

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

**Seventy-Fifth Session
April 24, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:19 p.m. on Friday, April 24, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chairman
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman Ed A. Goedhart
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Mark A. Manendo
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblyman James A. Settlemeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Kelvin Atkinson, Vice Chairman (excused)

GUEST LEGISLATORS PRESENT:

Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Earlene Miller, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Matthew Watson, Secretary, Real Estate Section, Nevada State Bar Association, Las Vegas, Nevada
Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry
James J. Jackson, representing the Coalition of Appraisers in Nevada, Las Vegas, Nevada
Teresa McKee, General Counsel, Nevada Association of Realtors, Reno, Nevada
Rocky Finseth, representing Real Estate Valuation Advocacy Association, Las Vegas, Nevada
Michael L. Brunson, representing the Coalition of Appraisers in Nevada, Las Vegas, Nevada
Keith Lynam, Real Estate Licensee, Windermere Prestige Properties; and Chairman, Nevada Association of Realtors Legislative Committee, Las Vegas, Nevada
William Uffelman, President and CEO, Nevada Bankers Association, Las Vegas, Nevada
Pam Kinkade, President, the Coalition of Appraisers in Nevada, Las Vegas, Nevada
Michael Chesire, Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry; and representing the Appraisal Institute of Las Vegas, Las Vegas, Nevada

Chairman Conklin:

[Roll called. Meeting as a subcommittee.]

We will open the hearing on Senate Bill 172.

Senate Bill 172: Revises provisions governing the sale of subdivided land.
(BDR 10-867)

Matthew Watson, Secretary, Executive Committee, Real Estate Section, Nevada State Bar Association, Las Vegas, Nevada:

The real estate section of the Nevada Bar Association made the proposal regarding an amendment to Chapter 119 of the *Nevada Revised Statutes* (NRS) in consultation with the Real Estate Division. Chapter 119 of NRS requires persons or entities selling lots in subdivisions to register or apply for an exemption with the Nevada Real Estate Division before offering those lots for sale. It is similar to the Federal Interstate Land Sales Act which also regulates the sales of subdivided lots. The federal act does not apply to nonresidential subdivisions. Chapter 119 of NRS does cover nonresidential subdivisions, but the Real Estate Division does not regulate them in actual practice. Senate Bill 172 would simply exempt subdivisions restricted exclusively to nonresidential use from the application of the statute. The Real Estate Division is in support of the bill because it reflects actual practice.

[There is a quorum.]

Chairman Conklin:

If this is the practice, why do we need the law?

Matthew Watson:

The law does not specifically exempt it. In practice, it is impossible to comply with the terms of the statute because it does not exempt nonresidential subdivisions. As an attorney representing a developer, I would tell him, you must comply with the statute, but there is no practical way to become exempt by application to the Real Estate Division.

Chairman Conklin:

We have a statute that includes commercial subdivisions, and you advise your clients to follow that statute and tell them that the Real Estate Division does not enforce it.

Matthew Watson:

That is correct. If we were to send an application for exemption to the Real Estate Division, they would send back a letter that says that you are not permitted to sell residential units. When they are told this is not a residential project, they say they do not regulate nonresidential projects.

Assemblywoman Kirkpatrick:

Does this apply to the hotel condominiums that we considered for green building last session? We made provisions for the remaining parcels, so how would this affect those provisions from last session?

Matthew Watson:

It applies to any subdivision in which there are or are proposed to be 35 or more individual lots. If you had a commercial subdivision or a residential subdivision that was to be divided into 35 or more lots, it would apply. Its application would not depend on its green building standards but how many lots are within a project. Most subdivisions that are encompassed would include a larger single family residential subdivision or any of the condominium projects.

Assemblywoman Kirkpatrick:

Does it apply to time-share condominiums?

Matthew Watson:

It would if they have more than 35 lots.

Chairman Conklin:

This is exclusively for the application for sale of subdivided lots.

Matthew Watson:

That is correct.

Assemblywoman Kirkpatrick:

It was made very clear last session that the condominiums were their own lots because they are owner occupied individual units.

