Mayor Briare's telegram, then you have all the present statutes and enforcement agencies necessary to stop it this very day.

At this point, I would like to introduce into evidence five watches, two of which are ladies and three of which are mens watches. You will note that I have furnished you with a copy of the appraisal on each of these watches marked as Exhibit "D" and attached hereto. This appraisal was obtained from John Fish Jewelers at 2430 Las Vegas Boulevard South, Las Vegas, Nevada. They are the same appraisers that do all of the appraisal work for the State Consumer's Affairs Division and we were referred to them for our appraisals.

The first two watches I wish to introduce were purchased from a highly reputable, well known jewelry store in Las Vegas, whose name is synonymous with fine quality watches and jewelry. You will find enclosed with these purchases, receipts indicating the purchase price of \$90.00 plus tax, on watch #1, a man's Fairchild 5 function L.E.D., with an appraisal of \$150.00. The purchase price of watch #2, a lady's 5 function L.E.D., was \$50.00 plus tax, with an appraisal of \$50.00. These first two watches came unboxed and did not even include a written guarantee.

The next three watches I wish to introduce are sold daily in our auction store at \$50.00 including tax. They are 6 function L.E.D. watches, and you will note they are listed on

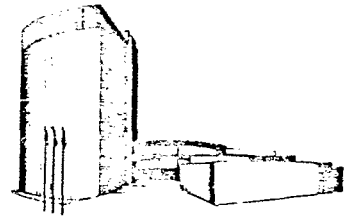
Exhibit "D" as watches #3, #4, and #5, with appraisals of \$150.00, \$150.00 and \$175.00.

The next items I wish to introduce into evidence are two genuine jade bracelets. One being a four piece round, the other being a five piece flat, each selling in our store at \$30.00, tax included. The identical bracelets, submitted herewith, were purchased from the Hilton Gift Shop at \$30.00 for the four piece round, and \$37.00 for the five piece flat, plus tax. This same four piece bracelet was also purchased from J. C. Penny's fine jewelry department at \$24.95, plus tax. I do not wish to belabor this committee by introducing the many and varied items we sell in our store and comparing them with the same or similar items sold throughout the Greater Las Vegas area. I believe these few items are sufficient to clarify the charge that we sell "inferior merchandise at highly inflated prices". As you can readily see, we are highly competitive and rely on volume sales.

Therefore, I ask this committee to reject the attempt for Legislation that is obviously hurried, unplanned, and unconstitutional, and I pledge that, in the spirit of cooperation, I will at any time, work with the City of Las Vegas, The State Attorney's Office and the Legislature to obtain a bill that is reasonable, constitutional, and well intended.

Professional Public
Services

City of Las Vegas
Carl E. Lovell, Jr.
City Attorney
400 EAST STEWART
LAS VEGAS, NEVADA 89101



CARL E. LOVELL, JR.

ANSON F. STEWART
Chief Civil Deputy

DANIEL E. AHLSTROM

RICHARD A. KOCH

CHRISTOPHER G. GELLNER

JOHN J. GRAVES, JR.
Chief Criminal Deputy

DANIEL S. HUSSEY

DON L. GRIFFITH

GERALD M. WELT
Consumer Protection Division

April 19, 1977

Area Code 702
Telephone
386-6201
386-6213
(Criminal Division)

Mr. Erik Rasmussen
D & E Enterprises, Inc.
200 North Casino Center
Las Vegas, Nevada

Re: Theater Mart
22 Fremont Street
Las Vegas, Nevada 89101

EXHIBIT "A"

Dear Mr. Rasmussen:

I am writing in regard to your letter dated April 14, 1977 requesting the number of written complaints filed with this office concerning Theater Mart during 1975, 1976 and to this date for 1977.

Our records indicate the following:

1975 - Thirty (30) complaints
1976 - Eight (8) complaints
1977 - Two (2) complaints

The aforementioned consists of forty (40) written complaints, letters of complaint and sworn affidavits.

Our records further indicate that the complaints received by this office since October, 1976 have been resolved to the customer's full satisfaction.

