

MEMBERS PRESENT: Mr. Bennett
Mr. Brady
Mr. Bremner
Mr. Chaney
Mr. Dini (Late)
Mr. DuBois
Mr. Jeffrey (Late)
Mr. Kovacs (Late--excused)
Mr. Prengaman
Mr. Rusk
Mr. Robinson

MEMBERS ABSENT: None

GUESTS PRESENT: See attached guest list

Chairman Robinson called the meeting to order at 2:04 p.m. in Room 200 of the Legislative Building. He informed the Committee members that the minutes of the February 11th meeting were in the minute books. Mr. Prengaman made the motion to accept the minutes as submitted. The motion was seconded by Mr. Bennett and carried with the unanimous vote of the members present.

The Chairman asked the Committee members to turn to A.B. 9 in their bill books.

A.B. 9: Provides for use of real property as security by livestock dealer in lieu of surety bond. (BDR 50-341)

A motion was made by Assemblyman Rusk to pass A.B. 9 with no amendments. The motion was seconded by Mr. Bremner and passed with a unanimous vote of the members present (see attached legislation action form for specifics). Chairman Robinson stated that although it is customary for a member of the Committee to present the bill on the floor, he would ask that Mr. Bergevin do the floor work on A.B. 9 since it is his bill.

Following the vote on A.B. 9, Dr. Robinson opened the hearing on A.B. 110.

A.B. 110: Changes certain provisions of law regulating audiology and speech pathology. (BDR 54-299)

Presenting A.B. 110 was Dr. Stephen McFarlane, representing the Board of Examiners for Audiology and Speech Pathology. Dr. McFarlane indicated that the amendments were to the licensure law, which is a private practice law, and does not regulate speech and hearing practices in the schools. He stated that the first amendment to be made was to elevate the educational requirements from a bachelor's degree to a master's degree in order to be licensed as a speech pathologist or an audiologist. Another amendment would change the license renewal period to annual from biennial. Dr. McFarlane said that most of the other changes were simply wording; however, a provision was added to provide a salary of \$40 per day while en-

gaged in the business of the board for the board members and the 38 hours of credit now required for applicants wishing to use equivalent training and experience instead of a degree were changed to 60 hours to correlate with a master's degree.

Chairman Robinson asked Dr. McFarlane how many licensed audiologists were presently in Nevada. Dr. McFarlane said that there were fifteen, and they were pretty well evenly divided between the northern and southern part of the state. He added that there were approximately 76 licensed speech pathologists with five or six licenses pending at the present time.

Mr. DuBois asked Dr. McFarlane if the requirement for a master's degree was in conformity with what other states were requiring. Dr. McFarlane answered that it was; that approximately two thirds of the other states now required master's degrees.

Mr. Chaney asked if it was the intention of the board to double the license fee. Dr. McFarlane responded that it was; that they had left the licensing fee the same but had changed the renewal period from biennial to annual to achieve this.

Mr. Bremner then asked Dr. McFarlane how many of the licensed audiologists and speech pathologists in Nevada now have master's degrees. Dr. McFarlane indicated that, although he did not have the exact figures with him, he felt that the number was somewhere between 60 and 70 percent.

Dr. Robinson questioned whether or not there was a master's degree program available in Nevada. Dr. McFarlane answered that there was one at UNR.

Mr. Bremner asked if Dr. McFarlane knew how many students were presently enrolled at UNR's program. Dr. McFarlane said that there were approximately 25 presently enrolled with 7 having graduated last summer. Mr. Bremner went on to ask if Dr. McFarlane thought the ratio of audiologists and speech pathologists to the population is significantly different in Nevada from other states. Dr. McFarlane stated that the ratio in Nevada was typical--possibly having just a few more audiologists in the ratio.

Mr. Bremner also asked Dr. McFarlane if raising the educational requirements to a master's degree would negatively affect the ratio of audiologists and pathologists in Nevada. Dr. McFarlane indicated that he felt it would not, adding that he thought that all of the audiologists now licensed in Nevada already hold a master's degree.

Mr. Brady asked Dr. McFarlane why the board wished to double the licensing fees. Dr. McFarlane answered that the major reason for the increase would be to build up a fund to handle legal expenses should they arise. He said that by doubling the fee it would also bring it more into line with what other states are now charging.

Mr. Brady also asked if the board wanted to increase the licensing fees in order to be able draw the \$40 per day salary mentioned as one of the amendments. Dr. McFarlane said that that was not the reason for the increase, because the present board members were not inclined to want to take the salary.

