

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY  
SUBCOMMITTEE**

**Seventy-Fifth Session  
April 3, 2009**

The Committee on Judiciary Subcommittee was called to order by Chairman Tick Segerblom at 1:14 p.m. on Friday, April 3, 2009, in Room 3138 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/](http://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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**SUBCOMMITTEE MEMBERS PRESENT:**

Assemblyman Tick Segerblom, Chair  
Assemblyman John Hambrick  
Assemblyman Ruben J. Kihuen

**SUBCOMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Ellen Spiegel, Clark County Assembly District No. 21  
Assemblyman Richard McArthur, Clark County Assembly District No. 4

**STAFF MEMBERS PRESENT:**

Allison Combs, Committee Policy Analyst  
Nick Anthony, Committee Counsel  
Katherine Malzahn-Bass, Committee Manager  
Emilie Reafs, Committee Secretary  
Steve Sisneros, Committee Assistant

**OTHERS PRESENT:**

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada  
Mark Smith, President, Sun City Aliante, North Las Vegas, Nevada  
John Radocha, Private Citizen, Las Vegas, Nevada  
Bernard Silva, Private Citizen, Las Vegas, Nevada  
Michael Randolph, Private Citizen, Las Vegas, Nevada  
Shane Scott, Private Citizen, Las Vegas, Nevada  
Bob Robey, Private Citizen, Las Vegas, Nevada  
Sydney Gordon, Private Citizen, Las Vegas, Nevada  
Angela Rock, President, Olympia Management Services, Las Vegas,  
Nevada

**Chair Segerblom:**  
[Call to order]

We will not hear Assembly Bill 108. We will get to Assembly Bill 204, Assembly Bill 311, and Assembly Bill 361, and then finally we will get to Assembly Bill 350. We have a new draft of A. B. 350 which incorporates parts of A. B. 108.

**Assembly Bill 204:** Revises provisions relating to the priority of certain liens against units in common-interest communities. (BDR 10-920)

**Assemblywoman Ellen Spiegel, Clark County Assembly District No. 21:**  
I am here to talk to you some more about Assembly Bill 204. I have two amendments that I would like you to adopt.

**Chair Segerblom:**  
You all have had hearings before and there were concerns, so hopefully you are coming back to us with the amendments you want.

**Assemblywoman Spiegel:**  
This has the two amendments that I want. One was at your direction, Chair Segerblom; it was to address Fannie Mae and Freddie Mac concerns. It was submitted by Mr. Uffelmann of the Nevada Bankers Association, who still does not support the bill.

**Chair Segerblom:**  
He wants to make clear that he does not support the bill?

**Assemblywoman Spiegel:**

He does not support the bill, but he graciously created the amendment. The second amendment was submitted by David Stone of Nevada Association Services, Inc., and it requires common-interest communities to adopt a collections policy.

**Chair Segerblom:**

You did not want to include the previous language from Speaker Buckley?

**Assemblywoman Spiegel:**

That is correct. There had been a number of issues that were related to it that could not be worked out by today, so we are going forward without it.

**Chair Segerblom:**

Are there any questions about A.B. 204? [Assemblyman Hambrick noted he wanted a few minutes to review the mock-up.]

The mock-up includes the language from Speaker Buckley, so look at the email ([Exhibit C](#)).

We will set that aside and take up Assembly Bill 361.

**Assembly Bill 361**: Makes changes relating to the destruction or deterioration of foreclosed or vacant units in common-interest communities. (BDR 10-940)

**Chair Segerblom:**

We have your mock-up ([Exhibit D](#)). You received a letter from Michael Buckley, Chairman of the Commission for Common-Interest Communities and Condominium-Hotels, right?

**Assemblyman Richard McArthur, Clark County Assembly District No. 4:**

I will go over the amendments and Mr. Buckley's comments if you would like.

**Chair Segerblom:**

The staff has reviewed Mr. Buckley's letter, and it is very similar to the changes you made, so with your approval they will combine the two, and we would adopt that.

**Assemblyman McArthur:**

I am happy with that. I have spoken with Mr. Buckley, and I presented some of his ideas to Legal, and we are in agreement. I do not have any problems with what Mr. Buckley is trying to do.

**Chair Segerblom:**

We will enter into the record a letter dated March 23, 2009 from Michael Buckley ([Exhibit E](#)). I would then ask for a motion that we adopt A.B. 361, as amended, and ask staff to incorporate Mr. Buckley's comments into A.B. 361, as long as they are consistent with what Assemblyman McArthur is doing.