Thank you for your continued cooperation in resolving these matters and for the refund policy for Theater Mart you recently sent to my attention.

Sincerely,

J. ROGER PEACOCK
Consumer Protection Division

JRP:dc

cc: Carl E. Lovell, Jr.



BETTER BUSINESS BUREAU of SOUTHERN NEVADA, Inc.

East Charleston Square, #103, 1829 East Charleston Blvd.

• LAS VEGAS, NEVADA 89104 •

Telephone (702) 382-7141

TOY R. GREGORY, JR., Counsel
WILLIAM S. BOYD, Counsel

PAUL M. NUTTER, Executive Director

April 15, 1977

EXHIBIT "B" 1

Mr. Eric Rasmussen
D & E Enterprises, Inc.
200 N. Casino Center
Las Vegas, Nevada 89101

Dear Mr. Rasmussen:

Per your written request of this date, I have reviewed the Better Business Bureau file on D & E Enterprises, doing business as Theatre Mart.

The file commenced March, 1974. Your request for the number of written complaints in the years 1975, 1976 and 1977 (to date) are as follows:

1975-Seven (7) complaints, all answered and adjusted to the customer's satisfaction.

1976-Six (6) complaints, all answered, five adjusted, one was a question of price, no adjustment necessary.

1977-None to date.

Your on going refund policy has contributed to the relatively few complaints on file.

Sincerely,

Paul M. Nutter,
Executive Director

PMN:jn



CONSUMER AFFAIRS DIVISION

2501 EAST SAHARA
THIRD FLOOR

LAS VEGAS, NEVADA 89104
(702) 385-0344

MAILING ADDRESS:
STATE MAIL ROOM COMPLEX
LAS VEGAS, NEVADA 89158

REX W. LUNDBERG
COMMISSIONER
LAS VEGAS

MARY VAN KIRK
DEPUTY COMMISSIONER
CARSON CITY

MIKE O'CALLAGHAN
GOVERNOR

April 19, 1977

EXHIBIT "C"

Eric Rasmussen
D & E ENTERPRISES
200 North Casino Center
Las Vegas, Nevada 89101

Re: D & E ENTERPRISES
THEATRE MART

Dear Mr. Rasmussen:

I am writing this letter in response to your request dated April 14, 1977 and received in this office on April 19, 1977 for the number of written complaints filed with this office against D & E Enterprises and Theatre Mart.

The first complaint was received on December 4, 1973.

For 1975 - six (6) complaints

For 1976 - five (5) complaints

For 1977 - one (1) complaint

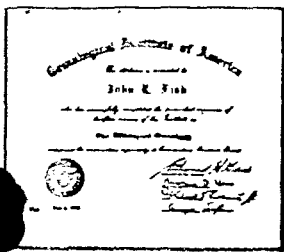
The fact Consumer Affairs Division has received complaints is not indicative of either violations or non-violations of law, but they have culminated in an execution of a voluntary Assurance of Discontinuance on December 3, 1976 by the above firms.

This letter is not to be construed as an endorsement of, nor condoning the business activities of the above entities. This office can render no opinion relating to the nature of these businesses as we enforce the laws which regulate their conduct.

Sincerely,

REX W. LUNDBERG
COMMISSIONER

RWL:wd

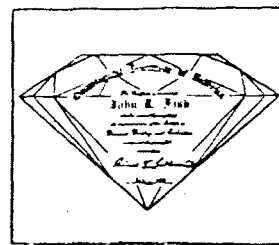


John Fish Jewelers

2430 LAS VEGAS BLVD. SOUTH • PHONE 382-8473

LAS VEGAS, NEVADA - 89105

Certified Gemologist, G.I.A.



JEWELRY
APPRAISAL

Property of Bol F. Sanfo **EXHIBIT "D"**

Address 3556 Tempe St

LN, NV 89103

876-9381

These estimated replacement costs are based only on estimates of the quality of the stones (unless specifically stated the stones were removed and graded). We assume no liability with respect to an action that may be taken on the basis of the appraisal.

