

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

**Seventy-fourth Session
May 18, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:06 a.m. on Friday, May 18, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Samuel P. McMullen, Association of Condominium Hotels
Joseph Guild III, Manufactured Housing Community Owners Association
Jenny N. Welsh, Nevada Association of Realtors
Ernest Nielsen, Washoe County Senior Law Project
Robert A. Ostrovsky, Employers Insurance; City of Las Vegas
Rusty McAllister, Professional Firefighters of Nevada
Jim Fry, Risk Management Division, Department of Administration

CHAIR TOWNSEND:

I will open the hearing on Assembly Bill (A.B.) 431.

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ASSEMBLY BILL 431 (1st Reprint): Establishes provisions governing condominium hotels. (BDR 10-1056)

CHAIR TOWNSEND:

"Mr. McMullen, welcome, and I hope you have a report for us regarding A.B. 431."

SAMUEL P. MCMULLEN (Association of Condominium Hotels):

Mr. Chairman, Sam McMullen representing the Condominium Hotel Association. Yes, actually. I think you've—your staff once again did incredible work, along with the bill drafters, of making sure you have a mock-up of the full 113 pages with all of the agreed-upon changes ([Exhibit C](#), original is on file in the Research Library). And most of them are basically cleanup or catches that I think add protections to the homeowners and the unit owners, residential-unit owners, so I'd be happy—I'd just like to ask you what your pleasure would be. I can take you quickly through the green and deleted language in this so you know what the changes are, which I think might be the fastest way, and I'll try to do it as expeditiously as possible.

CHAIR TOWNSEND:

"That'd be great. Please proceed."

MR. MCMULLEN:

Thank you. If you start on page 1, you'll see green at line 25. Basically, this was the issue relating allocated interests, and this was Mr. Keane's suggestion; and frankly—I think maybe what I'll do is just point these out, and then I think if—I'll try and give you a summary explanation very quickly, and then if you need to ask additional questions, well, let's do that.

CHAIR TOWNSEND:

"Okay."

MR. MCMULLEN:

"Page 2, line 17, section 14.5, is the restatement of the definition of 'dealer' in 116, and now in this new chapter. The section right below it is the cleanup—"

CHAIR TOWNSEND:

"Could you stop at 14.5? When it says 'selling units of his own account,' if you could give us an example—thank you. If you could give us an example of that—"

MR. McMULLEN:

You know, I apologize. I may not be technically accurate on this, but I think this is to accommodate the setting where someone would basically buy these units or have these units and then sell them, either in an intermediary position or as a—as someone who just acquires a number of them and sells them. I think it's different than the declarant selling them, but I am not an expert in this.

CHAIR TOWNSEND:

"So a dealer is not a declarant."

MR. McMULLEN:

"Correct."

CHAIR TOWNSEND:

"A dealer would be a person—do they have to own the units in fee simple?"

MR. McMULLEN:

"Generally, most all of the hotel condominium units, just for the Committee's education, that we've talked about are going to be owned in fee simple."

CHAIR TOWNSEND:

"Okay. I just want to—you know, the Committee's going to have to answer questions on the floor, and I want to make sure that we know those."

MR. McMULLEN:

Okay. Actually, then, what I will do on that is make sure that I give you a full explanation so that it's not inadequate here today. And there'll be a number of changes like section 15, where the concept of "declarant" is clarified. Basically, what happens is when you succeed to the rights of the declarant, you become the declarant, so there's no need for the superfluous language about successors or assignees of the declarant.

MR. MCMULLEN:

If you'll notice section 22, line 49, basically that was the expansion of governing documents to cover those that govern the operation of the shared components, so not only the "common elements" or the things within the association's purview, but also the governance of the shared components. "Hotel unit" is, I believe, the change there, and I think I understand this, was that—in section 70, sub 1, there was an allowance for commercial uses, so I'm assuming the bill drafter's choice here was just to—instead of having it stated twice, they have it stated once in section 70, and simply—and then sort of simplified the definition of "hotel unit."

I'm just going to keep moving unless somebody stops me, if that's all right. Section—page 3, section 31.5, was the point made by Chairman Michael Buckley that because there could be replacement or rehabilitation of the hotel unit, it would be important also to define major components of the hotel unit. And you'll see later on, as I go through it, that there's also reserves now for any hotel-unit repair or replacement that isn't considered to be a shared component.

Moving on, page 4—you'll see section 44 is the declarant change. And then also, just a technical change that was done early on. Section 45 is to clarify the definition of time-shares, relating it to the time-share chapter. Section 46 is the change to accommodate the fact that there was some concern by Mr. Buckley that there were only residential units or hotel units, and this is to clarify that that may not be the case. For instance, there may be a defined commercial unit. And so what this says—that to the extent there is a different unit other than a residential-unit owner or a hotel unit, that the declaration will define that category, describe the rights and obligations. And actually, the governing documents will describe those rights and obligations.

I'll move on from there, unless you have any questions. This—section 47 is just a catch about leasehold common interest that they terminate at the same time that the common-interest community does. All right. If you'll move, please, to page 6,

section 59, this is just to clarify that changes in the governing documents—that the hotel-unit owner also will deliver any changes that—within their purview, within the required 30 days. Section 61 was just a catch about making sure that documents are recorded in the proper county.

MR. McMULLEN:

If you'd move to page 8, you'll see on line 23 an amendment to section 66, which takes out again the ability to fine by the hotel-unit owner; we thought that wasn't necessarily an appropriate or necessary way to do it. But—and it clarifies that it's basically only for the residential-unit owner's activities or the tenants and guests of the residential-unit owner. And that's to clarify, of course, that if there's a hotel guest or someone else not there that's the invitee of the residential-unit owner, then that—you can't—the residential-unit owner cannot be penalized for that. Thank you. Line 29 was basically a clarification of the ability to transfer the—anything that's the shared components and the portions of the hotel unit.

If you'll move to section 66.3 down at the bottom of the page, what we did here was make sure that there was a parallel section about the rules and regulations developed by the hotel-unit owner similar to those that are the provision that applies to the association, saying that the rules and regulations must be, as you'll see, reasonably related, sufficiently explicit, et cetera. Just general guidelines that the Committee has put into 116 about association rules and regulations; and because the hotel-unit owner has to have rules and regulations, we thought those same rules should apply.

If you move to page 9, section 66.5, this is basically the issue of—a hotel-unit owner has a problem with a residential-unit owner not paying their dues or their maintenance assessments on shared components. This is basically the process—minimum procedural requirements to make sure that that hotel-unit owner has notice, has an opportunity to respond in writing, has an opportunity to request a meeting, actually is getting a meeting. And then section 4 at the bottom there says that these are the minimum;

they can of course have greater protections in the rules and regulations as well.

MR. McMULLEN:

Section 66.7, starting on line 26, is a parallel section that makes sure that there's a response if the hotel-unit owner receives a written complaint from a residential-unit owner, or any unit owner, and that they have to respond in writing to that.