**Assemblyman McArthur:**

I am fine with that.

ASSEMBLYMAN HAMBRICK MOVED THAT THE SUBCOMMITTEE RECOMMEND ASSEMBLY BILL 361 WITH THE COMBINED AMENDMENTS FROM ASSEMBLYMAN MCARTHUR AND MR. MICHAEL BUCKLEY.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED.

**Chair Segerblom:**

[Addressing Assemblywoman Spiegel] My understanding on Assembly Bill 204 is that we are going to take your bill and add the two amendments.

ASSEMBLYMAN KIHUEN MOVED TO RECOMMEND ASSEMBLY BILL 204 WITH THE TWO DISCUSSED AMENDMENTS.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED.

Do we have a copy of Mr. Settlemeyer's mock-up for Assembly Bill 311?

**Assembly Bill 311: Revises provisions governing the financial statements of common-interest communities. (BDR 10-389)**

[Off mic Nick Anthony, Committee Counsel, indicated that it is ([Exhibit F](#)).]

At the hearing we agreed on everything. There were a couple of changes recommended that we liked, and that is what is in the mock-up.

ASSEMBLYMAN HAMBRICK MOVED TO ACCEPT THE MOCK-UP VERSION OF ASSEMBLY BILL 311.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED.

[Assemblyman Settlemeyer entered the room, was informed that his bill passed, and left the room.]

**Chair Segerblom:**

Have people received the mock-up for Assembly Bill 350 in Las Vegas?

[It was indicated that they had not.]

We will explain it, and I apologize for the delay.

**Nick Anthony, Committee Counsel:**

Per your request, staff prepared a mock-up of Assembly Bill 350 ([Exhibit G](#)). I will run through it quickly.

**Assembly Bill 350:** Makes various changes relating to common-interest communities. (BDR 10-620)

**Chair Segerblom:**

Let me explain how this bill came about. Assemblyman Ocegueda indicated that he was looking for a larger bill, so he dropped his bill Assembly Bill 108 and asked us to bring it into Assembly Bill 350. We have done this. I went through the existing A.B. 350 with staff, considered amendments and proposals that we had received, took them into account, and produced this document which you have today. So this mock-up is part of A.B. 108 and A.B. 350, with a couple of additions.

**Nick Anthony:**

Section 1 of the mock-up relates to A.B. 350 and is deleted. It referred to the super-majority requirement.

Section 2 keeps the original language of A.B. 350 and is an internal reference.

Section 3 keeps the original language of A.B. 350, which keeps the business judgment rule intact.

Section 4 keeps the original language of A.B. 350, which is that no interest may be charged on fines.

Section 5 deletes in their entirety the provisions in A.B. 350 which related to term limits.

Section 6 provides that minutes or a summary of the minutes must be provided free, if available in electronic form, and at a fee of no more than ten cents per page, if requested, in writing. It also makes a change in A.B. 350 in terms of the minimum minutes to speak, from five minutes to two minutes: "A unit's owner must be granted a minimum of two minutes to speak on each agenda item." There is similar language on the next page: copies of the minutes must be provided free, in electronic format and at a cost of not more than ten cents per page, if requested, in writing.

Subsection 8 of section 6 deletes the requirement about the inclusion of submitted materials because a number of people had testified it was onerous. They do not have to be included in the record.

Section 7 again states that electronic copies must be provided free and, if requested, in writing, at a cost of not more than ten cents per page. Again, there is another change to allow two minutes to speak on each agenda item. Then on page 13 there are the same changes as earlier in terms of providing documents electronically. Subsection 9 of section 7 deletes the provision that required written materials to be included in the record.

Section 8, again, is the change from five minutes to two minutes.

Section 9 is a change to A.B. 350, keeping delinquent assessments at 60 days past due but changing the interest rate, from the bill language of 5 percent simple interest, to prime plus two, which is standard language used in the collection of civil judgments in the state.

Subsection 10 of section 9 is deleted, removing all of the requirements relating to special assessments contained in A.B. 350.

Section 10 is language added from A.B. 108. In subsection 1 we added "in excess of \$100." Then in subsection 2 we added that those materials be made available within 60 miles of the physical location of the common-interest community. At the bottom of the page we are keeping language from A.B. 350 which requires full disclosure.

In section 11, all of the foreclosure provisions in A.B. 350 will be deleted.