4-19-77

DESCRIPTION OF ARTICLE

Estimated Replacement Cost

1- Cts Watch - SS back Base metal bezel Fairchild LED five function with metal band the width of the watch and tapering	\$ 150 ⁰⁰
- Ladies Watch - yel top SS back Timeband with suede strap LED five function	50 ⁰⁰
- Cts Watch - ygp, SS back, LED, Square case, six function with tapered metal band by Astrosonic	150 ⁰⁰
- Cts Watch - ygp, SS back, LED, Archaic shape, six function with tapered metal band by Astrosonic	150 ⁰⁰
- Ladies Watch - ygp, SS back, LED, round shape with tapered link band by	175 ⁰⁰

Amend S.B. 139, First Reprint, Sec. 109 as follows:

P. 28, Line 47-48, delete entire sentence which reads as follows:

"No policy of health insurance shall exclude coverage for services of any licensee provided for in this subsection."

and substitute in its place and stead the following language:

"No policy of health insurance shall deny any insured the free choice of any licensee provided for in this subsection to perform any medical or surgical service covered by the policy which such licensee is entitled by his license to perform."

SUMMARY OF MAJOR PROPOSALS
contained in
AMENDMENTS TO NRS CHAPTER 119

THIS PROPOSED BILL, amending the provisions of Chapter 119, has been drafted to provide for substantially identical protections afforded purchasers in the public interest by way of registration requirements of subdivision offerings; full and complete disclosure of the material facts relating to the property comprising the offering and comprehensive regulation of sales practices, representations and advertisements proposed by a developer in connection with the offering or sales of interests in real property subdivisions in the State of Nevada.

The current provisions of NRS 119, adopted in 1973, were enacted for the basic purpose of protection of Nevada residents and tourists from unlawful and high pressure sales tactics used, for the most part, by out-of-state developers selling out-of-state property, the great majority of which is sold sight unseen.

Since the time of its inception, Chapter 119 was intended, by reason of the fact of the large amount of out-of-state lots being offered inside Nevada, to generate massive revenues for the benefit of the State of Nevada so as to offset the exorbitant administrative costs being borne by the Nevada Division of Real Estate. The facts which have come to light since the statute's enactment in 1973 are that this Chapter caused all of the major land development companies who so badly needed this regulation to leave the state prior to its effective date in 1973, and therefore, the expected revenues and budgeted amounts for administration have been substantially overstated, resulting in a continual requirement for support from the General Fund, in excess of \$300,000 for the most recent fiscal year.

In 1973, the strict and high cost regulation of the industry was, no doubt, justified in order to protect the integrity of this state's tourist economy and its residents. By submission for your consideration of these proposed amendments to Chapter 119, it is in no way intended or inferred to open the "flood gates" for those companies, or practices which existed prior to the original adoption of Chapter 119, but only to minimize the burdensome duplications of registration and disclosure requirements which, for the most part, are now being applied solely to Nevada residents in connection with the development and sales of Nevada property. This is particularly

true in the less populous counties of our state where development, and the resulting beneficial effect upon the economy would, in all likelihood, prevail to the benefit of the local residents and the state as a whole. With these thoughts in mind, it would appear that any further delay in the enactment of these proposed amendments would conversely result in the disastrous further stagnation of these areas.

A short summary of the major proposed amendments is as follows:

1. Amendment of NRS 119,020 so as to provide that the reservations contained in the state and federal patents would not be interpreted, as they are currently, by the Real Estate Division to be encumbrances or adverse claims, thereby effectively preventing any property within the State of Nevada from qualifying for the statutory exemption provided by the Legislature in NRS 119.120 (see below).

