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

Seventy-Sixth Session
March 30, 2011

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 12:48 p.m. on Wednesday, March 30, 2011, 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/76th2011/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 Kelvin Atkinson, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Richard (Skip) Daly
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Kelly Kite
Assemblyman John Oceguera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman David Bobzien, Washoe County Assembly District No. 24

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Committee Policy Analyst
Sara Partida, Committee Counsel
Andrew Diss, Committee Manager
Earlene Miller, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Tom Clark, representing Quickspace
Gene Temen, President, Quickspace
Louis Test, Attorney, Reno, Nevada
Jim deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry
Jeanette Belz, representing Nevada Chapter, Associated General Contractors of America
Susan Fisher, representing Nevada Housing Alliance and the City of Reno
Bjorn Selinder, representing Churchill County, Eureka County, and Elko County
Russell Rowe, representing Manufactured Home Community Owners' Association
Keith Lee, representing State Contractors' Board
Warren Hardy, representing Associated Builders and Contractors of Nevada
David Bowers, representing the City of Las Vegas
Jennifer J. DiMarzio, representing World Market Center Las Vegas
Jonathan Leleu, In-House Counsel, World Market Center Las Vegas
Roland Sansone, Founder, Sansone Companies, Las Vegas, Nevada
Bart Larsen, Attorney, Kolesar and Leatham, Chtd., Las Vegas, Nevada, representing National Association of Industrial and Office Properties
Penny Zynda, Private Citizen, Las Vegas, Nevada
Donave Stanley, Private Citizen, Las Vegas, Nevada
Ruben Flores, Private Citizen, Las Vegas, Nevada
Ernie Nielsen, representing Washoe County Senior Law Project
John Bennetts, Private Citizen, Silver City, Nevada
Larry Schnell, Owner, Lone Mountain Mobile Home Community, Carson City, Nevada
Marolyn Mann, Executive Director, Manufactured Home Community Owners' Association

Jeanne Parrett, Manager, El Dorado Estates, Las Vegas, Nevada
Bernard Santos, Private Citizen, Carson City, Nevada

Chair Atkinson:
[The roll was taken, and a quorum was present.] We will open the hearing on Assembly Bill 358.

Assembly Bill 358: Revises provisions governing certain manufactured buildings. (BDR 43-1069)

Assemblyman David Bobzien, Washoe County Assembly District No. 24:
This is a simple bill which seeks to clear up some confusion about how to regulate portable buildings. We are seeking to define in statute what a portable building is, and this will allow the Administrator of the Manufactured Housing Division to develop regulations to ensure the safety of such buildings at special events, construction sites, and other situations.

Tom Clark, representing Quickspace:
I appreciate the Committee hearing this bill.

Gene Temen, President, Quickspace:
We thought we had this issue solved in 2001, but we cannot change the *Nevada Administrative Code* (NAC) until we have a bill that defines a portable building, which is in section 2. Other items in the bill give the Manufactured Housing Division the right to define safety standards for construction, transportation, and inspection of portable buildings.

We have a proposed amendment (Exhibit C). The first portion is in section 2, subsection 1, which changes the language to say that a portable building "Is at ground level, without axles, and resting on the surface" so everybody knows it has no mode of power. The next change is in section 5, which changes the last line to read, "The term does not include a recreational park trailer, portable building or single-wide commercial coach not for public use." We put that in because most of the units that are single-wide coaches have an application where the public is not involved. It ends up on a construction site, a mine site, or an industrial application where there is no public. It brings us more in line with our surrounding states. Nevada has done a great job at regulating our industry and in some cases has overregulated us. We are the only state in the country that regulates commercial coaches to such an extent. The Manufactured Housing Division has agreed that some of those regulations could be relaxed. This would help us to do that through the NAC.

Chair Atkinson:
Are there any questions from the Committee?

Assemblywoman Carlton:
What in the regulations is burdensome and you would like to change?

