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AB 417

TESTIMONY OF DAN L. WULZ, ESQ.

Madame Chairwoman, thank you for the opportunity to address the Committee.

My name is Dan Wulz and I am an attorney practicing in Las Vegas. Although I work at Clark County Legal Services, I am appearing here as an interested citizen.

My work has brought me into contact with many Nevada consumers adversely affected by the actions of car dealers. Last session, I was involved with changing NRS Chapter 482 regarding dealer bonds. The law was changed to remove the limitation that in an action on a bond, the recovery be limited to the value of the car. At that time, we did not foresee that this could create a situation where the first person to collect on the bond could exhaust the bond, leaving other, deserving consumers without a source of funds to compensate them. This bill, AB 417, will correct that problem. In that regard, the bill provides for pro rata distribution.

The bill will also correct the problem of non-consumers making claims to and exhausting the bond before consumers are compensated. I believe it was always the legislative intent in requiring a bond that it be available for the claims of consumers cheated by car dealers. However, the law is silent in that respect and as a result it has not been so interpreted by the Nevada Supreme Court. This bill provides that claims of consumers have priority.

Further, in order to insure that the bond will be available for consumer claims, the bill provides for a 2 year time limit to make a claim and provides that non-consumer claims will not be paid before that time expires.

Lastly, the amendments offered, which I support and which I believe have the support of the Department of Motor Vehicles, are taken from the contractor's bond statute, NRS 624.273. The amendments provide for a two year limit on commencing an action to collect on a bond, provide for notification to claimants of competing claims, provide for good faith payments without court action, and provide that in the event there are competing claimants, an interpleader action may be filed in court. All of this is current practice under the contractor's bond statute.

This bill is good for consumers and should not impact car dealers or their sureties as it does not increase the amount of the bond. Rather, the bill provides greater clarity and for a fair procedure when multiple claims may exceed the bond amount.

Thank you, and I urge passage of AB 417 with the amendments.