Section 12 again puts in the requirement that certain records be located within 60 miles of a common-interest community. Subsection 5 reinserts the language

"in excess of \$10 per hour" to review any books, but if they are available in electronic format, they must be provided at no charge.

Section 13 adds new provisions relating to retaliation against a unit's owner. This would allow a civil remedy to bring an action for compensatory and punitive damages and attorney's fees and costs.

Section 14 is an internal reference that was contained in A.B. 108. It is now added into A.B. 350.

Section 15 deletes the requirement in A.B. 350 for a multimedia or in-person presentation of certain materials.

Section 16 requires that a public offering statement must include a statement describing all fees and charges, "including, without limitation, association fees, fines, assessments, late charges," so that the unit's owner has that information up front if they purchase the property from a declarant.

Likewise, in section 18, that same language is inserted and required to be included in the resale package. Subsection 7, a multimedia requirement is deleted.

Section 18, page 29, reinserts the foreclosure language from existing law.

There are no changes in section 20.

Section 21 deletes all of the provisions of A.B. 350, which related to fines against a unit's owner or a board member.

Sections 22 and 23 are deleted in their entirety. This brings back in the foreclosure provisions.

Starting at section 24 and moving forward, these were mostly the provisions relating to A.B. 108. They are inserted here in sections 25, 26, 27, 28, 29, 30, and 31. There were slight modifications to the language. In reviewing this we received a letter from Mr. Buckley, and where applicable, we made those changes.

Finally, the last section states that the act becomes effective July 1, 2009.

Then the lead lines of repealed sections, in essence, put back in all the existing foreclosure statutes.

**Chair Segerblom:**

I wanted to make one additional amendment. I wanted to add for consideration the amendment in the mock-up of Assembly Bill 204 ([Exhibit H](#)), which was Speaker Buckley's language, which Assemblywoman Spiegel did not feel was appropriate.

**Assemblyman Kihuen:**

I have received numerous emails from people saying that they have not been able to participate in these common-interest community meetings because they are working when the meetings are taking place. Someone suggested making at least one meeting per year to be held at a different time. So if the meetings are normally in the mornings, at least one should be held in the afternoon, so everyone can participate. If meetings are always held during someone's shift, they will never be able to participate. This amendment will make the meetings more inclusive.

**Chair Segerblom:**

Mr. Anthony, does this sound feasible?

**Nick Anthony:**

We will certainly look into that, and we can add it into the bill if necessary.

**Assemblyman Hambrick:**

I agree with my colleague, but could we make it a seven-day window? This would give them a greater margin to work with.

**Assemblyman Kihuen:**

I would not have a problem with that but would still like one at a different time; it does not matter if it is a weekend or during the week. The more people who participate in the process the better.

**Assemblyman Hambrick:**

Absolutely.

**Chair Segerblom:**

Is everyone clear on what I have done?

In the south, does everyone understand what we have done?

[They indicated that they did not have a copy of the mock-up and asked if they could comment on the amendments.]



This is just a work session, so we will just recommend the bill today, and it will go to full Committee next week. The key is to review what we have done and make sure you contact your legislators if there is some provision that you do not like.

If people will limit their comments to one minute, I am happy to let everyone speak.

**Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:**

The limitation of two minutes to speak on any item on the agenda is awfully short. My experience is that there usually are not a lot of people coming to homeowners association meetings. If you would increase it to four minutes, I think that is acceptable.

**Assemblyman Hambrick:**

The language you are concerned about says "a minimum of two minutes." So hopefully that will make you more comfortable. If only three or four people show up, I understand where you are coming from, but we have to worry about when 35 or 40 people show up.

**Jonathan Friedrich:**

Normally, very few people show up at meetings. There is apathy because people feel like they do not have a voice and the board is going to do what it wants to do.

**Mark Smith, President, Sun City Aliante Homeowners Association, North Las Vegas, Nevada:**

I think two minutes on each topic is far in excess of what is required. I think five minutes for everything at the beginning of the meeting is far more realistic and would not break the continuity of the hearings.

The second thing is that you do not want us to be able to charge interest on fines. The only thing homeowners in violation of our governing documents understand is a monetary inducement to comply. People who are not up-to-date on their mortgages or credit cards have to pay fines for their failure to pay. If we do not have any kind of penalty to force them to pay their fines, the fines will just accumulate, and people will let them hang on forever and not pay. We need something else to induce them to get caught up and do what they are supposed to do.

**Chair Segerblom:**

We put the foreclosure provisions back in so you can foreclose. [It was indicated by unidentified voices that foreclosure was not allowed for that purpose.] You cannot foreclose for that?

