MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Seventy-fifth Session
April 27, 2009

The Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 1:42 p.m. on Monday, April 27, 2009, 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 Maggie Carlton, Chair
Senator David R. Parks
Senator Allison Copening
Senator Dean A. Rhoads
Senator Warren B. Hardy II

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider, Vice Chair (Excused)
Senator Mark E. Amodei (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Marcus Conklin, Assembly District No. 37
Assemblyman Joseph M. Hogan, Assembly District No. 10
Assemblyman William C. Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

Kelly S. Gregory, Committee Policy Analyst
Daniel Peinado, Committee Counsel
Carol Allen, Committee Secretary

OTHERS PRESENT:

Joseph L. Waltuch, Commissioner, Division of Mortgage Lending, Department of Business and Industry
Barry Smith, Executive Director, Nevada Press Association, Inc.
Ernest K. Nielsen, Attorney, Washoe County Senior Law Project
Bill Uffelman, President and CEO, Nevada Bankers Association
Mandy Peacock, AAA Home Rescuers, LLC
Venza Torres, Manager, AAA Home Rescuers, LLC
James J. Jackson, Coalition of Appraisers in Nevada
Michael L. Brunson, 2009 Vice President, 2009 Government Relations Chair, Coalition of Appraisers in Nevada; Certified Residential Appraiser
Michael R. Cheshire, Commissioner, Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry
Alfredo T. Alonso, Lewis and Roca LLP Lawyers; HSBC
Larisa M. Cespedes, Vice President, Senior Manager of Government Relations, HSBC
Pamela Kinkade, 2009 President, Coalition of Appraisers in Nevada

Chair Maggie Carlton opened the meeting with Assembly Bill (A.B.) 144.

ASSEMBLY BILL 144 (1st Reprint): Revises various provisions relating to loans secured by liens on real property. (BDR 54-89)

Assemblyman Joseph M. Hogan, Assembly District No. 10, sponsor of A.B. 144, submitted articles from the *Las Vegas Review-Journal* (Exhibit C). He said his bill provides a measure of consumer protection for people, particularly seniors, who invest their savings in higher yield trust deeds. He explained thousands of Nevadans lost their retirement savings to a series of failed trust deed operators regulated by the State. Examples were USA Capital, who owed almost a billion dollars to 6,000 unfortunate investors, Global Express and a former Nevada State Legislator who took hundreds of investors down when his firm failed. He pointed out all of these failures were during Nevada's better times, well before our present economic problems.

Assemblyman Hogan said his bill could provide protection by empowering consumers to protect themselves. He said the government should share financial information they have on lenders to help people make informed investment decisions, allowing them to do their own due diligence. He called

attention to an article by the *Las Vegas Review-Journal*, dated July 30, 2007, in which they were pointing out the same problem the bill was designed to eliminate. He said the Division of Mortgage Lending, Department of Business and Industry, is forbidden by law to release information on risky lenders to the public, despite being required to gather the information from annual examinations of lenders' financial records. He referred to the rating system from 1 to 5, with a "1" being the healthiest rating, and the fact that most investors would prefer to place their money with firms that have the best ratings. Assemblyman Hogan said the reason the Division was forbidden to disclose the information was so one lender would not have a competitive advantage over the other.

He said the bill would require the release of all relevant, nonpersonal information, such as examination outcomes and complaints filed against a lender. He indicated the overvaluing of properties was an important cause of many loan failures and would be addressed in *Nevada Revised Statutes* (NRS) 645B.300 by section 2.5, subsections 2 and 5 of A.B. 144, requiring valuations of properties securing investments, be given to investors. He concluded by pointing out some of the key provisions of the bill, such as the availability of information for consumers, the release of examination scores, unreasonable protection for mortgage brokers, corporate background of lending companies, requirements for appraisals and revocation of mortgage brokers.

Senator Copening asked what types of questions are asked in the examination. Assemblyman Hogan said he had not witnessed an examination himself and would redirect that question to the commissioner of the Division of Mortgage Lending. Chair Carlton asked about the rating system. It said if a lender got the lowest possible rating over two years, they could have their license revoked. She wanted to know if there was a threshold that had to be passed to keep one's license. The commissioner said there was not a distinct pass-fail mark; the option was up to the commissioner.

Joseph L. Waltuch, Commissioner, Division of Mortgage Lending, Department of Business and Industry, testified that in the 1 to 5 rating system, "5" meant the lender needed help and was in the next-to-last step before having his license revoked. He said the ratings were published in their regulations and were public record as to what goes into each one of the ratings. He said the examination lists all violations the Division finds and once the bill is enacted, it will be made public (Exhibit D).

Chair Carlton compared the word examination with the word test. Commissioner Waltuch said an examination was a normally scheduled review of a broker's conduct, not a test; an investigation would be done upon complaint. Chair Carlton asked if a reexamination was necessary to renew their license. He answered no, they are reexamined annually whether the license was due or not. She then asked why add an exam under section 2 of the bill? Assemblyman Hogan said it is a question of when the commissioner can hold or release examination information. He indicated if you were in the middle of an investigation, you would not want to release information requested by the public until you completed your investigation.

Chair Carlton pointed out if you were not going to release information at that time, then it did not seem like consumer protection. Assemblyman Hogan said he had spoken to people who had lost their investment monies. They told him when they were considering the original investments, they had tried to find out more about the organizations they were going to invest with. They learned there were not very many sources for that information. Chair Carlton showed concern that making the rating system public might give an edge to one over the other, harming the industry. She suggested taking away the license of the bad mortgage brokers. Assemblyman Hogan reminded Chair Carlton of the bill's provision that a mortgage broker be examined annually and has their license suspended or revoked if they receive a rating of "5" two years in a row. She asked if that meant a broker with a "5" rating today could still be practicing.

Mr. Waltuch said it is not currently mandatory to revoke a license if a broker receives a "5" rating; the commissioner has discretion over the matter. He pointed out these rules are for the "hard money" lenders only, the private investment community consisting of only 5 to 10 percent of the mortgage brokers. Senator Hardy inquired what assurance they had that the rating system was objective and that mortgage brokers were being treated fairly. Mr. Waltuch said the examination was totally subjective, and it was possible an examiner could show a grudge, but they were professionals. Senator Hardy indicated in section 2, subsection 3, "the Commissioner shall disclose … information … to any person who requests it, including without limitation, a member of the news media … ." He asked if we should single them out separately. He was concerned that everywhere else in NRS that does not specifically say, "including the news media," could be misconstrued. He said we were creating subtraction by addition. Assemblyman Hogan said that there had been a prior record of

denying the press information, and the Office of the Attorney General wanted it changed.

Daniel Peinado, Committee Counsel, said the provision says "including," but "without limitation", so even though it makes an example of a particular class, it is not limiting to that class and is open-ended to any member of the public as well. Senator Hardy assented and then asked about the language removing the competitive advantage of a mortgage broker over any other mortgage broker, what did it mean? Assemblyman Hogan said the provisions he was referring to were the basis for the Attorney General's conclusion that the former language made it impossible to release any information. Senator Hardy expressed concern with the subjectivity of a rating system.

Senator Parks asked if there were more than 35 investors, would they file a Securities and Exchange Commission registration. Mr. Waltuch stated he believed there was an exemption.

Barry Smith, Executive Director, Nevada Press Association, Inc., spoke in favor of the bill, especially section 1 and section 2. He said opening inspections to the public is a consumer benefit. Regarding subjectivity of the examinations, he said he is not familiar with them but the bill reads the information will not be available until a period is set for a response from the lender to answer anything negative in the report. He said the information is gathered and the public has the right to see the outcome. Agreeing, Senator Hardy said he just did not want these things to be used as weapons. He said he would like to review the regulatory system that is in place right now. He asked Mr. Smith if he was concerned it was setting higher standards down the road for anyone not specifically included in a subcategory. Mr. Smith answered there does not need to be a specific exemption or inclusion for the news media. Senator Hardy wanted it on the record that he felt the Commission was setting a precedent they may not want to set.

Senator Parks closed the hearing on A.B. 144 and opened A.B. 151.

ASSEMBLY BILL 151 (1st Reprint): Makes various changes concerning mortgage lending. (BDR 54-567)

Assemblyman Marcus Conklin, Assembly District No. 37, introduced his bill, pointing out three specific sections. He said section 1 amends chapter 645B of

NRS, requiring a mortgage broker to include his license number on each loan secured by a lien on real property; section 2 amends chapter 658 of NRS, requiring financial institutions licensed under Title 55 or Title 56 of NRS to make certain disclosures on nontraditional mortgage loans and requires the institution to certify to the Commissioner directly or through a consumer counseling agency that it has made the disclosure; section 3 addresses applicability on loans offered on or after the effective date of passage and approval of the bill, and until October 1, 2009, a violation of section 1 or section 2 may be cured without penalty. He said this bill is about offering up more disclosure to consumers and having a way to track problematic loans in the future.

Senator Copening asked if there were any significant changes between the first reprint and the original bill heard. Assemblyman Conklin said section 2, subsection 4 had a significant change in the definition of a nonprofit consumer credit counseling agency. He said there would be an offer of a further amendment to clarify which groups have the capacity to do that on behalf of the consumer. He offered no opposition to the amendment Mr. Nielsen was about to propose.

Ernest K. Nielsen, Attorney, Washoe County Senior Law Project, said they were a legal service program and a United States Department of Housing and Urban Development (HUD) certified housing counseling agency, providing assistance to people facing foreclosure (Exhibit E). He said many people are having trouble understanding the negative amortization loans, where people are given an opportunity to pay less than their full interest rate for the first few years. He said they are almost never told that the terms can change when certain triggers occur, like the loan amount gets above 110 percent of the original loan amount or the loan amount is more than 120 percent of the current value of the house. He said a number of people are coming into his office complaining they have increased payments they cannot afford.

Mr. Nielsen said his amendment will clarify the entities that a financial institution can contract with: consumer credit counseling, housing counseling or a legal service agency. He said in subsection 4, line 35 of the proposed amendment, the word "and" suggests that a legal service program would have to be a title 26 Internal Revenue Code Section 501(c)(3) and a HUD certified housing counseling agency. He advised the "and" should be an "or." He said he thought the bill intended that all legal service programs, including those not HUD certified, be available to contract with financial institutions to provide

appropriate information. He added there were some legal organizations and counseling agencies, like his, which are sponsored by government.

Bill Uffelman, President and CEO, Nevada Bankers Association, spoke in favor of the bill saying they liked the flexibility to create the form they want to use. Senator Rhoads asked for the definition of a nontraditional mortgage loan product. Mr. Uffelman said it required no documentation, interest only, option pay, adjustable rate. A traditional mortgage would be a typical 30-year mortgage, with a down payment, monthly principle and interest payments.

Mandy Peacock, AAA Home Rescuers, LLC, spoke in favor of A.B. 151. She said the language in section 2, subsection 2, stating the disclosure "must be easy to understand" was vague. She asked easily understood by whom? She asked for simple, nonlegal language. Senator Hardy advised that was standard terminology used across statute. She submitted her proposed amendment to A.B. 151 along with her company's loan package and documents usually given to their clients (Exhibit F, Exhibit G, original is on file in the Research Library) and (Exhibit H, original is on file in the Research Library). Senator Parks mentioned the 10-point bold font that was required in the bill and remarked how that was usually specified as a minimum. Assemblyman Conklin said that could be amended.

Senator Parks closed the hearing on A.B. 151 and opened the hearing on A.B. 486.

ASSEMBLY BILL 486 (1st Reprint): Makes various changes to provisions relating to mortgage lending. (BDR 54-230)

Assemblyman Conklin said A.B. 486 requires the Division of Mortgage Lending to increase the maximum fine for escrow agent violations to $10,000. He said it requires a mortgage broker to post a surety bond, requires out-of-state mortgage loan servicers to register with the Division, authorizes administrative fines and penalties for persons who conduct unlicensed activities, establishes that a mortgage broker has a fiduciary responsibility to the client and authorizes the Division to order its licensees to pay restitution to consumers in addition to its existing authority to levy fines. He said his subcommittee felt the mortgage broker was an in-between person who was making money from the banks and the borrower, often creating a conflict.

He announced there is another bill coming out of the subcommittee that has a mortgage lending recovery fund in it, much like the Real Estate Recovery Fund. He said if Nevada wants to retain control over its mortgage industry and not turn it over to HUD, the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) requires we have either a surety bond posted on behalf of brokers or a recovery fund in case a consumer's mortgage lending rights have been violated. He alerted the Committee that one of the two options must go forward for the Nevada Division of Mortgage Lending to retain control of licensing.

Mr. Peinado called attention to sections 3, 14 and 20 that provide penalties for violations. He said section 3 related to escrow officers, section 14 to mortgage brokers and section 20 relates to mortgage bankers. He said they were roughly parallel, providing that in the event of a violation, the contracts would be voidable, but in sections 3 and 20, there was a subsections 2 that authorize the imposition of an administrative fine. He said that has the potential to be problematic as section 26, the transitory provision, makes it possible that the administrative fine could be imposed for contracts entered into before the effective date of this law. He noted in section 14, subsection 2 was deleted, making this fine applicable to violated contracts relating to escrow agents and agencies and mortgage bankers. He said that may have been an oversight rather than the original intent. He suggested drafting verbiage to avoid the administrative fines for retroactively violated contracts or deleting that subsection.

Assemblyman Conklin was asked by Senator Parks if he had discussed section 3 or section 20. He said he was not in possession of the most recent version of the bill, but if there was a concern, it needs to be addressed on behalf of the consumer.

Senator Parks said the words that caught his attention were "are voidable by the other party to the contract." He asked if the reason for voiding the contract needed to be relative to the issue at hand. Assemblyman Conklin replied NRS 645A.210, NRS 645A.220 and NRS 645A.230 are about mortgage lending fraud, and they may provide a penalty of voidability or recision. This may be duplicative language.

Mr. Uffelman remarked on the question of penalties, saying the difference was some applied to companies and some applied to individuals. He supports

section 25, registration for the out-of-state servicer, but he cautions against the language on page 12, lines 7 and 8, "provide such other information as the Commissioner may require." He expressed concern it could become burdensome with documentation that the Commissioner's office may require. He said there should be some rules to keep it simple. Mr. Nielsen expressed his support saying if this bill had been in effect five years ago, most of the trouble we are seeing would not have happened.

Mr. Waltuch directed his comment to Committee Counsel, pointing out all three sections dealing with fines and voidable contracts, applied to out-of-state companies operating in Nevada without a license. He added the Division retains the ability to fine a company for doing business in the State retroactively.

Senator Parks closed the hearing on A.B. 486. Chair Carlton opened the hearing on A.B. 152.

ASSEMBLY BILL 152 (1st Reprint): Makes various changes concerning mortgage lending and related professions. (BDR 54-787)

Assemblyman Conklin recalled A.B. No. 440 of the 74th Session dealt with mortgage lending fraud. He outlined how the first half of the bill dealt exclusively with the crime of mortgage lending fraud and penalties associated with it; the second half dealt with foreclosure consultants. He said the statute we built was modeled after Georgia and Colorado, states that have done a great job solving the problem of people being robbed of the equity in their homes.

He said through a minor technicality in the bill, the Office of the Attorney General concluded that while the commissioner of Mortgage Lending had control over foreclosure consultants, the term foreclosure consultant was very narrow. He advised unless the house was actually in foreclosure, the commissioner did not have the authority to govern everyone else. He pointed out there were tens of thousands of people dealing with potential foreclosures that are completely unregulated in our current environment. He declared that was probably why Nevada was ranked as one of the top ten states for mortgage lending fraud by the Federal Bureau of Investigation.

Assemblyman Conklin said this bill is intended to fix these problems; the new section 2 defines loan modification consultants; section 3 requires a license pursuant to NRS 645B for loan modification consultants, foreclosure consultants

or anyone else who performs covered services for compensation, regardless of what it is called; section 5 amends the definition of homeowner to plug a loophole in which loan modifiers were operating free from regulation until the recording of the notice of deficiency; section 6 adjusts the applicability provisions in NRS chapter 645F to harmonize them with section 3 of the bill; section 7 through section 10 adjust the penalty provisions of A.B. No. 440 of the 74th Session to include loan modification consultants; section 11 sets an effective date of July 1, 2009.

Mr. Nielsen voiced support of A.B. 152. He said the greatest part of the bill is that finally loan modifications get regulated by the Division of Mortgage Lending. Mr. Uffelman also urged the Committee to support the bill.

Ms. Peacock submitted written testimony (Exhibit I). She was in favor of the bill with some amendments. Her concerns were for separate licenses for mortgage brokers and loan modification, or foreclosure consultants, up-front fees, and certification for HUD-approved agencies. Her emphasis was on separate licensing requirements for loan originators and loan modifiers, both under regulation of the Division of Mortgage Lending. Chair Carlton asked if she and her company currently had a license. Ms. Peacock said no, but she would happily comply with new regulations.

Ms. Peacock said she would like to see nonprofit organizations that assist in loan modifications attend continuing education classes. Senator Copening asked if there was a school that could teach the classes. Ms. Peacock said her company offers an eighteen-hour course they could attend. She said they were in the process of getting approved by the State to provide continuing education and should be certified by the time the bill became effective. She said she did not know of any other loan modification schools available. She said when companies sign up to be loan modifiers, they pay $50 to $500 for a one-hour tutorial and a set of the contracts, nothing more.

She addressed the up-front fee saying they must be paid directly from the consumer, and on more than one occasion, consumers have failed to pay after services have been rendered. Chair Carlton said there were companies that would take money up front from consumers and then not perform the work. Ms. Peacock said the money could be deposited into an escrow account.

She concluded by reaffirming her company's support for regulation, separate licensing, continuing education and the need to abide by the SAFE Act so the Real Estate Division, Department of Business and Industry, did not lose control over mortgage licensing and the $3 million it brought in each year. Chair Carlton inquired in her discussions with the commissioner, if they had discussed how much would be charged for licensure. She replied the charge was $500 for a corporate original application, $60 for branch offices and $150 for an individual license.

Venza Torres, Manager, AAA Home Rescuers, LLC, said she had firsthand experience as both a consumer and an employee and supports A.B. 152. As a consumer, she contacted over thirty loan modification companies in search of help. She found a lack of uniformity in knowledge, customer care and information given consumers. She said it was her opinion that separate licensing, education, ethics and regulations is a must for consumer protection. Chair Carlton asked what her company charges. Ms. Torres said their service fee is $2,900 with a deposit of $1,000 up front. Their contracts outline how services are rendered and at what point each fee is payable. Chair Carlton asked if they cannot get a consumer's house payment lowered enough, do they have to pay. Ms. Torres said they would not take on a client if they did not feel they could negotiate an affordable house payment.

Chair Carlton noted some banks and mortgage companies will not budge and are hard to deal with. Ms. Torres said they will tell the client that up front and turn down the work. Ms. Peacock said they offer an educational course on what people can expect in a loan modification, and they warn them the service should cost between $2,500 and $3,500. Senator Parks commented that this situation has been around for a long time. He experienced it personally with a buyer of one of his properties ten years ago, and he is glad it is being addressed as more and more people are having problems.

Chair Carlton closed A.B. 152 and opened the hearing on A.B. 287.

ASSEMBLY BILL 287 (1st Reprint): Makes various changes concerning appraisals of real estate. (BDR 54-1019)

Assemblyman William C. Horne, Assembly District No. 34, said the housing bubble burst at the worst time possible as our State and national economy was already in decline. He said one cause of the housing failure was the lack of

oversight in real estate appraisals. Specifically, he pointed to appraisal management companies (AMC) and the undue pressure they place upon the appraisers and their independent judgment. He said the bill will also prevent real estate agents and mortgage brokers from interfering and influencing appraisers, and it will regulate the way compensation can be paid to appraisers. He informed the Committee that since the bill has passed out of the Assembly, some technical and sustentative objections have been formed, and they will be brought up in this hearing. He said he was disappointed they were not raised earlier in the Assembly, but both sides were able to sit down to discuss the issues prior to this meeting.

James J. Jackson, Coalition of Appraisers in Nevada, said he represented appraisers in opposition of A.B. 287. He said a lot of their concerns were previously discussed with Assemblyman Conklin, who had them sit down with the Legislative Counsel Bureau Legal Staff and Gail Anderson, Administrator, Real Estate Division, Department of Business and Industry, to work out some modifications to the bill. He assured the Committee that the goal of this bill was to protect the citizens of Nevada. He advised that his coalition did not want to put all AMCs out of work; they were willing to work with those who follow the rules. He said amendments to the bill came out on April 10, 2009; his coalition was there to discuss them and is still open to any further discussions.

Michael L. Brunson, 2009 Vice President, 2009 Government Relations Chair, Coalition of Appraisers in Nevada; Certified Residential Appraiser, said he was certified by the Appraiser's Certification Board to teach to the Uniform Standards of Professional Appraisal Practice (USPAP). He said the issue of appraiser independence has long been recognized as important by federal and state regulators, industry groups, appraisers and the users of appraisal services. He said in 2006 he heard former HUD Secretary Cuomo speak to a group of appraisers about the importance of housing and the fact that appraisers were the gatekeepers of that important aspect of our economy. Mr. Cuomo also addressed what was still a looming housing bubble by referring back to the savings and loan crash of the mid-eighties and the behavior that had been going on for decades. Mr. Cuomo said the extreme behavior was overlooked by extreme profits, until it was no longer possible to ignore.

Mr. Brunson announced that during 2004 and 2005, Nevada lead the Nation in home-price appreciation, setting records in median home prices, the number of residential building permits and the values of raw land; but laws, regulations,

guidelines and dreams of many citizens where also broken. He said today, many Nevadans that purchased or refinanced their homes between 2004 and 2007 are finding themselves upside down in value, facing foreclosure or just walking away from their homes. He revealed Nevada now leads the Nation in foreclosures, short sales and bank-owned properties.

Mr. Brunson said the lack of appraiser independence has continued to be a significant contributor to the problems our economy faces. He said since 1989 and 1990 when the USPAP was first referenced in federal law, and when NRS 645C was enacted, it has been illegal under both federal and state law for an appraiser to succumb to pressure of any sort that violates their independence, their objectivity or their impartiality. He noted since that time, dozens of appraisers in Nevada have faced discipline, losing or surrendering their license. He said this bill recognizes that it should also be illegal for the primary users of appraisal services to influence improperly an appraiser to the detriment of the Nevada public. He added the bill will provide an enforceable framework of oversight and regulation, provide examples of improper influence and provide behavior guidance to those not licensed under NRS 645, such as loan processors, loan assistants, underwriters and credit managers. He said A.B. 287 will clarify and expand an appraiser's responsibility to refuse any type of contingent fee assignment.