I'll move you now to page 11 and section 75. And actually, this will be the only change for staff that I'll—that I think, that I see, that needs to be made in this. There's just too much confusion about how we could clarify the change of the declaration. So we're thinking that this amendment ought to be taken out, and it ought to be section 116 language. Without making a big conversation about it, we—I think there was a feeling that the declaration could specify a different amount, then we got into issues about what happens if that amount is smaller, how small, et cetera. So we did—we believe we should just take that out, because it'd take too much drafting and too much time to figure that out. So if you could, all of those amendments there on lines 53, 54, I would respectfully suggest you can delete.

If you look at page 12, you'll see a lot of catches in terms of plural or singular unit owners. These are those type, and I'm going to just move on to section 78, down below. This is the requirement that the independent appraiser has to be chosen both by the hotel-unit owner and the association, so that the residential-unit owners also have a say in the choice of that independent appraiser.

Section 14—excuse me, page 14, section 85, is just a—just basically a clerical connection to—correction to relate to the declaration providing otherwise. And then I'll move you to page 16. The amendment at the top, line 2, is just another catch to conform it to the definition. Section 88 down below, the—what is included in here in the first paragraph, lines 41 through 47, is that when you create an association board, when the declarant steps out and creates it, that there must be—a majority of the members of that must be residential-unit owners, and there must be one member

that's a representative of the hotel-unit owner. That wasn't in there before, and we wanted to make sure that the majority was caught.

If you'll see line 48, this is our additional request that—

CHAIR TOWNSEND:

"Question? Yeah, Mr. McMullen, Senator Carlton has a question."

SENATOR CARLTON:

And I understand how that will work, the majority of the board, when it's more of a typical-type condo hotel property. But in some of them, where they're only staying in the condo for so long, it's one of those type relationships, how are you going to have unit owners when they're only there, you know, maybe a month or so out of the year?

MR. McMULLEN:

First, let me just say—excuse me, Sam McMullen for the record. I just wanted to make sure that everyone understands that these, of course, are the owners that own it in fee simple, and so they won't be necessarily the guests or anything like that. But of course, similar to other homeowners' associations where people aren't there all the time, some of the vacation places, the bottom line is that the board, you know, when they sign up to serve, they basically know they have to be there when they're there. If you'll remember, in this we said that they had to have at least one board meeting. If they want to have more, they can certainly do that, but that would be up to the association. But my experience has been that when people are elected, they basically know they have to come and serve. And so I think they—that'll just be an understanding of what you have to do when you run for election and what your responsibilities are.

SENATOR CARLTON:

"And if I may, Mr. Chairman."

CHAIR TOWNSEND:

"Yes."

SENATOR CARLTON:

I think it's going to be hard to get people to do this because we've heard so many comments about they're from around the world, these are sophisticated folks, they're going to use it as investment property. I mean, who are going to be the people that are going to take the time out of their busy schedule, come in from Europe, and come to Las Vegas and go to a board meeting? Uh-huh. I mean, it's like, I'm not sure about that.

CHAIR TOWNSEND:

"Will these be the owners that live in L.A.?"

MR. McMULLEN:

"Yeah, you know, I—"

CHAIR TOWNSEND:

"I'm not trying to be flippant, but—"

SENATOR CARLTON:

"Can I have the meeting at the pool?"

CHAIR TOWNSEND:

"Are we able—Do you think we're going to be able to get enough to fill—there'll be enough permanent residents, as it were, or fulltime residents, to be able to fill the board?"

MR. McMULLEN:

"It's going to be up to each property and its particular circumstances, there's no question about that. But we've also, I think, considered things like conference calling, some of the other things that could at least facilitate that."

CHAIR TOWNSEND:

"They don't have to physically be on the property to attend the board meetings, is that it?"

MR. McMULLEN:

Not sure that they do. I think everybody believes that, in general, but—and I don't know if it—what the 116 requirements are under regulation, but the—I think we're just going to have to work with it

and see. In some of these properties, we assume that there will be enough. Some properties don't allow this, but in the ones that do, there probably will be some full-time residents, and they'll be probably the most likely because they'll have the most interest. I don't know that that's a question that we can answer right now, but I think we need to find out if we've actually got a problem. Then I think, as I said, there'll be other devices that'll increase the participation, hopefully. Thank you.

MR. MCMULLEN:

I was on line 48 just to point out that this is a request that we had that the actual term of office of the member not be limited to two years, but be three years so that we could have some—more rotation of a third, a third, a third in each of these elections, increase the continuity. And then maybe—maybe to the extent that they sign up and they want to serve only one term, that they find out it's three years, not two years. Bad joke, excuse me.

I will say that, for the record, because I said I would do this, that there was a concern from Assemblywoman Francis Allen, who we've also kind of run these by, that she did not want to, as we had suggested—that it might be consistent in 116 as well, and that she had a—she would not prefer that. And so at this point, I'm just asking for it in 116B in conjunction with her concern. Thank you.

Okay, now you get to move a number of pages. I believe page 21 is the next one, and this is reducing the mandated requirement to at least once a year in hotel unit—excuse me, in the association meetings. But it can be—the declaration could make it more frequently.

If you'll go to page 22, this is one of two parts where we're trying to make sure that we're enhancing some of the budget information getting out to people. This is a requirement, on line 56, going over to page 23, that the hotel-unit owner or designated agent will actually show up at the annual meeting, will be there for explaining two things and answering any questions and giving information about, number one, the current annual budget and its status, particularly as it relates to shared expenses and assessments or

maintenance fees that will be charged or are being charged at that point of the unit owners; and then second of all, more importantly, any material issue that's going to affect the upcoming budget, and—This is sort of in recognition that the fiscal year of the hotel condominium might not match the timing of the annual meeting, but that we could at least give them two years' worth of information at that point. You'll see a later requirement that the actual budget, before it's final, gets sent out to them so they know. But this would be the kind of thing where they would be told that next year we're going start replacing carpet, and you can expect that that will either be an increase in your shared expenses or that another expenditure is reducing, so then they're going to move the same amount of money over to some of the other maintenance, and that's just basically a disclosure item.

MR. McMULLEN:

If you would move to line 13, basically this is about meetings, and it required making sure that there was a 30-days prior notice. You'll also see that we removed the publication requirement, because the way this is read you'd have to find where all these people live around the world and make sure there was a notice published in their newspaper in Biarritz or something like that, so I don't—we didn't—it may not be necessarily an efficient cost of the association, so that's lines 18, 19.

Next page would be page 28. This is a good catch in section 111, in the sense that of course you have to have insurance as both an association and the hotel-unit owner, and this clarifies that the repair or replacement be done promptly by both the association and then, to the extent the hotel-unit owner has control over some of these, that they, that that has to be done by them promptly as well. The last two changes you'll see, the other green items, 26 and 35, are just basically catches about singular or plural.

You'll start on page 29 to see some of the corrections relating to the addition of major components of the hotel unit. So you're basically treating them the same as major component of the shared components, is exactly what it is. And I will just point those out to

you, but I don't think we need to explain them any more than that. You'll see those on page 30 at the top again, in section 4.