Matthew Watson:

Were the lots within a condominium subdivision?

Assemblywoman Kirkpatrick:

That is correct.

Matthew Watson:

If there were more than 35 units in that subdivision, this statute would apply to the sale of those units.

Chairman Conklin:

If we should approve S.B.172, it would still apply to those units?

Matthew Watson:

Unless all of the units within that subdivision were restricted to nonresidential use, it would apply.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to testify in support of S.B. 172 at this time?

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:

The Real Estate Division supports S.B. 172 for the purposes as stated—to clarify that nonresidential development is not required to be registered or regulated. The purpose of the registration and the regulation in Chapter 119 of NRS is to issue the property report that protects consumers in the purchase of property and states how that property might be used and what amenities are available to it. We support clarifying the exclusion of nonresidential units.

Chair Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to get on the record in support of S.B. 172? Is there anyone in opposition to the bill? Is there anyone to speak in the neutral position? We will close the hearing on S.B. 172. We will open the hearing on Senate Bill 184.

Senate Bill 184: Establishes provisions relating to broker's price opinions.
(BDR 54-234)

James J. Jackson, representing the Coalition of Appraisers in Nevada, Las Vegas, Nevada:

I hope the Committee has received the mock-up ([Exhibit C](#)) which is the culmination of many hours of work. We are 99.8 percent in agreement on everything in the mock-up. There is a slight disagreement with respect to two words contained in the mock-up on page 1, line 17,—“potential lienholder.” Other than that, I feel that Mr. Finseth and I have done a good job coming up with agreeable language. The only other concern that came up is on page 2, line 2. Originally when we talked about that portion, it was about mortgage lending or a lending decision, but now it is simply “loan.” We want to make it clear that we are talking specifically about mortgage loans in that section of the bill. On page 2, lines 26 through 30 of the mock-up, there was some language that looks like it has been stricken, but we feel it is still valuable to include. It has to do with a disclosure that has to be included in any broker's price opinion that is issued. We will leave it to the Committee if they want to include it.

Teresa McKee, General Counsel, Nevada Association of Realtors, Reno, Nevada:
The Realtors support this bill. The original bill and the language were the product of a task force. We have also been involved in the amendment and support the mock-up. We are happy to continue to work on the bill until everyone is satisfied.

Chairman Conklin:

Are you aware of the issue with "potential lienholder?"

Teresa McKee:

Yes, that was discussed with the task force. It was a matter of contention, and we all agreed that it should not be used for loan originator purposes. The task force never made a complete decision on the small area that is still under consideration. We left it open and requested the Real Estate Division to come up with a list of purposes for which it could not be used. They have not acted on that. Once this bill comes out, it probably will not be necessary. It is obviously important to lenders, appraisers, and real estate licensees.

Chairman Conklin:

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

Michael L. Brunson, representing the Coalition of Appraisers in Nevada, Las Vegas, Nevada:

I believe the document submitted by the Real Estate Division does include the list of exclusions. The issue from our point of view is that an existing lienholder already covers the issues of banks or brokers reducing real estate owned (REO) inventory and making decisions regarding short sales. The bill with the existing lienholder language would appropriately give the real estate professionals the ability to issue broker price opinions (BPOs) for the use of assisting financial institutions and reducing the real estate owned, or foreclosures, and short sale inventory. On the other hand, the necessity for the language of "potential lienholder" is unclear to us. It has not been explained to us how it is relevant, how it applies, or what it means. In our opinion, it leaves it a little broad.

Chairman Conklin:

My interpretation is that anyone who is thinking about purchasing something could use a BPO to ascertain if it is a good purchase price, a good value for the money, or has the potential to increase in value. Do you think it is something other than that?

Michael Brunson:

Our concern is the fact that BPOs have been used extensively in the secondary mortgage market for the bundling and repurchasing of loans. The evidence is still being gathered. It appears that the use of BPOs for the repurchasing of mortgage backed securities was a significant contributor to the subprime mortgage crisis from which we are still feeling pain.