Gene Temen:
We are a small industry with only about eight businesses in Nevada. In order to set a commercial coach, you have to hire a setter. The setter will typically charge several hundred dollars to set a trailer that may be on a site for only a couple of weeks for a special event or a construction application. When you have a trailer set, you have to schedule an inspection, you have to have a setter set and tie it, and you have to pay a fee to the state. It becomes cumbersome. If we could establish that these are the guidelines specified to set those, the state would not have to inspect every set. It increases the bill to over $400. We rent the coach for $125 and pay fees to the setter and the state, which gets very expensive on a shorter-term rental. The units could be inspected by the state, but not every time they are used.

Assemblywoman Carlton:
I believe the concerns were that commercial coaches are placed in public areas where there is wind, people, the possibility of electrocution, and a number of different issues that can arise with many people using them. On a construction site, I can understand not wanting to deal with the inspection, but in public use the setter would be the qualified person who makes sure it is safe for the public to use. I would want to be sure that, for public use, it would be inspected. Would these regulations remove that inspection?

Gene Temen:
They would not take that away. We have discussed with the Manufactured Housing Division if a building is for public use, such as a classroom, church, sales office, or any other application for public use, all of the guidelines would apply. You would need a setter, an inspection, and to be in complete compliance. This sets apart the buildings that go to mines, where they have people capable of making sure the buildings are safe, and so do we. We do not want problems with our buildings. Most of the commercial coach dealers in Nevada are publicly traded companies and are concerned that they turn out a quality product that does not cause problems later. We want the public use buildings inspected by the state.

Chair Atkinson:
Are there any other questions from the Committee?

Assemblyman Segerblom:
Is your company regulated?

Gene Temen:
Yes, we are licensed dealers and fall under the commercial coach manufactured housing guidelines. Everyone who would be affected by this is regulated.

Assemblyman Ellison:
My business has hooked up hundreds of these units. We usually use a pedestal unit, which will have a ground fault or be wired for 220 volts and which will go into a subpanel. On a mine site or construction project, it is inspected by the city, county, or the Manufactured Housing Division. If it is on a mine site, it might be covered by the Occupational Safety and Health Administration (OSHA) or Nevada OSHA, but it is highly regulated and this will be a good change.

[Chair Atkinson turned the gavel over to Vice Chair Conklin.]

Vice Chair Conklin:
Are there any questions from the Committee?

Assemblyman Hardy:
My business has also had the opportunity to set up a number of these sites. I do not recall the state inspecting us; it was always the city of origin. Will that still stay in place?

Gene Temen:
There is a guideline within the Manufactured Housing Division that they can reach an agreement with an individual county or city to do the inspections on the public use applications. Our bill deals with the not-for-public use.

Vice Chair Conklin:
Are there additional questions from the Committee? I see none. Is there additional testimony?

Louis Test, Attorney, Reno, Nevada:
I represent Quickspace and Sani-Hut. We are here in support of the bill. The problem we have is that the portable containers we have rest on the ground and do not have the same safety issues that a commercial coach does. This bill will give flexibility so we can separate different types of buildings. We recognize that there needs to be safety. It is more the installation issue. When you have a building that sits on the ground, the health and safety issues are not as big. This will give us flexibility and also address the safety issues.

Vice Chair Conklin:
Are there any questions from the Committee?

Assemblyman Daly:
Excluding a single-wide commercial coach seems contradictory.

Gene Temen:
The reason we excluded the single-wide is that it is the most common type of unit for all of these applications. We in the industry feel the setup of double-wides is complicated and they are not short-term placements. We have no problem asking those to be inspected. You have to hook the wires between the walls and do different types of sets and tie-downs. We are trying to address the simple things that we send out daily. From the Division's records, we have had zero safety issues or complaints for many years for commercial coaches, even under full regulation. There was a period during the past nine years when the Division neglected portable buildings. We sent them out and set them without one incident. We want to make sure the complicated sets for public use and the double-wide buildings get the full state inspections.