MR. MCMULLEN:

If you look at page 30, line 19, you'll see basically the disclosure and the mailing basically of the next year's budget to all unit owners at least 20 days before the date on which the budget is actually effected. Okay.

Page 31. Again, most of this is just a clarification that it's both shared components and major components of the hotel unit. I would say I think that's drafted in a flexible and expansive, inclusive way to cover that. I'm not sure in the implementation whether there'll be much difference between hotel units and shared components. But this means if there is one and they are going to be looking to the residential-unit owners for participation in that, that they'll be doing all of the same financial things, including reserving and disclosing it.

I'll—Page 32 is the next change, and that's just a removal of the term "declarant." And that—this is—I think the reason for this is it's basically after—generally any of these will happen after the involvement of the declarant. So that was the feeling there.

And the next one is page 34, and these were just clarification changes by the chairman, Michael Buckley. Page 36 again is a reference in line 22 in section 131 to the inclusion of major components of the hotel unit. If you look at line 48, this is the restatement of the anti-retaliation provision in 116 adapted for this new chapter.

CHAIR TOWNSEND:

"Is some guy going to run out to the executive jet airport and graffiti somebody's G5? Is that what this is in consideration of? I just want to make sure we know what we're doing."

MR. MCMULLEN:

I think it's just to make sure that no one inappropriately restricts usage to shared components or—I don't know if it'll be to their G5s.

Moving to page 39—we're close, ladies and gentlemen. Section 142, you'll just see some clerical additions there, mostly description items in the public offering statement. But down at the bottom, you'll see on line 54, this is our—this is making sure that the five-day rescission right is absolute, that it's not qualified by some—whether or not you had an inspection. So it gives it to you, no matter whether you have had an inspection or not. That's a change from the current law.

Page 40 is basically just again corrections on hotel-unit owner, hotel unit or major components of the hotel unit's additions, down below there. Same on page 41, although on line 24 you'll see that we clarified the five-day rescission rule again there. And again on page 42, just clarifications that—about the hotel-unit owner's responsibilities by adding them in.

Major provisions, over to page 45, basically two provisions. One is that the Commission or the Administrator of the Common-Interest Community Commission may adopt regulations to require additional disclosures relating to the sale. So if the provisions in the statute aren't sufficient, they can request additional information, explanation, et cetera, from in the sales documents. One fifty-one point seven is the catch about a section that wasn't included, and this has to do with any failure to comply with the association or the hotel-unit owner or anyone, the ability to sue and what the remedies would be.

Actually, I'm all the way to 53 now. There are some—you'll see some punctuation changes as you move through here. I believe the last change is on the last page, but I just want to take one second to make sure I don't miss one for you. The pages that are in these last few sections are just adapting 116 to primarily to add the name "condominium hotel" to the Commission.

There's an important change on page 68, and I wanted to explain it to you. In a bill processing currently, A.B. 209, there is a correction of a common-interest—the common element taxation, basically making sure that it's not taxed to the homeowners' association but is included in the residential unit or the hotel unit price.

ASSEMBLY BILL 209 (1st Reprint): Makes various changes regarding the imposition and administration of property taxes. (BDR 32-469)

MR. MCMULLEN:

Basically, what you did in S.B. 358 last year, which had some constitutional and legal problems for its implementation—there's a bill processing to fix that, and my point was that I didn't want that bill, because it didn't know about this bill, to miss the fact that the condominium hotels would be included. And the reason that that's important is that common-interest community is now—condominium hotel is the definition for—in this chapter, not common-interest community. So to include it to all common-interest communities—we wanted to make sure there was a reference to this chapter so that it would be included there as well. And again, the theory of A.B. 209 is that all common-interest communities, no matter what they're called, be treated all the same, and that they be—have the same rules.

So that is that catch there, and then page 70—

CHAIR TOWNSEND:

"Senator Carlton has a question relative to that statement. It's an important statement, and I want to make sure it's all cleared up."

MR. MCMULLEN:

"No problem. I'm happy to —"

SENATOR CARLTON:

"And this is where I've gotten confused through this whole process on these condos, is—do we tax them at 3 percent? They're part of a condo hotel unit. The footprint on the Strip gets taxed at—Are we talking property tax here?"

MR. McMULLEN:
"Yeah. No."

SENATOR CARLTON:
"At 8 percent, and we've got these plots, and we're trying to figure out who's paying what, so—"

MR. McMULLEN:
Let me—Sorry, that's a good point; let me clarify this. Basically it doesn't talk to any of that. That will be under the existing rules, and basically a lot of that has been determined by the assessor, as some of these have been worked on. This is to speak to the specific issue of potential double taxation of a common element owned by the homeowners' association but theoretically included in the value of the residential unit purchased by the homeowner, okay? And then making sure that they don't pay it both ways, in their own property tax assessment on their actual unit and also potentially as dues paid to the homeowners' association—to pay taxes physically on that same common element that might be included in their unit. And this is to clarify it, make sure there's one way to do it. All of the assessors agreed, and that's the only point. The issue of whether it's residential or commercial, I think, will be a—basically a determination based on what the underlying characteristics of the property are, and so I don't think—that's a separate issue, and this does not affect it one way or the other. I hope—

SENATOR CARLTON:
And I guess the concern that I had is that all the other common-interest community stuff that we've worked on have been for residents who live in the state, primary residence. Most of the associations don't allow people to come in and use their condo in a transiency aspect. We had that argument, what, six years ago here, about not being able to do that and the protections we're giving homeowners. And with this particular piece of legislation, it's condos partially inhabited by the owners and shared with people who are renting it out, being put into the pool, and a hotel and common-interest elements—I'm just still trying to figure out how all the pieces of this puzzle still fit together, especially when it

comes to the taxation part of it. Because we've suffered through some unintended consequences in the recent past, and I'm just a little apprehensive that we might end up doing the same thing again.

MR. MCMULLEN:

Just for the record—thank you. Just for the record, those—I just want to say again, those issues about defining those particular portions of these projects as residential or commercial are basically going to be as they've been before. They would have been there under 116 with or without this chapter. And then what I think—I don't want to get out here, because I'm not sure that I'm technically capable of answering this in all circumstances. But what we did was try to make sure that if it's a residential unit, and I think most—all of these defined in these hotel condominiums would be considered residential units because they'd be owned in fee simple whether rented or not, then the assessor might have to—there might be some wrinkles in that or provisions, I don't know, in either the assessment guidelines or not. But then the other areas, to the extent that they're common elements, will be taxed a certain way. And then what we clearly did in this other bill was tried to make sure that the assessors had the ability, if an area was being used for a commercial use—An example that was used was a restaurant open to the public in a clubhouse, okay? Theoretically common elements, but used for a restaurant open to the public. Then that would be treated just like—and taxed and assessed just like a commercial use down the street, a restaurant just—and then we would—we clarified that that would be—

SENATOR CARLTON:

And if I may, Mr. Vice Chair. I understand that particular portion, but we've got condominiums that could be at either 3 percent or 8 percent, depending on whether they're primary residence or second residence, being turned into a hotel room, which entails sales tax, transiency tax—I mean, there's just so many flips that go on here. And who's going to keep track of all the flips, and who's going to make sure that everything gets paid the way it's supposed to get paid?