Dr. Robinson asked if the board was generating enough income to cover the cost of examinations and such things. Dr. McFarlane indicated that it was.

Next to speak as a proponent for A.B. 110 was Ernest Newton, Secretary of the Board of Examiners for Audiologists and Speech Pathologists. Mr. Newton added to Dr. McFarlane's testimony that in Section 5, these are the maximum fees and not necessarily the actual fees to be charged providing that there is an adequate "cushion".

Dr. Robinson questioned if Mr. Newton was familiar with the repealer in Section 6. Mr. Newton answered that he was and said that this was repealing the grandfather clause that was now in existence.

Jean Curran, a licensed speech pathologist employed by the Clark County School District, came forward to speak on behalf of A.B. 110. Ms. Curran indicated that she was also currently president of the Nevada Speech and Hearing Association and Vice-chairman of the licensing board. Speaking for herself and the associations/boards, Ms. Curran indicated that she was in support of A.B. 110.

Mr. Brady asked Ms. Curran if he understood correctly that some persons that did not fit the hour requirement were grandfathered in. Ms. Curran answered that some were. He then asked how one would obtain the 300 hours of experience. Ms. Curran said that the 300 hours were a part of the training in the master's degree program. She added that many states do not permit students below the master's degree level to obtain actual clinical experience and that there were no speech pathologist or audiologist programs available at UNLV.

Speaking next for A.B. 110 was Diana Christiansen, a licensed speech pathologist practicing in Carson City. Ms. Christiansen expressed her support for the bill and asked that a copy of a letter, (EXHIBIT A) be placed on file with the Committee. She said that she agreed that speech pathologists licensed at the bachelor's degree level were not qualified.

Mr. Alfred Lavorato, a speech pathologist, then stated that he was in favor of the amendments, particularly the increase in the educational requirements. He said that he especially felt the increased requirements would be beneficial to practitioners in rural areas.

Dr. Robinson asked Mr. Lavorato if he knew what the present continuing education requirements were. Mr. Lavorato said that he was not on the board and referred the question to Dr. McFarlane.

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Dr. McFarlane indicated that hearings pertaining to that matter were being held and that the requirements had not yet been set.

Mr. DuBois asked if changing the educational requirements was not restrictive. Mr. Lavorato answered that, in his opinion, he felt that 300 hours was not enough.

Ms. Curran interjected that in order to be nationally certified 300 clock hours are mandatory. In addition, one full year of supervised experience under someone else who is nationally certified is required, so the 300 hours in Nevada's proposed law would still be less than what is required for national certification.

Dr. Robinson asked Ms. Curran where people would get the 300 hours of clinical experience. Ms. Curran responded that they could be obtained at UNLV as well as UNR. Mr. Lavorato added that it is usually obtained through an academic program, but it might also be through a University clinic, through a speech agency, or through a hospital.

Mr. Chaney asked a question concerning the educational requirements. Dr. McFarlane responded that when the bill was passed two years ago, it was in line with the requirements of the American Speech and Hearing Association; however, it was amended to allow a grandfather provision for the people who were already practicing in the state. He said that about ten people were so grandfathered in that would not have qualified under those provisions. The current amendments, Dr. McFarlane added, were basically to keep in line with the national requirements.

Mr. Chaney then asked Dr. McFarlane if the new requirements would be preventing many individuals from getting jobs in Nevada. Dr. McFarlane indicated that he did not feel it would be a problem. He added that persons who are applying for licenses now must take a national exam anyway, and in order to belong to the national association, a licensee had to be nationally certified. Dr. McFarlane also gave some rationale for the 300 clock hours.

There being no opponents or further proponents to A.B. 110, Chairman Robinson closed the hearing on the bill.

The next item of discussion was S.B. 63.

S.B. 63: Removes upper limit on number of directors for savings and loan associations. (BDR 56-361)

Senator Virgil Getto, sponsor of S.B. 63, explained the bill to the Committee and gave some background information on it. He said that the bill had been requested by Family Savings of Northern Nevada and that the bill removed the limitation on the number of members who could serve on the board of directors. Senator Getto went on to say that the reason Family Savings had requested the limitation be dropped was because they were going to expand to the southern part of the state and instead of removing some of the directors presently located in the north, they

wished to appoint some new individuals to the board in the south. Senator Getto also indicated that federal regulations were going to be increasing the present limit of 15 members to 25 members.

Dr. Robinson questioned the fact that the bill left the number of board members rather "open-ended." Senator Getto said that he could see no problem with that situation since the company would not put on more board members than they needed, however, he said that if the Committee wanted to set an upper limit to the number, he would not be in opposition. He suggested that if this is what the Committee wanted, that the limit of 25 board members, which is proposed at the federal level, be used.

