The meeting was called to order at 8:07 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Sloan
Senator Dodge
Senator Raggio
Senator Don Ashworth
Senator Ford

ABSENT: None

SB 548 Makes chairman of state board of parole commissioners its executive officer and provides for his powers and duties.

Bryn Armstrong, Chairman of the Board of the Parole Commissioners, spoke in behalf of SB 548. He said that this bill would not result in any sweeping change in the way that the parole board operates now. One of the big problems in not having an executive officer is the budget and who will put it in final form and this bill would take care of that.

No action was taken on this bill at this time.

SJR 25 Proposed to amend Nevada Constitution to allow for municipal courts of record.

Marsha Hudgins, City of Las Vegas, said that it is felt that the municipal judges are opposed to this resolution and it could also end up being very costly. She said that out of 25,000 criminal cases each year only about 5%, or 125 to 200 cases, were appealed. It was also felt there wouldn't be much benefit to operate, maintain and store tape recordings.

Senator Close said that SB 267 should alleviate many concerns and they did try to tie it down to where court reporters would not be required. He said if a whole new trial had to be set, it would be much more expensive in court time, attorneys' time and jury time if a hearing were requested.

No action was taken on this bill at this time.

AB 28 Raises monetary limit of jurisdiction of justices' courts.

Senator Close said the Assembly had changed the justice court jurisdiction bill to $750.

Senator Dodge said there were some real problems with the bill and said they should go into conference on the whole bill.

Senator Raggio moved that A.B. 28 go to conference.

Seconded by Senator Hernstadt.

Motion carried unanimously.

Senator Raggio moved that A.B. 28 be amended with SB 92 that was in the Assembly.

Seconded by Senator Sloan.

Motion carried unanimously.

Senator Ford was absent for the vote.

SB 546 Requires lending institutions which hold certain advance payments in "impound" accounts to pay interest on the accounts to mortgagors.

Senator Jim Kosinski, Sparks, said this bill was a result of numerous constituents' requests concerning the alleged use of their funds made by lenders that secure their loans by mortgages. He said that many people feel that the impound accounts are a significant source of revenue to the lenders and borrowers should receive some benefit from these impound accounts. He submitted a letter from Don Rhodes of the Research Division (see Attachement A).

Senator Sloan asked if a study had been made in other states on what the impact on the counties would be if taxes were not paid on time.

Senator Kosinski said there is an administrative expense involved in collecting these impound accounts.

Senator Sloan said he thought if this were done, the saving and loan associations would find it less attractive to do impound accounts and in getting out of it, the counties would have an increased workload since there would have to be direct billing.

Jordan Crouch, Executive Vice President of the Nevada Bankers Association, said that on the surface it seems like a normal, reasonable request. He introduced Bud Bradshaw, Senior Vice President of First National Bank, since this was a state bank bill and not a national bank bill.

George Vargas, Northern Nevada Bankers' Association, said he didn't think the state legislature could control national banks. In the national banking act there is a provision that national banks have favored treatment with

respect to state laws. Hence there is a possibility that our usury law is not applicable to national banks.

Bud Bradshaw, First National Bank, addressed the interest-bearing accounts. He said when they originate a loan with a trust fund, they are not all attached to trust fund accounts. This is because it is impossible to make calculations on how much will be accrued in an account since it is not known how much taxes or insurance will be from year to year. The profit to the lender on these accounts would be very nominal since there is a great deal of bookkeeping expense.

Mr. Bradshaw said that if they were to pay full pass book accounts, there would be a vast variety of interest rates paid that would have to be borrowed. This would have a detrimental impact on the county since they pay taxes on a yearly basis and they use the money until it is needed. They invest these funds to the taxpayers' interests until it is needed for state, county or miscellaneous expenses.

Senator Hernstadt asked Mr. Bradshaw if FNB paid the impound taxes quarterly or annually.

Mr. Bradshaw said they pay them annually.

Senator Hernstadt asked if since they pay 5% and then invest these impound accounts, they must be getting at least 10%, so wouldn't that 5% more than cover their expenses and still give them a profit.

Mr. Crouch said that would be true if the interest was something they could count on but the federal funds have gone down to 1-1/2 and 2% and he had seen it as high as 14% in 1974. He said if you have a fixed sum that is to be paid on this and it is 5% and the fed funds are down to 5%, this is an exception to the interest rates instead of the rule.

Jim Joyce, Savings and Loan League of Nevada, spoke in opposition to this bill. He said he had done some research through several savings and loan firms on it and it costs between $30 and $40 per year for them to service each account on impounds as it relates to insurance and taxes. He spoke of one firm in Las Vegas that had 3,500 loan accounts, 77% of which had impound accounts. Last year one payment was made to Clark County in the amount of $1.8 million in taxes. If Clark County had to collect these taxes themselves, there would be a significant impact on data processing, envelopes and postage to notify people when their taxes were due. He said when the county governments have to collect their own taxes, there is a significant impact on them.

Senator Sloan moved that SB 546 be indefinitely postponed.

Seconded by Senator Ford.

The motion carried.

Senator Ashworth abstained since he was not present for the testimony.

AB 480 Provides penalty for battery against adult member of defendant's household.

Sue Wagner, Assemblyman District #25 and Jan Stewart, Assemblyman District #14, spoke on AB 480. Mrs. Wagner said the original bill, rather than the first reprint, had significant thrust. She said that Assemblyman Stewart would explain what had happened in Assembly Judiciary Committee.

Mr. Stewart said this bill deals with spousal abuse. He said the original bill had provision in the battery section of our statutes that provides a gross misdemeanor if battery was committed against a member of that person's household. He said there was testimony from several district attorneys that many of these cases are only misdemeanors in the sense of harm. If they are made gross misdemeanors there would be less likelihood of severe punishment by going with a preliminary hearing and a trial in district court and possibly a reduction in sentence. He said it was stated that for cases that do not involve severe bodily injury, there would be much harsher sentences in a justice court. He said they decided to go with the remedy that is in several other states by arresting on probable cause for violence that occurs with one spouse against another in their home. He indicated the reprint and pointed out it is almost identical to the Florida and Michigan statutes.

Senator Dodge asked if there could be constitutional problems with this in terms of arrest.

Mrs. Wagner said no and that she had the Counsel Bureau Research Department go through each of the questions that she felt would deal with liability of the probable cause and how reasonable it is.

Senator Hernstadt asked why this bill was limited to spouses since they had already passed a bill on the temporary restraining order which applied to anyone living in the same household.

Mrs. Wagner said this is not the original bill, and the

Senator Dodge asked if the temporary restraining order, which was felt was a valid means of trying to protect a person against domestic violence, had more potential since the objective was only to deter or reduce the incidents of possible abuse.

Mrs. Wagner replied that she had three bills that resulted because of her research and talking with people in the state that work in this area. They all felt the three together were all necessary.

Carla Howe, an ex-battered woman, spoke in support of AB 480. She is a single parent with three children and said she lived in this situation for six years. She said something needs to be done about these cases since there is a real problem.

Barbara Moffitt, an ex-battered wife, said she is also in full support of this bill. She was married to a police officer and had three sons. Her sons thought it was all right to beat a wife since their father did and especially since he was an officer of the law. This caused many problems for her in raising her sons and in retraining them as far as their thoughts concerning women now that she is out of the situation.

Senator Raggio said he wanted to make one thing clear and that was no matter how many bills were passed, unless the victim followed through, the problem would never be solved. Whenever a police officer goes out to make an arrest and the wife doesn't sign a complaint, the second and third time it occurs there is an increasing reluctance on the part of the officer.