MR. McMULLEN:

Right. Mr. Chairman, for the record, Sam McMullen. I think one thing that should give you some comfort, I hope it does, is that each one of these is a separate parcel, okay? And so what will sort of be a mechanism to keep track of the taxation and the responsibilities of each of these will be basically parcel by parcel. Each of these is—each of these residential units will be a separate parcel, and then there will either be one common parcel for the hotel unit or it will be parceled separately, as is sometimes the case, depending on what the particular units might be used for. So that gives the—

SENATOR CARLTON:

And then your understanding, who would be the responsible person as far as making sure—I guess if the owner turns it over to the hotel for the hotel pool, then the hotel owner would have to make sure that the transiency tax and every—but if it's being taxed at a property tax rate and still paying transiency tax, there seems to be a benefit in that particular unit versus the hotel room across the street which is paying the full 8 percent on their footprint. But I don't understand the footprint versus each—It's just a confusing issue, and I'm trying to make sure we don't hurt the DSA again here.

MR. McMULLEN:

I think the one thing that gave, to the extent that I had to—right, right—to the extent that I had to learn about this, again, I think it's going to be parcel by parcel. And so it would be the owner of that parcel, it would be the use of that parcel. They actually have mechanisms that the assessors explained to me where even if it's one large parcel, they have the ability go and take a certain area of that parcel that is for commercial use and assess that in terms of the assessment guidelines for commercial as opposed to residential as opposed to something else, and I actually have to tell you, I got a lot of comfort that they know exactly what they're doing and they know how to do it. Now whether or not some of these—basically, the issue sometimes is them making sure they got the owner and all. But those are normal assessment problems. I don't mean to shift you off, but—

SENATOR CARLTON:

"No, and my concern is—"

MR. McMULLEN:

"And there will in fact have to be some definition of these things, but a lot of this has actually been, being processed through in a couple of cases already, and they've got some guidelines for this."

SENATOR CARLTON:

And I just don't want to find out a year after we leave here that something we did or something we confirmed or reaffirmed basically has dug a little hole in the transiency tax or the sales tax again and we end up having to figure out what, you know, what happened. You know, that Murphy's law, and—excuse me, and my maiden name is Murphy, so I understand Murphy's law. So I just want to learn as much about this as possible, because I don't want to have to go through this again.

MR. McMULLEN:

Well, I can say unequivocally that this piece of legislation in front of you has no impact on that issue whatsoever. So that's—if that's your one concern. These projects are already being created. This is to make sure that the regulation of the common-interest is done in a way that's applicable to hotel condominiums. But this does not change taxation, does not change anything, and we've made a commitment to try and make sure this was all neutral, and it is. The only thing we're doing in this section is making sure that, to the extent that these used to be regulated under 116, and for purposes of this tax section, that to the extent we create a separate animal over here, that we're maintaining that same treatment. So at least in this bill, I can absolutely guarantee nothing changes that status whatsoever.

SENATOR CARLTON:

"Well, that one section being added in kind of—"

MR. McMULLEN:

Again, all we're trying to do there is to say to the extent that they used to be—they would have been included in 116 yesterday, to

the extent we created a new statute and pulled them out—I didn't want to get into a legal trick here that that we didn't make—didn't realize and have a conflict amendment that didn't carry this in there, and then all of a sudden we had this whole gap where there was a set of issues that had been resolved for everybody else but not for these people. And thank you very much.

The last one, and then I'll be done, is that the last section is basically—make sure that they can immediately adopt regulations for this in advance of the January 1, 2008, date. And I'll be happy to answer any questions, if I can.

CHAIR TOWNSEND:

"Questions for Mr. McMullen? Yes, Senator Heck."

SENATOR HECK:

"Just so I can understand. So you want to adopt the entire mock-up with the exception of taking out the changes that were on page 11, section 75."

MR. McMULLEN:

"Mr. Chairman, for the record, Sam McMullen. Absolutely."

SENATOR HECK:

"Thank you, Mr. Chairman."

CHAIR TOWNSEND:

"Okay. I know Ms. Dennison, who was part of your group—I believe she went upstairs to Judiciary on the Senate bill on common-interest communities; I think she had to go upstairs."

MR. McMULLEN:

"I think I can represent that this was okay for her."

CHAIR TOWNSEND:

No, that's fine. I mean, we don't have to—it's a work session. We're not doing testimony. So I think that will be fine. We are going to hold this for an hour or so until I hear from Mr. Horne that he understands what's going on so he doesn't have any particular

problems. I believe he's been briefed. I'll wait for him—you know, we'll process it, I just—

MR. McMULLEN:
"No, no, fine."

CHAIR TOWNSEND:

Also, it's important that whoever was part of your group, if we can—I just want to make sure that we get on the record who they were and the general amount of people they represented, which is probably, what, 70 or 80 percent of the products that are at least out of the ground. Is that fair?

MR. McMULLEN:

Yeah, like—again, for the record. The Condominium Hotel Association, which we put together to sort of organize an effort to do this, is basically Trump, the Palms, Cosmopolitan, Turnberry and MGM Mirage and its properties.

CHAIR TOWNSEND:

Could we hold this until Mr. Trump and Mr. Maloof testify? They are the new Howard Hughes of Nevada; they never seem to be anywhere except in the press. You think we could pull that off? Actually, it's the guy at the Carson Airport wanting to see their planes. He called me.

MR. McMULLEN:

"I'll try and have them here within the hour. But if I fail, I'd like you to move the bill anyway. Thank you very much."

CHAIR TOWNSEND:

All right, Committee. We'll hold that and move on to something else. Before we do, it should be noted for the record, and I appreciate Mr. McMullen and his working group as well as Mr. Horne and what they did. But it should be noted for the record as part of the Committee but more important for me personally—it should be noted that without the leadership of Senator Schneider over the last ten years and the work of the three other members of this Committee that this bill could not have been brought to

fruition, because it was based on all the work that was done by him and the efforts that he put in, and that should be noted, not only for the record here in the Committee, but on the floor, because this probably could not have been done in this amount of time. This might have been a five-year project, were it not for the basis on which you could start your deliberations on this. And we very much appreciate and want to acknowledge that.

... Mr. McMullen, it would be extremely helpful for you to work with staff on an overview and almost a section-by-section handout that we could provide to our colleagues on the floor, because bills of this magnitude, although we may understand them, they're going to see it for the first time, and we'd like them to have the opportunity to review it and at least have members of your group chat with them. So what I would do is, I'll make sure that we get this bill to the floor, but I will hold it on the floor for purposes of allowing you to work with our members, have them read the materials, so that they're comfortable before we vote. And if you could work with our staff to come up with a document that they could read, that would be really helpful to them.

MR. MCMULLEN:

Mr. Chairman, for the record, Sam McMullen. We'll be happy to do that, because it is a difficult bill. And I also want to echo the comments you made about your Committee and about Senator Schneider. I will say, frankly, he gave us a lot of hours trying to make sure that we were thinking about these things correctly for the last few months, and so I just wanted to echo that. Thank you very much.