Mr. Bennett asked Senator Getto if he knew what the average number of members on these types of boards was. Senator Getto responded that since the limit was now 15, most likely the average would also be 15.

There being no further proponents nor opponents to S.B. 63, Dr. Robinson closed the hearing on the bill and opened the hearing on S.B. 72.

S.B. 72: Provides additional exemption to provisions governing land sales. (BDR 10-335)

Senator Getto, being the sponsor of S.B. 72, also gave the presentation of this bill. He indicated that some problems had occurred with sectioning land into 40 acre parcels, and that S.B. 72 was an attempt to solve these problems.

Speaking as a proponent to S.B. 72, Jack Warnecke, Chairman of the Carson River Basin Council of Government, said that changing the reference of parcels from 40 acres to 1/16th of a section and consequently defining that 1/16th as being under 40 acres but more than 35 acres would do no harm to the property owners or to the state. He indicated that this was what S.B. 72 was proposing to do. He also introduced Bob Sullivan, Executive Director of the Carson River Basin Council of Government, and Dennis Little, representing the Douglas County Public Works and Planning Department and referred any further questions that the Committee might have to those two gentlemen.

Dr. Robinson asked what would happen if one of the 1/16th parcels was subsequently subdivided--would it continue to be defined as a fraction. Mr. Little responded that at that point, the parcel would have to comply with actual subdivision laws.

Mr. Sullivan stated that because of the way the real estate laws are written, a subdivider is required to make disclosures on parcels less than 40 acres. Subsequently, Mr. Sullivan indicated, that a subdivider will usually make sure that all of the parcels in a section are at least 40.00 acres and very often will resurvey. Since 640 acre sections are a "rarity" in Nevada, this resurveying is an extra expense to the developer plus all of the paperwork at the courthouse must be redone, which is a major inconvenience.

Mr. Little passed out a dramatized exhibit to the Committee to illustrate the point of changing the parcels from 40 acres to 1/16th of a section (EXHIBIT B). Mr. Little explained that under the current provisions, a subdivider will often resurvey and break up parallel section lines, which causes a problem.

There was no further testimony on S.B. 72, so Chairman Robinson closed the hearing on that bill and opened the hearing on S.B. 126.

S.B. 126: Removes obsolete statutory reference to a repealed chapter of NRS. (BDR 57-46)

Mr. Frank W. Daykin, Legislative Counsel, came forward to present S.B. 126. He indicated that he had submitted the bill to eliminate a simple mistake that had resulted when NRS 693 was repealed and that a reference to that chapter was overlooked and not removed. Mr. Daykin said that the reference is not supposed to be there, nor is there any appropriate reference which should be substituted.

There were no questions or further testimony concerning S.B. 126, so the Chairman closed the hearing on the bill.

The last bill on the agenda was A.B. 111.

A.B. 111: Specifies primary and excess liability insurance when two or more policies are in effect for the same motor vehicle. (BDR 57-455)

Mr. Daryl Capurro, Executive Director of the Nevada Franchised Auto Dealers' Association, stated that his association had requested the introduction of A.B. 111. He indicated that similar legislation has been enacted in other states. He gave the Committee secretary a copy of the Arizona statute, (EXHIBIT C) and an analysis of the California codes, (EXHIBIT D). Mr. Capurro stated that the bill he had requested had been somewhat changed by the bill drafter but that he felt the changes did not "create any violence toward the intent of the bill." He said that he had been convinced that NRS 690b is the appropriate statute for this bill. Mr. Capurro said that the purpose for the bill is to protect dealerships and other individuals or business who must, by the nature of their business, permit people to drive or demonstrate cars that do not belong to that driver. He used the example of a new car dealership which allows people to test drive or demonstrate its cars to illustrate his point. He also used an example of "joy riding" and indicated that lines 12 through 16 on page 1 of the bill would deem the driver's insurance to be primary in such instances.

Mr. Capurro said that problems relating to insurance coverage for dealerships and service departments was becoming an increasing problem and causing insurance rates to rise.

Mr. Bennett asked Mr. Capurro what would happen in the event that an employee who had an accident and that employee did not have any

insurance coverage. Mr. Capurro indicated that in such an instance, the company's insurance would cover the entire amount as there would be no primary policy.

Mr. Jeffrey then asked what would happen if the employee, such as a shop foreman, took a car home. Mr. Capurro answered that if it was a company car, unless there was an agreement to the contrary, the company's insurance would be primary.