Senator Sloan moved that AB 480 be recommended: Do Pass.

Seconded by Senator Ashworth.

Motion carried unanimously.

There being no further business, the meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Chairman

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627
DONALD R. MELLO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*
INTERIM FINANCE COMMITTEE (702) 885-
FLOYD R. LAMB, *Senator, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5
ANDREW P. GROSE, *Research Director* (702) 885-56

April 26, 1979

TO: Senator Jim Kosinski

FROM: Donald A. Rhodes, Chief Deputy Research Director

SUBJECT: Impound Accounts

This is in response to your request for information about the control of the impound accounts which savings and loan associations are permitted to require for taxes and insurance premiums upon secured property.

Last December, I wrote to each state regulated savings and loan association in Nevada asking them a series of questions relating to their impound accounts and to the National Association of State Savings and Loan Supervisors asking it about other states' laws pertaining to this topic. Enclosed are copies of the responses I received. As you can see, the National Association of State Savings and Loan Supervisors identified eight states (California, Connecticut, Maryland, New Hampshire, Oregon, New York, Massachusetts and Pennsylvania) which require interest to be paid on escrow or impound accounts.

I believe the NRS provision you are interested in is NRS 673.3272, "Payment of charges by association for protection of its investments; required advance monthly payments." A copy of this provision is enclosed. As you can see in subsection (2) of NRS 673.3272:

> An association may require advance monthly payments on:
>
> (a) Principal.
> (b) Interest.
> (c) Assessments.
> (d) Taxes.
> (e) Insurance premiums.
> (f) Other statutory charges accruing upon the secured property. Each such payment may be equivalent to one-twelfth of the estimated annual amount due. Monthly charges may be adjusted to provide a reasonable method for the payment of estimated taxes, assessments,

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> insurance premiums and other charges. Upon receipt thereof such payments may be carried in a separate trust account or they may be applied to the loan account as a credit upon receipt and debit when disbursed.

As you may recall, Assemblyman Mann, and certain others, attempted to amend NRS 673.3272 in 1975 with certain new language which would have required interest on the impound accounts and placed limits on the installment payments for such accounts. A.B. 417 said, in part (the proposed new language is shown as underscored):

> Each such payment may be equivalent to, but shall not exceed, one-twelfth of the estimated annual amount due. Monthly charges may be adjusted to provide a reasonable method for the payment of estimated taxes, assessments, insurance premiums and other charges. Upon receipt thereof such payments may be carried in a separate trust account to which the association must credit interest at least quarterly at a rate not less than that which the association pays on its lowest interest-bearing savings accounts or investment certificates or they may be applied to the loan account as a credit upon receipt and debit when disbursed.

A.B. 417, a copy of which is enclosed, died in the Assembly Committee on Commerce.

As noted earlier, our neighbor states of Oregon and California require, in certain cases, interest on impound accounts. (See the enclosed copies of § 2954.8 of the California Civil Code and ORS 86.245.) ORS 86.245, "Interest on security protection deposits; inapplicable to certain agreements," says, in part:

> Any lender who requires a lender's security protection provision in connection with a real estate loan agreement shall pay interest to the borrower on funds deposited in the account at a rate not less than the highest rate currently authorized to be paid by banks on their open passbook accounts, minus three-quarters of one percent. If such rate is less than four percent, the rate of interest paid shall be four percent. Interest shall be computed on the average monthly balance in the account and shall be paid quarterly to the borrower

by crediting to the escrow account the amount of the interest due.

Moreover, it appears as though ORS 86.255, "Arrangements where security protection provisions not required; information to borrower," deals with "voluntary" impound accounts. It says:

> In any real estate loan agreement with respect to which a lender does not require a lender's security protection provision, the parties may mutually agree to any arrangement whereby the borrower prepays, pledges or otherwise commits his assets in advance of due dates for payment of property taxes, insurance premiums and similar charges relating to the real property in order to assist the borrower in making timely payments of the charges. Prior to entering any such arrangement, the lender shall furnish the borrower a statement in writing, which may be set forth in the loan application:
>
> (1) That the arrangement is not a condition to the real estate loan agreement;
> (2) If it is an escrow account, whether or not the lender will pay interest and if interest is to be paid, the rate of interest; and
> (3) Whether or not the borrower must pay the lender a charge for the service. If a charge is agreed to, the charge shall not exceed the amount of interest income earned under subsection (2) of this section.

I called Joe Sevigny, state superintendent of banks, to discuss information pertaining to this matter and asked what he thought about interest on impound accounts. He said he thought interest on such accounts "is a good idea but that any legislation containing such a provision should apply to all financial institutions and not just savings and loan associations." I also talked to Lester O. Goddard, commissioner of savings associations, and he does not appear to be an advocate of interest on impound accounts.

I hope this is what you needed.

DAR/llp
Enc.

ASSEMBLY BILL NO. 417—ASSEMBLYMEN MANN, SENA, VERGIELS AND JEFFREY

MARCH 17, 1975

Referred to Committee on Commerce

SUMMARY—Requires savings and loan associations to pay interest on impound accounts. Fiscal Note: No. (BDR 56-1277)

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

AN ACT relating to savings and loan associations; requiring such associations to pay interest on funds impounded for the pay of certain expenses relating to loans; and limiting the amount that may be so impounded.

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

SECTION 1. NRS 673.3272 is hereby amended to read as follows:

673.3272 1. An association may pay:

(a) Current or past-due taxes or assessments levied upon secured property;

(b) Insurance premiums;

(c) Life insurance premiums on policies that an association may require to be assigned as additional collateral; or

(d) Other similar charges required for the protection of its investments.

Such payments shall be added to the unpaid loan balance and shall have the same secured status under the deed of trust provisions as the loan itself. No association may require, as a condition of loan approval or in the extension of any other service, that any kind of insurance coverage be purchased from or through the association or from any agency in which a director or officer of the corporation has any interest.

2. An association may require advance monthly payments on:

(a) Principal.

(b) Interest.

(c) Taxes.

(d) Assessments.

(e) Insurance premiums.

(f) Other statutory charges accruing upon the secured property.

Each such payment may be equivalent to, *but shall not exceed,* one-twelfth of the estimated annual amount due. Monthly charges may be

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adjusted to provide a reasonable method for the payment of estimated taxes, assessments, insurance premiums and other charges. Upon receipt thereof such payments may be carried in a separate trust account *to which the association must credit interest at least quarterly at a rate not less than that which the association pays on its lowest interest-bearing savings accounts or investment certificates* or they may be applied to the loan account as a credit upon receipt and debit when disbursed.

National Association of
State Savings & Loan Supervisors

1001 CONNECTICUT AVENUE, N.W., SUITE 800, WASHINGTON, D.C. 20036 • (202) 452-1523

January 17, 1979

Donald A. Rhodes
Chief Deputy Research Director
State of Nevada
Legislative Counsel Bureau
Legislative Building, Capitol Complex
Carson City, Nevada 89710

Dear Mr. Rhodes:

By letter of January 5, 1979, we have been requested by the National Association of State Savings and Loan Supervisors in our capacity as General Counsel to that organization, to furnish you with certain information concerning state laws which require state-chartered savings and loan associations to pay interest on escrow accounts.

In May of 1976, NASSLS was asked by Senator Proxmire to conduct a survey of state consumer protection laws. Included in this questionnaire was a section concerning interest on escrow accounts. The results of the questionnaire follow. In addition, we have included supplemental information which may be helpful to you.

STATES RESPONDING: 20 (Alabama, Arizona, California, Colorado, Connecticut, Hawaii, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Nevada, New Hampshire, New Mexico, New York, Oregon, South Dakota, and Wisconsin).

STATES REQUIRING PAYMENT OF INTEREST ON ESCROW ACCOUNTS: 6 (California, Civil Code §2954; Connecticut General Statute §49-2a; Maryland Code §12-109; New Hampshire Revised Statute 384:14-c; New York General Obligation Law 5-601; Oregon Code 86.245).

Of the thirty states which did not reply to the questionnaire, two are known to require interest to be paid on escrow accounts: Massachusetts, by statute, see Mass. Gen. Laws Ann., Ch. 183, Sec. 61; and Pennsylvania, by judicial decision, see Buchanan v. Brentwood Federal Savings and Loan Association, 320 A. 2d 117 (1974).

EXHIBIT A D

It is our understanding that Minnesota has joined those states which by statute require such payments. In addition, Hawaii, Illinois, and Nebraska strongly urge such payments although this policy is not expressed in a statute.

If you are in need of further assistance, please do not hesitate to contact us.

Very truly yours,

Frank R. Gailor

FRG:pl

HOME SAVINGS
ASSOCIATION

January 4, 1979

Mr. Donald A. Rhodes
Chief Deputy Research Director
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Rhodes:

Thank you for your letter dated December 27, 1978, regarding Home Savings' policy in reference to impound accounts. The following is a breakdown of same:

1. Home Savings requires a proration of both taxes and insurance (monthly) based upon information available to us plus one-sixth excess to allow for future increases. We do not have a dollar minimum established.

2. As new insurance premium billings or new tax bills are received, the new data is fed into our computer system and any change in the monthly payment programmed at that time for future payments. At least annually all loans with an impound are analyzed by the computer with year to date data stored in the individual's loan record to update the dollar amount needed to properly service the loan.

3. If an excess exists in the impound account, the borrower may withdraw the funds, apply them to the principal balance of their loan or leave it in the impound account to allow for future increases. Shortages are requested in a lump sum but if the respective borrower is unable to meet this request a compromise time frame will be worked out. This additional time allowance is usually three months. If circumstances dictate; Home Savings may advance needed funds and add the funds advanced to the principal balance of the loan with a payback over the course of a year mandatory.

EXHIBIT A

499 SOUTH VIRGINIA STREET, RENO, NEVADA 89502
TELEPHONE (702) 786-7000

ESEC

4. In Northern Nevada taxes are paid each quarter as due with insurance premiums paid yearly in almost all cases--a few are paid on a more regular basis. In Southern Nevada taxes are paid semi-annually.

5. At least 95% of all mortgage loans secured by real property have impound accounts.

6. The total amount of money in our impound accounts, before payment of the last quarter's taxes, was $1,142,650.54.

7. The average amount on deposit in each account was $464.87.

It is the policy of Home Savings to pay all taxes and insurance when due regardless of any shortages that might be created in an impound account and to then collect from the respective borrowers. This policy enables us to avoid penalties and cancellation notices.

We hope that this has answered all the questions presented in your letter. If we can be of any further help, please let us know.

Very truly yours,

HOME SAVINGS ASSOCIATION

Robert Banks
President

RB/cad

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THE ATTACHED LETTER WAS MAILED TO THE FOLLOWING LOAN ASSNS. ON DECEMBER 27, 1978.

STATE OF NEVADA
Department of Commerce
Savings and Loan Division

NEVADA STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS

American Savings and Loan Association
James L. Lewis, President
P. O. Box 2580
~~67 West Liberty Street~~
Reno, Nevada 89505 Telephone: (702) 323-3135

Family Savings and Loan Association
George K. Folsom, President
P. O. Box 3416
~~3490 S. Virginia Street~~
Reno, Nevada 89505 Telephone: (702) 825-1244

First Western Savings Association
Raymond Gregor, President
P. O. Box 920
~~118 Las Vegas Boulevard~~
Las Vegas, Nevada 89101 Telephone: (702) 385-1911

Frontier Savings Association
Curtis F. Osman, President
P. O. Box 42819
~~801 East Charleston Boulevard~~
Las Vegas, Nevada 89104 Telephone: (702) 384-8762

Home Savings Association
Robert Banks, President
P. O. Box 2857 (89505)
~~499 S. Virginia Street~~
Reno, Nevada 89501 Telephone: (702) 786-7000

Nevada Savings and Loan Association
Sherman Miller, President
P. O. Box 2191
~~201 Las Vegas Boulevard South~~
Las Vegas, Nevada 89101 Telephone: (702) 385-2222

FEDERAL SAVINGS AND LOAN ASSOCIATIONS

First Federal Savings and Loan Association
Marvin L. Wholey, President
P. O. Box 11070
~~2320 S. Virginia Street~~
Reno, Nevada 89505 Telephone: (702) 785-8500

EXHIBIT A 1158

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

LEGISLATIVE COMMISSION (702) [illegible]
[illegible], Chairman
Arthur J. Palmer, Director, Secretary

INTERIM FINANCE COMMITTEE (702) [illegible]
FLOYD R. LAMB, Senator, Chairman
Ronald W. Sparks, Senate Fiscal Analyst
William A. Bible, Assembly Fiscal Analyst

ARTHUR J. PALMER, Director
(702) 885-5627

FRANK W. DAYKIN, Legislative Counsel (702) 885-5627
EARL T. OLIVER, Legislative Auditor (702) 885-5620
ANDREW P. GROSE, Research Director (702) 885-5637

December 27, 1978

I am writing this at the request of a Nevada state legislator who wishes to obtain information about your association's policies and practices relating to the so-called impound accounts it maintains for taxes, insurance premiums and other assessments levied upon secured property. (See NRS 673.3272, "Payment of charges by association for protection of its investments; required advance monthly payments.")

The legislator is especially interested in:

1. Your association's policy concerning the minimum balances required to be maintained in the accounts. For example, does your association require that a minimum amount of money, equivalent to a certain number of monthly installments for taxes or insurance premiums, or both, be maintained in the accounts after all disbursements are made? If so, what is the minimum level of funds which it requires?

2. The method your association uses to calculate adjustments which must be made to the annual amount of funds paid into each account because of changes in taxes or insurance premiums due on the secured property. Is the annual amount of funds estimated as needed in the accounts calculated on an individual account basis or is some other technique used? Please provide an example of the technique your association uses to determine both the monthly and annual amounts of money which must be paid into each impound account.

EXHIBIT A

3. What options your borrowers have when higher or lower balances are estimated as being necessary for their impound accounts. Does your association allow installment payments, in addition to the regular monthly installment payment into the impound accounts, to make up for shortages or are "lump sum" payments required? Are estimated overages returned to borrowers or is some other system used to return overages? Please describe your system for dealing with estimated overages or shortages in the balances of impound accounts.

4. A description of when and how disbursements are made from the impound accounts for tax and insurance premium payments. Please advise us if you make lump sum or installment disbursements for such payments.

5. The number and percentage of secured loans for which your association requires impound accounts.

6. The total amount of money in all your association's impound accounts before the last major disbursement for taxes was made.

7. The average amount in each impound account before the last major disbursement for taxes was made.

Thank you very much for your assistance and cooperation. We would appreciate a response by January 9, 1979.