CHAIR TOWNSEND:

I will close the hearing on A.B. 431 and open the work session on A.B. 304.

ASSEMBLY BILL 304 (1st Reprint): Makes various changes to provisions relating to manufactured home parks. (BDR 10-1119)

CHAIR TOWNSEND:

One of the questions in this bill was the issue of the \$5,000 limit, which was apparently removed by amendment on the Floor of the Assembly. The deleted

provision increased the maximum amount of a landlord's lien for unpaid rent and utilities to \$5,000; it had been at \$2,000 since 1981. The purpose of that was to protect landlords from lenders, who had become problematic.

JOSEPH GUILD III (Manufactured Housing Community Owners Association):
That is correct. The deleted language was section 6 of the original version of the bill. If the existing lien cap is adjusted for inflation, it would be something like \$4,825 today. This is the reason \$5,000 was chosen as the new cap.

JENNY N. WELSH (Nevada Association of Realtors):
We have an amendment to offer ([Exhibit D](#)). We would like to keep existing statute in sections 7, 8 and 9. Current statute allows a manufactured home to be placed in a residential neighborhood if it is five years old or newer; the proposed language would allow any age home in a residential neighborhood.

CHAIR TOWNSEND:
It is my understanding that part of the problem is not just the value of the real property, but that moving a manufactured home older than five years is problematic because of structural issues. Is that the case?

MR. GUILD:
A federal law enacted a standard of manufacture in 1974, which became effective in 1976. Homes manufactured before that date, which are known as "pre-HUD homes," have serious problems in moving because they cannot come up to code. Whether a home can be moved safely also depends on how well the owner takes care of it. There are 20-year-old homes in perfect condition that can be moved, and 5-year-old homes that cannot. However, what you may have been thinking of was the pre-HUD situation. Section 7 of the bill refers to the code I mentioned.

SENATOR CARLTON:
Is [Exhibit D](#) referring to mobile-home parks or to all neighborhoods?

MS. WELSH:
You could put a manufactured home in any residential neighborhood not governed by covenants, conditions and restrictions (CC&Rs).

SENATOR CARLTON:

I understand what you are trying to do, but I have a problem with the five-year restriction. If I bought a manufactured home now and wanted to put it in my neighborhood in 5 years, it would be the newest home on the block, because all the stick-built houses are more than 30 years old. I can understand why you might want a cutoff date, but the manufactured homes I have looked at in the last ten years are really nice, with amenities I do not have in my home.

MS. WELSH:

In 1999, the five-year restriction was the consensus between multiple parties. That is existing law.

SENATOR HARDY:

I would point out to my colleague that you could put that home in your neighborhood today.

SENATOR CARLTON:

But if I purchased one that was six years old, I could not put it there because it is six years old instead of five, and it is nicer than the homes surrounding it. This provision needs a fixed date rather than a number of years.

SENATOR HARDY:

It is new and as nice as what is in the neighborhood, which is the point of the current law. We have debated this issue in the Senate Committee on Government Affairs as well. There is not much appetite there to process that, and this goes further than that.

SENATOR CARLTON:

I support what we are trying to do, but the intent in 1999 was five years; it is now eight years later, and the five-year-old home no longer complies with this. Somewhere along the line, we will have to pick a date. If it was manufactured to certain criteria after a certain date, then it should be appropriate to put into these types of neighborhoods.

SENATOR SCHNEIDER:

The problem is that manufactured homes depreciate and deteriorate like cars. With a regular house, you can patch the stucco, paint it and put new shingles on it. A manufactured home depreciates like an old Chevy. They are hard to

repair and maintain. What we are trying to do is get rid of some of the sentimental old trailers out there.

CHAIR TOWNSEND:

One of the problems we have dealt with is unless the homeowner is also the property owner, there is a disconnect. Under our rules, a manufactured home is considered personal property as opposed to real property.

With regard to the bill, I would recommend we go back to what the consensus was on the \$5,000 cap on liens, as well as accepting the amendment in [Exhibit D](#). We can then get this on the floor, off the floor, and have a dialogue with our colleagues in the Assembly.

SENATOR HECK:

Did we have any change to the language in section 2? We discussed the possibility that the language might be applied to a homeowner changing a lightbulb. Do we need to change the language, or is it enough to have the intent on the record?

CHAIR TOWNSEND:

We can pull out the statements we made the last time we discussed this bill and make it part of the statement on the floor. I do not think there is any disagreement on this issue; it is just a matter of how it is worded.

SENATOR HARDY:

Thank you for bringing this up. The phrase " ... life, health or safety ... " was appropriate in section 2. No one objected to the change, so I let it go; but I think it is going to be a problem.

MR. GUILD:

I believe that if it was left the way it is, with the record of intent you are creating, Ms. Diamond could create a regulation to explain things, because NRS 489 is in her jurisdiction.

CHAIR TOWNSEND:

Does she currently have the authority to do this, or do we need to put that into statute? We could go back to the original language and include that qualification will be defined by regulation.

SENATOR HARDY:

I would leave in the new language, but I would say, "If a repair to the structural, electrical, plumbing, drainage, roofing, mechanical or solid fuel burning systems of a manufactured home may affect life, health or safety ... ", then in that case the work should be done. That takes care of changing your own lightbulbs.

MR. GUILD:

The amended language was offered by Ms. Diamond. The change Senator Hardy is suggesting would give her more than enough authority to do whatever she needs to do.

SENATOR CARLTON:

As I recall, part of the problem with the phrase "life, health and safety" was that Ms. Diamond was getting lots of calls from people asking if they could do specific tasks. She wanted to take the phrase out and give people other guidance on how to handle repairs on their own homes. If we put it back in, we will put her back in the same predicament she started in.

SENATOR HARDY:

But as the language stands, the argument could be made that you cannot change your own lightbulb. If we keep her qualifying language and put "life, health and safety" back in, we give her the flexibility to define what life, health and safety mean as they relate to those repairs.

ERNEST NIELSEN (Washoe County Senior Law Project):

One of the concerns on section 2 is there are sometimes no licensed people available to do the work. You do not want to have to make people wait to repair things that are not of a serious nature. However the problem is solved, there needs to be some separation between what is serious and what is not. I would recommend going back to the earlier language and asking Ms. Diamond to create some regulations around that issue.

SENATOR HARDY:

My motion would be to amend section 2 with the indication that the Director may adopt regulations relative to the repair of manufactured homes that may affect these things. That way, she can change it if it does not work. I would also accept the amendment presented by Ms. Mann ([Exhibit E](#)) regarding the \$5,000 cap on liens and the amendment in [Exhibit D](#), with whatever changes are needed throughout the bill to make that work. I agree with Senator Carlton

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that at some point, we will have to account for the fact that these products are better now than they were in 1999 and will continue to get better.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 304 AS STATED.

SENATOR SCHNEIDER SECONDED THE MOTION.

CHAIR TOWNSEND:
Staff, do you have the changes?