Mr. Dick Garrod, Farmers Insurance Group, indicated that he felt A.B. 111 was of benefit for the insurance business and the people of Nevada.

There was no further testimony regarding A.B. 111, so the Chairman closed the hearing on the bill.

Chairman Robinson indicated that he was personally aware of some negative testimony on S.B. 63 that had not been heard. Also, some guests representing Family Savings had not been able to get to the meeting in time to testify on behalf of the bill, so Dr. Robinson scheduled another hearing on S.B. 63 to be held on Wednesday, February 25th, 1981.

Mr. Bennett moved to DO PASS S.B. 72. The motion was seconded by Mr. Chaney and passed with a unanimous vote of the members present, (see attached Legislation Action Form for specifics). The Chairman asked that Mr. Rusk do the floor work on S.B. 72.

A motion was then made by Mr. Chaney, DO PASS S.B. 126. The motion was seconded by Mr. Brady and passed with a unanimous vote of the members present (See attached Legislation Action Form for specifics). Dr. Robinson asked Mr. Brady to handle the floor work on S.B. 126.

Mr. Dini asked the Chairman if he could have the Committee introduce BDR 43-515.

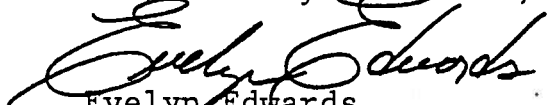
BDR 43-515: Removes requirements for evidence of insurance and associated penalties.
(AB 110)

Mr. Dini stated that the purpose of this bill would be to get some meaningful hearings established on the matter, which he felt would produce evidence that the requirement for proof of insurance was not working.

The motion to introduce the bill was made by Mr. Dini and seconded by Mr. Jeffrey. Mr. Prengaman voted not to introduce the bill, and all other Committee members present voted to introduce it with Mr. Bremner being absent.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Evelyn Edwards
Committee Secretary

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ASSEMBLY MERCER COMMITTEE

GUEST LIST

DATE: 2/18/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
Leslie Levin	UNR I do not wish to represent	✓		AB 110
Diane Christensen	private practice	✓		AB 110
Alfred S. LAVORATO	Northern Nevada Speech & Hearing Assoc	✓		AB 110
J. P. Cannon	Northern Nevada Speech & Hearing Assoc	✓		AB 110
E. P. Manderson	Board of Lyanian ...	✓		AB 110
Stewart ...	" " " "	"		"
Dennis R. Little	Douglas Co.	✓		SB 72
Bar	✓		SB 72
Dick	✓		AB 110

61st SESSION NEVADA LEGISLATURE

ASSEMBLY COMMERCE COMMITTEE

LEGISLATION ACTION

DATE 2/18/81

SUBJECT A.B. 9: Provides for use of real property as security by live-stock dealer in lieu of surety bond (BDR 50-341)

MOTION:

Do Pass x Amend Indefinitely Postpone Reconsider

Moved By Mr. Rusk Seconded By Bremner

AMENDMENT:

Moved By Seconded By

AMENDMENT:

Moved By Seconded By

Table with columns: VOTE, MOTION (Yes, No), AMEND (Yes, No), AMEND (Yes, No). Rows include names like BENNETT, BRADY, BREMNER, CHANEY, DINI, DUBOIS, JEFFREY, KOVACS, PRENGAMAN, RUSK, ROBINSON and a TALLY row showing 8 Yes and 0 No.

ORIGINAL MOTION: Passed x Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes February 18, 1981

61st SESSION NEVADA LEGISLATURE

ASSEMBLY COMMERCE COMMITTEE

LEGISLATION ACTION

DATE February 18, 1981

SUBJECT S.B. 72: Provides additional exemption to provisions governing land sales.

MOTION:

Do Pass x Amend Indefinitely Postpone Reconsider

Moved By Mr. Bennett Seconded By Mr. Chaney

AMENDMENT:

Moved By Seconded By

AMENDMENT:

Moved By Seconded By

Table with columns: VOTE, MOTION (Yes/No), AMEND (Yes/No), AMEND (Yes/No). Rows include names like BENNETT, BRADY, BREMNER, CHANEY, DINI, DUBOIS, JEFFREY, KOVACS, PRENGAMAN, RUSK, ROBINSON and a TALLY row showing 9 Yes and 0 No for the motion.

ORIGINAL MOTION: Passed x Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes 2/18/81

61st SESSION NEVADA LEGISLATURE

ASSEMBLY COMMERCE COMMITTEE

LEGISLATION ACTION

DATE February 18, 1981

SUBJECT S.B. 126: Removes obsolete statutory reference to a repealed chapter of NRS.