Yours truly,

Donald A. Rhodes
Chief Deputy Research Director

DAR/llp

AMERICAN SAVINGS

AND LOAN ASSOCIATION

January 17, 1979

Mr. Donald A. Rhodes
Chief Deputy Research Director
State of Nevada
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Rhodes:

Mr. James L. Lewis, President of American Savings & Loan Association, referred your December 27, 1978 inquiry letter concerning our Association's policies and practices relating to impound accounts maintained for taxes, insurance premiums and assessments levied upon secured property to me for a response.

The questions asked will be answered seriatim.

1. Our policy regarding minimum balances with respect to taxes is that there be a sufficient amount in the balance to cover the first two installments in June and a sufficient amount to cover the last two installments in December. These amounts are for two due installments rather than for those taxes incurred on the accrual basis. With respect to insurance, sufficient amounts are required to make the next annual insurance premium on its due date. Equal monthly payments into the account are necessary to build the account balance to amounts needed at the disbursement dates. The minimum level of funds is that amount required in the disbursement month.

2. The estimated funds needed is calculated on an individual basis. The technique used is best illustrated by example. If $1,200 annually is required for taxes, or $600 in June and $600 in December, then $100 per month is the amount to be paid in. Should $240 assessments every six months be payable, then $40 per month is requested.

3. Monthly installments are permitted to make up shortages providing the shortage amount can be recovered by the disbursement date. Estimated overages can be returned to the

EXHIBIT A

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borrower or his future monthly payments into the impound account reduced.

4. Disbursements for taxes are made semiannually in June and December for two installments at each date. Insurance premiums are disbursed annually when due for the annual premium.

5. Presently 2,536 impounds are in existence, amounting to 78% of our loans.

6. $2,159,000 was in the impound control account before the last major disbursement for taxes.

7. The average balance in each impound account before the last major disbursement for taxes was $851. This average balance includes those for large apartments and commercial loans as well as single family loans.

As additional information, we submit that as the anniversary date comes up on insurance policies, we are eliminating the insurance impound requirement. This lowers the impound payment.

We hope this is beneficial to you in furnishing the Nevada state legislator the information he needs.

Very truly yours,

John H. Kerr, Jr.
Vice President

JHK:rh

Frontier Savings Association

January 24, 1979

Donald A. Rhodes
Chief Deputy Research Director
State of Nevada
Legislative Counsel Bureau
Legislative Building - Capitol Complex
Carson City, Nevada 89710

Dear Director Rhodes:

Thank you for your letter of December 27, 1978, regarding our policy on impound accounts. I will respond to your questions by their corresponding number.

1. Frontier Savings does not require a minimum balance in the impound account.

2. All of our impound accounts are handled on an individual basis. We require that 1/12th of the annual taxes and 1/12th of the annual insurance premiums be impounded monthly to cover our annual disbursement of each item.

3. After the annual disbursement has been made, the account is analyzed for shortage or overage. The shortage may be paid over 12 months or in a lump sum, this is at the option of the borrower.

4. We disburse once each year for taxes and insurance premiums.

5. We have a total loan portfolio of 3453 loans of which 2668 are on an impound account program or 77% of the total portfolio.

6. The total amount of funds on the impound program, as of July 10, 1978, was $1,581,294. The total amount disbursed was $1,856,250 creating a deficit to our impounds of $274,956.

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This payment of the deficit avoided a penalty to many borrowers for delinquent tax payments.

7. The average balance of each impound account at disbursement time was $660.00, however, the average for the twelve months was $330.00.

I trust the aforementioned will answer all your questions, however, if you should need anything further, please feel free to contact me.

Yours truly,

C.F. Osman
President

CFO:ss

EXHIBIT A

FIRST WESTERN SAVINGS
ASSOCIATION
118 LAS VEGAS BOULEVARD SOUTH · LAS VEGAS, NEVADA
MAILING ADDRESS: P.O. BOX 920 · PHONE 385-1911

Raymond J. Gregor
President

February 2, 1979

Mr. Donald A. Rhodes
Chief Deputy Research Director
State of Nevada
Legislative Counsel Bureau
Legislative Building
Capitol Complex
Carson City, Nevada 89701

SUBJECT: Impounds letter dated December 27, 1978

Dear Mr. Rhodes:

Rather than answer each of your questions regarding Impounds specifically, let me quote the broad regulations of the State and Federal Government, and tell you that our procedures are in compliance with those regulations.

In addition, and in answer to your question number three, we always give the customer the opportunity to spread his deficiencies over a time period with the exception of loans that are in default. As to those parties having overages in their accounts, they are given the option of receiving a check or having the overage applied to their loan balance.

Specifically, as to your question number seven, if we were to give you the average balance of our Impound Accounts, we would be doing you a disservice due to the fact that in addition to making residential loans, we also make apartment and commercial loans whereby the Impound Balance significantly distorts the averages.

Enclosed you will find a copy of the governing statutes and regulations to which we adhere. I hope that we have been of assistance to you.

Very truly yours,

Raymond J. Gregor

RJG/dr

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In reference to Nevada Savings and Loan Statute 673.3272, "the Association may require advance payments on principal interest, taxes, assessments, insurance premiums, and other statutory charges accrued upon the secured property." The regulation further states that such payments may be equivalent to 1/12th of the annual amount due and that charges may be adjusted to provide a reasonable method for payment of the herein specified items. In my opinion, the Association's policy and procedure is in conformance with Nevada Statutes.

The federal regulations dealing with "Escrow Accounts", 545.6-11, state that an Association may require that all or any portion of the estimated annual taxes, assessed insurance premiums, and other charges on any loan, be paid in advance to such Association in addition to interest and principal payments on such loan. The regulation further states that deposits may be made to an escrow account after date of settlement in an amount not in excess of 1/12th of the total estimated charges. Association may require additional deposits if they determine there will be a deficiency on the due date of the disbursement. In the case of loans in excess of 80% of sales price or appraisal, we are required to collect impounds.

Additional federal regulations dealing with this subject are contained within the Real Estate Settlement Procedures Act of 1974, section 2601 and 2609. This regulation states that the Association may require deposits to an escrow account in connection with a loan for the purpose of payment of taxes, insurance premiums and other charges with respect to the property. Such payments can not be in excess of the sum sufficient to pay items when due except such installments may be in excess of the amount required by an amount equal to 1/16th of the estimated total amount of taxes, insurance balances and other charges to be paid during any ensuing 12 month period.

West's
ANNOTATED
CALIFORNIA CODES

CIVIL CODE

Sections 2395 to 3273

Volume 11

Cumulative Pocket Part

For Use In 1978

Replacing prior Pocket Part in back of volume

Includes laws through the 1977 portion of the 1977–1978 Regular Session

ST. PAUL, MINN.
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posed if payment is not received, or the borrower shall be notified at least semi-annually of the total amount of late charges imposed during the period covered by the notice.

(c) Notice provided by this section shall be sent to the address specified by the borrower, or, if no address is specified, to the borrower's address as shown in the lender's records.

(d) In case of multiple borrowers obligated on the same loan, a notice mailed to one shall be deemed to comply with the provisions of this section.

(e) The failure of the lender to comply with the requirements of this section does not excuse or defer the borrower's performance of any obligation incurred in the loan transaction, other than his obligation to pay a late payment charge, nor does it impair or defer the right of the lender to enforce any other obligation including the costs and expenses incurred in any enforcement authorized by law.

The provisions of this section as added by Chapter 1430 of the Statutes of 1970 shall only affect loans made on and after January 1, 1971.

The amendments to this section made at the 1975–76 Regular Session of the Legislature shall only apply to loans executed on and after January 1, 1976.