2. NRS 119.035 has been added to the bill, based upon our belief that there should be a separation of duty and responsibility between the entity which promulgates rules and regulations under NRS 233(B) and the entity which interprets and enforces the statute and its rules and regulations so promulgated. Under the current NRS 119, the Administrator of the Real Estate Division has the authority to promulgate the rules and regulations, enforce those rules and regulations, and act as the appellate hearing officer for administrative hearings based upon violations of those rules and regulations. We feel this to be an untenable administrative delegation of Legislative authority and, in our amendments, propose that the Real Estate Advisory Commission, comprised of members appointed by the Governor, act as the sole rule and regulation adopting entity as currently exists under NRS 645 (the Real Estate Broker Licensing Law). And, furthermore, that the Real Estate Advisory Committee be the administrative appellate body for actions brought by the Nevada Division of Real Estate for violations of its rules and regulations.

3. NRS 119.116 provides review by the Real Estate Advisory Commission prior to investigative expenditures based upon the requirement of the Real Estate Divisions showing a material need for the expense.

4. NRS 119.120 is the exemption provision which has been clarified so as to exempt those real property interests which were, we feel, not intended by the 1973 Legislature to be applied to, but which have in fact been subjected to the registration and disclosure requirements of the Act. They include sales or leases of stores,

apartments, offices, or industrial buildings; to the sale or lease of lots which are free and clear of all liens, encumbrances and adverse claims, and that federal or state patents to which, effectively, all Nevada land is subject, NOT disqualify the property from the exemption (see #1 above); to the sale or lease of lots where all roads and utilities are in or will be in within two years, and all purchasers have personally inspected the lot prior to contracting. Also exempted from the duplicative registration and disclosure requirements would be those subdivisions who have effective registration filings with the Department of Housing & Urban Development in accordance with the Interstate Land Sales Full Disclosure Act.

Note: All of the above exemptions would only apply to the registration requirements, and would NOT exempt the developer from the required submission of all proposed advertising to be used in connection with the development plan to the Nevada Division of Real Estate for its approval, prior to use.

5. NRS 119.140 has been amended so as to clarify the requirements for registering a subdivision, both as to information and the necessary documentation.

6. NRS 119.180 has further been amended so as to provide for an administrative remedy for the appeal by either the developer or the Real Estate Division relating to advertising which, either when approved was an adequate disclosure but subsequently became inadequate, or where the approval of adequate disclosure is unreasonably denied.

7. NRS 119.185 has been amended so as to provide, prior to revocation of a broker's or salesman's license, an adequate opportunity for an administrative hearing before the Real Estate Advisory Commission.

8. NRS 119.260 has specified the powers of the Real Estate Advisory Commission to issue Cease & Desist Orders, based upon specific violations deemed to have occurred, after an administrative hearing and an adequate opportunity for all parties to be heard.

9. NRS 119.280 conditions the Administrator's right to issue subpoenas for confidential records and information only upon a showing to the Real Estate Advisory Commission, by the Division, the basis for such inquiries, the need and intended use of the confidential information sought to be acquired.

SUMMARY OF MAJOR PROPOSALS
CONTAINED IN
NEVADA UNIFORM LAND SALES PRACTICES ACT

THIS proposed bill, repealing the provisions of NRS Chapter 119 and adopting the provisions of a bill based upon the Uniform Land Sales Practices Act, is prepared by the National Conference of Commissioners on Uniform State Laws.

The Uniform Land Sales Practices Act (hereinafter referred to as ULSPA) has been adopted by eight (8) states across the country, comprising Utah, Hawaii, Florida, Connecticut, Montana, Kansas, South Carolina and Alaska. Effectively, the ULSPA, as being proposed, is identical to that of Utah in all material respects in that it is, as is the current Chapter of NRS 119, a "Full Disclosure" bill requiring complete and adequate disclosure of all material facts surrounding the offering of subdivision interests in the State of Nevada. We believe this Uniform Act provides all the protections and assurances and responsibilities originally intended by Chapter 119, while at the same time providing fiscal ability with respect to costs of administration by the Division of Real Estate and costs of registration to the developer. Furthermore, this proposed ULSPA provides for substantial decrease in administrative costs by reason of the fact that it encompasses major portions of the registration and disclosure requirements as required by the rules and regulations of the Department of Housing & Urban Development, Office of Interstate Land Sales Registration, under the Interstate Land Sales Full Disclosure Act, as is presently adopted. This bill would prevent duplication of registration and disclosure requirements as are presently required under NRS 119.