Chairman Conklin:

Do you have evidence to back that up? I have received emails that suggest that there is some questionable behavior in appraisals, but I would not make that claim.

Michael Brunson:

I do not make that claim lightly. We do have evidence to back that.

Chairman Conklin:

We would like to see that.

Michael Brunson:

Yes. That is pretty much our point. If a value opinion, regardless of the venue, is an improper opinion which is concluded by an untrained individual, it puts the public at risk.

Chairman Conklin:

Mr. Christensen had a bill similar to this.

Assemblyman Christensen:

I know we are talking about line 16 on page 1 of the mock-up, but I heard you mention the secondary mortgage market. If I run a fund that is purchasing mortgages on the secondary market, under this bill, would I be able to use the BPO to figure my values?

Michael Brunson:

You would be able to do that.

Assemblyman Christensen:

Do you support being able to use the BPO to determine the value of properties?

Michael Brunson:

No, we do not support that. Our contention is an opinion of the value of real estate should be issued by competent, trained individuals who have accountability and are trained in the economic concept of value, as opposed to being knowledgeable in how to do research and determine pricing trends.

Assemblyman Christensen:

You answered my question.

Chairman Conklin:

Are there any questions from the Committee?

Assemblywoman Kirkpatrick:

Is the issue that once we get beyond the current economic problems, there may be more competition in the market?

Michael Brunson:

The competition is secondary. Our concern is that we can see that opinions of value produced by unlicensed individuals without training in the economic concept of value put the public at risk. Our position is that as professionals who are in the business of issuing opinions on the economic concept of value, we believe strongly that this is something that requires the training, expertise, and education that is required to be a licensed or certified appraiser in the State of Nevada, and nationally.

Assemblywoman Kirkpatrick:

If you are a real estate person, do you know when houses are going on the market what the values should be? From what I understand a BPO just narrows the scope. It would seem that a real estate person gets a commission based on the amount they sell the house for, so it would not be in his best interest to give a low appraisal to get the sale. How does that differ?

Michael Brunson:

You hit one of the key components. Appraisers by definition are impartial and are a disinterested third party. Our fee is not contingent on the value, the loan closing, or anything else as opposed to other parties who may have interest or potential interest in the sale. The whole concept is that appraisers and appraisal independence is a huge issue. We provide an independent opinion of value. There is no commission tied to an opinion of value issued by a professional appraiser. It is expressly prohibited. We are concerned that by allowing a BPO to be completed for a potential lienholder, that independence, impartiality, and training and competence provided by a licensed or certified appraiser is lacking. The fact that it is lacking puts the public in jeopardy.

Assemblywoman Kirkpatrick:

What is the difference between the two?

Michael Brunson:

This is within the realm of the scope of work for an appraiser. There is a misconception by the public that a drive-by appraisal is necessarily inferior to an appraisal completed with an interior inspection. This is not what we are talking about in A.B. 184.

Assemblywoman Kirkpatrick:

I want to understand what the difference is between the two.

Michael Brunson:

The education is the key. It does not really matter if we are sitting in front of a computer at our desks, walking through your property, or standing in front of your property. It is the ability to analyze the market, market conditions, trends in exposure, marketing time, concessions, inventory and absorption, and items of significant contributory value in a given market. Those are things in which appraisers are trained and BPO practitioners are not. That is the primary difference. Our concern is that somebody who has the training, knowledge, experience, and competence to issue an opinion of value should be allowed and required to do that in circumstances where the public is put at risk. The argument could be made that the public is not at risk when a mortgage note is sold on the secondary mortgage market, but what we are going through in our economy now begs to differ. That is our point of view.

Chairman Conklin:

Are there any questions from the Committee?

Assemblywoman Buckley:

There was some discussion in the minutes from the interim committee on this subject about whether a flat fee should be charged or if it should be allowed as part of the commission. How do other states deal with the pricing issues? I can imagine those who are not so scrupulous tacking on a \$500 broker fee in every transaction as a profit center. How are you approaching those issues? How did you come up with what you had? What were the other options to be considered, and how do you safeguard against the overuse of this as a tool when it is not necessary?