(Amended by Stats.1975, c. 736, p. 1730, § 2.)

1975 Amendment. Substituted 10 days for 6 days in which the borrower may cure the delinquency without a late charge, inserted "as added by Chapter 1430 of the Statutes of 1970" in the penultimate paragraph, and added last paragraph.

1. In general

Purported settlement of class action brought by borrowers against savings and loan association was not valid insofar as it pretended to deal with validity of clause in association's mortgage form permitting it to raise interest rates whenever its interest rates paid to depositors were increased where such clause was outside scope of amended complaint, class representatives did not define class to include persons making claims as to said clause and did not purport to represent such class, and where court was not informed of pendency of other action against association raising validity of said clause. Trotsky v. Los Angeles Federal Sav. and Loan Ass'n (1975) 121 Cal.Rptr. 637, 48 C.A.3d 134.

§ 2954.8 Impound accounts; payment of interest; restrictions; exceptions

(a) Every financial institution that makes loans upon the security of real property containing only a one- to four-family residence and located in this state or purchases obligations secured by such property and that receives money in advance for payment of taxes and assessments on the property, for insurance, or for other purposes relating to the property, shall pay interest on the amount so held to the borrower. The interest on such amounts shall be at the rate of at least 2 percent simple interest per annum. Such interest shall be credited to the borrower's account annually or upon termination of such account, whichever is earlier.

(b) No financial institution subject to the provisions of this section shall impose any fee or charge in connection with the maintenance or disbursement of money received in advance for the payment of taxes and assessments on real property securing loans made by such financial institution, or for the payment of insurance, or for other purposes relating to such real property, that will result in an interest rate of less than 2 percent per annum being paid on the moneys so received.

(c) For the purposes of this section, "financial institution" means a bank, savings and loan association or credit union chartered under the laws of this state or the United States, or any other person or organization making loans upon the security of real property containing only a one- to four-family residence.

(d) The provisions of this section do not apply to any of the following:

(1) Loans executed prior to the effective date of this section.

(2) Moneys which are placed by a financial institution other than a bank in a non-interest-bearing demand trust fund account of a bank.

(Added by Stats.1976, c. 25, p. —, § 1.)

Library References
Pawnbrokers and Money Lenders ⇐6.1.
C.J.S. Money Lenders §§ 5, 7.
C.J.S. Pawnbrokers § 5.

§ 2954.9 Loans under $100,000; right to prepayment

(a)(1) Except as otherwise provided by statute, where the original principal obligation is one hundred thousand dollars ($100,000) or less, the borrower under any

Asterisks * * * indicate deletions by amendment

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OREGON REVISED STATUTES

INCLUDING

Replacement Parts for chapters affected by Acts of the 1977 regular session of the Fifty-ninth Legislative Assembly

Volume 1

Containing, with some exceptions, the statute laws of Oregon of a general, public and permanent nature in effect on October 4, 1977, the normal effective date of the Act passed by the regular session of the Fifty-ninth Legislative Assembly, which adjourned July 5, 1977

PUBLISHED

(Pursuant to ORS 173.150)

by the

LEGISLATIVE COUNSEL COMMITTEE

of the

LEGISLATIVE ASSEMBLY

of the

STATE OF OREGON

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ment payment received by it within 15 days after the due date. However, if the 15-day period ends on a Saturday, Sunday or legal holiday the 15-day period is extended to the next business day.

(2) In a dollar amount which exceeds five percent of the sum of principal and interest of the delinquent periodic instalment payment or the amount provided in the mortgage held by the lender, whichever is the lesser.

(3) Unless the mortgage held by the lender provides for payment of a late charge on delinquent periodic instalments and a monthly billing, coupon or notice is provided by the lender disclosing the date on which periodic instalments are due and that a late charge may be imposed if payment is not received by lender within 15 days thereafter.

(4) More than once on any single instalment.
[1977 c.427 §2]

86.170 Prohibited mortgage provisions. Notwithstanding subsection (3) of ORS 708.480, any provision in a mortgage for a late charge except as authorized by ORS 86.160 to 86.185 shall be invalid.
[1977 c.427 §3]

86.175 Scope. ORS 86.160 to 86.185 shall be applicable only to late charges on loans secured by residential real property.
[1977 c.427 §4]

86.180 ORS 86.160 to 86.185 not applicable to certain mortgagees; notice to borrowers. Nothing in ORS 86.160 to 86.185 shall pertain to a mortgage banking company or mortgage servicing company except that if the terms of the mortgage do not conform to the requirements of ORS 86.165, the borrower shall be notified prior to the execution of the mortgage.
[1977 c.427 §5]

86.185 ORS 86.160 to 186.185 not applicable to certain loans. Nothing in ORS 86.160 to 86.185 shall apply to loans insured, guaranteed or purchased by an instrumentality of the Federal Government, whose regulations establish late charge limitations.
[1977 c.427 §6]

REAL ESTATE LOANS; SECURITY PROTECTION

86.205 Definitions for ORS 86.205 to 86.275. As used in ORS 86.205 to 86.275:

(1) "Borrower" means any person who becomes obligated on a real estate loan agreement, either directly or indirectly, and includes, but is not limited to, mortgagors, grantors under trust deeds, vendees under conditional land sales contracts, and persons who purchase real property securing a real estate loan agreement, whether the persons assume the loan or purchase the property subject to the loan.

(2) "Direct reduction provision" or "capitalization provision" means any provision which is part of a real estate loan agreement, whether incorporated into the agreement or as part of a separately executed document, whereby the borrower makes periodic prepayment of property taxes, insurance premiums and similar charges to the lender or his designee, who applies such prepayments first to accrued interest and then to the principal amount of the loan, and upon payment of such charges, adds the amount of such payment to the principal amount of the loan.

(3) "Escrow account" means any account which is a part of a real estate loan agreement, whether incorporated into the agreement or as part of a separately executed document, whereby the borrower makes periodic prepayment to the lender or his designee of taxes, insurance premiums, and similar charges, and the lender or his designee pays the charges out of the account at the due dates.

(4) "Lender" means any person who makes, extends, or holds a real estate loan agreement and includes, but is not limited to, mortgagees, beneficiaries under trust deeds, and vendors under conditional land sales contracts.

(5) "Lender's security protection provision" means any provision which is a part of a real estate loan agreement, whether incorporated into the agreement or as part of a separately executed document, whereby the borrower prepays, pledges or otherwise commits cash or other assets owned by him in advance of due dates for payments of property taxes, insurance premiums and similar charges relating to the property securing the loan in order to assure timely payment of the charges and protect the lender's security interest in the property, and includes, but is not limited to, escrow accounts, direct reduction provisions, capitalization provisions, and pledges of savings accounts.

(6) "Person" means individuals, corporations, associations, partnerships and trusts, and includes, but is not limited to, banks, trust companies, national banks, savings banks, savings and loan associations, private

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bankers, credit unions, investment companies, insurance companies, pension funds, and mortgage companies.

(7) "Real estate loan agreement" or "real estate loan" means any agreement providing for a loan on residential property, including multi-family, occupied by the borrower in the amount of $100,000 or less, secured in whole or in part by real property, or any interest therein, located in this state, and includes, but is not limited to, mortgages, trust deeds and conditional land sales contracts.
[1975 c.337 §1]

86.210 Types of lender security protection provisions allowed. No lender shall require as a condition to making a new real estate loan or as a condition to extending, renegotiating, consenting to assumption, or otherwise maintaining in force an existing real estate loan, that a borrower agree to the lender's security protection provision, except as permitted by ORS 86.215 and 86.220. A lender who may require a lender's security protection provision under ORS 86.205 to 86.275 shall require either a direct reduction provision, an escrow account, or a pledge of an interest-bearing savings account in an amount not to exceed the maximum amount which a lender may require a borrower to deposit in a lender's security protection provision under ORS 86.240 and bearing interest at a rate not less than the rate required on lender's security protection provisions by ORS 86.245.
[1975 c.337 §2]

86.215 When security protection provisions allowed. (1) A lender may require a lender's security protection provision if such provision is required by state or federal law or regulation.

