MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Seventy-third Session
May 17, 2005

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 7:05 a.m. on Tuesday, May 17, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblywoman Ellen M. Koivisto, Assembly District No. 14
Assemblyman Mark A. Manendo, Assembly District No. 18
Assemblyman John W. Marvel, Assembly District No. 32
Assemblywoman Genie Ohrenschall, Assembly District No. 12
Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Jeanine Wittenberg, Committee Secretary
Scott Young, Committee Policy Analyst
Jane Tetherton, Committee Secretary

OTHERS PRESENT:

James F. Nadeau, Nevada Association of Realtors
Robert C. Maddox, Community Associations Institute
Renny Ashleman, Southern Nevada Home Builders Association
Bert Gurr, Nevada Association of Realtors
Lisa Young, Deputy Administrator, Real Estate Division, Department of Business and Industry
M. J. Harvey
Jim Avance, Nevada Manufactured Housing Association
Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry
Garry Hayes
David Stone
Sabrina Gayhart
Mike Randolph
Karen D. Dennison, Lake at Las Vegas Joint Venture
Marilyn Brainard
Doris Green
Karene Williams
Constance Kosuda
Steve Ray
Michael Ingenluyff
Lillian DeBolt
Karl Braun
Joseph Guild, Manufactured Home Community Owners
Marolyn Mann, Manufactured Home Community Owners
Mike Cirello
Teresa Maloney
Mary Fischer
Jeanne Parrett
Thomas A. Morley, Laborers Local No. 872
Danny L. Thompson, American Federation of Labor-Congress of Industrial Organizations
John (Jack) E. Jeffrey, Southern Nevada Building and Construction Trades
Susan Fisher, Washoe County Employees Association
Rose E. McKinney-James, Clark County School District
Greg Mourad
Christina Dugan, Las Vegas Chamber of Commerce

John L. Wagner, Burke Consortium of Carson City
Raymond Bacon, Nevada Manufacturers Association
Randall C. Robinson, Associated Builders and Contractors
Cheryl Blomstrom, National Federation of Independent Business
Mark W. Shumar, International Brotherhood of Teamsters

CHAIR TOWNSEND:
The hearing is now open on Assembly Bill 290.

ASSEMBLY BILL 290 (1st Reprint): Makes various changes to provisions relating to common-interest communities. (BDR 10-951)

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):
Assembly Bill 290 makes changes to statutes relating to common-interest communities. It entails five issues which I will briefly read from the bill under An Act: "... requiring a member ... ."

CHAIR TOWNSEND:
Have you spoken with Senator Schneider on this bill? Senator Schneider has a similar bill, S.B. 325 that he is working on.

SENATE BILL 325 (1st Reprint): Makes various changes concerning common-interest communities. (BDR 10-20)

ASSEMBLYMAN PARKS:
I have not spoken to Senator Schneider lately relative to this bill. However, when the bills were introduced, we did have a brief conversation.

CHAIR TOWNSEND:
Senator Schneider had indicated that there were some issues with the bill and the Committee wants to make sure that they are discussed.

ASSEMBLYMAN PARKS:
Yes, Mr. Chairman.

JAMES F. NADEAU (Nevada Association of Realtors):
I have given to the Committee a copy of an amendment (Exhibit C) to this bill. We support this legislation. During our discussions with the Assembly the language in section 3 of A.B. 290 was amended from the original bill. This

amendment will change the language to be consistent with the language in S.B. 325. At this time, I do not have the specific section in S.B. 325 to which it relates.

During our discussions with the Assembly regarding the removal of the $400,000 cap, we discovered in *Nevada Revised Statutes* (NRS) 116.31123 that the term "commercial transient lodging" would cause confusion to the application of the language. Therefore, we are trying to amend the language. This amendment has been discussed with Assemblyman Parks.

SENATOR HARDY:
Is the amendment agreeable with Assemblyman Parks?

ASSEMBLYMAN PARKS:
Yes, it is.

CHAIR TOWNSEND:
Assemblyman Parks, with regard to section 3 in your amendment where it states, "… an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease … ," the original language was the result of serious issues that occurred at one of the homeowners associations in southern Nevada. Are you familiar with what happened?

ASSEMBLYMAN PARKS:
I am familiar with what you are talking about; however, Mr. Ashleman has more knowledge of the matter than I do.

MR. NADEAU:
Nevada Revised Statutes 116.31123 deals with short-term rentals that are less than 30 days. I believe there was one homeowners association in southern Nevada where the issues arose because of the short-term rentals. The language in the amendment would allow the Covenants, Conditions and Restrictions (CC&Rs) to preclude rentals. The amendment would also provide protection to the owner of the mobile-home unit from the CC&Rs.

SCOTT YOUNG (Committee Policy Analyst):
Mr. Chairman, for the Committee's assistance, the provisions in section 3 of A.B. 290 correspond to section 42 of S.B. 325. The Committee should have a copy of S.B. 325 to compare the two bills.

CHAIR TOWNSEND:
MR. NADEAU, did the Committee make that change in S.B. 325?

MR. NADEAU:
The language in our amendment is consistent with the language in the first reprint of that bill.

CHAIR TOWNSEND:
Mr. Young, did you say section 42 of S.B. 325?

MR. YOUNG:
That is correct.

CHAIR TOWNSEND:
Assemblyman Parks, you mentioned the issue of "reserves" which relate to some of the older communities and that they may not be adequately reserved. In section 8 of A.B. 290, on line 39, the words "... of the association," were added. What is the bill trying to imply with regard to the "reserve" issue?

ASSEMBLYMAN PARKS:
We did have a longer definition, but after discussions we came up with that revised language. I was assured that the language would accomplish what it is supposed to do.

CHAIR TOWNSEND:
Mr. Nadeau, section 10, subsection 2 states: "The purchaser may cancel, by written notice, the contract of purchase until midnight of the fifth calendar day ... ." Why would an acquisition of a unit in a common-interest community be any different than a home in a noninterest community?

MR. NADEAU:
This language is a clean up of existing language, because the homeowner has an opportunity to back out of a sale on their mobile home if they do not agree with the CC&Rs.

CHAIR TOWNSEND:
Do you have any concerns with that happening?

MR. NADEAU:
No, I do not. Another issue is that homeowners associations entertained the idea of questioning the suitability of a potential renter. We felt that was inappropriate so the language in section 3 was added to address that issue.

MR. YOUNG:
I would like to point out to the Committee that section 10 of A.B. 290 touches on the same issues in section 76 of S.B. 325. I believe Mr. Nadeau had stated that there are a few differences in the language, so the Committee will need to consider how to conform those provisions.

ROBERT C. MADDOX (Community Associations Institute):
My understanding from the testimony today on A.B. 290 is that an amendment was proposed to section 3 to make the language consistent with the language in section 42 of S.B. 325, is that correct?

CHAIR TOWNSEND:
Yes, section 42 in S.B. 325 looks like it has already been amended and section 3 in A.B. 290 would be amended to be consistent with the change in S.B. 325.

MR. MADDOX:
The Community Associations Institute (CAI) will support A.B. 290. With regard to section 4 relating to opening bids at a meeting of the executive board (Exhibit D), the managers of CAI feel that it would be preferable if the language was changed to reflect the bids to be opened at a specified time and in the presence of a representative of the CAI. The CAI prefers that a manager review the bids and provide a write up on the bid and present it to the board at the meeting. The proposed language would be: "If an association solicits bids for an association project, the bids must be opened at a specified time in the presence of a representative of the CAI."