Teresa McKee:

The task force looked at virtually every other state and their laws. There were states that limited the price you could charge for a BPO, but in our discussions we determined that the market bears what the market bears. Broker price

opinions come in between \$40 and maybe \$200, but I think the highest I have seen is \$125. We had a lot of information from other states, and I would be happy to get that to you.

Assemblywoman Buckley:

Do you envision this being used for third party transactions or in transactions where they are involved in the deal?

Teresa McKee:

It is currently being used in the secondary market and is being requested by the secondary market. It is also used where the real estate licensee may have an interest in the transaction. That is why on page 2, line 13, it says, "A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker's price opinion" Prior to our discussions in the task force, the issue was that the Commission of Appraisers of Real Estate had come out with an advisory opinion stating that real estate licensees could only do a BPO for the listing and sale of property. It has a market use. Sellers want to know the price to list their houses. There is a very important distinction between value and price. A lot of states actually have a definition to say what value and price are. Appraisers do value and real estate licensees do price. Real estate licensees are not untrained, they are not unprofessional, and they have experience. Like any other profession, you have people who have been in the business for 1 year and people who have been in it for 20 years. The experienced people know the market. They know at what price a house would sell in a particular area at a particular time. Broker's price opinions were described in the task force as taking a snapshot.

Assemblywoman Buckley:

Do you envision that you are going to be doing these for a homeowner or a third party like a lender?

Teresa McKee:

They are being used for all of those purposes.

Chairman Conklin:

To get a mortgage, you have to have an appraisal. An investor can use a BPO or an appraisal. That is current law.

Teresa McKee:

Yes.

Assemblywoman Buckley:

I do not want the average homeowner on the street to pay for a BPO when they need an appraisal. For the secondary market, for lenders, and for investors it makes perfect sense.

Chairman Conklin:

I want to make clear that you need to have an appraisal to get a home loan. Mr. Yu, will you get that information for us? Are there any questions from the Committee? There are none.

Rocky Finseth, representing Real Estate Valuation Advocacy Association, Las Vegas, Nevada:

The Real Estate Valuation Advocacy Association (REVAA) is neutral on S.B. 184 but supports the proposed mock-up that you have before you today. As Mr. Jackson pointed out, he did yeoman's work in bringing all of the parties together on this issue. We are 99.9 percent of the way there. The issue focuses in on "potential lienholder." For Assemblywoman Buckley's purpose, we were very specific to point out that in subsection 2, paragraph (d), it says an "existing or potential lienholder" and recognizes that a BPO could not be used in lieu of an appraisal for the purposes of a mortgage loan origination. When it comes to lending, you absolutely need an appraisal. The issue is over the "potential lienholder," and it is REVAA's position that a BPO is a permissible use.

Chairman Conklin:

What is a "potential lienholder?"

Rocky Finseth:

From REVAA's point of view, "potential lienholder" is the secondary lending market. It should be the option of the secondary lending market if they want to obtain an appraisal. If they want to get a BPO, they should. If you exclude the "potential lienholder," you are excluding that option from the secondary lending market.

Chairman Conklin:

If the concern is that "potential lienholder" can be expanded, why did the group not include a definition?

Rocky Finseth:

That was contemplated by the task force, and if it is the Chairman's prerogative, I would be happy to explore that.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Senator Michael A. Schneider, Clark County Senatorial District No. 11:

I could be a "potential lienholder." If I have a piece of real estate and I am going to foreclose on it, I am going to get a BPO. Banks are "potential lienholders" as they get ready to foreclose on the 25,000 houses in Las Vegas. They will call the broker with whom they do a lot of business to ask the value of the properties. They will get a BPO. They cannot lend money against those. A mortgage broker cannot put a mortgage on a house on a BPO. He has to have a certified appraisal. I think this "potential lienholder" scares the appraisal community, but I do not think it is all that big a deal. They are scared to lose business and are trying to narrow it so they can get more business. It is all about the money and who has control. That is the scary thing for the appraisal industry. I think BPOs are just that—opinions. Everyone who owns a house, when they get ready to sell they call the broker and get an opinion. I think we are reading too much into BPO. They cannot be taken to the bank and lent on. They are just opinions.