(2) A lender may require a lender's security protection provision in connection with a real estate loan agreement when:

(a) It is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other officer or agency of the Federal Government.

(b) It is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or by any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(c) It is insured by a private mortgage insurance company.

(3) A lender may require a lender's security protection provision in connection with a real estate loan agreement if a buyer is delinquent in payment of two consecutive quarterly tax payments. A lender's failure to require the provision in one instance shall not constitute a waiver of the lender's right to require the provision in the event of a subsequent delinquency by the borrower in such payments.
[1975 c.337 §§3, 4, 5]

86.220 Security protection provisions when principal of loan in excess of 85 percent of purchase price or appraised value; termination. A lender may require a lender's security protection provision in connection with a real estate loan agreement where the original principal amount of the loan is in excess of 85 percent of the lesser of the original purchase price paid by the original borrower at the time the loan was made or the lender's original appraised value of the property at the time the loan was made. When the principal amount of the loan is reduced to 85 percent or less of the lesser of the original purchase price or the lender's original appraised value of the property at the time the loan was made, the borrower shall have a right to terminate the lender's security protection provision and shall be notified of this right in writing by the lender no later than December 1 of the calendar year in which the principal amount was valued at 85 percent or less. The lender then shall terminate his security protection provision when requested to do so, in writing by the borrower as of the December 31 following the date of the borrower's request. If the lender's security protection provision is an escrow account, upon termination the lender or his designee shall refund to the borrower all funds on deposit therein, plus accrued interest.
[1975 c.337 §6]

86.225 When security protection provisions shall be terminated; notice; effect. (1) In the case of a real estate loan in existence on September 1, 1975, and except as permitted by ORS 86.215 a lender shall not require compliance with a lender's security protection provision executed in connection with the existing real estate loan agreement if:

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(a) The principal amount of the loan is reduced to 85 percent or less of the lesser of the original purchase price paid by the original borrower at the time the loan was made or the lender's original appraised value of the property at the time the loan was made; and

(b) The borrower requests, in writing, that the lender's security protection provision be terminated after the notice required by subsection (2) of this section is given. Termination shall occur as of the December 31 following the date of the borrower's request to terminate.

(2) With respect to any real estate loan agreement in existence on September 1, 1975, and with respect to which there is a lender's security protection provision, the lender shall notify the borrower, not later than December 1 of the calendar year in which the principal amount was valued at 85 percent or less of his right to terminate the lender's security protection provision as described in paragraph (a) of subsection (1) of this section. Notice by the lender shall be given in writing, shall indicate that the borrower may, in writing, terminate the lender's security protection provision and shall specify the date of termination should the right to terminate be exercised by the borrower.

(3) If the lender's security protection provision terminated under this section is an escrow account, upon termination, the lender or his designee shall refund to the borrower all funds on deposit therein.
[1975 c.337 §6a]

86.230 Contents of notice to borrower. Notices required to be given by the lender to the borrower pursuant to ORS 86.220 or 86.225 shall clearly inform the borrower, in practical language, of the alternatives available to him with respect to security protection provisions and the financial effects of his choosing each of the alternatives.
[1975 c.337 §6b]

86.235 Termination of security protection provisions at lender's option. Nothing in ORS 86.215 to 86.225 shall prevent a lender from terminating the lender's security protection provision established in connection with a real estate loan agreement at any time the lender determines that such provision is no longer necessary to protect the lender's security interest in the property securing the loan agreement.
[1975 c.337 §7]

86.240 Limit on amount required in security protection escrow account. No lender, in connection with a real estate loan agreement, shall require a borrower or prospective borrower:

(1) To deposit in any escrow account which may be established in connection with the agreement, prior to or upon the date of settlement, a sum in excess of the estimated total amount of property taxes, insurance premiums, and similar charges which actually will be due and payable on the date of settlement, and the pro rata portion thereof which has accrued, plus one-twelfth of the estimated total amount of the charges which will become due and payable during the 12-month period beginning on the date of settlement; or

(2) To deposit in any escrow account, which may be established in connection with the agreement, in any month beginning after the date of settlement a sum in excess of one-twelfth of the total amount of estimated property taxes, insurance premiums or similar charges which will become due and payable during the 12-month period beginning on the first day of the month, except that in the event the lender determines there will be a deficiency on the due date, he shall not be prohibited from requiring additional monthly deposits in the escrow account of pro rata portions of the deficiency corresponding to the number of months from the date of the lender's determination of the deficiency to the date upon which the charges become due and payable.
[1975 c.337 §13]

86.245 Interest on security protection deposits; inapplicable to certain agreements. (1) Any lender who requires a lender's security protection provision in connection with a real estate loan agreement shall pay interest to the borrower on funds deposited in the account at a rate not less than the highest rate currently authorized to be paid by banks on their open passbook accounts, minus three-quarters of one percent. If such rate is less than four percent, the rate of interest paid shall be four percent. Interest shall be computed on the average monthly balance in the account and shall be paid quarterly to the borrower by crediting to the escrow account the amount of the interest due.

(2) Except as provided in subsection (3) of this section, this section shall not apply to real estate loan agreements entered into prior to September 1, 1975, or on which the payment of interest on a lender's security protection

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provision violates any state or federal law or regulation.

(3) If federal law or regulation does not prohibit the payment of interest on a lender's security protection provision by federally chartered or organized lenders, then this section shall apply to the federally chartered or organized lenders and the state chartered or organized lenders that are similar to the federally chartered or organized lenders with respect to a lender's security protection provision executed in connection with real estate loan agreement entered into prior to and in existence on September 1, 1975.
[1975 c.337 §8]

86.250 Service charge prohibited where interest required. No lender requiring a lender's security protection provision with respect to which interest is required to be paid by the lender under ORS 86.245 shall impose a service charge in connection with such provision.
[1975 c.337 §9]

86.255 Arrangements where security protection provisions not required; information to borrower. In any real estate loan agreement with respect to which a lender does not require a lender's security protection provision, the parties may mutually agree to any arrangement whereby the borrower prepays, pledges or otherwise commits his assets in advance of due dates for payment of property taxes, insurance premiums and similar charges relating to the real property in order to assist the borrower in making timely payments of the charges. Prior to entering any such arrangement, the lender shall furnish the borrower a statement in writing, which may be set forth in the loan application:

(1) That the arrangement is not a condition to the real estate loan agreement;

(2) If it is an escrow account, whether or not the lender will pay interest and if interest is to be paid, the rate of interest; and

(3) Whether or not the borrower must pay the lender a charge for the service. If a charge is agreed to, the charge shall not exceed the amount of interest income earned under subsection (2) of this section.
[1975 c.337 §10]

86.260 Payment of taxes where security protection provision required; credit of discount where taxes not paid; cause of action by borrower for wilful failure by lender. (1) If a lender has a requirement that the borrower pay funds into a lender's security protection provision for the payment of property taxes on property that is the security for the real estate loan agreement, insurance premiums, and similar charges, and on November 10 of any year, there are funds in the account, the lender shall pay the taxes or the amount in the account on November 15 if less than the taxes due, in time to take advantage of any discount authorized by ORS 311.505, and all other charges on or before the due dates for payments. If the lender does not receive the property tax statement on or before November 10, the lender shall pay the taxes due, or the amount in the account if less than the taxes due, within five days of receipt of the property tax statement.