WIL KEANE (Committee Counsel):
"Mr. Chairman, if I may. The administrator already has regula—authority to adopt regulations pursuant to 118.097. Should we make that a mandatory 'shall adopt regulations'?"

CHAIR TOWNSEND:
I would think so.

MR. GUILD:
I do not disagree, but the regulations she would adopt in this regard would also have to be in NRS 118B and 489.

MR. KEANE:
"Thank you, Mr. Chairman. Just so I understand—so we want to make sure that she has authority under both 118B and 489."

CHAIR TOWNSEND:
Yes. Staff, please forward this to Ms. Diamond. When she holds hearings on the regulations, she should notify the Committee so we can answer questions about intent.

SENATOR HARDY:
That is what I intended in my motion.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

I will open the work session on A.B. 496.

ASSEMBLY BILL 496 (1st Reprint): Makes various changes concerning workers' compensation. (BDR 53-897)

CHAIR TOWNSEND:

"Mr. McAllister, Mr. Ostrovsky, we have in front of us a proposed amendment ([Exhibit F](#)). Senator Heck."

SENATOR HECK:

Thank you, Mr. Chair. The mock-up addresses the concerns that were brought forward when we first heard the bill, with being able to provide a choice of two or more providers while protecting the rurals in a case where there's not two or more providers in a—within a certain distance. And it also allows only for the Certificate of Mailing to be required upon a claim denial, not for all claims.

CHAIR TOWNSEND:

"Okay, so section 1 is the area that deals with the physicians. So we're going to use the 30-mile rule, then?"

SENATOR HECK:

"Correct."

CHAIR TOWNSEND:

Okay. And then we go over to page 3, section 1.5, and this was the area in which we have to make sure—if the claim has been denied, obtaining a Certificate, thereby the claimant has an opportunity to exercise his or her rights under the law because they've been notified, as opposed to worrying about whether their check's in the mail. Is that—Mr. Ostrovsky, is that correct?

ROBERT A. OSTROVSKY (Employers Insurance; City of Las Vegas):

For the record, Bob Ostrovsky, Employers Insurance. That is correct, Senator, but we would like to create a record that indicates that "denial" would include a partial denial. There are circumstances under which an insurer accepts a claim but may in fact exclude a portion of the claim. For example, an injury report

may include an injury to a shoulder and a wrist, and they may accept the claim on the shoulder and deny the claim on the wrist. If there is a denial, which is included in a portion of that—if a letter of acceptance includes a partial denial, that will also require the proper mailing record. That was the intent of the parties, anyway, I think. So again, so we don't—that claimant doesn't miss the trigger for their right to appeal.

CHAIR TOWNSEND:
"Okay. Senator Hardy?"

SENATOR HARDY:
Thank you. Just a point of clarification. I had a bill last session, as you recall, because I had a constituent who's an injured worker in Mesquite, and he was traveling to Henderson for his therapy and treatment. So we changed the law last session to allow them to see somebody within 50 miles. That enabled them—outside the State. That enabled him to go from Mesquite to St. George instead of all the way to Henderson, which was about, you know, 120 miles. Does that impact—does this impact that?

MR. OSTROVSKY:
"For the record, Bob Ostrovsky, to Chair Townsend, through you to Senator Hardy. No, this has no impact on that. This has nothing to do with it."

SENATOR HARDY:
"Okay. I didn't think so, but I just want to be—"

MR. OSTROVSKY:
"That, I recall, had to do with vocational rehabilitation. This has absolutely nothing—this is just the question of whether or not you had to provide two names in a rural area."

SENATOR HARDY:
"Okay. When we started talking about 30 miles and, you know. I just wanted to be sure we're not undoing what we did last session, so—I didn't think so, I just wanted to get that on the record. Thank you."

CHAIR TOWNSEND:

Mr. Ostrovsky, maybe—Senator Heck, the point Mr. Ostrovsky makes probably changes the amendment and probably should reflect the intent of the Committee, if we may do that by saying, "If the claim has been denied in whole or in part," and that—Then there's no misunderstanding. Would that be fair to state that, Senator Heck, based on that?

SENATOR HECK:

"Yes."

CHAIR TOWNSEND:

That way the claimant does not have a problem, and we're back here two years from now saying, "Well, I got partially denied and I didn't get noticed, and—" You know, none of us want any of that to happen, so would that be helpful?

MR. OSTROVSKY:

"For the record, Bob Ostrovsky. That, Mr. Chairman, would be acceptable to me."

CHAIR TOWNSEND:

"All right."

RUSTY McALLISTER (Professional Firefighters of Nevada):

"Mr. Chairman?"

CHAIR TOWNSEND:

"Yes."

MR. McALLISTER:

"For the record, Rusty McAllister representing Professional Firefighters. Mr. Fry from the State Risk Managers Office brought to our attention in the provisions that we—"

CHAIR TOWNSEND:

"He's here. It's okay if you come on up, Mr. Fry. ... Go ahead, Mr. McAllister."

MR. MCALLISTER:

The way that this came out, this mock-up came out, or actually the way it was drafted, we were not aware of some of the provisions where we added in—Mr. Fry brought them to our attention; I'll let him address those, with the ability possibly to delete one part of this and add—amend in a different number.

JIM FRY (Risk Management Division, Department of Administration):

Mr. Chairman, Jim Fry, State Risk Management, for the record. In section 4, sub 5, it has a listing of quite a few NRSs that are presumptive benefits, except for one is not a presumptive benefit, and it affects all employees. It's not for just police/fire, and it's on the contagious disease and where they have to go be tested to show that it was in the scope and course of employment. So having it excluded from this would not apply to 617.440, which is what it's being added to. There is also another statute—well, first let me point out—617.485 is the hepatitis presumption for peace officers, non-state; in other words, county, municipalities. Point four eight seven is the hepatitis statute for state peace officers.

CHAIR TOWNSEND:

"Wait a minute, slow down, slow down. Okay. Four eight five is hepatitis for non-state peace officers. Okay. What's the next one?"

MR. FRY:

"Four eight seven is for state peace officers: highway patrol, P&P, NDI correctional officers."

CHAIR TOWNSEND:

"Okay. Mr. Ostrovsky, are you following this as well, or does—this does not—you don't represent any of the municipalities on this? Well, City of Las Vegas, correct?"

MR. OSTROVSKY:

"For the record, Bob Ostrovsky, representing the City of Las Vegas. But we agree with Mr. Fry's assessment that one of those should be removed and one should be added. We should be deleting 617.481."

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CHAIR TOWNSEND:
"Which is?"

MR. FRY:
"That is the contagious disease which is for all employees; it's not just for police/fire."

MR. OSTROVSKY:
"And we should be replacing it with 617.487, which is state peace officers."

MR. FRY:
"I just feel we'd be back here next session adding that on."

CHAIR TOWNSEND:
"481 is contagious diseases for all employees?"

MR. FRY:
"Yes."

CHAIR TOWNSEND:
"Okay. And then you want to put in—"

MR. FRY:
"617.487."

CHAIR TOWNSEND:
"Which is—"

MR. FRY:
"The state peace officers."