There is a problem in the appraisal industry, and the appraisers are chasing the values to the bottom. When there is a different house being built that is super insulated, a smart home that generates its own electricity like those being built in Las Vegas now, the appraisers are appraising them low even though there are willing and able buyers. You buy a house like that and you will save \$300,000 to \$350,000 on your utilities over a 30-year period. Obviously those houses are worth more than the 20-year-old house down the street that they are going to use for comparison. Even though the appraisers are saying we are the ones with the knowledge, in this changing market I would challenge that from what is happening with the appraisals in Las Vegas. We are going to have an in depth conversation with the appraisal community. The intent of this bill needs to focus on the "opinion" in BPO.

Chairman Conklin:

Senator Schneider spent many hours working on these issues and served on the Mortgage Lending Interim Subcommittee with Assemblywoman Kirkpatrick and me. Is the mock-up yours? On page 2, lines 26 through 30, did you intend to have that stricken?

Senator Schneider:

I am comfortable with this amendment.

Assemblyman Horne:

I think it over simplifies this to say it is strictly an opinion. If I give an opinion on the value of real estate, everyone would say it was my opinion, but if a BPO is couched on expertise, that can drive a market. It seems like that is the difference. It is important that the Committee keep this in mind.

Senator Schneider:

You are right. The first word is broker. You did not get a price opinion from attorney Horne or rancher Goedhart, you got it from a broker, and it is his opinion. You cannot pull their licenses if they missed the opinion because you cannot lend on that. That is the opinion for marketing and sales.

Assemblyman Horne:

Let me narrow my analogy. The opinion I get from my general practitioner about the problems I am having with my knee is different from the opinion that I get from my orthopedic surgeon. We are talking about the different types of experience. No one is saying that brokers do not have experience in the transfer of property, but we are talking about the differing of expertise and how it is applied in these values, as opposed to appraisers. Would that be fair?

Senator Schneider:

That would be fair. Your general practitioner has a lower level of expertise in a specific area of your body than the specialist. A broker has lower expertise in establishing value than the appraiser.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone wishing to get on the record in support of S.B. 184?

**Keith Lynam, Real Estate Licensee, Windermere Prestige Properties; and
Chairman, Nevada Association of Realtors Legislative Committee,
Las Vegas, Nevada:**

I want to key in on licensed, educated, continuing education, and all of those things contained in being a realtor. We are not uneducated; we are not just people off the street issuing assessments of things. The example just given is a great analogy of how we determine the difference between price and value of a home. In today's market, a bank will normally issue a number of BPOs. That is who is ordering them and paying for them. It is not the buyers, sellers, or those normally involved in the process. As a listing agent of a short sale or of a real estate owned, also known as a bank foreclosure, I am not doing the BPO on that property. They are generally going to a third party. I am in support of the bill and the amendment.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:

The Real Estate Division has both real estate licensees and Appraisers of Real Estate in our jurisdiction. This is an important bill, and the Real Estate Division is in support of it. It is important to define, as this bill does, what the BPO is. It is important to put into law the standards on the requirements to prepare a BPO. As the regulatory agency over the real estate licensees who will conduct these, it is important to have something encoded in law. I am going to recommend that the Real Estate Commission work on and propose some standards as well for preparing the BPO. One of my greatest concerns addressed in S.B. 184 is to make it very clear that the broker is responsible for all activities of licensees, including when a licensee under the supervision of a broker prepares a BPO. It also means that payments for preparing a BPO are remitted through the broker and the broker is knowledgeable about what the licensees are conducting. Those are important aspects for the regulatory body for the Real Estate Division.

I have had conversations with both real estate licensees and appraisers on the issues they are discussing. I appreciate that involvement. The Real Estate Division's concern is about what we have jurisdiction over. We do not have direct jurisdiction over mortgage-backed securities. I realize there is a relationship between these things. If the Real Estate Division does not regulate the user, then we really do not have anything to say unless you give us the authority. As long as the law is clear on the purpose and the standards for preparing BPOs in the definition, then we will move forward with making sure that those things are conducted appropriately to the best of our ability.