(2) (a) If the lender fails to pay the taxes in accordance with subsection (1) of this section resulting in a loss of discount to the borrower, the lender shall credit the lender's security protection provision in an amount equal to the amount of discount denied on account of such failure, together with any interest that has accrued on the unpaid property taxes to the date the property taxes are finally paid.

(b) If the failure of the lender to comply with subsection (1) of this section is wilful and results in the loss to the borrower of the discount, or if the failure to comply was not wilful but upon discovery of the failure to comply and the loss of discount, the lender fails to credit the lender's security protection provision required by paragraph (a) of this subsection, the borrower shall have a cause of action against the lender to recover an amount equal to 15 times the amount of discount the borrower would have received, together with any interest that accrued on the unpaid property taxes to the date of recovery. Any borrower recovering damages under this section shall be entitled to reasonable attorney fees as determined by the court in addition to costs and necessary disbursements.
[1975 c.337 §11]

86.265 Effect of lender violation of ORS 86.205 to 86.275. A violation of ORS 86.205 to 86.275 by a lender shall render the lender's security protection provision voidable at the option of the borrower, and the lender shall be liable to the borrower in an amount equal to:

(1) The borrower's actual damages or $100, whichever is greater, and

(2) In the case of any successful action to enforce the foregoing liability, the court costs of the action together with reasonable attorney fees as determined by the court if the

court finds that written demand for the payment of the borrower's claim was made on the lender not less than 10 days before the commencement of the action. No attorney fees shall be allowed to the borrower if the court finds that the lender tendered to the borrower, prior to the commencement of the action, an amount not less than the damages awarded to the borrower.
[1975 c.337 §14]

86.270 ORS 86.205 to 86.275 inapplicable to certain loan agreements; notice to borrower. ORS 86.205 to 86.275 shall not apply to a real estate loan agreement which is serviced or held for sale within one year by a mortgage servicing company neither affiliated with nor owned in whole or in part by the purchaser and which is made, extended or held by a purchaser whose principal place of business is outside this state; provided that if the purchaser requires a lender's security protection provision, prior to entering into such agreement, the mortgage servicing company shall furnish the borrower a statement in writing, which may be set forth in the loan application, that the mortgage servicing company is not required by the laws of this state to pay interest on the lender's security protection provision, and specifically informing the borrower why he is not entitled to interest on the account.
[1975 c.337 §15]

86.275 Severability. If any section of ORS 86.205 to 86.275, or the application of any section to any real estate loan agreement shall be held invalid, the remainder of ORS 86.205 to 86.275, and the application of ORS 86.205 to 86.275 to any real estate loan agreement other than the one or those to which it is held invalid, shall not be affected thereby.
[1975 c.337 §12]

86.310 [Amended by 1955 c.21 §1; repealed by 1961 c.726 §427]

86.315 [1953 c.700 §2; repealed by 1961 c.726 §427]

86.320 [Repealed by 1961 c.726 §427]

86.330 [Repealed by 1961 c.726 §427]

86.340 [Repealed by 1961 c.726 §427]

86.350 [Amended by 1955 c.182 §1; repealed by 1961 c.726 §427]

86.360 [Repealed by 1961 c.726 §427]

86.370 [Amended by 1957 c.404 §1; repealed by 1961 c.726 §427]

86.380 [Repealed by 1961 c.726 §427]

86.390 [Repealed by 1961 c.726 §427]

86.400 [Repealed by 1961 c.726 §427]

CHATTEL MORTGAGES

86.405 Secretary of State to furnish statement of mortgages filed before September 1, 1963; fee. Upon the payment of a fee of 50 cents for each name to be searched for chattel mortgages filed under former ORS 86.370 or 86.390, prior to September 1, 1963, the Secretary of State shall furnish to any person applying therefor a statement of any mortgages noted on the indexes created under former ORS 86.380, or if no mortgages are noted, a statement to that effect. All such fees received by the Secretary of State shall be promptly paid to the State Treasurer and placed in the General Fund.
[1961 c.726 §409]

86.410 [Repealed by 1961 c.726 §427]

86.420 [Repealed by 1961 c.726 §427]

86.430 [Repealed by 1961 c.726 §427]

86.440 Discharge of mortgage recorded or filed with county recording officer. (1) Whenever any mortgage recorded or filed under the provisions of ORS 86.350 is paid or otherwise satisfied, it shall be discharged by the indorsing by the owner of record upon the original instrument, if filed, or upon the margin of the record thereof, if recorded, of a notation, attested by the county recording officer, of such discharge, or by the filing with the recording officer of a certificate of such owner, executed and acknowledged with the same formalities as are prerequisite to the filing or recording of any such mortgage, showing the date of execution, date of filing or recording, and file number or volume and page of the record thereof, and that such mortgage has been fully discharged.

(2) Upon receipt of the fee prescribed by law the recording officer shall prepare such notation and attest the execution of it, or file such certificate in an appropriate place in his office. Upon the making of the entry or the filing of the certificate, the recording officer shall deliver the original mortgage to the mortgagor, his personal representatives or assigns, if such mortgage shall have been filed, and shall enter the word "satisfied," with the date thereof, opposite each entry of the mortgage in the index.

86.450 [Repealed by 1961 c.726 §427]

86.460 Discharge of mortgage filed with Secretary of State. In the event of the satisfaction or release of any chattel mortgage, a certified copy of which has been filed with the Secretary of State prior to September 1, 1963; the person so satisfying or releasing

SENATE BILL NO. 549—SENATOR KEITH ASHWORTH
(by request)

MAY 2, 1979

Referred to Committee on Judiciary

SUMMARY—Provides for regulation of increases in rents and service fees charged in certain mobile home parks. (BDR 10-196)
FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to mobile home parks; creating a commission on mobile home parks and providing its organization, powers and duties; providing for the registration of certain mobile home parks and the regulation of increases in rents and service fees charged in those parks; providing a penalty; and providing other matters properly relating thereto.

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

SECTION 1. Chapter 118 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

SEC. 2. *"Commission" means the commission on mobile home parks.*

SEC. 3. *"Landlord" means the owner, lessor or operator of a mobile home park.*

SEC. 4. *"Mobile home" means a vehicular structure without independent motive power, built on a chassis or frame, which is:*

1. Designed to be used with or without a permanent foundation;

2. Capable of being drawn by a motor vehicle; and

3. Used as and suitable for year-round occupancy as a residence, when connected to utilities, by one person who maintains a household or by two or more persons who maintain a common household.

SEC. 5. *"Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.*

SEC. 6. *"Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. The term does not include an area or tract of land where more than half of the lots are rented overnight or for less than 1 month.*

SEC. 7. *"Service fee" means any charge made by the landlord for*

SENATE BILL NO. 568—COMMITTEE ON COMMERCE AND LABOR

MAY 7, 1979

Referred to Committee on Judiciary

SUMMARY—Authorizes public service commission of Nevada to inspect records and property of affiliates of public utilities. (BDR 58-1946)
FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to public utilities; authorizing the public service commission of Nevada to make certain inspections of records and property of persons or entities affiliated with public utilities; and providing other matters properly relating thereto.