MOTION:

Do Pass x Amend Indefinitely Postpone Reconsider

Moved By Mr. Chaney Seconded By Mr. Brady

AMENDMENT:

Moved By Seconded By

AMENDMENT:

Moved By Seconded By

Table with columns: VOTE, MOTION (Yes/No), AMEND (Yes/No), AMEND (Yes/No). Rows include names like BENNETT, BRADY, BREMNER, CHANEY, DINI, DUBOIS, JEFFREY, KOVACS, PRENGAMAN, RUSK, ROBINSON and a TALLY row showing 10 Yes and 0 No.

ORIGINAL MOTION: Passed x Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes February 18, 1981

EXHIBIT A

DIANA D. CHRISTIANSEN

CCC American Speech & Hearing Association

SPEECH PATHOLOGY

ORAL MYOLOGY

February 10, 1981

Robert Robinson, Chairman
Commerce Committee
Nevada State Assembly
Carson City, Nevada 89701

Mr. Robinson:

I agree with all changes proposed in the bill regarding provisions of law regulating licensing of audiologists and speech pathologists.

The main change in this amendment is upgrading the qualifications for applicants from Bachelor's degree to a Master's degree. This would bring Nevada into conformity with the requirements for the Certificate of Clinical Competence by the American Speech and Hearing Association. More than 2/3 of the states now require attainment of the ASHA minimum standards as a condition of state licensing.

This proposal is supported by the Nevada Board of Examiners for Audiology and Speech Pathologist, faculty of University of Nevada Speech Pathologist and Audiology and Executive Board of the Nevada Speech and Hearing Association.

Thank you for your efforts on our behalf in this matter.

Sincerely,



Diana Christiansen
Speech-Language Pathologist
314 West 5th
Carson City, Nevada 89701

RE: SB 72

DRAMATIZED EXHIBIT:

showing the relationship of sectionalized land vs: the creation of 40 acre minimum size parcels from a typical section of land consisting of less than 640 acres.

Parcel 1 39.5 AC	Parcel 2 39.5 AC	Parcel 3 39.5 AC	Parcel 4 39.5 AC
Parcel 5 39.5 AC	Parcel 6 39.5 AC	Parcel 7 39.5 AC	Parcel 8 39.5 AC
Parcel 9 39.5 AC	Parcel 10 39.5 AC	Parcel 11 39.5 AC	Parcel 12 39.5 AC
Parcel 13 39.5 AC	Parcel 14 39.5 AC	Parcel 15 39.5 AC	Parcel 16 39.5 AC

EXAMPLE ONE

Assume a section contains 632 acres; under sectionalized land you would create 16 parcels each of 39.5 acres in size

Parcel 1 40 AC	Parcel 2 40 AC	Parcel 3 40 AC	Parcel 4 40 AC
Parcel 5 40 AC	Parcel 6 40 AC	Parcel 7 40 AC	Parcel 8 40 AC
Parcel 9 40 AC	Parcel 10 40 AC	Parcel 11 40 AC	Parcel 15 72 AC
Parcel 12 40 AC	Parcel 13 40 AC	Parcel 14 40 AC	

EXAMPLE TWO

The same section creating 40 acre lots.

Handwritten initials/signature



NEVADA
ASSOCIATION OF
COUNTIES

PRESIDENT
JACK R. PETITTI
CLARK COUNTY

VICE-PRESIDENT
SAMMYE UGALDE
HUMBOLDT COUNTY

BOARD OF DIRECTORS

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EDWARD ARNOLD
DONALD BARNETT
PETER L. BENGOCHEA
HENRY BLAND
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JAMES F. BURKE
JOHN C. CARPENTER
MAX CHILCOTT
WILLIAM FARR
BERT GANDOLFO
DOUGLAS HAWKINS
JOHN HAYES
KENNETH KJER
MARIO PERALDO
JOHN POLI
CHARLES A. VACCARO

EXECUTIVE SECRETARY
THALIA M. DONDERO
VALLEY BANK PLAZA
SUITE 1111
300 SOUTH FOURTH STREET
LAS VEGAS, NEVADA 89101

AFFILIATES

NEVADA DISTRICT ATTORNEYS ASSOCIATION
ROBERT MILLER, PRESIDENT

NEVADA FISCAL OFFICERS ASSOCIATION
W.W. GALLOWAY, PRESIDENT

RESOLUTION 80-22

RE: LARGE PARCELS -- MONUMENTING

WHEREAS, the U.S. Government's survey dividing Nevada into a network of Townships and Ranges is recognized uniformly in land mapping and management activities; and