Assemblyman Daly:
It says it is for human occupancy for industrial, professional, or commercial purposes. I think you are opening yourself up to interpretation and will have problems.

Gene Temen:
We spent a lot of time with the Deputy Director of the Arizona Office of Manufactured Housing and asked her to tell us all of the little pitfalls that we could avoid if we were going to adopt these rules for Nevada. They have not had the problems we might anticipate. The people who rent these units and those who use them have no interest in having them be unsafe. They are construction people who are capable of building a billion-dollar project, so they want to set their job site and get on with business. As the footprint of construction sites change, every time you move a single-wide it costs a thousand dollars.

Vice Chair Conklin:
Are there any questions from the Committee?

Assemblyman Grady:
If a contractor owns these units, do they still go through the inspection?

Gene Temen:
Currently, the state has the right to inspect anything from an 8- by 20-foot unit to a larger unit that is privately owned. It seldom happens, but who knows. One of the things we would like to address in the NAC is if the unit is privately owned and belongs to a large company, they should be able to move their own job site trailer.

Vice Chair Conklin:
Are there any questions from the Committee? I see none. Is there anyone else to testify in favor of the bill?

Jim deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry:
To clarify for Assemblyman Grady, *Nevada Revised Statutes* (NRS) 489.102 excludes a construction company that owns its own commercial coach units from hiring a licensed person to do the installation setup. They are still required by statute to be inspected by the Manufactured Housing Division. The State of Arizona excludes single-wide factory-built buildings from its statutes and allows the regulation to be under the 94 local jurisdictions.

Section 3, subsection 1 should include "installation," which was unintentionally excluded in the amendment.

[Chair Atkinson reassumed the chair.]

Chair Atkinson:
Are there any questions from the Committee? I see none.

Jeanette Belz, representing Nevada Chapter, Associated General Contractors of America:
The Association is in favor of the bill and the amendment.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Susan Fisher, representing Nevada Housing Alliance:
We are the manufactured home dealers, installers, and servicemen. We support the bill and the amendment. A number of our members have the portable buildings that are described in this bill as well. We support this bill wholeheartedly.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify in favor of the bill? Is there any opposition? Is there anyone to speak from a neutral position? Mr. deProsse, did you want to make an addition to section 3?

Jim deProsse:
In section 3, subsection 1, it should read, "The construction, transportation, installation, and use of portable building."

Tom Clark:
We are in full support.

Chair Atkinson:
I will entertain a motion to include the amendment from Mr. Clark and the change in section 3.

> ASSEMBLYMAN GRADY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 358.
>
> ASSEMBLYMAN ELLISON SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMEN HICKEY, HORNE, OCEGUERA, AND OHRENSCHALL WERE ABSENT FOR THE VOTE.)

Chair Atkinson:
We will open the hearing on Assembly Bill 363.

Assembly Bill 363: Revises provisions governing manufactured housing. (BDR 43-996)

Assemblyman John Ellison, Assembly District No. 33:
There are two portions of this bill. The first is about a county eventually being able to do its own inspections. I do not know of a county in the state that would want to do this now. We currently have a great relationship with the Manufactured Housing Division, but we have had problems in the past. We would like to amend this bill so if we do have problems, we could have a working agreement with the parties, and the building departments of the local government entities could do their own inspections.

The second part of this bill addresses licensed contractors as opposed to manufactured housing requirements. As a licensed contractor in the State of Nevada, you must go through many code books, including bonding and

insurance. Yet, as a contractor, you cannot work on manufactured homes unless you have a specific license. We are asking to amend A.B. 363 to allow a contractor licensed in Nevada to do work on manufactured homes. We have two proposed amendments (Exhibit D).

Jim deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry:
Section 1 of the bill pertains to local jurisdictions. Currently, the law allows the Division to enter into cooperative agreements with local jurisdictions, either city or county. We have cooperative agreements with Lander and Humboldt Counties. They perform the installation inspections and related inspections on manufactured homes and commercial coaches at a local level. The provisions in this amendment would allow, if a local jurisdiction requests to take that responsibility, that we acknowledge it and develop a cooperative agreement with them.