Chairman Conklin:

Are there any questions from the Committee? There are none.

William Uffelman, President and CEO, Nevada Bankers Association, Las Vegas, Nevada:

The bankers support the bill, particularly page 1, lines 16 and 17, and page 2, lines 1 and 2. The BPO is an important tool for the banks when they are doing foreclosures. They need to get a sense of what the property is worth. In the secondary market as it moves upstream, the people who are buying mortgage-backed securities are supposed to be sophisticated individuals in the problems that the market got into. Many of them no longer work in that industry and have suffered the consequences of their failings, as have all of us.

Chairman Conklin:

We could blame where we are on BPOs, appraisals, banks, individuals, and the list could go on. Are there any questions from the Committee? There are none. Is there anyone else wishing to get on the record in support of S.B. 184?

Pam Kinkade, President, the Coalition of Appraisers in Nevada, Las Vegas, Nevada:

We are here in support of this BPO bill with some reservations. Broker price opinion is a misnomer. It is not normally an experienced broker who is preparing these BPOs, it is an inexperienced sales person trying to make a little extra money and learn the market. It is a way to do a little on-the-job-training. They are not really prepared by brokers. I served as a member of the BPO task force. We had no idea how large this BPO industry had become, nor did we know last June all the various ways BPOs were being used and potentially being misused. I am not here to point fingers at anybody. We realized that this industry had gotten huge. It is a multimillion dollar industry in the United States, and it had no regulation or oversight. It was the job of the task force to accumulate all of the data, find out what was being done, and determine how we wanted to handle it in our state. That is what our recommendations did.

Senator Schneider's bill came from most of the recommendations from that task force. The problem we have today is the "potential lienholder." I believe Senator Schneider was talking in his testimony about an existing lienholder who already held the loan on a piece of property. We compromised in our task force and said there is a real place for a licensed salesperson or broker to help the lienholder find out what their property is worth, especially in a short sale. A "potential lienholder" would be a third party that is looking to buy the paper on the property or issue a new loan. I believe that loans are being made in the State of Nevada without the benefit of an appraisal. The reason I say that is because of section 1, subsection 2, paragraph (d) in the mock-up given to us yesterday. We do not have the current mock-up, but it is in the same subsection. That subsection refers to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). It is the federal equivalent to the gatekeeper in terms of lending and the requirements for lending. There are many exceptions to the FIRREA. The boldest one that we are trying to get changed now is that an appraisal is not necessarily required for a loan below the de minimis level of \$250,000. In our current "meltdown," many of the problem loans were below the de minimis level. There is action being taken on the federal level to try to correct that situation, but there are other exemptions to the fixed rule that an appraisal is necessary to create a mortgage loan. I believe that is not fact. If the "potential lienholder" is looking at a potential investor or

bank to loan on a property, they can get a BPO instead of an appraisal, and they might want to do that. I do not think that is the way our state wants to go.

Chairman Conklin:

Paragraph (d) clearly indicates that it does not matter if you are an existing or "potential lienholder," you cannot have a loan approved with a BPO.

Pam Kinkade:

I have the mock-up from yesterday.

Chairman Conklin:

Our mock-up says "an existing or potential lienholder, except" It says when a BPO can be prepared except that it may not be used in lieu of an appraisal for the purpose of determining whether to approve a loan. It is very clear.

Pam Kinkade:

I appreciate the clarification. You questioned Mr. Brunson about the information we received during the time I served on the BPO task force regarding the bundling of loans and the reevaluation of those loans for mortgage-backed securities on Wall Street. I had firsthand information about that, and I would be happy to pass that on to you. I was told in a conversation with a contracting agent for a major appraisal management company, which services Nevada and Oregon, that they were sending bundles of loans in packages of 5,000 and 6,000 across the country. Those properties were being reevaluated with the BPO so they could be restructured for handling on Wall Street. That would be a third party that was not an existing loan holder.