WHEREAS, not all Townships and Ranges create "sections" of one mile square and 640 acres; and

WHEREAS, in the division of a section to conform with uniform fractions of 320, 160, 80 and 40 acres, the practice of "nominal" (approximate) sizing has been used throughout the State; and

WHEREAS, existing land ownerships are recorded via survey monuments which are in turn based upon the existing "nominal" mechanism; and

WHEREAS, the use of nominal monumenting has proven satisfactory to developers and local units of government, but not to the State Real Estate Division's regulatory responsibilities; and

WHEREAS, any division of land below 40.00 acres must fall under the jurisdiction of the State's Land Sales Law administered by the Real Estate Division, prescribing a full disclosure statement from the marketer of such parcels; and

WHEREAS, to avoid the expense of the disclosure mechanism, it is often advantageous for the owner of lands destined to be divided into 40 acre (Large Parcel) units to remonument his lands toward the objective of creating parcels 40.00 acres or greater, thus causing alteration of all existing recorded documents and attendant operations;

NOW, THEREFORE, BE IT RESOLVED that the Nevada Association of Counties requests the 1981 State Legislature to direct the State Real Estate Division to work within the 40-acre nominal format by requiring disclosure only on parcels less than 1/16 of a section but not more than 35 acres.

PASSED AND ADOPTED this 15th day of November, 1980.

ATTEST:


JACK R. PETITTI, PRESIDENT

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State of Arizona
House of Representatives
Thirty-third Legislature
Second Regular Session
1978

COMPILED AND ISSUED BY

ROSE MOFFORD
SECRETARY OF STATE

for use until Session Laws are printed

CHAPTER 183
HOUSE BILL 2043

AN ACT

RELATING TO INSURANCE; PRESCRIBING CERTAIN PRESUMPTIONS WHICH APPLY TO DETERMINE PRIMARY AND EXCESS COVERAGE IF TWO OR MORE MOTOR VEHICLE LIABILITY INSURANCE POLICIES COVER THE SAME MOTOR VEHICLE IN AN OCCURRENCE OUT OF WHICH A LIABILITY LOSS ARISES; PRESCRIBING LIMITATIONS ON MODIFICATION OR AMENDMENT OF CERTAIN PRESUMPTIONS; AMENDING TITLE 20, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1123.01, AND AMENDING TITLE 28, CHAPTER 7, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1170.01.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 20, chapter 5, article 1, Arizona Revised
3 Statutes, is amended by adding section 20-1123.01, to read:
4 20-1123.01. Motor vehicle liability insurance;

5 primary and excess coverage

6 A. IF TWO OR MORE POLICIES AFFORDING VALID AND COLLECTIBLE AUTOMO-
7 BILE LIABILITY INSURANCE APPLY TO THE SAME MOTOR VEHICLE IN AN OCCURRENCE
8 OUT OF WHICH A LIABILITY LOSS SHALL ARISE, AND ONE OF SUCH POLICIES
9 AFFORDS COVERAGE TO A NAMED INSURED ENGAGED IN THE BUSINESS OF SELLING,
10 REPAIRING, SERVICING, DELIVERING, TESTING, ROAD TESTING, PARKING OR
11 STORING MOTOR VEHICLES, BOTH OF THE FOLLOWING SHALL BE CONCLUSIVELY
12 PRESUMED:

13 1. IF, AT THE TIME OF LOSS, THE MOTOR VEHICLE IS BEING OPERATED
14 BY ANY PERSON ENGAGED IN ANY OF SUCH BUSINESSES OR BY HIS EMPLOYEE OR
15 AGENT, THE INSURANCE AFFORDED BY THE POLICY ISSUED TO THE PERSON ENGAGED
16 IN SUCH BUSINESS SHALL BE PRIMARY, AND THE INSURANCE AFFORDED BY ANY
17 OTHER POLICY SHALL BE EXCESS.

18 2. IF, AT THE TIME OF LOSS, THE MOTOR VEHICLE IS BEING OPERATED
19 BY ANY PERSON OTHER THAN AS DESCRIBED IN PARAGRAPH 1, THE INSURANCE
20 AFFORDED BY THE POLICY ISSUED TO ANY PERSON ENGAGED IN ANY OF SUCH
21 BUSINESSES SHALL BE EXCESS OVER ALL OTHER INSURANCE AVAILABLE TO SUCH
22 OPERATOR AS A NAMED INSURED OR OTHERWISE.