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

SECTION 1. Section 4 of chapter 172, Statutes of Nevada 1979, is hereby amended to read as follows:

Sec. 4. Any commissioner or any officer or employee of the commission who is designated by the commission [,] may examine during regular business hours the books, accounts, records, minutes, papers and property [of any] , *whether or not located in this state, of:*

1. Any public utility, motor carrier or broker who does business in this state*;* [, whether or not the book, account, record, minutes, paper or property is located within the state.]

2. Any person who directly or through one or more intermediaries controls, is controlled by, or is under common control with such a public utility; or

3. Any person with whom the public utility is engaged in a joint venture,

if the purpose of the examination is to carry out the provisions of this Title.

SEC. 2. This act shall become effective at 12:02 a.m. on July 1, 1979.

(30)

A. B. 671

ASSEMBLY BILL NO. 671—ASSEMBLYMEN BEDROSIAN, VERGIELS, BARENGO, BENNETT, HAYES AND PRENGAMAN

MARCH 28, 1979

Referred to Committee on Judiciary

SUMMARY—Regulates termination of rental agreements by landlords of certain dwellings. (BDR 10-1759)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to residential landlord and tenant relationships; regulating the termination of a rental agreement by a landlord for certain dwellings; and providing other matters properly relating thereto.

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

SECTION 1. Chapter 118A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this act.

SEC. 2. 1. *Except as provided in subsection 3, an oral or written agreement between a landlord and tenant for a dwelling in this state may not be terminated by the landlord except upon notice in writing to the tenant served:*

(a) Except as provided in paragraph (b), at least 7 days in advance in cases of tenancies from week to week and at least 30 days in advance for all other periodic tenancies.

(b) At least 5 days in advance where the tenant has failed to perform his basic or contractual obligations under this chapter or where the conduct of the tenant constitutes a nuisance as defined in NRS 40.140.

2. The landlord shall specify in the notice the reason for the termination of the agreement. The reason relied upon for the termination must be set forth with specific facts so that the date, place and circumstances concerning the reason can be determined. Reference alone to a provision of section 3 of this act does not constitute sufficient specificity under this subsection.

3. The landlord and tenant may agree to a specific date for termination of the agreement.

A. B. 763

ASSEMBLY BILL NO. 763—ASSEMBLYMEN BARENGO, WEISE AND MAY

APRIL 17, 1979

Referred to Committee on Judiciary

SUMMARY—Limits liability for certain injuries at ski resorts. (BDR 3-1533)
FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to ski resorts; limiting the liability for certain injuries at ski resorts; and providing other matters properly relating thereto.

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

SECTION 1. Chapter 41 of NRS is hereby amended by adding thereto a new section which shall read as follows:

No action may be brought against the owner or operator of a recreational ski area, or his agents or employees, for injury to persons or damage to property which:

1. Occurs while a person traverses or otherwise ascends or descends a slope under his own power; and

2. Is not attributable to a hazard on the slope created or permitted by the negligence of the owner, operator, his agents or employees.

ASSEMBLY BILL NO. 784—COMMITTEE ON COMMERCE

APRIL 24, 1979

Referred to Committee on Commerce

SUMMARY—Revises provisions relating to renting, leasing and unlawful detainer of mobile home lots and restricts renting of lots by dealers, installers and salesmen of mobile homes. (BDR 10-1886)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to landlords and tenants of mobile home lots; revising provisions governing the renting and leasing of mobile home lots; changng the procedure relating to unlawful detainer of mobile home lots; restricting renting of lots by dealers, installers and salesmen of mobile homes; providing penalties; and providing other matters properly relating thereto.

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

SECTION 1. Chapter 118 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. The governing body of each city and county shall establish a board to mediate grievances between landlords and tenants.

2. The board must include members of local associations of owners and tenants of mobile home parks.

SEC. 2. NRS 118.230 is hereby amended to read as follows:

118.230 As used in NRS 118.230 to 118.340, inclusive [:] , *and section 1 of this act:*

1. "Landlord" means the owner, lessor or operator of a mobile home park.

2. "Mobile home" means a vehicular structure without independent motive power, built on a chassis or frame, which is:

(a) Designed to be used with or without a permanent foundation;

(b) Capable of being drawn by a motor vehicle; and

(c) Used as and suitable for year-round occupancy as a residence, when connected to utilities, by one person who maintains a household or by two or more persons who maintain a common household.

3. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.

4. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held

ASSEMBLY BILL NO. 787—COMMITTEE ON COMMERCE

APRIL 25, 1979

Referred to Committee on Commerce

SUMMARY—Revises various provisions of law concerning landlords and tenants of mobile home parks. (BDR 10-2144)
FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to mobile home parks; revising various provisions of law concerning landlords and tenants; increasing penalties; and providing other matters properly relating thereto.

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

SECTION 1. NRS 118.230 is hereby amended to read as follows:

118.230 As used in NRS 118.230 to 118.340, inclusive [:] *, and section 9 of this act:*

1. "Landlord" means the owner, lessor or operator of a mobile home park.

2. "Mobile home" means a vehicular structure without independent motive power, built on a chassis or frame, which is:

(a) Designed to be used with or without a permanent foundation;

(b) Capable of being drawn by a motor vehicle; and

(c) Used as and suitable for year-round occupancy as a residence, when connected to utilities, by one person who maintains a household or by two or more persons who maintain a common household.

3. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.

4. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. "Mobile home park" does not include an area or tract of land where more than half of the lots are rented overnight or for less than 1 month.

SEC. 2. NRS 118.249 is hereby amended to read as follows:

118.249 1. Any payment, deposit, fee, or other charge which is required by the landlord in addition to periodic rent, utility charges or service fees and is collected as prepaid rent or a sum to compensate for any tenant default is a "deposit" governed by the provisions of this section.

A. J. R. 2 of the 59th Session

ASSEMBLY JOINT RESOLUTION NO. 2—ASSEMBLYMEN BARENGO, MANN, HICKEY, WAGNER AND SCHOFIELD

JANUARY 17, 1977

Referred to Committee on Judiciary

SUMMARY—Proposes to amend Nevada constitution to create intermediate appellate court. (BDR C-56)

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

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada constitution to create an intermediate appellate court.

Resolved by the Assembly and Senate of the State of Nevada, jointly, That a new section be added to article 6 and sections 1, 4, 7, 11, 15, 20 and 21 of article 6, section 3 of article 7, and section 22 of article 17 of the constitution of the State of Nevada be amended to read respectively as follows:

1. The court of appeals consists of three judges or such greater number as the legislature may provide by law. If the number of judges is so enlarged, the supreme court shall provide by rule for the assignment of each appeal to a panel of three judges for decision.

2. Except as otherwise provided in this subsection, the judges of the court of appeals shall be elected by the qualified electors of the state, at the general election, for terms of 6 years beginning on the 1st Monday of January next after the election. The terms of the first three judges elected are 2 years, 4 years and 6 years respectively, which shall be separately specified for their election, and in any increase or reduction of the number of judges, the legislature shall provide initial terms of 6 or fewer years such that one-third of the total number of judges, as nearly as may be, is elected every 2 years.

3. The judges of the court of appeals shall elect a chief judge from among their number. The term of office of the chief judge is 2 years, beginning on the 1st Monday of January of each odd-numbered year. A chief judge may succeed himself.

4. The legislature may provide by law, or may authorize the supreme court to provide by rule, for the assignment of one or more judges of the court of appeals to devote a part of their time to service as supplemental district judges where needed.

Section 1. The Judicial power of this State [shall be] *is* vested in