Mr. Brunson said AMCs market themselves as appraisal service providers, or lender service companies, offering bundled services to mortgage lenders. They offer lists of independent appraisers, they place orders, receive and review appraisals and deliver appraisals to the lenders. He said initially it was seen as a way to promote independence because it provided a separation between the loan origination and the appraiser, allowing major lenders to be in technical compliance with regulations. He added some of the lenders would then form their own subsidiary AMCs and transfer the inappropriate pressure from their loan origination staff to the appraiser. He advised AMCs are not directly regulated.

He recalled Mr. Cuomo, who is now the New York State Attorney General, and who has negotiated with government-sponsored enterprises, Fannie Mae and Freddie Mac, to come up with the Home Valuation Code of Conduct, set to be enacted on May 1, 2009. It prohibits mortgage brokers and real estate licensees from selecting the appraisers if they wish to sell their mortgages on the secondary market. He said it will force an independent appraiser to work for the

major lenders as a staff appraiser or to forego their relationships with their clients that have been direct in the past and sign up with the AMCs. He indicated the prohibition has already spurred a dramatic increase in the number of AMCs and brought to light some of their extreme behavior.

He cited the Racketeer Influenced and Corrupt Organizations Act case currently filed against one of the largest banks in the United States and their affiliated AMC. He said there is evidence of some of the less-scrupulous subprime lenders opening their own AMCs. He observed state and national regulators and industry groups are all supporting the concept of AMC registration, oversight and regulation, with some disagreement over where that regulation should occur. He concluded by restating that the AMC registration portion of the bill would protect both the independence of appraisers and the interest of the Nevada public; 3 states have already passed the primary features of this bill, and another 13 states are considering passing similar legislation.

Michael R. Cheshire, Commissioner, Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry, submitted written testimony in favor of A.B. 287 (Exhibit J and Exhibit K). He said he was also the Government Relations Chair for the Appraisal Institute, Las Vegas Chapter. He stated his office was already receiving complaints from appraisers and the public regarding AMCs, and they have no legislation to act on these complaints. They would like to be in the forefront with the power to regulate AMCs and protect the public.

Mr. Uffelman spoke against the amendment to A.B. 287.

Alfredo T. Alonso, Lewis and Roca LLP Lawyers; HSBC, spoke in opposition to the amendment, saying they had no problems with the initial bill. He said HSBC and many similar companies work with banks, acting as intermediaries, to make sure there are no problems on the lender's side, with respect to appraisals. He said they agree with the intent of the bill but think some of the amendments went too far, and they would like to work with the sponsor on something that is more realistic for everybody.

Larisa M. Cespedes, Vice President, Senior Manager of Government Relations, HSBC, said her company works closely with AMCs. She said they believe that regulatory activity at the federal level is coming, and they understand the State's desire to take action. They would like to work with the sponsors to

achieve the goals set forth. Chair Carlton asked what portion of the amendment HSBC did not like. Ms. Cespedes said the whole regulatory scheme of the amendment was not balanced. She advised HSBC was a British company with a long history in the United States and is only one of two credit card banks still chartered in Nevada.

Pamela Kinkade, 2009 President, Coalition of Appraisers in Nevada, spoke in favor of the bill. She said she was the immediate past-president for the Commission of Appraisers of Real Estate, Real Estate Division, Department of Business and Industry, and her coalition favored regulation of AMCs. They want AMCs from other states and other countries to be required to follow Nevada law. She said the bill and its amendment have been underwritten and supported by four major appraisal organizations: the Appraisal Institute, the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, and the National Association of Independent Fee Appraisers.

Assemblyman Horne concurred the bill did not originally start out as intended, but in the initial hearing, it was mentioned that some components were missing and the bill needed to be amended. At that time, he pointed out there were problems with the oversight of real estate AMCs and their regulations. He said the language in this amendment was not new and opposition did not present itself until last week. Chair Carlton said the Committee would give him time to work with the opposition.

There being no further business, the meeting of the Senate Committee on Commerce and Labor was adjourned at 4:17 p.m.

RESPECTFULLY SUBMITTED:

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Carol Allen,
Committee Secretary

APPROVED BY:

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Senator Maggie Carlton, Chair

DATE:______________________________________