1 B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION, IF TWO
2 OR MORE POLICIES AFFORDING VALID AND COLLECTIBLE LIABILITY INSURANCE
3 APPLY TO THE SAME MOTOR VEHICLE IN AN OCCURRENCE OUT OF WHICH A LIABILITY
4 LOSS SHALL ARISE, IT SHALL BE CONCLUSIVELY PRESUMED THAT THE INSURANCE
5 AFFORDED BY THAT POLICY IN WHICH SUCH MOTOR VEHICLE IS DESCRIBED OR RATED
6 AS AN OWNED AUTOMOBILE SHALL BE PRIMARY AND THE INSURANCE AFFORDED BY
7 ANY OTHER POLICY OR POLICIES SHALL BE EXCESS.

8 C. THE PRESUMPTIONS STATED IN SUBSECTION A OF THIS SECTION MAY
9 BE MODIFIED OR AMENDED ONLY BY WRITTEN AGREEMENT SIGNED BY ALL INSURERS
10 WHO HAVE ISSUED A POLICY OR POLICIES APPLICABLE TO A LOSS DESCRIBED IN
11 SUCH SUBSECTION AND ALL NAMED INSUREDS UNDER SUCH POLICIES.

12 Sec. 2. Title 28, chapter 7, article 4, Arizona Revised Statutes,
13 is amended by adding section 28-1170.01, to read:

14 28-1170.01. Motor vehicle liability policy;
15 primary and excess coverage

16 A. IF TWO OR MORE POLICIES AFFORDING VALID AND COLLECTIBLE AUTO-
17 MOBILE LIABILITY INSURANCE APPLY TO THE SAME MOTOR VEHICLE IN AN
18 OCCURRENCE OUT OF WHICH A LIABILITY LOSS SHALL ARISE, AND ONE OF SUCH
19 POLICIES AFFORDS COVERAGE TO A NAMED INSURED ENGAGED IN THE BUSINESS
20 OF SELLING, REPAIRING, SERVICING, DELIVERING, TESTING, ROAD TESTING,
21 PARKING OR STORING MOTOR VEHICLES, BOTH OF THE FOLLOWING SHALL BE CON-
22 CLUSIVELY PRESUMED:

23 1. IF, AT THE TIME OF LOSS, THE MOTOR VEHICLE IS BEING OPERATED
24 BY ANY PERSON ENGAGED IN ANY OF SUCH BUSINESSES, OR BY HIS EMPLOYEE OR
25 AGENT, THE INSURANCE AFFORDED BY THE POLICY ISSUED TO THE PERSON ENGAGED
26 IN SUCH BUSINESS SHALL BE PRIMARY, AND THE INSURANCE AFFORDED BY ANY
27 OTHER POLICY SHALL BE EXCESS.

28 2. IF, AT THE TIME OF LOSS, THE MOTOR VEHICLE IS BEING OPERATED
29 BY ANY PERSON OTHER THAN AS DESCRIBED IN PARAGRAPH 1, THE INSURANCE
30 AFFORDED BY THE POLICY ISSUED TO ANY PERSON ENGAGED IN ANY OF SUCH
31 BUSINESSES SHALL BE EXCESS OVER ALL OTHER INSURANCE AVAILABLE TO SUCH
32 OPERATOR AS A NAMED INSURED OR OTHERWISE.

33 B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION, IF TWO
34 OR MORE POLICIES AFFORDING VALID AND COLLECTIBLE LIABILITY INSURANCE
35 APPLY TO THE SAME MOTOR VEHICLE IN AN OCCURRENCE OUT OF WHICH A LIABILITY
36 LOSS SHALL ARISE, IT SHALL BE CONCLUSIVELY PRESUMED THAT THE INSURANCE
37 AFFORDED BY THAT POLICY IN WHICH SUCH MOTOR VEHICLE IS DESCRIBED OR
38 RATED AS AN OWNED AUTOMOBILE SHALL BE PRIMARY AND THE INSURANCE AFFORDED
39 BY ANY OTHER POLICY OR POLICIES SHALL BE EXCESS.

40 C. THE PRESUMPTIONS STATED IN SUBSECTION A OF THIS SECTION MAY BE
41 MODIFIED OR AMENDED ONLY BY WRITTEN AGREEMENT SIGNED BY ALL INSURERS
42 WHO HAVE ISSUED A POLICY OR POLICIES APPLICABLE TO A LOSS DESCRIBED IN
43 SUCH SUBSECTION AND ALL NAMED INSUREDS UNDER SUCH POLICIES.

44 Sec. 3. Applicability

45 The provisions of this act shall apply to all motor vehicle
46 liability insurance policies issued or renewed on or after the
47 effective date of this act.