One of the most common complaints we get is from contractors who come to us needing to be licensed for manufactured homes. This provision would streamline that process and exempt the testing. As long as we are convinced that they are familiar with the codes specific to manufactured homes, they would pay the fees and be granted a license. In the rural areas there are only so many licensed tradesmen; it would benefit the public to have more licensed people available.

Chair Atkinson:
Are there any questions from the Committee?

Assemblywoman Carlton:
Under section 1, about the cooperative agreement, would the same standards that the state has be in place for the counties?

Jim deProsse:
To be consistent with what we have done with both Lander and Humboldt Counties, they act on our behalf and follow all of the same statutes relative to installation and inspections that we do.

Assemblywoman Carlton:
In section 2 you talk about streamlining and exempting from testing. We have had problems in the past with unqualified people working on manufactured homes and actually burning them down. How do you guarantee public safety if you are not going to test?

Assemblyman Ellison:
Under the strict guidelines of the state, we are licensed and bonded. Contractors are bound by law under the *Nevada Administrative Code* (NAC) or the trade codes. We are more qualified than some of the others who are doing the work. We not only have to follow the NAC, but we have the manufactured housing documents. We are bound by code. The people who are doing the work are licensed contractors who will not buy a manufactured housing license. We are trying to streamline this so they still have to buy a permit and a manufactured housing license and they still have to go through the inspections by the Manufactured Housing Division. The only change is to take out the testing requirements. The classes are not specific to the trades.

Assemblywoman Carlton:
I understand that, but how do we guarantee public safety? We have heard in the past that a licensed electrician has worked on a manufactured home and burned it down because they did not understand the intricacies of how these homes are wired. There is a difference from a stick-built house. Can you guarantee that the same level of scrutiny and public safety?

Jim deProsse:
The expertise of people who are board-licensed contractors probably covers a vast majority of the codes that are in place for many construction methods. There has been resistance in the past from the Division because many manufactured homes are built to the National Manufactured Housing Construction and Safety Standards Act of 1974, which is typically referred to as the U.S. Department of Housing and Urban Development (HUD) Code. I could envision having the licensee acknowledge that he has read and understand the code which we have provided as part of the licensure process. We want to maintain the licensure through our Division so if we have consumer complaints and problems, we can follow up accordingly and handle disputes as we do today. Many of the people who are licensed by us today are people like Assemblyman Ellison who have many years of experience and vast knowledge of the industry. The additional component for manufactured housing is different, but it represents a small piece and can be learned by someone who has the expertise in the industry.

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Daly:
A contractor licensed under Chapter 624 of the *Nevada Revised Statutes* (NRS) is as qualified or more qualified as anyone else. In your proposal, you have to get a license and demonstrate knowledge of the manufactured housing code.

Then you exempt them from examination, so how are they going to demonstrate their knowledge?

Jim deProsse:
We may need to rework the verbiage here, but in the spirit of what we are trying to accomplish, the Division wants to be assured that, before we grant a license, there is knowledge. If the applicant acknowledges that he understands the code, there is common ground where we can come to agreement.

Assemblyman Daly:
If the language is changed, it would be good.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Assemblyman Ira Hansen, Assembly District No. 32:
I am a licensed general contractor and a licensed specialty contractor. I hold a Residential and Small Commercial Contractor License (B-2) and a Nevada Plumbing and Heating (C-1) Contractor License. In order to get a contracting license, you have to have a minimum of five years field experience. Most contractors have already served an apprenticeship and a journeyman program and in many cases are licensed master tradesmen as well. The assumption that we do not have the ability to work on a manufactured home for electrical wiring or plumbing is wrong. We have ten times the expertise and qualifications that would be needed to get a manufactured housing license. The bill addresses specifically, for people like me who can work on million-dollar homes, the opportunity to work on a manufactured home. There are some very minor differences, and anyone who has served five years in the trades already knows the basic safety issues. As a contractor, I am not going to send out an employee who I am concerned about as far as safety in any of these areas.