CHAIR TOWNSEND:
Your point is well taken; however, the Committee cannot implement a proposal without having some idea of what the impact may be. My understanding is that

most boards do ask for an analysis to be performed. Either Mr. Powers or Mr. Young can review your proposed language.

MR. MADDOX:
I will meet with Mr. Powers or Mr. Young regarding the proposals.

RENNY ASHLEMAN (Southern Nevada Home Builders Association):
The Assembly modified section 42 of S.B. 325 to remove some of the language concerning governing documents prohibiting the use of transient lodging. I should know before your Committee adjourns this morning, whether or not that would cause the homeowners association, Heritage South, to be governed by using their CC&Rs or by using other parts of their master documents. I would ask the Committee to hold the vote on A.B. 290 until I can inform you on that issue. I would also like to point out to the Committee that there is considerable discussion in the Assembly relating to S.B. 325 and I am helping in the drafting of language to try to deal with the problems of conversions and the reserves issue. I can provide the Committee the results of those discussions.

CHAIR TOWNSEND:
The hearing is closed on A.B. 290. We will now hear discussions on A.B. 114.

ASSEMBLY BILL 114 (1st Reprint): Revises provisions governing manufactured homes, mobile homes and Real Estate Education, Research and Recovery Fund. (BDR 43-1162)

ASSEMBLYMAN JOHN W. MARVEL (Assembly District No. 32):
I am the chief sponsor of A.B. 114 and the bill was introduced on behalf of the Nevada Association of Realtors. At this time, I would like to turn the testimony over to two members of the Association, Mr. Nadeau and Mr. Gurr.

MR. NADEAU:
This bill is a very important to the Nevada Association of Realtors. The first part of the bill removes the requirement that a real estate licensee obtain limited dealers' licensure from the Manufactured Housing Division, Department of Business and Industry. A real estate transaction that involves a used mobile home that sits on real estate that has not been converted to real property, requires that a real estate licensee either have a limited dealers' license or work with a manufactured-housing dealer in order to conduct a sale. This bill will allow a real estate licensee the ability to handle the transaction without having a

limited dealers' license. There are a variety of reasons why our Association became involved in the bill. The first reason is the cost of a limited dealers' license has been significantly increased over the past few years by the Manufactured Housing Division so cost becomes complicated in that it would require a cost-benefit analysis as to whether or not a licensure is required. Second, the implementation of a contract for the most part does not apply to the purchase of a mobile home. The Association is asking that these issues be placed solely under the Real Estate Division's jurisdiction. We have worked with the Manufactured Housing Division to ensure that the consumer is protected.

BURT GURR (Nevada Association of Realtors):
I have provided the Committee my written testimony of which I will read from now (Exhibit E). One point I would like to make is that there are very few limited licensed dealers in rural Nevada. Those individuals have dropped their licensees because of the cost-benefit ratios. Currently, if a mobile-home unit has not been converted to real property, an individual is required to use two different entities for the purpose of selling the unit. The Association feels that is not to the benefit of the consumer. The Association asks for support of this bill.

SENATOR CARLTON:
There are several mobile homes in southern Nevada that have not been converted to real property. My concern is that there will be real estate agents that do not understand the specifics of a mobile home and be able to be objective to concerns that may arise. Will that particular agent be operating outside of their expertise?

MR. GURR:
I do not believe so, there are transactions going on right now.

SENATOR CARLTON:
Maybe I am confused on this issue, because what I understand the Association is trying to do is make it so the agent is not required to obtain a limited dealers' license. Does that particular license provide specific training in the sale of mobile-home units or conversions to real property?

MR. GURR:
No. To obtain a limited dealers' license, you simply complete an application and pay a fee. I personally had that type of license for several years and was never required to take any type of educational training.

SENATOR CARLTON:
I still have some concerns though, thank you.

SENATOR HECK:
Could you address section 9 of the bill with regard to the increasing of the Recovery Fund balance?

MR. NADEAU:
The Real Estate Education, Research and Recovery Fund for the Real Estate Division was $50,000 and the Division felt it would be appropriate to increase the amount based on their agreement with the Legislature involving used manufactured homes. Although, to my knowledge, I do not think there have been any claims under either the Manufactured Housing Division or the Real Estate Division towards the Recovery Fund in regard to these types of sales.

SENATOR HECK:
So, the Real Estate Division requested the increase in the Fund balance from $50,000 to $300,000 because they potentially foresee a problem by allowing this bill to pass. Is that correct?

MR. NADEAU:
The current Recovery Fund carry-over balance for the Manufactured Housing Division is $500,000. That was part of the Association's negotiated agreement in trying to make sure that the consumer was protected. I would defer to Ms. Young of the Real Estate Division to explain.

LISA YOUNG (Deputy Administrator, Real Estate Division, Department of Business and Industry):
Our Division has worked with both the sponsor of this bill and the Manufactured Housing Division. We are willing to make adjustments referenced in sections 9 and 10 of the bill to increase the Recovery Funds.

SENATOR HECK:
What is the reason for increasing the Fund balance?

MS. YOUNG:
The reason is for the possibility of claims against the Fund.

SENATOR HECK:
Is the Division expecting increased claims because of the other changes being made in this bill?

MS. YOUNG:
The Fund balance is being increased due to this bill.

MR. NADEAU:
Even though there have not been any claims filed against the Manufactured Housing Division, I believe the Division felt there needed to be a cushion in order for all involved to come to an agreement. It is my understanding that there have not been any claims filed, but there are potential claims that may be filed.

MR. GURR:
There are several individuals who are currently operating outside the current law without a limited dealers' license. This bill would take care of potential or unforeseen problems. This would also clarify who would handle any disciplinary actions, should they arise.

CHAIR TOWNSEND:
Ms. Young, your Division wants to increase the Fund balance by $250,000. How is that going to be accomplished?

MS. YOUNG:
Currently, our licensees pay a $40 fee that goes to a research and recovery fund and this would come out of that particular reserve.

CHAIR TOWNSEND:
The Division is not increasing the fee?

MS. YOUNG:
No.

CHAIR TOWNSEND:
The Division is just taking more money out of those funds?

MS. YOUNG:
The money goes into a fund that has a rolling balance. The Division is taking from that balance-forward fund and increasing that amount. I believe the current

balance in the Fund is $50,000 that is used when claims are made against the fund.

CHAIR TOWNSEND:
I understand what the Fund is used for, I just do not understand how the increase will be accomplished.

MR. GURR:
I believe the Fund is based on a rolling cap and the $50,000 is the current cap amount on the Fund.

CHAIR TOWNSEND:
It is not a cap; it is a base because it states, "A balance of not less than … ."

MR. NADEAU:
I am not an expert on this matter, but what I believe happens is the $50,000 is a carryover fund amount and anything over that amount goes into the Division's education fund. If the Fund is increased to $300,000 then any amount over the $300,000 would go to the education fund. The education fund provides licensee education which is sponsored by the Division. If the Division is able to raise the balance to $300,000, there would be a sufficient balance in that account to become a rolling account. At that time, the Fund should not require any additional fees to operate.

SENATOR CARLTON:
If the money in the Fund goes toward the education for continuing licensees and the Fund becomes reduced, will the licensees then be paying more in continuing education but not in fees?

MS. YOUNG:
That money does not go for continuing education for licensees. There is an education section that provides a variety of programs related to licensee education. Currently, the Division has a reserve in that account and the Fund increase we are requesting will help to bridge the gap between the new limit and the current limits to which we have access.

SENATOR HECK:
How much revenue is generated annually on the $40 licensing fee that goes into the Fund?

MS. YOUNG:
I do not have those figures with me today, but I can obtain those for the Committee.

