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Secretary of State

STATE OF NEVADA

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for Commercial Recordings

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Deputy Secretary for
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SUSAN MORANDI
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OFFICE OF THE
SECRETARY OF STATE

April 2, 2003

Assemblyman Bernie Anderson, Chair
Assembly Judiciary Committee
Capitol Complex
Carson City, NV 89701

Re: Testimony on Assembly Bill 536


Dear Chairman Anderson,

Pursuant to your request during your April 2, 2003 hearing on Assembly Bill 536, I have enclosed a copy of my testimony given at that hearing.

If you have any questions concerning the foregoing or require additional information, please do not hesitate to contact me at 684-5711. We remain available to answer any questions posed by the members of the Committee concerning the above.

Respectfully Submitted,

DEAN HELLER
Secretary of State


Scott W. Anderson
Deputy, Commercial Recordings Division

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FILE IN THE RESEARCH LIBRARY**

ASSEMBLY JUDICIARY

DATE: 4/2/03 ROOM: 5158 EXHIBIT L
SUBMITTED BY: Scott Anderson

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TESTIMONY ON A.B. 536
OFFERED BY DEPUTY SECRETARY OF STATE
SCOTT ANDERSON

ON BEHALF OF
SECRETARY OF STATE DEAN HELLER

April 2, 2003

AB 536 as amended by our proposed amendment will further standardize the filings processed by our office. Many of the provisions are housekeeping provisions, cleaning up many of the provisions that are not standard, may be confusing to our customers or perhaps overlooked in our bill of 2001. Many other provisions allow for the streamlining and advancement of business practices.

I will touch on the major provisions of the bill in some detail. I would be happy to answer any questions you may have as we go.

Sections 1, 17, 19, 32, 36, 51, 55, 73, 88, 106 and 124

Allow the Secretary of State to prescribe forms for filings processed in his office. Documents submitted for filing in the office of the Secretary of State would be required to be on or accompanied by a form prescribed by the Secretary of State. These forms would contain the minimum requirements for filing. Entities may attach related documents, such as articles of incorporation or amendments in their own format. If there was a disparity between the prescribed form and its attachments, the attachments would rule.

These prescribed forms are intended to further streamline the review and input processes in the office of the Secretary of State and allow for the efficient transition from a paper-based processing system to an image based processing and electronic filing systems and better utilize the advances in technology now available to our office.

These sections would allow the Secretary of State, by regulation, to provide for the electronic filing of documents in his office.

Sections 2, 21, 49 and 98

Allow the Secretary of State to image documents on file in his office. This will provide for the more efficient retrieval of documents. We will continue to transfer these images to microfilm as a means of long-term storage as directed by the state library and archives.

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Sections 3 and 22

Allow for the correction of a document by the directors or incorporators of a corporation, when stock has not yet been issued (no officers.)

Sections 5, 9, 45, 46, 81, 84, 96 and 101

Add provisions from the Real Estate Division of the Department of Business and Industry instructing the Secretary of State not to accept for filing any organizational documents or amendments from homeowners' or unit owner's association without certification from the Real Estate Division that the association has registered and paid fees pursuant to NRS 116. Sections also allow for the placing of non-compliant association's in default status until registering and paying such fee.

We met with the Real Estate Division and agreed that this would be a way to ensure that these Associations comply with the provisions of NRS 116. These amendments replace the provisions of NRS 78.150(8).

These provisions are similar to those requiring certain financial institutions and insurance companies get approval from their respective Commissioner before organizational documents and amendments may be accepted for filing.

Sections 6, 25, 38, 56, 66, 74, 83, 89, 100, 107 and 117

Add the declaration that the filer of an annual list acknowledges that it is a Category C felony to knowingly offer any false or forged instrument for filing with the Secretary of State.

This language was the result of hearings regarding the unauthorized changing of officers and directors. We hope that this additional acknowledgement will further discourage the filing of false or fraudulent lists in our office.

Sections 10, 29, 42, 53, 60, 69, 78, 84, 93, 102, 111 and 120

Provide for written notice, as opposed to a letter, when an entity is in default or its status revoked. This will allow for notifications to be sent in other forms, such as post cards, and upon request of the resident agent, in electronic form, thus reducing the costs of supplies and postage. Electronic notifications will be delivered promptly without the delays associated with mailed notifications.

Sections 11, 30, 43, 61, 70, 79, 85, 94, 103, 112, and 121

Provide for the issuance of a certificate of reinstatement upon request and payment of proper certificate fees. Currently one or more copies of a certificate of reinstatement may be requested at no additional charge to the customer. Other certificates, such as certificates of existence or certificates of good standing require payment before issuance.

Sections 20, 44, 62, 80 and 95

Allow for foreign entities to reinstate under a new name if their name has become unavailable. This directly follows the current provisions for domestic business entities.

Sections 7, 26, 39, 57, 67, 75, 90, 101, 108 and 118

Allow for other types of proof of payment, other than a cancelled check, such as a credit card receipt, trust account voucher or electronic payment verification as certificate authorizing it to transact business in this state. These sections also remove the formal certificate requirement, thus eliminating the additional supply costs associated with this seldom-used certificate. Over 205,000 lists including this certificate are printed and handled each year, with a majority not used and ultimately being thrown away.

Sections 22, 33, 37, 54 and 86

Allow for certificates of correction for all types of business entities. This standardizes the certificate of correction process. An entity may file a certificate of correction correcting an inaccurate record of an action described in a document or if the document was defectively executed, attested, sealed, verified or acknowledged.

Sections 38 – 44, 56 – 62, 74 – 80, 89 – 95 and 107 – 113

Add filing provisions for foreign nonprofit corporations, foreign limited liability companies, foreign limited liability partnerships, foreign limited partnerships and foreign business trusts. While these have the same filing requirements as their domestic entities, there was some confusion among our customer as to foreign filing provisions. Placing these provisions within the foreign sections of these chapters will alleviate some of this confusion by specifying the filing provisions for foreign entities.

I would be happy to answer any questions posed by the Committee.

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