**John Radocha, Private Citizen, Las Vegas, Nevada:**

In section 9, could it say "any addition or removal of a capital improvement?"  
Could those features be approved by secret ballot?

**Bernard Silver, Private Citizen, Las Vegas, Nevada:**

[Read from prepared statement, ([Exhibit I](#)).

**Chair Segerblom:**

It is called the United States Constitution. We are not doing this retroactively, it is prospective. The courts have been very clear that the government has the right to change laws, and to the extent that it modifies your contract, I am afraid you are probably stuck with it. You can always use it as an argument in your defense.

**Michael Randolph, Private Citizen, Las Vegas, Nevada:**

For the last nine years, I have managed a collection agency that specializes in working for homeowner associations. I have been a collection manager in the State of Nevada for 19 years and a resident for 43 years. I have been a sitting board member of my 19-unit association for the last 7 years.

From what I understand, the amendment that we are adding today to A.B. 350 is Assemblywoman Buckley's amendment to A.B. 204. It is great idea, but looking at all of section 1, I would not be able to afford to do the work for the limits put on by this bill. This is because of the costs that I pay for title fees, postage, and other things that are inclusive in what I have been doing. I keep my fees rather low. Unfortunately, NRS 649.020 requires that either attorneys or collection agencies do the collections or foreclosure work for homeowner associations. This amendment will drive them out of the business and leave them no choice other than to file for a civil judgment against the homeowner, take him to court, and clog our courts. I cannot continue to do non-judicial foreclosure based on the limitations in this proposal.

**Shane Scott, Private Citizen, Las Vegas, Nevada:**

I currently own 15 properties in different homeowners associations throughout the Las Vegas valley. I am glad to see the changes taking out term limits, and A.B. 350 seems much better now.

I think there should be more notice to individual homeowners in these communities about what laws are going to be changed that affect their governing documents. Without being on a board, I would have no idea that these changes were going to be made.

**Bob Robey, Private Citizen, Las Vegas, Nevada:**

During the wait today, all of us here had a conversation, and I have learned a lot from those sitting here, whether I agree with them or not. It is too bad that we cannot get the citizens together in a roundtable with our legislators so you can hear some of the comments I heard today.

**Sydney Gordon, Private Citizen, Las Vegas, Nevada:**

I would like to speak in favor of A.B. 204 as originally read. I would like to applaud the Legislature's efforts to assist me and other current homeowners in associations to protect our investments, collect our legitimate fines and assessments, and to maintain the value of our property, including the ability to collect overdue fines and assessments.

**Chair Segerblom:**

This is for the previous speaker: obviously this area of law is tremendously difficult, and it would be great to have the opportunity to hear everyone. Ideally, the Legislature would form some type of committee in the interim, where they could go around the state, spend time listening to concerns, and possibly revamp this entire section of the law. That will be one of our recommendations, but unfortunately right now we are under time constraints, and we are trying to do the best that we can with what is in front of us.

Thank you all for participating. These matters will come up again in front of the full Judiciary Committee next week and then go to the floor. If it is passed, it will go to the Senate. There will be many more opportunities to have your participation, so stay involved and communicate with your Assemblyperson or Senator.

**Angela Rock, President, Olympia Management Services, Reno, Nevada:**

I want to thank the Committee for taking our comments from last week to heart. I think there are some very positive changes in the bill.

Regarding the two minute rule, you have already heard all of the testimony in the worst case circumstance, how many people could show up, how long the meetings could go on, the lawyers have to be paid, et cetera. I do not want to re-cover that ground. I would like to ask that you, once again, consider the language as it was originally written. Section 6, subsection 4, paragraph (c) required that a period be devoted to owners' comments at the beginning of a

meeting. The reason for that is because meetings do drag on and it was felt that homeowners would get tired and leave. Currently people are feeling like they have to speak at the beginning and cannot speak on each agenda item.

In our association we allow a period to be devoted to owners' comments at the beginning and at the end. That allows us to consolidate the time we have paid to rent rooms, et cetera. The other thing the original language allows is that the period devoted to owners' comments can be about any subject. If they want to bring up something that is not on the agenda, they can currently do that. If you take this out and restrict it two minutes on each agenda item, then homeowners may be stifled in bringing up new things. It was in section 7, subsection 5, and it has been taken out. I would request that you go back and consider that we have a period for owners' comments at the beginning and the end.