SENATOR HECK:
Just so I understand, the Division collects a fee and sets it aside in the Fund for claims and at the end of the year whatever has not been expended in claims, the Division will keep $300,000 as the balance amount and put the remaining amount into the educational fund.

MS. YOUNG:
That is correct.

SENATOR HECK:
I would like to see those figures when you get the opportunity to do so.

MS. YOUNG:
I will provide those figures.

CHAIR TOWNSEND:
The figures we have been discussing pose a question. Originally, the Division was not going to keep less than $50,000 in the Fund and the Division was not going to allow a claim of more than $10,000 per judgment. That is approximately 20 percent of the Fund. Now the Division is asking to keep not less than $300,000 in the Fund and allow a claim of not more than $100,000 per judgment. That is approximately a 33-percent difference. Is there a reason the Division chose not to keep the percentage amount the same?

MR. NADEAU:
I do not get involved in working with those figures. My understanding is that the claims filed against the Division come from a court judgment and the incidents of those types of judgments are very small.

M. J. HARVEY:
Mr. Chairman, I am testifying from the Grant Sawyer State Office Building in Las Vegas and did not have the opportunity to speak in regard to A.B. 290 and would like to do so now.

CHAIR TOWNSEND:
Committee, the hearing is reopened for discussions of A.B. 290.

MS. HARVEY:
I have been involved in a property-owners' association for 26 years. I support sections 2, 4 and 8 in A.B. 290. I am also in support of opening bids at a board meeting, which is also open to the public. In section 8 with regard to adequate reserves, we were looking for flexibility in the reserve amounts between larger and smaller homeowners associations.

CHAIR TOWNSEND:
Are there any further questions on A.B. 290? If not, the hearing is now reopened on A.B. 114.

JIM AVANCE (Nevada Manufactured Housing Association):
When this bill was first introduced, the Nevada Manufactured Housing Association was opposed to it. Specifically, our opposition related to consumer protection issues. The Association also had a concern as to how the Real Estate Division could use their recovery fund to settle an issue on private property that was not permanently attached to real estate.

CHAIR TOWNSEND:
A claim against the Fund is related to a claim against a licensee as it reads in section 10, subsection 1: " ... upon grounds of fraud, misrepresentation or deceit with reference to any transaction ... ." It has nothing to do with whether the issue related to real or personal property, it is about the transaction. The claim would be against the licensee if they misrepresented the mobile-home unit or anything inside of real property lines; those were the types of issues. Am I misunderstanding the bill?

MR. NADEAU:
That is the issue here. Because the issue deals with a transaction and if the licensee is involved in a transaction that ends up with a judgment against them, the recovery fund will handle it.

CHAIR TOWNSEND:
Mr. Avance, does that answer your concern?

MR. AVANCE:
Yes sir, our concern is for the consumer and the image of the industry overall.

RENEE DIAMOND (Administrator, Manufactured Housing Division, Department of Business and Industry):
My concerns on this bill are twofold. Our Division's first concern is that the consumer be given disclosure on all the issues that are unique to manufactured homes. I believe a disclosure was incorporated into this bill that would cover those unique situations. The second concern was that the manufactured-housing Recovery Fund provided up to $25,000 per occurrence. The cumulative total of $100,000 is per licensee. When the discussions began on this bill, $10,000 did not seem enough to cover issues of fraud, et cetera. I have provided my written testimony for the Committee (Exhibit F). I would like to point out that in my manufactured housing budget, the 140 limited dealers represent $28,000 lost to our self-funded agency in the next biennium. The manufactured housing recovery fund would lose $84,000 over the next biennium. I have pointed out to Mr. Nadeau that the first time a manufactured home as personal property comes before their Association, they will be puzzled because they are not experienced enough in the construction of these types of homes. Those are the only reservations I had on this bill, and I believe the consumer issue had been addressed.

CHAIR TOWNSEND:
Are there any further questions on A.B. 114? If not, the hearing is open for discussions on A.B. 383.

ASSEMBLY BILL 383 (1st Reprint): Creates right of redemption for owner of property in common-interest community in certain instances of nonjudicial foreclosure. (BDR 10-1242)

ASSEMBLYMAN MARK A. MANENDO (Assembly District No. 18):
I brought forth this legislation on behalf of a constituent by the name of Garry Hayes. I will let Mr. Hayes go over the issues of this bill with the Committee.

GARRY HAYES:
I am an attorney, but I am not representing anyone on this particular bill. I have come across several issues in this bill which prompted me to review the NRS to

see if there was a right of redemption when a person loses their home for failure to pay their fees in a common-interest community.

A right of redemption means that a person can, within a certain period of time after a forced sale of their home, redeem their home by paying the person who bought the home. This bill states that within 180 days after the forced sale of a home, that person can redeem that home by paying what was paid by the purchaser, plus interest and any outstanding charges such as liens against the home. It is a statutory right to sell those homes and, in all fairness, people should not be forced to lose tremendous amounts of equity in a sale. The goal of the sale provision is to allow the homeowners association to collect the money that they are owed and this legislation does not interfere with that collection.

I would like to point out to the Committee that NRS 21.200 allows for a 1-year redemption of a property in case a person has a judgment against them and that judgment forced the sale of any real property. What we are trying to accomplish with this bill is to spread those provisions to common-interest communities. I believe this legislation would keep cases from going to court and I would appreciate the Committee's support on A.B. 383.

ASSEMBLYMAN MANENDO:
I would like to make a disclosure; I do live in a common-interest community.

DAVID STONE:
I am the owner of Nevada Association Services, Incorporated which is an assessment-collection company. Our association works exclusively with homeowners associations in collecting past-due assessments. As the bill is written, I am opposed to it because I find the language to be detrimental to homeowners associations. I think this bill has been presented under the assumption that there is an enormous foreclosure problem in this State. Our company actually forecloses on approximately 1 out of 600 delinquent accounts. With the revisions in S.B. 325, it will make the notice to foreclose more significant to a homeowner.

SABRINA GAYHART:
I am a qualified manager for Red Rock Financial Services and we also do assessment collections. I agree with Mr. Stone, and I am also in opposition to the bill.

MIKE RANDOLPH:
I am a licensed manager of Homeowners Association Services which is a licensed collection agency specializing in homeowner-association assessment recovery. I am opposed to A.B. 383 for a number of reasons. I believe this bill will remove a lot of the consumer's protection. The first problem I found was in section 1, subsection 2, paragraph (a) which relates to a person who loses their home and has to pay the purchaser what the owner paid for the unit, plus interest. My question is, "What happens with the ongoing assessments that the purchaser pays such as the transfer fees, extra mortgage fees, et cetera?" Does the purchaser get that money back?

Also, there are a number of forms this bill references such as a notice of redemption, an affidavit of redemption, and a certificate of redemption which I and a number of individuals in the business of foreclosures have never seen. Who is supposed to create those forms? What about the proof of payment of other items such as junior liens? Who receives payment for those items? It also states in the bill that the person who purchased the property through foreclosure has seven days after the property has been redeemed, and the purchaser had been paid, to produce a deed and a certificate of redemption. Seven days is not enough time to handle that process. In section 1, subsection 3, it states that the homeowner has 180 days to begin the redemption process and is allowed another 30 days to complete the process. The question is what constitutes the beginning of the process? Is it a phone call in the afternoon of the 179th day? The process is not listed in the bill.