CHAIR TOWNSEND:
"And that's contagious diseases for state peace officers?"

MR. FRY:
"That's the hepatitis."

CHAIR TOWNSEND:
"Okay, got it. Okay. That was—"

MR. FRY:

"That was painful."

CHAIR TOWNSEND:

No, it's fine, it's—you know, as the experienced folks know, the hardest thing to read is the one that makes references in the back of a bill, because it means you've got to go flip to those things, and that's why—The toughest ones for a long time were the insurance ones, where every single—you know, 685A, 685B, 649C, E, and the bill's this long, and you've got to look up every single one of them to make sure you know who you've affected. So the requirements set forth in this section do not apply to claims pursuant to, and then it lists—we're going to take out contagious diseases for all employees; we're going to add state peace officers, hepatitis. So we take one out, put one in. Is that correct?

MR. FRY:

"Yes."

CHAIR TOWNSEND:

"Take out 481 and put in 487."

MR. FRY:

"Yes, sir."

CHAIR TOWNSEND:

Any questions? So Senator Heck, you would—your amendment would include all of this language, additionally adding on page 3, "claim has been denied in whole or in part," probably in 2 lines, I would think, line 16, line 20. And then over on page 5, we would remove, under sub 5, 617.481, and replace it with 617.487. Is that correct? All right. Committee?

SENATOR CARLTON MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 496 WITH THE STATED AMENDMENT.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:

Senator Carlton has asked that we revisit our amendment to A.B. 526.

ASSEMBLY BILL 526 (1st Reprint): Revises provisions relating to community antenna television, cable television, video service, Internet service and other information technology. (BDR 58-1129)

SENATOR CARLTON:

I have been working with the industry to try to come up with a way to give consumers a voice if they feel they are not being served appropriately by their provider. As this evolves over the next couple of years, we will have a lot of people competing with each other; we want to make sure they have a level playing field and that the consumer has a place to air concerns. I have new language to be added to section 42, subsection 2 ([Exhibit G](#)), giving local governments in counties with a population of over 25,000 a hand in dealing with problems with video service providers. I had talks with some municipalities yesterday and tried to make them comfortable with this. Since they no longer have the franchise agreement, they do not have the hammer; the state has the hammer. But they are the closest to our constituents. They have consumer departments where questions can be answered and people can be given information; if there is no resolution, they can gather information on repeat offenders and give that to the State to handle.

SENATOR CARLTON MOVED TO RESCIND THE PREVIOUS ACTION
TAKEN ON A.B. 526.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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SENATOR CARLTON MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 526 WITH ALL PREVIOUS AMENDMENTS AND THE AMENDMENT
IN [EXHIBIT G](#).

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SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:

We will now consider an Assembly amendment to Senate Bill (S.B.) 265.

SENATE BILL 265 (2nd Reprint): Revises provisions relating to dentistry and dental hygiene. (BDR 54-1184)

SENATOR CARLTON:

I have spoken with the Board of Dental Examiners of Nevada, and they are willing to accept the Assembly's amendment.

SENATOR CARLTON MOVED TO CONCUR WITH AMENDMENT NO. 651 TO S.B. 265.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

We have an Assembly amendment to S.B. 86 to consider.

SENATE BILL 86 (2nd Reprint): Revises provisions regulating utilities that furnish water or provide sewage disposal services. (BDR 58-554)

CHAIR TOWNSEND:

The amendment changes language in section 2.

SCOTT YOUNG (Committee Policy Analyst):

This amendment is a clarification of existing language. I received an e-mail from the Public Utilities Commission of Nevada saying they consider this a friendly amendment and are happy with it.

SENATOR HARDY MOVED TO CONCUR WITH AMENDMENT NO. 710
TO S.B. 86.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:
We will return now to A.B. 431.

ASSEMBLY BILL 431 (1st Reprint): Establishes provisions governing
condominium hotels. (BDR 10-1056)

CHAIR TOWNSEND:
The amendment we have in front of us, which is 3980—there was one clarification. That was the one where it was too hard to figure out, so they just decided to pull the whole section out, and I didn't fold the page down. That's the—that was the issue of how many, what percentage—That's right, page 11, section 75. So I guess the motion would be to amend and do pass A.B. 431 with the proposed mock-up amendment, 3980, and removing the language in section 75 that attempts to deal with the voting power issue. Discussion on that? Mr. McMullen, I do have one thing—to make sure that the motion, when we get to this, is clear. Section 75. That's the one you asked to remove. Are you asking only to remove the new language?

MR. McMULLEN:
"Mr. Chairman, for the record, Sam McMullen. I'm just asking, of course, that section 75 stay in the bill, but that the amendment that's in there be deleted, so it would read as originally —"

CHAIR TOWNSEND:
"So it would say, 'The declaration may specify —"

MR. McMULLEN:
"A larger —"

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CHAIR TOWNSEND:

"Oh, so you want to put 'larger' back in."

MR. McMULLEN:

"Yeah. Well, I believe that is—what the intent is to make sure that it reads exactly the same as the provision that it came from in section 116, and I think that has 'larger' in it."

CHAIR TOWNSEND:

"I don't remember if that's 'larger' or not. Yes, go ahead."

SENATOR HECK:

Thank you, Mr. Chair. In the original discussion—well, one of the many, I guess, original discussions on this bill, at one point in time, the amendment was proposed to change 'larger' to 'smaller' in that section. And that was done—that was recommended previous to the new language that just came in regarding the thirty-third and a third majority. So do you want it all out, or do you want to keep the change that was proposed in one of the previous discussions?

MR. McMULLEN:

Basically, as I understand it, it's—I don't think any of it is necessary, okay? And if you'll bear with me for a second—I think actually you can probably—your bill drafters will tell you, but I think on line 53, after the word "association," period, I think you could delete that entire sentence. But I think this was put in here to allow a different number. It went to smaller, it went from larger, it went to smaller, and it's basically—just delete it, I think. Okay? But again, the intention is to marry it to what the language is in 116 that it came from, and I apologize; I've got about three inches of paper I was trying to look through to figure out where it came from.

CHAIR TOWNSEND:

"Mr. Keane, would that—line 53, 'The declaration may specify a number of votes necessary to amend the declaration.' Would that reflect the provisions in 116, or must the word 'larger' be in there?"

MR. KEANE:

"I'm sorry, Mr. Chairman, I haven't been able to find that language in 116 yet. But I'll continue looking."

CHAIR TOWNSEND:

Okay. Well, if—I think we don't have to go—we don't have to wait for that. I think the fact is if it's the will of the group to reflect 116, since this Committee is the committee that processed 116 for—year after year after year, it might just be okay to go ahead and leave that up to the drafter, if that'd be okay.

MR. McMULLEN:

"Sam McMullen for the record. I think that would be absolutely appropriate, and that would be the right resolution of that. Thank you."

CHAIR TOWNSEND:

"Okay. Committee, what's your pleasure?"

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED A.B. 431 WITH PROPOSED AMENDMENT 3980 AND THE STATED AMENDMENT TO SECTION 75.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR CARLTON VOTED NO.)