Approved by the Governor - June 7, 1978

RECEIVED

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CALIFORNIA INSURANCE CODE SECTIONS 11580.8 and 11580.9

These two California Code Sections which came into effect on November 23, 1970, should be read in conjunction. Essentially, they have the effect of: (1) setting forth a declaration of public policy, (2) establishing guidelines for application of coverage where more than one liability policy applies to the same vehicle in a loss situation, (3) and a changing certain standard provisions found in motor vehicle liability insurance policies.

CALIFORNIA INSURANCE CODE SECTION 11580.8

1. This section should be read in conjunction with Section 11580.9.
2. Essentially this section is a legislative declaration of public policy.
3. This section declares that the policy of California is to avoid conflicts and litigation among injured parties, insureds, and insurers regarding who is responsible for coverage where various insurance policies apply to the same vehicle.
4. Further, this section declares that it expresses the "total public policy of this state" regarding the order in which two or more policies covering the same loss shall apply.
5. Regardless of any language to the contrary in any insurance policies, it is apparent that the order of coverages set forth in Insurance Code Section 11580.9 will govern in co-insurance situations. Anything to the contrary would be against public policy.

CALIFORNIA INSURANCE CODE SECTION 11580.9

1. This section puts into effect the public policy set forth in Insurance Code Section 11580.8.
2. Section 11580.9(a) applies where two or more policies cover a vehicle and one of the policies is issued to a named insured engaged in the business of "selling, repairing, servicing, delivering, testing, road testing, parking, or storing" vehicles. In this situation, the following conclusive presumptions apply:
 - A. If the vehicle was operated by a person engaged in such a business, or by his employee or agent, his policy shall be primary and any other insurance shall be excess.
 - (1) For example, our insured leaves his car at shop for repair. Garage employee road tests and has a loss. Garage policy is primary and ours is excess.
 - B. If the vehicle is being operated by anyone other than a person engaged in the businesses listed above, or his employees, the automobile business policy shall be excess over all other insurance available to the operator.
 - (1) For example, our insured has a "loaner" vehicle from a garage and has a loss. Our policy is primary and the garage insurance is excess.
3. Section 11580.9(b) applies where two or more policies cover a vehicle and one is issued to a named insured engaged in the business of renting or leasing commercial vehicles as defined in Section 260 of the Vehicle Code or the leasing of any other motor vehicle for six months or longer. The policy applying to the named insured engaged in such a business would be excess if the vehicle is being operated by a person other than the named insured or his agent or employee.
 - A. Please note that for other than commercial vehicles, the lease period must be for six months or longer. Thus vehicles leased on a day-to-day basis would not come within the purview of this code section unless they are classified as "commercial."

4. Section 11580.9(c) applies where two or more policies are applicable to a loss arising out of a loading or unloading situation and one of the policies is issued to the owner, tenant, or lessee of the premises. The policy covering the premises is primary and the insurance on the motor vehicle shall be excess. Further, the code provides that the policy covering the premises on which the loading or unloading occurred shall protect as additional insureds all employees of the owner, tenant or lessee while acting within their employment.
 - A. For example, our insured's truck is involved in an accident during a loading or unloading operation. The insurance policy of the owner of the premises where the accident occurred is primary.
5. Section 11580.9(d) states that except as provided in subdivisions (a), (b) and (c) above, the policy insuring the vehicle shall be primary and any other policy shall be excess.
6. Section 11580.9(e) provides that any policy which is excess under the terms of subdivisions (a) through (d) above may provide that its coverage applies only to the extent needed to satisfy the minimum financial responsibility limits of the insured where the primary insurance is not valid and collectible in whole or in part. Thus it is possible to provide that the excess policy shall apply only to the extent necessary so that the insured has coverage equal to the minimum financial responsibility limits.
 - A. With the proper provisions, our policy would have no coverage as long as the primary carrier has at least a policy needing minimum financial responsibility requirements.
7. Section 11580.9(f) provides that the presumptions in subdivisions (a) through (d) above may be modified or amended only by written agreement signed by all insurers issuing a policy to a given loss and all named insureds under such policy.

SUMMARY

Essentially, Section 11580.9 sets forth important provisions clarifying the relationship of primary and excess insurance. It provides that a garage liability policy shall be primary only when, at the time of loss, the motor vehicle is being operated by any person engaged

in the automobile business or his employee or agent; if operated by any other person, the garage liability policy is excess. A policy affording coverage to a lessor of motor vehicles is excess as to any person other than the named insured or his agent or employee. In a loading and unloading situation, the coverage afforded by the premises insurer is primary and the motor vehicle coverage excess.