As a trustee who is going to be forced to deal with this bill, it leaves a lot of areas open that I would not know how to handle and the bill does not address those issues. In section 1, subsection 8, it talks about successors in interest where the defaulting homeowners' heirs and assigns can redeem the property. This opens the door for abuse. The reason I am against this bill is that I see a chance for a lot of abuse to occur. As NRS 116 stands today, excess monies due to foreclosure sales is going back to the original homeowners, so the homeowners in some cases are not losing everything due to a foreclosure. I have provided the Committee with my written testimony (Exhibit G), which includes my opinion. Mr. Urbanetti of the Alternative Dispute Resolution office on behalf of common-interest communities requested I do this. Mr. Urbanetti asked me for my opinion on this bill ten days ago. I do not have any concerns with a right of redemption. I just have concerns with all the problems this bill creates.

SENATOR CARLTON:
You stated that you were asked for your opinion approximately ten days ago?

MR. RANDOLPH:
Yes.

SENATOR CARLTON:
Did you testify on this issue in the Assembly?

MR. RANDOLPH:
No, because I was not aware of this bill until ten days ago.

SENATOR CARLTON:
Have you discussed your concerns with the proponents of the bill?

MR. RANDOLPH:
Not yet, I have not had that opportunity.

KAREN D. DENNISON (Lake at Las Vegas Joint Venture):
We have a neutral position on A.B. 383. I would like to comment on the length of the redemption period. When I served on the State Bar of Nevada committee, the committee reviewed the issue of redemption and we recognized that some individuals do not realize that they have lost their homes after a foreclosure sale. The committee believed that 90 days would be sufficient time to balance the interest of the homeowners association to collect money to pay any bills that had occurred versus the interest of the homeowner. Our recommendation would be to shorten the redemption period to 90 days. Additional disclosures have been added to S.B. 325 relating to the notice of foreclosures in order to make sure individuals are aware of the consequences if their assessments are not paid. In addition, we added a mechanism to make sure the individual receives the notice of intent to foreclose, by either personal service or posting.

SENATOR SCHNEIDER:
Taking into consideration that the time period to redeem a unit is 180 days; if I were to buy a unit that is in a foreclosure status and then refurbish it and sell it within 90 days, would the original owner be able to redeem the unit?

MS. DENNISON:
I believe the seller of the unit would be able to sell their certificate of sale which is subject to the right of redemption. The seller would not receive the deed until either the 180-day or 90-day period of redemption passes.

MR. RANDOLPH:
Currently, with regard to the individual who bought the property at a foreclosure sale and wants to resell the property, that individual would have to sue for quiet title or obtain a quick claim. Presently, there are two companies who provide title insurance and a new mortgage company will not loan on a property that does not have title insurance. Of the two title companies that offer title insurance in Nevada, they will not insure title unless one of the following occurs: there is a quit claim from the defaulting homeowner, releasing interest in the property; a court decision was made stating that the foreclosure is valid and a quiet-title action was done or a two-year time frame has passed. At present, there is already close to 120 days after the foreclosure that the purchaser, who bought the property, has to sue for quiet title. That gives the homeowner another day in court. This process is just adding more time to the original time frame.

MARILYN BRAINARD:
I represent the vast majority of homeowners who live in common-interest communities by serving on the state board of Community Associations Institute. I also serve as a board member for Wingfield Springs Community Association. In the seven years that I have attended board meetings, there has been only one foreclosure. I believe the new provisions included in the amended version of S.B. 325, relating to the notice of foreclosures, works in favor of the consumers' protection. I also do not feel it is fair to the homeowners who do pay their fees on time to be burdened by delinquent homeowners who do not pay their fees. I am not in favor of A.B. 383, because I do not feel it is necessary.

CHAIR TOWNSEND:
The hearing is now closed on A.B. 383. The hearing is now open on A.B. 216.

ASSEMBLY BILL 216: Requires landlord to reduce rent for certain older persons who are tenants of manufactured home parks. (BDR 10-201)

ASSEMBLYWOMAN GENIE OHRENSCHALL (Assembly District No. 12):
I am the primary sponsor of A.B. 216. There is a crisis in affordable housing in southern Nevada. I have provided the Committee my written remarks (Exhibit H) relating to this bill and I will briefly read them. The schedule of rent amounts would only apply to an individual over age 55 who has lived in the same mobile home park for 5 years and owns their unit. I will continue to read from my written remarks. If the adjusted gross income is above $40,000 annually, this bill would not apply or give any further protection, because we understand that the owner of a mobile-home park needs to make some type of profit, otherwise there would be no incentive to keep the park open or in habitable condition for the tenants.

Section 11 requires the administrator of the Manufactured Housing Division to adopt regulations to carry out the bill's provisions. The burden is on the renter to inform the mobile-home-park owner that they fall into one of the schedule-of-rents categories and that they are entitled to rent relief. At that point, the park will either grant the rent relief or deny it. If the park objects to the rent relief, then the matter will be sent to the Manufactured Housing Division to determine whether or not the renter is entitled to rent relief. Unfortunately, I have visited individuals in mobile-home parks in the summer where there was nothing else but a bucket of ice in front of a fan, with no lights on because they could not afford to pay the electricity to run an air conditioner.

SENATOR HECK:
Are these rents locked in for perpetuity or is there something in the bill stating they can be adjusted based on the Consumer Price Index (CPI) or anything in the outer years?

ASSEMBLYWOMAN OHRENSCHALL:
I am not sure the bill provides for future adjustments. I believe what is being done now in all mobile home parks is leases are based on CPIs. I assume the Manufactured Housing Division would adopt regulations to include the CPI.

KEVIN POWERS (Committee Counsel):
> Section 10 of the bill contains a component whereby the landlord may apply to the Manufactured Housing Division for permission to increase the rents. The Division is required to increase the rents if the landlord establishes that the increase is necessary to ensure a fair and reasonable return on the investment. This provision is,

essentially, the constitutional safety valve to prevent a taking of property without just compensation.

ASSEMBLYWOMAN OHRENSCHALL:
Thank you for clarifying that Mr. Powers.

ASSEMBLYMAN MANENDO:
I support A.B. 216 as a representative of my district which has several manufactured-housing communities. I am also here as a public citizen because the individuals affected by this bill are my extended family and friends. It is sad when we hear stories such as the one Assemblywoman Ohrenschall spoke about. I hear those same types of stories. We have been fighting this cause for 14 years and when you knock on an individual's door you find that they are just struggling to make ends meet; the rents keep going up and some have even lost their homes. Something must be done.

SENATOR LEE:
Could you clarify as to what is happening with regard to rent increases?

ASSEMBLYWOMAN OHRENSCHALL:
Mr. Chair, there is a resident, Mr. Ray from Tahoe Shores Mobile Home Estates, testifying about the rent explosion in his park. And if the Committee agrees, I would like to provide his presentation titled, Tahoe Shores Mobile Homes Estates Rent Explosion (Exhibit I). You can see that the rent amounts have skyrocketed.

ASSEMBLYMAN MANENDO:
There was actually one manufactured-housing community in my district where the rents were increased $100 per month. The homeowners received a notice of the rent increase; however, the increase in rents did not result in proper maintenance of the mobile-home park.

ASSEMBLYWOMAN OHRENSCHALL:
I believe the rent issue is more of a problem in southern Nevada. There are investors who will purchase a mobile-home park and immediately increase the rent amount because they state they need to refurbish the park. In turn, these investors hold onto the park just long enough to get the tax advantages and once the tax basis has been prorated-out, the investor sells the park to another investor. It is like a game of musical chairs and the individuals who get hurt are

the owners of the mobile homes. No one is stating that the mobile-home-park owner should not make a profit; that is on what America is based. However, there is a difference between a business profit and affecting a person's livelihood.

SENATOR HECK:
In your handout, Exhibit H, how did you arrive at the income levels and rent levels?