The major variance of this ULSPA from that of the State of Utah is occasioned by our belief that the rule and regulation adopting authority and the appeal procedure for violation of those rules and regulations should be separated from the interpretation and enforcement functions under the Act. Therefore, this bill has been drafted so that the Real Estate Advisory Commission, as it is comprised of appointments by the Governor, would be the rule and regulation adopting entity and the appellate entity for violations of rules and regulations as enforced by the Nevada Division of Real Estate. Only through this separation of powers can a viable administrative adjudication be had, absent subjecting the developer and the Division to protracted judicial litigation, which we feel to be currently inadequate.

REAL ESTATE DIVISION - LAND SALES (NRS 119)

REVENUES AND EXPENSES 1971-1976

Introduction and Budget Procedures

The Land Sales' activities of the Real Estate Division in the Department of Commerce derive from NRS chapter 119, "Licensing and Regulation of Land Sales." This chapter was added to NRS by A.B. No. 782, 1971 (chapter 621, 1971) and substantially amended by S.B. No. 259, 1973 (chapter 792, 1973). Since inception on July 1, 1971, the budgeting procedures for chapter 119 implementation have been operated in three different ways. For 1971-72 and 1972-73, the Real Estate Subdivision Fund was operated as an authorized expenditure budget. That is, there were no direct General Fund appropriations to support regulation of land sales. Rather, fees collected under NRS 119 were deposited to the Real Estate Subdivision Fund to support the budget activities. For 1973-74 and 1974-75, the Real Estate Subdivision Fund was changed to a General Fund appropriated budget account and the fees collected under NRS 119 were deposited to the General Fund. For 1975-76 and 1976-77, chapter 119 implementation continue with General Fund appropriations and fees are deposited to the General Fund. However, the Real Estate Subdivision Fund was abolished as a separate budget entity and instead merged in with the Real Estate Division Administration Account.

The evolution in budget procedures described above has an impact on the reconstruction of expenses associated with the implementation of NRS 119. For 1971-1975, direct expenses can be easily isolated because they were processed through a distinct fund for 1971-73 and a distinct budget account for 1973-75. But the expenses for 1975-77 will be recorded against the Real Estate Administration Budget Account, which includes responsibilities of NRS 645 and 645A as well as NRS 119.

An additional complication must be mentioned in a review of the total expenses of implementing NRS 119. Some employees in the Real Estate Division performed ^{NRS} 119 functions in 1971-1975, but were budgeted in the Real Estate Administration Account. For example, the Division Administrator, Deputy, contract Attorney General and accounting personnel spent some amount of their time on 119 activities, but these expenses were charged against the Administration Account. In the analysis that follows only the direct expenses are shown and there is no attempt to impute indirect expenses from the Administration Account.

LAND SALES (NRS 119) REVENUES AND DIRECT EXPENSES

<u>Source</u>	<u>Revenues</u>				
	<u>1971-72</u>	<u>1972-73</u>	<u>1973-74</u>	<u>1974-75</u>	<u>1975-76</u>
Land Company					
Filing Fees	\$14,250.00	\$ 59,110.00	\$ 41,661.64	\$ 41,517.52	\$ 36,374.25
Land Sales					
Reg. Rep. Fees	62,525.85	52,400.00	30,396.25	14,317.00	2,400.00
Advertising Fees	- -	- -	6,015.50	7,156.50	7,563.50
Annual Collection	\$76,775.85	\$111,510.00	\$ 78,073.39	\$ 62,991.02	\$ 46,337.75
Previous Bal.Fwd.		73,833.02			
Total Rev.& Bal.	\$76,775.85	\$185,343.02	\$ 78,073.39	\$ 62,991.02	\$ 46,337.75
G. F. Support			\$289,274.00	\$319,010.00	*