Chairman Conklin:

I was consulting with my Legal Counsel about interstate commerce federal law, and we cannot control things being packaged and sent elsewhere. Are there any questions from the Committee? There are none. Is there anyone else to testify in support of S.B. 184? Is there anyone to testify in opposition? Is there anyone to speak from a neutral position?

Michael Chesire, Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry; and representing the Appraisal Institute of Las Vegas, Las Vegas, Nevada:

We supported S.B. 184 in the Senate and sent a letter of support to the Senate Commerce and Labor Committee. We had a meeting and determined that we supported that bill the way it was written. With some of the current language, we have some hesitancy on that bill at the Appraisal Commission level. The issue is the "potential lienholder." This is called a "broker's price opinion," but

if you read the law anyone who is a licensed real estate salesman in Nevada can perform this. While I agree that a majority of brokers in this state are competent and well trained, I would not have a problem if they were the only ones doing these opinions. I have a problem with someone who gets their license one week and the next week is writing these opinions. Our whole Commission has a problem with that because, as appraisers, we are regulated by the state, but we are also regulated by the federal government. Real estate salesmen are not regulated to the degree we are. They do not have to have the experience and the hours of education that a broker does. This is a BPO not necessarily being prepared by a broker. That is why I am in a neutral position, and that is how we feel about this bill. We have concerns about the wording in some of the amendments.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else to speak from the neutral position? We will close the hearing on S.B. 184. We will open the hearing on Senate Bill 230 (1st Reprint).

Senate Bill 230 (1st Reprint): Revises provisions governing certain licenses issued by the Real Estate Division of the Department of Business and Industry. (BDR 54-864)

Keith Lynam, Real Estate Licensee, Windermere Prestige Properties, and Chairman, Nevada Association of Realtors Legislative Committee, Las Vegas, Nevada:

We are here in support of Senate Bill 230 (R1). The bill changes the renewal of a real estate licensee from two to four years with the commensurate fee increase. Currently under Chapter 645 of the *Nevada Revised Statutes*, a real estate licensee renews his license every two years. The licensing process can be cumbersome for licensees, so we would like to extend that to four years, particularly for those who have to process theirs in person. Our efforts are aimed at decreasing the administrative workload on the licensees, brokers, and the Division while causing no decrease in revenue to the state or the Division. We have worked with Gail Anderson, the Administrator of the Real Estate Division, to allow the Division enough time to comply with this licensing change. Therefore, we are in support of the effective date being moved to July 1, 2011.

Chairman Conklin:

Are there changes in the educational requirements to two years?

Keith Lynam:

That is up to the Commission. It is not addressed in the bill.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry:

The Real Estate Division is neutral on S.B. 230 (R1). The Real Estate Division has no objection to the proposed licensure time changes, and if this bill passes the Commission would discuss the education requirements which are by regulation in Chapter 645 of the *Nevada Administrative Code*. The Real Estate Division appreciates the extended implementation time period to prepare for this transition should this bill pass. It would also allow time for the Commission to consider any regulations concerning continuing education they may wish to propose.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

How many people drop their real estate licenses after the first year of licensure and do not apply for the renewal?

Gail Anderson:

I do not have a number on the first year. The license renewal statistics are pretty strong. They were a little higher this past biennium. I do not have a statistic for how many do not go forward. There is a requirement in the first licensure period that is called postlicensing which the Commission will have to consider. The original license is issued for a one-year period at this time. They will have to look at that in relation to the changes proposed in S.B. 230 (R1). If I can get an attrition statistic, I will provide it.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else to testify in support of S.B. 230 (R1)? Is there anyone in opposition? Is there anyone wishing to get on the record in the neutral position? We will close the hearing on S.B. 230 (R1). Is there any public comment? There is none.

The meeting is adjourned [at 2:33 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

Editing Secretary
Cheryl Williams

APPROVED BY: _____
Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 24, 2009

Time of Meeting: 1:19 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 184	C	James Jackson	Mock-up