

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fourth Session  
February 16, 2007**

The Committee on Commerce and Labor was called to order by Vice Chair Marcus Conklin at 11:34 a.m., on Friday, February 16, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Mr. Marcus Conklin, Vice Chair  
Ms. Francis Allen  
Mr. Bernie Anderson  
Mr. Morse Arberry, Jr.  
Ms. Barbara E. Buckley  
Mrs. Heidi S. Gansert  
Mr. William Horne  
Mrs. Marilyn Kirkpatrick  
Dr. Garn Mabey, M.D.  
Mr. Mark Manendo  
Mr. David R. Parks  
Mr. James Settelmeyer

**COMMITTEE MEMBERS ABSENT:**

Mr. John Ocegüera, Chair (excused)  
Mr. Chad Christensen (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Tick Segerblom, Assembly District No.9, Clark County

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**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Committee Counsel  
Dave Ziegler, Committee Policy Analyst  
Earlene Miller, Committee Secretary  
Gillis Colgan, Committee Assistant

**OTHERS PRESENT:**

John Wanderer, Law Office of Wanderer Law, P. C., Las Vegas, Nevada  
Steven Kondrup, Acting Commissioner, State of Nevada, Financial  
Institutions Division

[The roll was called and a quorum was present.]

**Vice Chair Conklin:**

Mr. Segerblom, welcome to the Committee on Commerce and Labor.

**Assembly Bill 47: Revises circumstances under which an attorney is excluded from regulation as a collection agency. (BDR 54-792)**

**Assemblyman Tick Segerblom, Assembly District No. 9, Clark County:**

This bill has been proposed by one of my constituents and longtime friend, Attorney John Wanderer. He is in Las Vegas and will be explaining the purpose of the bill. Attorneys are regulated by the State if they are involved in the business of collections. We believe that is inappropriate because attorneys are also regulated by the State Bar and are subject to Federal laws. We are trying to make that correction, and remove attorneys from that provision of the statute. Mr. Wanderer is a famous attorney, but he is more famous because his mother, Emily Wanderer, was one of the first female attorneys in the State of Nevada. We both have famous mothers and are trying to live up to their expectations.

**John Wanderer, Law Office of John Wanderer Law, P. C.:**

**Assembly Bill 47** strikes 18 words from *Nevada Revised Statutes* 649.020. The words were inserted as part of S.B. No. 431 of the 73rd Session which was a 52-page omnibus bill that made extensive changes to the licensing provisions for collection agencies. To my knowledge, the Financial Institutions Division, which regulates collection agencies, has not made any efforts to require attorneys to be licensed. I have asked that the language added in the 2005 Legislative Session be stricken, because it does nothing in respect to the

Commissioner's ability to license collection agencies. It places a cloud over attorneys regarding their obligations under this bill. Attorneys are licensed by the Supreme Court, and in the State of Nevada are members of the Judicial Branch of government. There is an issue of separation of powers when one branch of government seeks to license an entity that is controlled by another. It has been that way since time immemorial. It relates to the issuance of business licenses. Lawyers have to have business licenses, but it is always a flat fee, not a fee based upon income. That is a compromise made many years ago because lawyers are members of the judiciary. Should lawyers who are performing other legal duties be required to maintain a license as a collection agency?

The language we are asking to be stricken is vague, ambiguous, and could possibly be interpreted that way. An attorney may have to be licensed as a collection agency when, as part of their law practice, they represent financial institutions in the collection of money owed to those entities. I suggest we should not be licensed unless we were doing something outside the realm of running a law office. This is due to the separation of powers issue, and because licensing requires auditing. Could the agency audit the attorney's books? That raises issues about the confidentiality of the attorney's clients. A collection agency's collection letters must be approved by the state agency. It would not be accepted well by lawyers providing legal services for their clients, to have their letters submitted to a state agency before they could be sent. I am asking for the language to be stricken because it does not serve any purpose in regulating collection agencies. It creates consternation amongst the attorneys, whether they have full-fledged collection practices or not. I have been contacted by other lawyers who have general civil practices and also do collection work. If one reads the legal newspaper, which generally lists the lawsuits that are filed, 80 percent of the lawsuits filed in Clark County were for the collection of money under the guise of one legal theory or another. That is my position. I have spoken to Mr. Steven Kondrup, the Acting Commissioner of the Financial and Institutions Division, and he says the agency has no problem with striking those 18 words as set forth in A.B 47.

**Vice Chair Conklin:**

Are there any questions from the Committee for Mr. Wanderer?

**Assemblyman Anderson:**

When we added this particular part of the statute, it was not to look for a list of clients, but to determine, in practices where collection was the sole purpose, how questions regarding auditing and accuracy of the records could be answered.

**Mr. Wanderer:**

Most collection matters are handled by attorneys on a contingent fee. If I was to have a \$5,000 claim sent to me by Bank of America and I collected it, I would receive a contingent fee based on the amount that I collected. That fee is determined by contract between the creditor and the attorney. How would anybody know that the attorney has not stolen money from the client? Most of my major clients have contracts with me and, I presume, with most other attorneys. The clients have rights of audit and they do their own auditing. Not all clients audit, and there are attorney thefts which are not discovered. I have investigated cases where the amounts reported by attorneys to be not collectible, were in fact collected and the attorney stole the money. It is known to happen, but it is not that common. The remedy is through the ethic procedures set up by the State Bar Association under the Supreme Court. That is where most of the auditing is done. In a number of states, the bar associations do spot audits to make sure the client's money is not co-mingled with an attorney's funds, and that books and records are kept in an appropriate fashion. Nevada does not have any such regulation, and those matters go before the State Bar Association where they are properly evaluated. The State Bar Association only evaluates cases that are brought before them on a complaint. Not everyone files a complaint. I would suggest that it would not be appropriate for the Commissioner of Financial Institutions to intercede. The existing language calls for licensing attorneys as collection agencies. Attorneys are not collection agencies, and should not be subject to the same requirements as collection agencies, if they were licensed by the State.

**Assemblyman Anderson:**

I appreciate your time, thank you.

**Vice Chair Conklin:**

Are there any other questions for Mr. Wanderer?

**Mr. Wanderer:**

Mr. Kondrup is in the audience if you wish to hear the position of the Division of Financial Institutions.

**Vice Chair Conklin:**

Mr. Kondrup, I see that you have signed in as not being for or against, only "as needed."

**Steven Kondrup, Acting Commissioner, Division of Financial Institutions, State of Nevada:**

The Division of Financial Institutions' only concern is that collection agencies from outside the State of Nevada may attempt to evade our rules and

regulations for foreign collection registration, or to be licensed and have an office here. Some individuals may attempt to have these collection agencies as clients to do their collection activity. It is my belief that these 18 words are not going to make a significant difference in regard to the requirements for the out of state collection agencies to obtain a certificate of foreign registration, or to be licensed in the State of Nevada. Most of the attorneys we deal with in the State of Nevada are compliant with our laws.

**Vice Chair Conklin:**

Does anyone from the Committee have any questions for the Acting Commissioner of the Division of Financial Institutions? [There were none.]  
Thank you, we appreciate your help.

**Steven Kondrup:**

Thank you.

**Vice Chair Conklin:**

Is there anyone in the audience, or in Las Vegas, who wants to speak in opposition? [There was none.]

I will close the hearing on A.B. 47.

The meeting was adjourned at 11:54 a.m.

RESPECTFULLY SUBMITTED:

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Earlene Miller  
Committee Secretary

APPROVED BY:

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Assemblyman John Ocegüera, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** February 16, 2007      **Time of Meeting:** 11:34 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster