

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-fourth Session
April 19, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:07 a.m. on Thursday, April 19, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Joseph J. Heck
Senator Michael A. Schneider
Senator Maggie Carlton

GUEST LEGISLATORS PRESENT:

Assemblywoman Sheila Leslie, Assembly District No. 27
Assemblyman Lynn D. Stewart, Assembly District No. 22

STAFF MEMBERS PRESENT:

Kelly S. Gregory, Committee Policy Analyst
Wil Keane, Committee Counsel
Jeanine Wittenberg, Committee Secretary
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

James Jackson, Consumer Data Industry Association
Kathleen Delaney, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General
Barry Gold, American Association of Retired Persons Nevada
Cynthia A. Jones, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation

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William R. Uffelman, Nevada Bankers Association
Steven Kondrup, Acting Commissioner, Division of Financial Institutions,
Department of Business and Industry
Laura Billman, First International Bank; Nye County
Renee Diamond, Administrator, Manufactured Housing Division, Department of
Business and Industry
Fred L. Hillerby, American Council of Life Insurers
Lyn Barnett, President, St. Joseph Community Homes and Land
Kimberly K. Everett, Actuary, Life and Health Section, Division of Insurance,
Department of Business and Industry

CHAIR TOWNSEND:

I will open the hearing on Assembly Bill (A.B.) 24.

ASSEMBLY BILL 24 (1st Reprint): Revises provisions governing the release of a
consumer report by a credit reporting agency. (BDR 52-518)

JAMES JACKSON (Consumer Data Industry Association):

This is a bill from the Office of the Attorney General on which we have worked.

KATHLEEN DELANEY (Senior Deputy Attorney General, Bureau of Consumer
Protection, Office of the Attorney General):

This short bill amends S.B. No. 80 of the 73rd Session entitling consumers to
request credit reporting agencies freeze release of their credit reports as a tool
to defend against identity theft. Charges of \$15 to place a freeze and \$20 to
remove one were built into the statute to help agencies build their systems.
There was no component giving a price break for seniors. This session, we are
suggesting the provision be changed to better match the trend in the country.
When the measure was passed, there were only 11 states with such measures;
that number has now grown to 26 states, and 16 more are adopting such
measures. In all cases, the fees are lower or none, with no charge for seniors.
That is what this bill does. Section 1, subsection 1, reduces the fee to \$10 for
placing or lifting a freeze. Section 1, subsection 2, makes the service free for
consumers 65 years old and older. The service continues to be free for victims
of identity theft.

Nevada consistently ranks second in the country for the number of reported
instances of identity theft and second in victims for each 100,000 people. This

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tool is valuable, and we want to make it more accessible. It is a collaborative effort between the industry and the Office of the Attorney General.

SENATOR CARLTON:
How did you arrive at a fee of \$10?

MS. DELANEY:
The majority of the other states that offer this protection have a \$10 charge. Our original fee of \$15 to \$20 was the second highest in the country. There are a few states that have made the first request free, with the \$10 charge applying for subsequent requests. Although the majority of the costs required to implement this system have been recouped, there are still ongoing costs to keep the protection in place.

MR. JACKSON:
The accessing of placing file freezes is not as widespread as was anticipated. In California, for example, with a population of 43 million, only some 15,000 people have placed permanent freezes on their files.

SENATOR CARLTON:
You have fixed this bill to the point that I can support it.

CHAIR TOWNSEND:
How many people in Nevada have placed freezes?

MR. JACKSON:
We do not currently have clear statistics for Nevada, but I will see what I can find for you.

BARRY GOLD (American Association of Retired Persons Nevada):
On behalf of our 317,000 members in Nevada, we support this bill. I have written testimony for the record ([Exhibit C](#)).

CHAIR TOWNSEND:
I will close the hearing on A.B. 24 and open the hearing on A.B. 34.

ASSEMBLY BILL 34: Revises provisions governing unemployment compensation. (BDR 53-610)

CYNTHIA A. JONES (Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):

This bill is primarily housekeeping in nature and makes no substantive changes in Nevada's Unemployment Compensation law. Sections 1, 2, 3 and 4 of the bill are requested to align the authority of the administrator of the Employment Security Division, Department of Employment, Training and Rehabilitation, with an attorney general's opinion issued in 1995 regarding the employment of appeal referees and to eliminate provisions not utilized in the administration of Nevada's unemployment insurance program.

In section 3, the Division is also requesting authority to enter into interlocal agreements with other public agencies to conduct appeal hearings on its behalf in the event the demand succeeds the capacity of our appeals sections, as was the case after the terrorist attacks on September 11, 2001. It took the Division a couple of years to recover its timeliness in that area of its operations.

In section 5, the Division is requesting amendment to *Nevada Revised Statute* (NRS) 612.551 to clarify language regarding the charging of an employer's experience rating to the last or next to last employer. Currently, the language reads as not applying to "an employer." This is to be consistent with testimony when this section of the statute was implemented during the 1997 session and to reduce confusion among readers of the statute who may interpret it differently.

SENATOR CARLTON:

You are changing the tribunal from three people to one. Is that correct?

Ms. JONES:

No. The Appeal Tribunal has always consisted of a single appeal referee. It is the Board of Review that consists of a three-member panel appointed by the governor. Appeals hearings have always been conducted by a single appeal referee, and it would not be practical or cost-effective to empanel three people to hear each unemployment insurance appeal case. That provision has never been implemented that way since it was enacted in statute.

SENATOR CARLTON:

We enacted something in statute that had a panel of three, but we have never done it that way. Is that right?

Ms. JONES:
Correct.

SENATOR CARLTON:

Why not? If you have a case and you want to have your case heard, having three people look at it from different positions is better. One person is almost like a judge. There must have been a reason we made it three people.

Ms. JONES:

The provisions allow for a panel of up to three referees. I am informed by people with a 30-year history in the appeals function at the Division that they have never seen a 3-person panel for the appeal level of the adjudicatory process. If someone is aggrieved at the decision of the appeal referee, they have the opportunity to appeal to the Board of Review, which is a three-member panel.

CHAIR TOWNSEND:

What is the practical application of the change in section 5, subsection 3?

Ms. JONES:

If I was working for you and then quit, and I accepted a job from Senator Carlton and was fired, your experience rating would not be charged for the fact that I subsequently left another job when I voluntarily left your employment first. Currently, this statute says, "If a claimant leaves an employer" This makes the clause apply to any employer a claimant has had, which was clearly not the intent of the statute.

SENATOR CARLTON:

It would seem, then, that this bill is aimed at employers' ratings and has nothing to do with employees' benefits. Is that correct?

Ms. JONES:

Yes. It has no impact on benefits that a worker would be entitled to if they should find themselves unemployed through no fault of their own. It has to do with how an employer's experience rating and their tax rate is affected based on separations.

SENATOR CARLTON:

Did you project how significantly this could change their rates?

Ms. JONES:

The impact is negligible. It has been implemented based on how it was intended, and it is not a frequent occurrence. This change is just to provide clarity to those who read the statute in an effort to understand unemployment insurance compensation law and how it impacts their tax ratings.

CHAIR TOWNSEND:

I will close the hearing on A.B. 34 and open the hearing on A.B. 215.

ASSEMBLY BILL 215 (1st Reprint): Limits interstate banking by certain entities that open branch offices in this State pursuant to certain statutory provisions. (BDR 55-1125)

WILLIAM R. UFFELMAN (Nevada Bankers Association):

In 1995, when federal law was changed to permit interstate banking, Nevada's response was to say that a non-Nevada bank had to acquire a charter of a Nevada bank to enter, with the exception of counties with a population less than 100,000. In those counties, a non-Nevada bank could open a branch, but the intent was that it would not then become a Nevada bank. With this bill, we are spelling out that entering a rural county does not make you a Nevada bank. Two banks entered Nevada under this rural exemption, El Dorado Savings Bank out of Placerville, California, and Imperial Capital Bank. After several years in that situation, that became subject to a potential lawsuit. With this in mind, we felt it was important to spell out the original intention of the statute. This bill does that.

The bill then goes on to provide that those out-of-state banks currently in the rural counties on or before March 31, 2007, may move into the larger counties only if they continue to operate branches in the rural counties.

CHAIR TOWNSEND:

What crisis do we have that we need to make this change?

MR. UFFELMAN:

We have the potential of out-of-state banks lining up to open a branch in a rural county and almost simultaneously applying to open a branch in an urban county, thus bypassing the system in place for becoming chartered Nevada banks.

CHAIR TOWNSEND:

Is that not good for the rural counties?

MR. UFFELMAN:

We now have a substantial number of financial institutions in rural areas relative to their population.

CHAIR TOWNSEND:

Does this bill come from the Nevada Bankers Association?

MR. UFFELMAN:

We worked with the leadership in the Assembly and the Division of Financial Institutions, Department of Business and Industry, yes.

SENATOR HECK:

If the number of financial institutions in rural areas is adequate, is there any utility in keeping the provision that allows banks into rural areas without being chartered in the state?

MR. UFFELMAN:

Yes, to the extent that some of these branches have been established along the border with California, thus meeting the needs of those who cross between the states frequently.

CHAIR TOWNSEND:

I am not sure we are satisfied with the answers yet. I am not wild about prohibitions. I was here when we opened the banking systems. I am not sure any of these provisions benefit anyone but the banking industry. When there are competing interests, services go up, capital is available and costs go down. Has this provision not outlived its usefulness?

MR. UFFELMAN:

Roughly two-thirds of the states have laws similar to this or an outright prohibition to out-of-state banks entering the state. What you end up with is a situation of reciprocity. Washington and Oregon do not have reciprocity. By June, there will be over 50 banks doing business in Nevada, so there is substantial capital available in the State. We are not limiting anyone's access.

SENATOR SCHNEIDER:

I agree with the Chair that it looks like this bill will limit competition. The culinary union is moving a bank into the State. They have an old bank charter out of New York that somehow qualifies them to come in here. Perhaps we should open it up and not have old laws that favor monopolies.

MR. UFFELMAN:

Section 1, subsection 1, paragraph (a) preserves the exemption that will allow the culinary union's bank into the State. They are the only union-owned bank, and that provision was put in to allow them to enter Washoe and Clark Counties. There are ways for out-of-state banks to enter the state, as listed in section 1, subsection 1 of the bill. This is the cost of entry in most states; about a third of the states have no requirements at all.

CHAIR TOWNSEND:

What does this have to do with whether banks come into the rural counties? Why do we have two classes of banks?

MR. UFFELMAN:

There was a concern that rural counties were underserved, so the statute made it easy for a bank to enter a rural county.

CHAIR TOWNSEND:

But why does a bank that comes into a rural county to provide services have to be considered an out-of-state bank? Whose bill is this?

MR. UFFELMAN:

It is the Nevada Bankers Association's bill working with the Division of Financial Institutions. Questions had come up, and the Office of the Attorney General began to have less faith in the language of the statute.

CHAIR TOWNSEND:

Mr. Kondrup, can you confirm that?

STEVEN KONDRUP (Acting Commissioner, Division of Financial Institutions, Department of Business and Industry):

There was a request from an out-of-state institution to come into Nevada. They challenged our current statute in regard to branching. Initially, we informed them that they could go into a county of less than 100,000 without branching

into the larger counties, and they challenged that with the Attorney General. We were informed that the current language in statute would allow the out-of-state bank to come into a small county and immediately request to go into a large county. The purpose of this legislation is to say that an out-of-state bank coming into a small county cannot then branch into a large county. The money and deposits being put into these banks is not and will not be retained in Nevada. They are on the books of the banks out of the State. Nevada gets no funds from these institutions.

SENATOR HECK:

Are the rural counties adequately served by banking institutions at this point in time?

MR. KONDRUP:

To my knowledge, yes.

SENATOR HECK:

Then we come back to my question. I do not see the need to have this kind of back-door way to come into Nevada. I am all for a competitive marketplace, but it has to be on a level playing field. If the rural areas are currently served well and the three banks in the rural areas continue to function, from now on anyone coming into Nevada has to be chartered in Nevada and meet the same requirements.

MR. UFFELMAN:

Other than these three banks, anybody who wants to enter greater Nevada has to become chartered in Nevada. The rural exemption is still there if someone wants to just be a rural bank. But if someone wants to be an urban bank, they have to charter.

SENATOR HECK:

I understand that. What I am saying is that perhaps it is time to get rid of the rural exemption. Then everyone is on the same level playing field.

MR. UFFELMAN:

The concern is whether any new bank would willingly choose to enter a rural county without the rural exemption.

SENATOR HECK:

If only three banks have taken this option in three years, I do not see a lot of people pounding on the doors to utilize the exemption.

LAURA BILLMAN (First International Bank; Nye County):

The rural counties are not adequately served at all. One of our main banks out there has been trying to pull out of Beatty and leave Beatty with nothing but an automated teller machine for banking. One of the banks that is trying to come into Nevada plans on putting a branch in Amargosa Valley. They have had their application approved for Pahrump. This bill prevents them from opening branches in Amargosa and Pahrump, getting into Las Vegas and then shutting the other branches, thus leaving the rural counties with nothing. There is no banking in Round Mountain. There is no banking in most of the rural counties, unless you live within driving distance of a city.

CHAIR TOWNSEND:

Mr. Kondrup, is it your analysis that a bank could simultaneously enter a rural community and an urban community under the current statute?

MR. KONDRUP:

Yes. This has in fact happened. The application was initially submitted for Amargosa Valley, Pahrump and Clark County. That application was declined by the Division of Financial Institutions based on the interpretation we believed the statute to be at that time. The out-of-state bank challenged our decision. The Attorney General's office said they could have the application to go into the rural area and at the same time apply to come to Clark County, which in fact has happened with this institution.

SENATOR SCHNEIDER:

The big story a year ago was Wal-Mart getting into banking. Are they trying to come into Nevada with banking?

MR. UFFELMAN:

No. Wal-Mart has withdrawn its industrial loan company (ILC) application. Their ILC application was limited to it being a credit card bank in Utah to process their credit cards.

SENATOR SCHNEIDER:

What percentage of Nevada's population lives in the rural counties? Is it declining to the point where we no longer need this law to support them?

MS. BILLMAN:

In the suburban areas of the rural counties, like Pahrump, Douglas County, Lyon County and some areas of Lincoln County, the population is climbing. In some areas of the rural counties, the population is indeed declining. It depends on what is going on with mining and ranching at any given time. It changes back and forth.

CHAIR TOWNSEND:

I will close the hearing on A.B. 215 and open the hearing on A.B. 224.

ASSEMBLY BILL 224 (1st Reprint): Makes various changes to provisions governing the regulation of factory-built housing, manufactured buildings and modular components. (BDR 43-583)

RENEE DIAMOND (Administrator, Manufactured Housing Division, Department of Business and Industry):

I have written testimony describing the need for A.B. 224 (Exhibit D). This bill is a straightforward attempt to correct some problems we have been having. The Manufactured Housing Division currently licenses a class of servicemen as specialty servicemen who perform a limited scope of work. Sections 1 through 5 provide that a specialty serviceman who holds another license such as a contractor's license and is doing work similar to the work they would under our statutes may be given a waiver of examination at the discretion of the Division. We could also waive other requirements for licensure. The substantive language is in section 5, subsection 2. This will maintain the skill level that we require while recognizing that they have already met the requirements of another board's licensure. This will help us meet our goal of having more licensees available to work on manufactured homes, particularly in the rural areas.

Section 6, subsection 3, adds a requirement that a licensee provide a written agreement before performing any work. The agreement must specify the scope, cost, start date and anticipated completion date of the work. Also, no additional work is to be performed or costs charged unless agreed to in writing before the additional work is started. This will prevent the inflation of costs to the dealer or owner.

We are asking to remove from section 7 the specific codes and standards to be adopted by the Division in favor of more generic language. This allows the Division to adopt new codes and standards in a timely fashion by regulation. Currently, having these codes in statute means the Division lags behind when codes and standards are changed. A case in point is the fact that the Uniform Building Code in statute was abolished and absorbed into another code in 2000, yet our statute still cites this obsolete code. Most local governments and state agencies change by regulation or ordinance and are not tied to codes in flux by the statutory authority.

SENATOR HECK:

You are the first regulatory agency that has brought a bill before this Committee that is trying to decrease bureaucracy and expedite licensing. For that, you have my thanks.

SENATOR CARLTON:

Regarding the licensure changes, I would like to be assured that you still have the same provisions on being able to revoke licenses. What type of hearing process will you have to go through? I understand letting people into the pool of servicemen, but if you get complaints, how hard is it going to be to get them back out again?

MS. DIAMOND:

This bill does not negate the administrative process for taking licenses. It applies to all licensees, whether they are servicemen or dealers. We do not use the administrative process to take licenses lightly, but we do use it regularly.

SENATOR HARDY:

I am concerned about an unintended consequence of the requirement in section 6, subsection 3, paragraph (b), that the written agreement include the cost of the work. It would be more appropriate to require an estimated cost. I would hate to see a situation where someone has to stop work on a project because they need a \$10 part and the cost is not going to be exactly what was stated in the agreement. I am not sure what your intention was here.

MS. DIAMOND:

When this bill was heard in the Assembly, we heard testimony about an elderly woman who received a bill of \$30,000 from an unscrupulous workman for repairs that started out to be \$2,000. What we want to say is if the cost is

going to change, the work will be stopped long enough to speak to the owner and put in writing what we estimate the increase to be. We think about the \$50 job and that it might take an extra day to write it down, but then there is this poor woman with \$28,000 in charges without her specific permission.

SENATOR HARDY:

I agree with what you are trying to do. However, this could create a domino effect. Because of a \$30 part, you have to stop work, and now you are in violation of the completion date. My concern is you are setting up a contractual scheme that is so stringent that people will avoid doing this work. If we overcompensate, we will be back next session because no one wants to do this kind of work. We can work on some language to resolve that.

SENATOR SCHNEIDER:

What is happening to the number of spaces in southern Nevada? Some of the older parks are located on land that is now worth tens of millions of dollars. Are we still losing spaces?

MS. DIAMOND:

No. The downturn in land sales has diminished the issue of park closures. In the last year and a half, we have not seen anywhere near the numbers of closures in southern or northern Nevada. We have seen some, but not at the rate of three or four years ago. Currently, there are one or two small parks in southern Nevada that may change use, although I have heard that that might be in suspension because the value of the land is lower than it was. The closure of parks is an inexact science for us, since we only hear of it by rumor or when the first notices go out. We do not know in advance which developers are looking at what land.

CHAIR TOWNSEND:

Section 6, subsection 3, paragraph (e), seems to deal with two separate issues, additional work and additional cost. I can imagine a situation in which the work must stop in the middle because the serviceman needs a \$30 part and he did not include it in the written agreement.

MS. DIAMOND:

We think our licensees are knowledgeable about the work they do. We think they will include all the side things in the cost for the job. What we are most concerned about is that it will not be a small charge; it will be a huge charge by

an unscrupulous person who does extra work without divulging the cost. We think our licensees are capable of considering all expenses when completing standard jobs. Our feeling is that this statute will be rarely invoked, but it will be a deterrent against that unscrupulous person who wants to take advantage of an aging or uneducated consumer.

SENATOR HARDY:

I want to help you get to that, but as someone who has dealt with mechanics and craftsmen all my life, I will tell you what will happen if you have these kinds of restrictions on both cost and time. A worker will get behind a wall replacing a water heater, see a coupling or something that looks like it is going to fail, and they will just ignore it. If it has not yet failed, they will not risk being in violation of the written agreement to fix it or go through the trouble and time of getting another document signed. They will just put it back, and two months later the part will fail. Regardless of how good a craftsman is, he is not going to make himself susceptible to that kind of liability because the cost or time was not exactly as written in the agreement. We can work on some language to put in a certain percentage, perhaps. In the case you cited, I hope the State Contractors' Board has the ability to go after the individual in question. That is unconscionable.

MS. DIAMOND:

I am happy to consider a percentage that the cost or time could change before a new agreement must be signed. I know there is always the possibility of hidden problems. It was our opinion, however, that even hidden problems need to have a written estimate of the time and cost involved. We would be happy to work with some language you would be comfortable with. I do not like to use the term "estimate" without a cap, considering the story we heard in the Assembly.

SENATOR HARDY:

I do not want you to start having difficulty getting people to do this kind of work. If it is just a minor part, a worker should be able to replace it on the fly and be compensated for it.

CHAIR TOWNSEND:

I will close the hearing on A.B. 224 and open the hearing on A.B. 286.

ASSEMBLY BILL 286: Exempts certain health insurers from provisions governing the denial of claims and the cancellation of or refusal to issue a policy or contract of health insurance. (BDR 57-990)

ASSEMBLYWOMAN SHEILA LESLIE (Assembly District No. 27):

This bill is a clean-up to A.B. No. 63 of the 73rd Session. What it does is make it clear in the law that it does not apply to long-term care disability income. That was never the intent.

FRED L. HILLERBY (American Council of Life Insurers):

The basic issue is that in our health insurance statutes, there are one or two mentions of disability income and long-term care insurance. Therefore, everything that applies to health insurance becomes applicable to these two types of insurance, which are really asset protection. They are not health insurance; they do not directly reimburse physicians or hospitals. I have a written statement on A.B. 286 from John Mangan, Regional Vice President, American Council of Life Insurers, for the record ([Exhibit E](#)).

CHAIR TOWNSEND:

I will close the hearing on A.B. 286 and open the hearing on A.B. 423.

ASSEMBLY BILL 423: Exempts certain community land trusts from prohibitions on the use of "trust" in the corporate name. (BDR 55-173)

MS. LESLIE:

This bill addresses an issue that came up during the interim. Nevada has a law that does not allow community land trusts to call themselves land trusts. We worked with the bankers and others to rework the language to allow nonprofit land trusts to call themselves land trusts. That is the essence of the bill.

SENATOR HARDY:

Why is it essential for these groups to call themselves land trusts?

LYN BARNETT (President, St. Joseph Community Homes and Land):

The organization I represent is a land trust in Lake Tahoe. In California, our name is St. Joseph Community Land Trust; in Nevada, it is St. Joseph Community Homes and Land. To have the word "trust" in our title is important for our identity. It identifies what we do. Community land trusts traditionally provide housing for low- and moderate-income residents. When we have to use

the name St. Joseph Community Homes and Land, it does not give us recognition that we are a nonprofit corporation.

SENATOR HARDY:

That makes sense. It is difficult to carry one name in California and another in Nevada.

SENATOR CARLTON:

This issue came before the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System during the interim. The program is working well up there, and it just makes sense to do this.

CHAIR TOWNSEND:

Mr. Barnett, what does your organization do at Lake Tahoe?

MR. BARNETT:

We just acquired a 76-unit apartment building, all affordable. We are in the process of remodeling at a cost of about \$1.3 million. When the snow starts melting in a few weeks, we will be starting construction on our first moderate-income home. What a community land trust does is hold land for the community and sell homes separate from the land. This reduces the cost significantly. There is also a lease agreement that guarantees the house will be available in perpetuity for future residents who meet the income requirements.

CHAIR TOWNSEND:

It is important for the market to figure out problems like this, and we need to encourage this kind of creative thinking. Land prices continue to escalate, and pay scales do not.

MR. BARNETT:

Community land trust homes help build equity for the people who buy them. They are seen as ladder homes for the traditional market; people will often go into a community land trust home and eventually build enough equity to go into the regular market. These are people who have cash today but cannot get into the regular market because of the high prices.

CHAIR TOWNSEND:

I will close the hearing on A.B. 423 and open the hearing on A.B. 303.

ASSEMBLY BILL 303 (1st Reprint): Adds provisions relating to insurers who require medical examinations before issuing, renewing, reinstating or reevaluating policies of insurance. (BDR 57-919)

MR. HILLERBY:

This bill was triggered by a situation in which a person was denied for insurance based on the results of a physical examination and then was not informed of what the examination found that caused the denial. The bill would require the insurance company to inform applicants about physical problems discovered during insurance physicals. The American Council of Life Insurers agreed with the concept of the bill but asked that a physician be involved in the discussion with the applicant.

KIMBERLY K. EVERETT (Actuary, Life and Health Section, Division of Insurance, Department of Business and Industry):

We have concerns about this bill. If the applicant has a primary physician, they do not get the full disclosure about the problem that has been discovered. In order to get the information, applicants will have to pay for an appointment with the physician. Those who do not have a primary care physician will get the information for free and without waiting.

The other issue had to do with applicants who are under the age of 18. If a minor has to have a medical examination, only the natural or adoptive parents, a court-appointed guardian or the person with durable power of attorney for the minor should be given the information.

CHAIR TOWNSEND:

Why are we treating the person with a primary care physician differently from the person without one?

MR. HILLERBY:

We have no problem with notifying both the applicant and the physician. The point about the minors is a valid one and needs to be addressed. I am happy to come back with an amendment

SENATOR HECK:

The concept of this bill is spot-on, but I have concerns about the difference between with a primary care physician and without. The way I read this, if there is a primary care physician, you will let the physician know what the serious

condition is, but then you're just going to let the applicant know you've notified the physician you have a serious condition without telling the applicant what it is. Now you've just put someone into a panic. Some massaging needs to be done, but it is a very important concept. In the case that sparked this bill, there was almost a 6-month delay from the time a blood test was drawn with a serious abnormality to the time the individual was able to get that information.

MR. HILLERBY:

It should also be noted that often we are not talking about a complete physical done by a physician, but simply a blood test drawn by a phlebotomist. If that is the case, that person is not the one who should be contacting the applicant. It should be someone who understands what the blood test means. The problems can be worked out.

ASSEMBLYMAN LYNN D. STEWART (Assembly District No. 22):

I would view favorably an attempt to clarify those two issues.

CHAIR TOWNSEND:

We will do so. I will close the hearing on A.B. 303 and open the work session on S.B. 235.

SENATE BILL 235: Revises certain provisions pertaining to voting by units' owners in a homeowners' association. (BDR 10-681)

CHAIR TOWNSEND:

I understand we have an amendment on this from Senator Beers, is that right?

WIL KEANE (Committee Counsel):

Yes, thank you, Mr. Chairman. In the section of the bill that was—it was a new section, it was setting forth his election districts so that different members of the executive board could each be elected from their own district—the language in the bill originally—not originally, but as we had amended it—the original amendment had said that the member of the executive board must be elected by a majority—by a majority vote of the units' owners of his respective district. And the concern was raised that it might be confusing as to whether this meant just a majority of the votes cast or a majority of all the votes that could be cast. And so the change would be change it to say, "Must be elected by a majority

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of the votes cast by the units' owners of his respective district," which was the original intent. It's just a minor word change. And Brenda has—

CHAIR TOWNSEND:
Do we have a new amendment?

MR. KEANE:
"Brenda is doing a replacement amendment, so we'll have a new amendment number with just that minor change."

CHAIR TOWNSEND:
I will close the work session on S.B. 235 and open the work session on the bills previously heard this morning.

ASSEMBLY BILL 24 (1st Reprint): Revises provisions governing the release of a consumer report by a credit reporting agency. (BDR 52-518)

SENATOR CARLTON MOVED TO DO PASS A.B. 24.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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ASSEMBLY BILL 34: Revises provisions governing unemployment compensation. (BDR 53-610)

SENATOR HECK MOVED TO DO PASS A.B. 34.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:
Is there any discussion regarding A.B. 224?

ASSEMBLY BILL 224 (1st Reprint): Makes various changes to provisions governing the regulation of factory-built housing, manufactured buildings and modular components. (BDR 43-583)

SENATOR HARDY:

On A.B. 224, I would be content with adding "anticipated costs" to section 6, subsection 3, paragraph (b). I would be happy to spend a little more time and ask the State Contractors' Board for their input on this.

CHAIR TOWNSEND:

I understand the tragedy described by testimony in the other House, but this is something that will affect a lot of people, and we need to be sure we do not dry up the market of people willing to do this work. We will hold this bill while Senator Hardy and Senator Carlton work on the language.

ASSEMBLY BILL 286: Exempts certain health insurers from provisions governing the denial of claims and the cancellation of or refusal to issue a policy or contract of health insurance. (BDR 57-990)

SENATOR HECK MOVED TO DO PASS A.B. 286.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:

Regarding A.B. 303, we will hold the bill for the language of the two amendments discussed.

ASSEMBLY BILL 303 (1st Reprint): Adds provisions relating to insurers who require medical examinations before issuing, renewing, reinstating or reevaluating policies of insurance. (BDR 57-919)

ASSEMBLY BILL 423: Exempts certain community land trusts from prohibitions on the use of "trust" in the corporate name. (BDR 55-173)

SENATOR CARLTON MOVED TO DO PASS A.B. 423.

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SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:

I would like to hold A.B. 215 until we can get the questions answered that were raised.

ASSEMBLY BILL 215 (1st Reprint): Limits interstate banking by certain entities that open branch offices in this State pursuant to certain statutory provisions. (BDR 55-1125)

CHAIR TOWNSEND:

Is there any further business to come before the Committee? Hearing none, I will adjourn the meeting at 9:41 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____