ASSEMBLYWOMAN OHRENSCHALL:
The levels were created by a group called the Nevada Association of Manufactured Homeowners. I cannot give you the exact formula because it is not my formula.

CHAIR TOWNSEND:
Assemblywoman Ohrenschall or Assemblyman Manendo, do you have a list of testifiers on this bill?

ASSEMBLYWOMAN OHRENSCHALL:
I do not have a list, but I am aware of individuals from both northern and southern Nevada who would like testify in support of this bill.

DORIS GREEN:
I am a resident of a manufactured-home community in Las Vegas. I have provided the Committee with my written testimony (Exhibit J) from which I will now read.

KARENE WILLIAMS:
I am vice president of the Cactus Ridge Homeowners Association. I have provided the Committee my written testimony (Exhibit K) and will read from my testimony at this time.

CONSTANCE KOSUDA:
I am a retired trial lawyer. For over 20 years, I have dealt with clients who have not only lost their homes but some have committed suicide because of the loss of their homes. Others have passed away because of frigid winters, so I do understand how the weather can affect a person. I am also the vice president of the American Psychiatric Association Alliance and I would like to point out that Nevada still ranks as the number-one senior-citizen, suicide-related death state

in the nation. The loss of a home can be devastating to someone who is too old or too ill to work. This is an issue of morality and ethics. I am in support of this bill.

STEVE RAY:
I am here today on behalf of the Tahoe Shores Homeowners Association. We represent the member homeowners of Tahoe Shores Mobile Home Park. I have provided the Committee with two exhibits. One, Exhibit I, was given out during Assemblywoman Ohrenschall's testimony and the other is titled, "Tahoe Shores Mobile Homes Estates Rent Explosion" (Exhibit L). The photograph on the front cover of the exhibit which was just handed out symbolizes the history of our mobile-home-park since new ownership took over in 2002 and the direction it is currently going. The photograph is one of the many homes that have been turned over to the park owner either due to abandonment or by a sell-out. On page 3 of my exhibit, it shows the Tahoe Shores Rent Explosion graph which is at the heart of our presentation today. This graph represents our rent increases relative to the State of Nevada on average and the inflationary cost of business. Note that the explosion I am referring to occurs right after the new park ownership took place in 2002. We believe it is a deliberate attempt to drive out homeowners in anticipation of a park closure. To date, only 68 of the original 155 homesites are occupied by a resident homeowner of which many are low-income seniors.

Pages 4 and 5 are comparisons of rent by counties. If you notice, there is a big difference in rent between Tahoe Shores and the other counties. The graphs serve to illustrate an important point. Our mobile-home-park owner asserts that our rents are a reflection of a market standard because of the location of the park. We know that this is untrue for two reasons. The first reason is the owner of the park issued a notice of intent to redevelop which tells the homeowners that the park owner has no interest in the park business, and the park owner has no interest in being competitive.

On page 6, the CPI graph represents why we are all here today. The graph shows the increases in rent relating to the most vulnerable citizens which are the seniors. If you will look at the photos on pages 7 through 10, these are maintenance photos of the streets in our mobile-home park. There have been arguments in the past that lower rents mean less maintenance is provided to a park. If you accept that idea, then higher rent would mean that park is better maintained which is not true. On page 11 titled "Nevada's Lot Rent Subsidy

Program Is It Enough." We are aware that the Committee has information pertaining to the park owner's contribution to the subsidy program. We did a follow-up communication with the Manufacturing Housing Division and were made aware of certain facts that the Committee may or may not have been aware. The Rent Subsidy Program only assists 1 percent of Nevada's 31,000 homeowners in mobile-home parks. On page 13, you will see that the subsidy benefits have been reduced. The interesting statistic is that the average rent-subsidy check per month is approximately $40. Page 14 shows that park owners' fees have not increased in the last 12 years; however, rents have increased. On page 15, it shows the fees collected versus the benefits paid. It also shows the subsidy balance of 2005 which I will address later.

Finally, on page 17, is a perspective on why we think this bill will work. Seniors are the fastest growing segment of the Nevada population, but you have also seen by the graphs presented today that they are also the most vulnerable. Regardless of the number of people affected, we know that those individuals will be subject to the same kind of skyrocketing rents to which we at Tahoe Shores have been subjected. We ask the Committee to please pass this bill.

SENATOR SCHNEIDER:
What has been the increase in property taxes for Tahoe Shores in the last five years?

MR. RAY:
I do not have the property-tax information, that information is held by the park owner. For the last three years, that information has not been provided to the homeowners. However, the park owner did finally mail that information to the homeowners, but I do not have it with me today.

CHAIR TOWNSEND:
You made reference to seniors in your testimony; do you reside in the mobile-home park as well?

MR. RAY:
Yes, Mr. Ingenluyff is the president of the homeowners' association, and I am the vice president. As a matter of fact, we are both here to testify on this bill and will probably be the least affected because we are not senior citizens.

CHAIR TOWNSEND:
Were you going to address the subsidy balance on page 15 of your handout?

MR. RAY:
Yes, this is correct. I will have Mr. Ingenluyff explain the subsidy balance.

MICHAEL INGENLUYFF:
The reason we highlighted the subsidy balance on page 15 on the handout is because over the last 12 years there has been a balance of over $800,000 in the Fund. The Manufactured Housing Division has indicated that there may be fiscal difficulties with implementing the provisions in A.B. 216 so we wanted to bring to the Committee's attention that there could be potential funds available that would maybe fill the gap while the subsidy program is being implemented. The number of people that the subsidy program is actually assisting is low. In the fiscal note on this bill, the Manufactured Housing Division indicated that there could be a potential number of 16,000 individuals who would be eligible for benefits under this bill. I do not understand how the Division arrived at that number, because if you look at the Division's data, the average lot rent for a single-wide mobile home in Nevada is $289. The vast majority of single-wide mobile homes are below the $300 threshold to become eligible for a rent subsidy.

I encourage the Committee to ask the Division for a better breakdown of the number of mobile homes such as single-wide versus double-wide and also a breakdown on the ages of mobile-home occupants as well as the income threshold. Based on the information in the current fiscal note provided to the Committee, I do not think that it is sufficient.

CHAIR TOWNSEND:
Is there anyone here from the Manufactured Housing Division who can address the issue regarding the $800,000 subsidy-program reserve amount?

MS. DIAMOND:
I am not sure which budget account the testifier was referring to. The lot-rent subsidy account takes in a certain amount every year. The mobile-home-park owner sends in $12 for every space in their park. The fund is totally expended at the end of the fiscal year. We do have a program officer and some fixed expenses that are also paid out of that Fund. The lot-rent subsidy history report we provided the Committee is a projection of the benefits paid and the amounts

that were taken in. As you can see in the more recent years, the amounts have been stable. Now that we are losing spaces, we will have fewer funds in the rent-subsidy program. The rent-subsidy program is a separate budget. The budget that the fiscal note and the enforcement of the rest of NRS 118B comes under does not have anywhere near this amount in reserve. The Division has no position on the policy issues of this bill. The dilemma for the Division is that this is an unfunded mandate for a self-funded agency.

There is no requirement for the resident of a mobile home park to provide their income levels except to check their credit background in order to rent a space. The Division is not privy to that information. The Division's staff members to handle the adjudication of cases that come from the park owners are stretched thin. The current regulations on the lot-subsidy program are in statute, and if this bill passes, it will be two years before the statute can be changed. There will be no money available to be transferred over to other funds.

SENATOR SCHNEIDER:
If the owner of a mobile-home park wanted to sell the park, how much notice is given to the residents of that park?