<u>Category</u>	<u>Expenses</u>				
	<u>1971-72</u>	<u>1972-73</u>	<u>1973-74</u>	<u>1974-75</u>	<u>1975-76*</u>
Personnel Svcs.	\$ 284.20	\$ 44,927.97	\$156,391.38	\$246,274.57	\$200,000.00*
Out-State Travel	- -	2,940.08	3,778.02	824.75	} 25,000.00
In-State Travel	- -	756.52	5,649.33	7,146.92	
Operating	185.52	27,183.73	39,818.12	39,534.64	
Equipment	2,473.11	8,535.86	7,807.98	5,076.97	
Total Expenses	\$ 2,942.83	\$ 84,344.16	\$213,444.83	\$298,857.85	\$225,000.00*
Carry Forward	\$73,833.02				
G. F. Reversion		\$100,998.86	\$ 75,829.17	\$ 20,152.15	

Source: Compiled from the Nevada State Controller's Year-End Budget Status Reports (Unaudited).

* For 1975-76, the Land Sales' responsibility was merged into the Real Estate Administration Account by the 1975 Legislature upon the recommendation of the Governor. Therefore, it is difficult to isolate expenses specifically for NRS 119 implementation. In 1973-75, the Legislature had authorized 27 positions for Land Sales. For 1975-77, the Governor proposed to transfer 22 of these to Real Estate Administration and the Legislature authorized the transfer of 17. For 1975-76, the salaries of these 17 positions would be approximately \$200,000 and estimated support costs \$25,000 for an estimated Land Sales' direct cost for 1975-76 of \$225,000.

From the revenue and expenditure chart on the preceding page, it can be shown that since chapter 119 became effective on July 1, 1971, through June 30, 1976, land company filing fees, land sales registered representative fees and advertising fees totaled \$375,688.01 and direct expenses for the implementation of NRS 119 have totaled \$824,589.67. The net of expenses over revenues have been supported by General Fund appropriations.

NRS 119.150 provides for a special account for the expenses of onsite investigations of subdivisions filed with the Real Estate Division. The source of funds for this account is payment from the developers being inspected. The types of expenses incurred are travel, per diem and film. There have been no salary charges against this account. The account is nonreverting and the revenues and expenses from 1971-1976 are displayed in the table below:

<u>REAL ESTATE INVESTIGATIVE FUND (#269-3832)</u>					
	<u>1971-72</u>	<u>1972-73</u>	<u>1973-74</u>	<u>1974-75</u>	<u>1975-76</u>
Investigative Fees	\$773.00	\$780.29	\$2,310.81	\$4,707.15	\$3,711.05
Investigative Expenses	\$891.65	\$576.47	\$1,839.43	\$3,965.45	\$4,152.88
Investigative Net	(\$118.65)	\$203.82	\$ 471.41	\$ 741.70	(\$ 441.83)

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 20, 1977

SUBJECT S.B. 238

MOTION:

Do Pass Amend Indefinitely Postpone Reconsider

Moved by Mr. Demers Seconded by Mr. Moody

AMENDMENT

Moved by _____ Seconded by _____

AMENDMENT

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	x					
Mello	Not present					
Barengo	Not present					
Demers	x					
Hayes	Not present					
Moody	x					
Price	Not present					
Sena	x					
Weise	x					

TALLY:

Original Motion: Passed Defeated Withdrawn

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 20, 1977
Date

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 20, 1977

SUBJECT S.B. 139

MOTION: Do Pass as Amended

Do Pass Amend Indefinitely Postpone Reconsider

Moved by Mr. Weise Seconded by Mr. Sena

AMENDMENT

Moved by Seconded by

AMENDMENT

Moved by Seconded by

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Harmon	<u>x</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Mello	<u>Not present</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Barengo	<u>Not present</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Demers	<u>x</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Hayes	<u>Not present</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Moody	<u>x</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Price	<u>Not present</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sena	<u>x</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Weise	<u>x</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

TALLY:

Original Motion: Passed X Defeated Withdrawn

Amended & Passed Amended & Defeated

Amended & Passed Amended & Defeated

Attach to Minutes April 20, 1977
Date