The second comment is about section 12, subsection 5. When a home sells, there is a seller's packet. There is a lot of processing and information that is put together, and there are fees associated with that which are essential to the operation of an association. They are, in fact, revenue to the association. If you require anything given in electronic format to be given for free, I believe you would be requiring all of those packets to be given for free and it takes a tremendous amount of time to compile those things and that would not be compensated for. It is a revenue stream, much like closing costs, that keeps the per-door fees down. This may be an unintended detriment to the community.

**Chair Segerblom:**

It looks like on page 10 and page 12 of the mock-up, about the "speaking," maybe in subsection 4, paragraph (c) if we took out the phrase "on each agenda item" that would solve it. We could just say, "a period devoted to comments" and keep in the blue language on lines 27 and 28; it would allow for the comment period, plus the two minutes for each agenda item.

**Nick Anthony:**

We can certainly do that if that is your intent. If you would like to have a period at the beginning and the end, we can specify that. The idea behind the two minutes comes from the open meeting law. Two minutes has been upheld in court as sufficient time to speak, and that has been interpreted to be on each agenda item. It is a minimum of two minutes, so the board could certainly allow the speaker to go longer.

**Chair Segerblom:**

My only concern is the point she made, which is the language in the mock-up, may discourage an open comment period, and I would like this to be available.

**Assemblyman Hambrick:**

My understanding is that this document establishes minimums. In the associations and groups I have dealt with in the past, we have a time frame on agenda items, but at the end there was always public comment. This was sometimes 10 minutes to be divided among those who wanted to speak.

**Angela Rock:**

I think that is a valid point. I think a lot of boards will need this written into law. We have had a lot of discussion about boards that abuse their power, and they will use the law as gospel, so I think it is important that they know and understand that they have to have open comment. I hope that I have not unwittingly extended the length of meetings and that you give some consideration to the fact that boards are under time constraints.

For example, I was in a meeting last night that ran two and one-half hours, and that was with comment just at the beginning and end. So there must be some understanding that boards will have to limit the totality of time that meetings run.

**Bob Robey:**

I think what has been said is very good: comments before the meeting, for two minutes, and at the end. I have been attending commission meetings that oversee the Ombudsman's Office, and they have had no problems following that type of schedule.

**John Radocha:**

What about retaliation and selective enforcement?

**Chair Segerblom:**

On page 22 of the mock-up, we added a section on retaliation.

**Jonathan Friedrich:**

There was comment about the cost of the documents being prepared when a house is sold. It is my understanding and past experience that that encompasses copies of the minutes of the last board meeting, the financial statement of the association, and a letter stating that there is or is not any litigation pending against the association. All of that should not take up more than five or ten pages at the most, so to say that it takes so much time and costs so much money is an exaggeration.

**Chair Segerblom:**

Ms. Combs, could I have you summarize?

**Allison Combs, Committee Policy Analyst:**

The proposal, in regard to A.B. 350, would be to include the provisions of A.B. 108; to include the provisions in the mock-up of A.B. 350 presented and discussed today; to add in the amendment originally proposed to A.B. 204 by Speaker Buckley; to include a provision that will address the issue of board meetings being held at different times, mornings and afternoons, so there are opportunities for people to attend at different times; and to address the issue of speaking at the meetings to ensure there is a time for open comment, as well as the opportunity to speak for a minimum period of time on each item.

ASSEMBLYMAN KIHUEN MOVED TO RECOMMEND  
ASSEMBLY BILL 350 AS STATED BY ALLISON COMBS.

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED.

**Chair Segerblom:**

Thanks to everyone who participated, and stay involved. We are adjourned [at 2:04 p.m.].

RESPECTFULLY SUBMITTED:

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Emilie Reafs  
Committee Secretary

APPROVED BY:

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Assemblyman Tick Segerblom, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Judiciary Subcommittee

**Date:** April 3, 2009

**Time of Meeting:** 01:14 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 204	C	Assemblywoman Ellen Spiegel	Email letter from Bill Uffelman, proposed amendment from David Stone
A.B. 361	D	Assemblyman Richard McArthur	Mock-up for A.B. 361
A.B. 361	E	Chair Tick Segerblom	Comments from Michael Buckley
A.B. 311	F	Assemblyman James Settlemeyer	Mock-up for A.B. 311
A.B. 350	G	Assemblyman Tick Segerblom	Mock-up for A.B. 350
A.B. 204	H	Assemblyman Tick Segerblom	Mock-up for A.B. 204
A.B. 350	I	Bernard Silver, Private Citizen	Prepared Statement