MS. DIAMOND:
I believe it is 6 months or 180 days. When a mobile-home park changes uses or it is closed down permanently, then the owner is obligated to either move the residents or to buy the homes. The dilemma is that you cannot compensate someone for the loss of their community life.

SENATOR SCHNEIDER:
If the mobile-home-park owner ends up buying the homes, how are they appraised?

MS. DIAMOND:
If the mobile-home owner is buying a home, it would be based on an appraisal. In NRS 118B, it provides protection for the homeowner when a sale occurs.

CHAIR TOWNSEND:
Ms. Diamond, in the handout, Exhibit I, there is a letterhead from the Manufactured Housing Division, which looks like it came from your office, titled "Lot Rent Subsidy History Report." Is this report accurate? Because that is

where Mr. Ray and Mr. Ingenluyff made reference to the fees collected in Mr. Ray's handout.

MS. DIAMOND:
The numbers on the Division's report are accurate for the amount paid. I do not know how Mr. Ray came up with the amount of $828,375 as a subsidy balance which is shown in his handout on page 15. What the handout shows is only the fees collected and the subsidy benefits paid out. It does not show since the inception of the program what the administration costs have been.

MR. INGENLUYFF:
Senator Schneider, I would like to clarify the answer to your question regarding the closure of a mobile-home park and what the obligations are for the owner of a park. Ms. Diamond is correct, the obligations are to move the homeowner or to purchase the home. The value of the home is not based on what you would consider a normal real estate appraisal. The value of the home is determined by the price a dealer would get for the mobile home, on the dealership's lot, not the value of the home where it is actually located.

MS. DIAMOND:
The Division does not have any standing through statute regarding the sale of the homes or the value of the homes. The Division does not license appraisers and the Division does not have any authority over those issues. It is between the mobile-home-park owner and the seller.

LILLIAN DEBOLT:
I live in Villa Borega Manufactured Home Community. I was a member of a homeowners committee that created the guidelines for the drafting of this bill. I have provided the Committee with a handout (Exhibit M). I believe it is important to note that a subsidy program indicates that there is a need in Nevada for assistance. All I ask is that you sincerely and logically review the benefits that would come with the passing of this bill. I think the bill is a win-win proposal.

KARL BRAUN:
I am a resident of Boulder Cascade Mobile Home Park. I have provided the Committee with a written copy of my testimony (Exhibit N) of which I will read from briefly. Near downtown Las Vegas, there are 4 adjoining senior mobile-home parks and there are approximately 1,500 spaces. The highest

rental space is $405 a month. The rents in my particular park range from $500 to $575 a month. If there was a way to move into another park economically, then our park would be virtually empty. On behalf of the residents of Boulder Cascade Mobile Home Park, we would be happy to consider an amendment to this bill with an application fee for those seniors who are in need of subsidy funds.

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):
I have had the privilege for the last ten years of representing many residents who live in mobile-home parks. The residents are willing to pay rent increases but cannot afford high increases because some residents are seniors on fixed incomes. The possibility of moving their home is out of the question because of the high cost of moving. I want to make a plea for the many thousands of individuals whom I personally represent as this is an important issue to them. I urge the Committee to consider and support this bill.

JOSEPH GUILD (Manufactured Home Community Owners):
I am here today on behalf of the Manufactured Home Community Owners and we oppose A.B. 216. I have provided the Committee with a handout (Exhibit O) titled "Facts You Should Know About Rent Control." I want to make the point that this is a rent-control bill. In section 6, quote: " ... if a tenant satisfies the eligibility requirements set forth in this section, a landlord or his agent or employee shall not charge a tenant monthly rent ... ." The rent should not exceed certain criteria set forth in the rest of this section of the bill. In section 6, subsection 3 is part of the bill that begins to involve the Manufactured Housing Division. Page 3, line 12 of the bill relates to an eligibility requirement. For the tenant to be eligible for rent reduction they have to be 55 years of age or older. This bill puts an age limit on eligibility for rent reductions. There are no age limits for the lot-rent-subsidy program.

There are individuals in Nevada who do need some assistance to pay their rent in mobile-home parks. With the Legislature's assistance, my clients brought forth the only subsidy program of its kind in this country. The subsidy program was established by landlords for the benefit of the tenants. In section 9 of the bill, it again shows that the State is involved. Section 8 lists requirements that the landlord has to meet if the landlord objects to the request by the tenant for reduction in rent. The landlord cannot make a request to object if the request by the tenant resulted in the insolvency of the landlord.

Remember, this is a bill that would affect the entire State of Nevada. I would like to refer to the totals relating to rent increases in Nevada. I am going to make reference to a statistic which was compiled by the Manufactured Housing Division which gives statistics on mobile-home-park rent averages for the State of Nevada. For double-wide mobile homes over the last 5 years, there has been a 13-percent increase. That works out to be a 2.2-percent increase per year, so the notions that have been presented to the Committee of 60-percent and 85-percent increases do not reflect the statewide averages.

I reviewed the Lot Rent Subsidy History Report prepared by the Manufacturing Housing Division (Exhibit I). If you subtract the subsidy benefits paid from the total fees collected, you have an approximate figure of $828,955 which was alluded to as a reserve. But, Ms. Diamond stated, there were also costs associated with administration of the subsidy program. I would categorically oppose any notion that there is a reserve amount of $828,000 in this program.

Regarding Senator Schneider's question about what would happen to the residents if a mobile-home park closed and how the homes would be appraised, the testifier from Tahoe Shores answered by stating that the method of appraisal does not include the real estate. The reason is based on law where there is a line of cases which says that it is a piece of personal property and you cannot logically appraise its value sitting upon a piece of real estate owned by another individual. That is why the method of appraisal is conducted based on the home sitting on a dealer's lot. I believe if this bill were passed, it would be unconstitutional, because it would violate the Fifth Amendment's takings clause of the *United States Constitution* in that it would be a state action taking private property without just compensation.

Finally, I would like to address the Tahoe Shores' situation, because I represent Tahoe Shores as an attorney. What you were not told about that mobile-home park is that it is one of the premier locations at Lake Tahoe. There is no way to compare that park's rent to any other comparable property at Lake Tahoe, because there is no comparable property at Lake Tahoe. The residents have been informed that the intention of the park owner is to eventually close down the park and will do so in accordance with state law. I can assure you that my client has worked with the residents of that park to try to accommodate them. The park has a voluntary rent-subsidy program.

MAROLYN MANN (Manufactured Home Community Owners):
I am the executive director for the Manufactured Home Community Owners. We represent approximately 65 percent of the total number of mobile-home spaces in Nevada. Economists are virtually unanimous in their condemnation of rent control and that is why we feel rent control in any form is a bad idea, cannot be justified and is not a solution to a problem of affordable housing. The detrimental effects are well documented in the handout, Exhibit O.

First and foremost, rent control is contrary to the fundamental principals of our free-marketplace economic system. Assembly Bill 216 would treat privately owned, operated and developed property as if it were a public utility, singling out mobile-home-park owners. That obligates one group of private citizens to assume the public burden of subsidizing another group.

Second: rent control means an increased bureaucracy, higher taxes and fewer services. The bill does not factor in a clause needed to administer it, nor bureaucracy of lawyers, accountants, inspectors and other public employees needed to defend the special interest in court. All homeowners and taxpayers will foot the bill, taking millions of dollars away from other programs, services and infrastructure projects.