* * * * *

CHAIR TOWNSEND:

Okay, and I understand. This is—Believe me, that's why I asked you to make sure that those that are impacted by this have an opportunity to talk to our colleagues—the other 14, 15, 16 folks, to allow them to have time to think this through, and you'll work with them. Senator Schneider.

SENATOR SCHNEIDER:

Mr. Chairman, you know, every time I read this over, I have other questions, and I'm sure, as Mr. McMullen does. And so I'll pledge to work with Mr. McMullen over the interim and his clients, and

we'll make sure that when we come back here next time, we'll try to get all the little gaps filled in properly. And it's a good document, and I think it'll work. But I do have questions every time I look at it, and I'm not sure if my questions are legitimate or not; they're just questions. But we'll, you know, I'll pledge to the Committee here that I'll work with Mr. McMullen and Mr. Ross and their clients over the interim and get some answers. Thank you.

MR. MCMULLEN:

Mr. Chairman, if I could just make one last comment. I just—well, actually, I think, one of the things that would be of value about this is to try and make sure that I'm keeping the Committee up to speed on anything that develops in terms of taxation issues or other that I can inform them about, and I'll be happy to do that. But what I really want to say is I know you know how great your staff and your bill drafters are, but not only do I appreciate the Committee's consideration of some very difficult amendments, but I want you to know that our experience in working with staff and with the bill drafters—they are absolutely excellent, and they work really hard, really late hours, and very productive and efficient. So I'd just like to compliment them on the record, thank them. Thank you.

CHAIR TOWNSEND:

I will open the work session on A.B. 531.

ASSEMBLY BILL 531 (1st Reprint): Makes certain changes to provisions concerning the Private Investigator's Licensing Board. (BDR 54-513)

SENATOR HECK MOVED TO DO PASS A.B. 531.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

I will open the work session on A.B. 396.

ASSEMBLY BILL 396 (1st Reprint): Makes various changes to the provisions governing common-interest communities. (BDR 10-1284)

CHAIR TOWNSEND:

As we discuss this bill, we should consider portions of S.B. 362, Senator Schneider's bill on common-interest communities, that should be resurrected and placed in A.B. 396 for the purposes of discussion with the other House.

SENATE BILL 362: Makes various changes to the provisions governing common-interest communities. (BDR 10-110)

SENATOR SCHNEIDER:

One of the provisions of S.B. 362 that got left behind was in section 1. The Real Estate Division, Department of Business and Industry, has begun interpreting NRS 116 to apply to homeowners' associations created by CC&Rs that do not contain any common elements, as defined in NRS 116.017.

CHAIR TOWNSEND:

There is a development in my district that has this problem: they do not have any common elements, but they have a homeowners' association. They got swept in and are being required to do all sorts of things that are not applicable to them.

SENATOR SCHNEIDER:

Section 16 was put in to address a problem brought by Senator Amodei. Reportedly, small, low-income common-interest communities have difficulty affording a certified public accountant to do their financial statements every four years. The Nevada State Board of Accountancy has offered language regarding this section ([Exhibit H](#)).

Section 24 clarifies existing provisions of NRS 116.31187, which prohibits board members from having conflicts of interest over goods and services. It also covers financial transactions.

Another provision that was put in on behalf of Senator Lee was designed to clarify that common-interest community mobile home parks can stop utility service to an individual unit for nonpayment of utilities. In some parks, they

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have one water meter for the entire park, and some people refuse to pay their portion of the water bill.

CHAIR TOWNSEND:

Mr. Young, please contact the Southern Nevada Water Authority to let them know we will be discussing this on Tuesday.

SENATOR SCHNEIDER:

Karen Dennison had an amendment of section 1 ([Exhibit I](#)) adding the statement, "An employee of a declarant or an affiliate of such declarant who is a member of the executive board shall not, solely by reason of such employment, be deemed to gain any personal profit or compensation for purposes of this section."

We also need to look at provisions about utility company trucks and other matters.

CHAIR TOWNSEND:

We will recess at 10:42 a.m. to allow staff time to assemble these changes and meet back here before our joint subcommittee this afternoon.

I will call the Committee back to order at 12:53 p.m. and open the work session on A.B. 468.

ASSEMBLY BILL 468: Requires providers of health care to provide disclosure of certain financial interests when referring a patient to or recommending physical therapy to a patient. (BDR 54-1300)

SENATOR HECK:

I have an amendment to this bill ([Exhibit J](#)). My initial concern about this bill was how the provisions that were being put into NRS 629 would interact with those already in place in NRS 439B.425. [Exhibit J](#) adds subsection 2 to section 1 and basically says that signing a disclosure does not authorize the physician to make referrals that would contradict the provisions of NRS 439B.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 468 WITH AMENDMENT 3928.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:

Returning to our discussion of A.B. 396, we now have a handout from staff detailing our discussion from this morning ([Exhibit K](#), original is on file in the Research Library).

SENATOR CARLTON:

We should also consider adding in the language from section 5, subsection 1, paragraph (m) of S.B. 362 regarding public streets, parking and reasonable fines.

CHAIR TOWNSEND:

Did we deal with that in S.B. 436?

SENATE BILL 436 (1st Reprint): Makes various changes to the provisions governing common-interest communities. (BDR 10-234)

MR. YOUNG:

Yes, though it might have been removed by the Assembly this morning.

CHAIR TOWNSEND:

In that case, we might want to put it back into A.B. 396, to be sure the Assembly knows we are serious about it. So the motion would be to amend and do pass A.B. 396 with proposals 1, 2, 3 and 4 from [Exhibit K](#), plus the language dealing with the streets from S.B. 436.

SENATOR HECK:

There are amendments from the Commission for Common-Interest Communities on page 3 of proposal 4 of [Exhibit K](#), regarding sections 2.5 and 9. However, proposal 4 also includes issues in sections 7.5 and 8 that the Commission opposes.

MR. YOUNG:

The intention of proposal 4 was to go forward with the language in A.B. 396 except to the extent that it was objected to by the Commission, and where the

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Commission suggested recommendations, to also pick up the Commission's recommended changes.

CHAIR TOWNSEND:

We are taking everything out of A.B. 396, so the only thing that would go in is the blue language regarding sections 2.5 and 9.

SENATOR HECK:

There is also material regarding the right of redemption.

MR. YOUNG:

What I understood Mr. Buckley to say was that if you were going to do a right of redemption, this was the language he would recommend. My recollection was that he was not thoroughly supportive of a right of redemption. Mr. Buckley suggested the issue be tabled until the next Legislative Session and that a task force be asked to consider this language.

CHAIR TOWNSEND:

We can do that.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED A.B. 396 AS A WHOLE AND REPLACE IT WITH PROPOSALS 1, 2, 3 AND PAGE 3 OF PROPOSAL 4 FROM [EXHIBIT K](#) AND THE LANGUAGE RELATED TO PARKING FROM S.B. 436.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

Is there any further business to come before this Committee? Hearing none,
I will adjourn the Committee at 1:05 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____