Third: rent control reduces the quality and quantity of affordable housing. It is a fact that mobile-home-park living continues to be the best bargain and is the most affordable housing alternative. We believe, in the end, this bill would hurt the very people it is supposed to help, condemning all residents to live in a downward spiral of deterioration. If owners are unable to afford maintenance, the property would deteriorate and surrounding neighborhoods would be devalued as well. I have been told by individuals that they would be affected by as much as 60 percent if this bill passes. Our costs of doing business in mobile-manufactured communities increases every year. In addition, every Legislative Session added regulations that have also increased the cost of doing business. What small business can afford to stay in business with such a drastic reduction and still be required to provide the same level of services? Contrary to what has been discussed here today, the majority of parks are not owned by large corporations. According to my records, approximately 80 percent are family owned. Rent control does not offer an incentive for developers, it is quite the opposite.

Fourth: rent increases have not been out of line and do not warrant such a drastic legislative step. The increase in rent for mobile homes in the last 15 years is less than $10 a year. Many seniors supporting this bill did not plan on the retirement income needed in today's economy. Our Nevada lot subsidy is the only mandatory program of its kind and is funded entirely by our park owners. Since 1992, our community has contributed over $4.5 million to help residents keep their mobile homes.

The evidence is clear that in every city that has tried rent control, there has been a negative impact on residents, mobile-home owners, taxpayers and the entire community and State. I believe A.B. 216 probably violates the Federal Fair Housing Act (FFHA). We believe what is needed are incentives for the free-enterprise system to work better.

MIKE CIRELLO:
I am the president of the Manufactured Home Community Owners. I am also the owner of a mobile-home park. I have experience with rent control and rent-control litigation. I do not believe this bill passes the constitutional test. On page 5 in section 10 of the bill, there is reference to fair and reasonable return on investment. That language in and of itself does not work. This bill would be subject to attacks on its constitutionality and could be struck down. There is a tremendous exposure for the Department and the state to be burdened with the cost of conducting hearings for eligible individuals without a funding basis to do so. Additionally, this bill really creates a subsidy program for the people who qualify. Over time, that subsidy most likely will be paid by the other residents in the park through the form of higher rents.

This bill only applied to persons over the age of 55. This bill may also serve as an incentive for park owners operating senior communities to change them to all-age communities as a way to avoid the impact of this bill. The bill creates a de facto rent rollback for those parks that have residents who are subject to this bill. The rollback is indicative of a regulatory taking without compensation. Many of the parks have adopted voluntary subsidy programs that they fund with their own monies. We do not need another government program to further infringe on our ability to do business.

Lastly, the aging communities in Nevada are contemplating going out of business because the life cycle of a mobile home has been reached. In turn, the land will become more valuable with a different use. Overall, the number of

mobile-home spaces will decline. A free market will address a lot of these issues.

TERESA MALONEY:
My family and I own Lucky Lane Mobile Home Park. I have provided a handout (Exhibit P) to the Committee from which I will now read. I would like to point out the pie chart in my handout which shows of the 187 spaces in our park, 127 spaces are occupied by someone over the age of 55. Potentially, 68 percent of our spaces could be affected by the provisions of this bill. Committee, please turn to the graph in the handout. In the graph, it shows 23 of the spaces where the household income is under $20,000. In 9 of the spaces the income is $20,000 to $30,000. In 12 of the spaces, the income range is $30,000 to $40,000 and these spaces fall under the rent cap. In the remaining 68 spaces, we do not have any income information. If you look at these specific numbers in our park alone, the potential of this bill would affect our bottom line by as much as $10,000 a month. I can assure you, if this bill passes and if we are affected in the way I just stated, we will be forced to close our park. The only requirement in proving an individual is eligible for the subsidy program in this bill is to provide one year's income tax returns.

In closing, the cost of housing for seniors is a critical issue and if A.B. 216 is the solution, then why do not the rent controls contained in this bill apply to all forms of rental housing? Assembly Bill 216 clearly is not the solution and I remain unconvinced that there is a problem.

MR. GUILD:
I would just like the Committee to see a raise of hands from the people in this room who are not going to testify but are opposed to this bill.

MARY FISCHER:
I own Cottonwood Mobile Home Park in Carson City. Until just recently, my family and I have performed all the maintenance required at the park to help keep rents at a reasonable level. If this bill passes, will we be able to continue maintaining the standards of our park or will we have to let it go? Seniors make up 100 percent of our residents. An accountant has estimated that our park will take a negative hit as high as $54,000. Please do not pass this bill.

MR. NADEAU:
We feel this is a private-property issue and rent control is not the way to address the problem. Utilizing lot subsidies and those types of programs are more beneficial in approaching the issues.

JEANNE PARRETT:
I am the manager of El Dorado Estates Mobile Home Parks. In our community park, based on my knowledge of what is the resident's income, we would incur approximately a 32.7-percent drop in income. When you relate that to our net profit of 12 to 14 percent, the numbers just do not compute. Most of our senior residents would be forced to look for other types of living arrangements. It would take away their pride of ownership, their sense of stability and their sense of safety; therefore, we oppose A.B. 216.

CHAIR TOWNSEND:
The hearing is closed on A.B. 216. The hearing is now open for discussions on A.B. 69.

ASSEMBLY BILL 69 (2nd Reprint): Authorizes labor organization to require employee in bargaining unit who is not member of that labor organization to pay service fee under certain circumstances. (BDR 53-956)

ASSEMBLYWOMAN ELLEN M. KOIVISTO (Assembly District No. 14):
I hesitate to say A.B. 69 is truly a very simple bill. At this time, I would like to turn the testimony over to the proponents of the bill.

THOMAS A. MORLEY (Laborers Local No. 872):
This bill in no way affects the right-to-work law. This simply codifies the Nevada Supreme Court's decision, *Cone v. Nevada Service Employees Union.* The Laborers Local No. 872 is asking for a fair share in being able to charge a service fee in the private sector with what they are already charging in the public sector. Currently, the Service Employees International Union, the city of Las Vegas and the city employees association charge fees for service and we are simply asking to do the same. Some opponents of this bill will say that we are attacking the right to work and to force union membership, which is simply not true. The bill clearly states that the employee must go to a union for representation if they are charged a fee. The bill also states that none of the monies collected will be used for public office or the passage or defeat of a

question or group of questions on a ballot. We ask that the Committee pass this bill.

DANNY L. THOMPSON (American Federation of Labor-Congress of Industrial Organizations):
This bill provides that an employee who has a grievance has to go to the union. Currently, in an established bargaining unit, if a nonunion member requests an individual to represent them, that individual would have to represent the person at no charge. If a case goes into arbitration, each side usually pays half of the costs associated with the arbitration, including the arbitrator. The case has to be recorded so there is a court recording fee and a possible rent charge to hear the case in a neutral setting. The bottom line is that the costs can add up to thousands of dollars. The bill implies that if someone chooses to use union representation, then they would have to pay a reasonable service fee.

SENATOR HECK:
Mr. Thompson, when you stated if a person chooses to use the union representative to represent them, would that imply that a person has a choice not to use a union representative and instead can hire a private attorney?

MR. THOMPSON:
Yes, there are a lot of attorneys who handle labor law.

SENATOR HECK:
So, it is not mandatory that they use union representation, is that correct?

MR. THOMPSON:
That is correct, nothing is mandatory in this bill. You could choose to represent yourself if you wanted to do so.

SENATOR SCHNEIDER:
I will read the conclusion portion of the Nevada Supreme Court ruling on the *Cone* case (Exhibit Q) where it states: "Accordingly, we hold that the policy is not violative of NRS 288.027, Nevada's right to work laws ... we therefore affirm the order of the district court." Is the Nevada Supreme Court stating that the act does not violate the right-to-work laws in Nevada?

MR. THOMPSON:
That is correct. Again, it is if a person comes to you and asks for representation.

MR. MORLEY:
Mr. Chair, in order to save some time, I would like to have the people in support of this bill just stand up to show their support.

CHAIR TOWNSEND:
Thank you.

JOHN (JACK) E. JEFFREY (Southern Nevada Home Builders Association):
The Southern Nevada Home Builders Association is in favor of the bill. I would like to explain what right to work means. You have the choice whether or not to join a union, but you do have to pay a fee for service which is only a matter of fairness. There is no logical reason why members of a union that have to pay full dues should have to carry persons who choose not to join.

SUSAN FISHER (Washoe County Employees Association):
On behalf of our 1,250, we are in strong support of A.B. 69 without regard to membership. In the Washoe County Employees Association, we have and do represent Washoe County employees on negotiating shift differential payment, sick leave, buyouts, et cetera. We do these things without any charge to employees if they ask for such services, whether or not they are a member.

ROSE E. MCKINNEY-JAMES (Clark County School District):
While we did testify against this bill in the Assembly, we are now removing our objections consistent with the amended version of the bill.

GREG MOURAD:
I am the director of legislation for the National Right to Work Committee. I have provided a handout (Exhibit R) to the Committee from which I will briefly read. I would like to add that employees have no ability to make a free choice. Federal law does state that an employee can retain legal counsel outside of a union. The law also states that an employer can refuse to meet with their outside counsel. This gives the employer an incentive to refuse a meeting. If an employer does refuse to meet with an employee or their outside counsel and they come to a resolution that is out of alignment with the union's interpretation of the contract, the employer has now exposed themselves to an unfair labor practice

charge. If an employer did meet with outside counsel and the grievance is denied, at that point the employee cannot go forth with the grievance unless they have the union's help. Arbitration is completely a construct of the collective-bargaining agreement. Without the union's participation, there is no arbitration or appeal process. Unions do not have to write an exclusive-representation contract. I believe the unions are trying in this bill to get out of the obligations that go along with the power of exclusive representation.

You have heard testimony today that this bill is a codification of the *Cone* case. That is simply not true. The *Cone* case was an issue involving a public-sector union. All employees fall into one of two broad categories, either the public or the private sector. Private-sector labor relations are entirely governed by federal law. Public-sector labor relations are not touched by federal law. The *Cone* case was a public-sector union with a public-sector employee. If the Committee will turn to page 8 of the *Cone* case handout, Exhibit Q, it states:

> Although appellants cite much precedent, including NLRB opinions, in support of their position, we reject this authority. Preliminarily, we note that this court is not bound by an NLRB decision when it determines that the statutes involved do not fall within the purview of the National Labor Relations Act. ... activities not listed in sections seven and eight of the National Labor Relations Act are within the jurisdiction of the state courts.
>
> Further, we disagree with this authority because it leads to an inequitable result that we cannot condone, by essentially requiring union members to shoulder the burden of costs associated with nonunion members' individual grievance representation.

What the law is stating here is that they do not like the concept of the right-to-work. We are free to ignore the National Labor Relations Board (NLRB) precedent; we are free to ignore federal law for public-sector workers because federal law applied to the private-sector employee, not the public sector employee.

MR. MOURAD:
There was a case in North Dakota where a similar bill was passed. An employee had a grievance; the union processed it and charged him $10,000. The

employee went to the NLRB with a complaint and it became apparent to the union that the NLRB was going to approve the employee's complaint. The union quickly settled and gave the $10,000 back to the employee. It is much more than a codification of the *Cone* case. It is an extension of that case in an area that the case cannot and does not apply. This issue is not a decision of the Nevada Supreme Court based on the *Nevada Constitutio*n. This is an interpretation of laws written by this Legislature.

At the end on my handout on page 7, I had my attorneys draft a strike-all-and-replace amendment to this bill. In that amendment under section 2, subsection 1, it reads: "No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall any person be required to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization, ..." Private-sector workers do not need that protection, but this would fix the situation for public-sector workers. A right to work means that no one shall be forced to join a union or pay any dues to a union in order to get or keep their job. A union is organized and a union gets certified as the exclusive representative. Individual employees have had their right to represent themselves taken from them in both contract negotiations and grievance processes. In exchange, the union has to represent the employee. In a right-to-work state such as Nevada you do not have to pay to have your rights taken away. I would urge the Committee to vote against this bill.

SENATOR CARLTON:
I have a question on your last statement of not having a choice of someone to represent you. I am a union member and involved in the process. The unions have an obligation to educate their members, and they have a choice to have a union steward with them in a meeting or not, it is their choice. I do not understand on what you are basing that comment?

MR. MOURAD:
I am basing that comment on the fact that if they do so without the union's official representative present and the agreement is out of alignment with the union's interpretation of the contract, you as the union could then file charges of unfair labor practices with the NLRB against the employer, and the employer does not want to take that risk.

SENATOR CARLTON:
I do not understand what you just said.

MR. MOURAD:
That is the problem; labor relations are extraordinarily complicated and this is not a simple bill. It is written simply, the language makes it sound simple but it is leaving a lot of unsaid federal law that governs these issues.

SENATOR CARLTON:
I think you are reading a lot more into this bill than there really is to it. The employee does have a choice when they have a grievance.

MR. MOURAD:
You are comparing apples with oranges, Senator. You are discussing the question of whether the employee wants to proceed with a grievance issue at all. I am discussing that once an individual decides they have a legitimate grievance, whether or not they want the unions help.

SENATOR CARLTON:
I am in agreement with the Nevada Supreme Court's decision on this issue. I guess we are in disagreement on the issue.

MR. MOURAD:
That is not what the Nevada Supreme Court decided for the private sector; the Supreme Court was dealing with a public-sector case.

CHRISTINA DUGAN (Las Vegas Chamber of Commerce):
The Las Vegas Chamber of Commerce was in opposition to this bill with the Assembly and we continue to be opposed to this bill. We do have some concerns about how the bill would apply to the private-sector employers. Also, we are questioning the need to codify the *Cone* decision. If that is put forward on the judicial books, then certainly the unions already have those rights and provisions as dictated by the *Cone* case. Therefore, to make it a law in statute we feel would be redundant and unnecessary.

JOHN WAGNER (Burke Consortium of Carson City):
The Burke Consortium of Carson City is against this bill. We believe in the freedom of choice of the individual. When an individual is forced to take representation by someone they did not choose, this to me is unfair.

RAYMOND BACON (Nevada Manufacturers Association):
We agree with Ms. Dugan's testimony in opposition to the bill.

RANDALL C. ROBINSON (Associated Builders and Contractors):
The Associated Builders and Contractors have had a long-standing opposition to this type of legislation. We echo the comments of Mr. Mourad and the chamber of commerce as well.

CHERYL BLOMSTROM (National Federation of Independent Business):
The National Federation of Independent Business is in opposition to the bill for the same reasons that have been stated previously.

MARK W. SHUMAR (International Brotherhood of Teamsters):
I am in support of this bill. In regard to the *Cone* case, that North Dakota century code is still there, fair-share fees are based on this type of legislation that we are looking to codify that private and public sectors exist. What happened in that case was a witness testified that someone charged above and beyond the fair-share fee; it was not for the recovery of fees.

CHAIR TOWNSEND:
Committee, we have also received written testimony from Bonnie McDaniel (Exhibit S) who was unable to testify today because of conflicting schedules. The meeting of the Senate Committee on Commerce and Labor is now adjourned at 10:39 a. m.

RESPECTFULLY SUBMITTED:

_____
Jane Tetherton,
Committee Secretary

APPROVED BY:

_____
Senator Randolph J. Townsend, Chair

DATE:_____