Section 1 of the bill, which is addressed in the proposed amendment, is based on the fact that the Manufactured Housing Division already has inspectors. The local governments and the State Contractor's Board typically do not want to deal with manufactured housing. This will allow them to enter into a cooperative agreement so the people who are already experienced in these issues will do the inspections. Section 2 of the bill covers what we have discussed. I talked to Administrator deProsse about people like me who hold two separate contracting licenses. If I wanted to get a license through the Manufactured Housing Division, I would have to get a general and a specialty license at $450 per license. He indicated that this bill will allow the Division to set up one license for someone like me so that I would be able to hold B-2 and C-1 equivalence in manufactured housing without having to buy two different

licenses. With these amendments, the bill will make the process streamlined and will answer the safety questions. It will also answer the question if local governments will have to inspect manufactured homes. I think the bill and the amendments are excellent and I support them.

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Ellison:
In the electrical trade under the State Contractors' Board, the electrician has to hold and maintain a master's license, and a manufactured housing service repairman does not.

Assemblyman Hardy:
I agree with Assemblyman Hansen's comments. I am also licensed and can do this work in Utah without restrictions, so why can I not do it in Nevada?

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify in favor of A.B. 363?

Susan Fisher, representing the City of Reno and Nevada Housing Alliance:
The City of Reno supports this bill because it is enabling legislation and does not mandate that we take over the inspections of manufactured homes. On behalf of Nevada Housing Alliance, we support this bill. Since the HUD laws were put into place, all manufactured homes are stick-built homes; they are just not site-built homes.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Bjorn Selinder, representing Churchill County, Eureka County, and Elko County:
We support this bill because it is enabling and will allow us to do inspections if it becomes necessary. There is a letter from the Elko County Board of Commissioners (Exhibit E) in which they state their support.

Russell Rowe, representing Manufactured Home Community Owners' Association:
We are in support of the bill conceptually. We have been working on the same issues and have Senate Bill 141, in which we are trying to correct the contractor issue. As park owners, we often make repairs to tenants' manufactured homes, and it is difficult to find people who are licensed by the Division to do the work. When we do, the price is often higher because there is

such a limited supply of people who are licensed by the Division. Many of these repairs are the same repairs you would make in other homes, and we would like to have the ability to hire contractors out of the Yellow Pages unless it is work that is specifically unique to manufactured housing.

Unfortunately, the statutes and regulations do not clearly specify what exactly is unique to a manufactured home and why you need someone licensed and skilled in respect to manufactured homes. Everything else should be regulated by the Contractors' Board. That would open work for other contractors, create competition in the market, and reduce the cost to the homeowners and park owners. It is not clear that we can have handyman repairs without violating the law. It is not as easily fixed, as we have learned in the hearings in the Senate, and we have some draft language on S.B. 141. We are trying not to have dual licensing authorities. It seems duplicative, unnecessary, and prevents people from getting the work they need on their manufactured homes completed at a fair and cost-effective price. We would like to work with the sponsors of the bill and the Manufactured Housing Division to find language that works for everybody.

Chair Atkinson:
Is there anyone else to testify in favor of this bill?

Keith Lee, representing the State Contractors' Board:
We support A.B. 363 with the amendment to section 2 that has been proposed by Assemblyman Ellison**.** The concern we have is that as long as there is bifurcation of licensure with respect to manufactured homes, we at the Contractors' Board do not have the expertise to determine the qualities over and above what is required by a contractor's license to work on manufactured homes, and we do not have the enforcement people if there is a complaint.

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Goedhart:
I am an owner/builder. If I have to hire someone to do repairs, does he have to have this special manufactured home license?

Jim deProsse:
Currently, if someone works on a manufactured home, he has to have a license. The law does not delineate what type of repairs would be exceptions. Someone who owns his own property can work on it without a license. If it requires a permit, such as installing a water heater, he would have to have a permit. If it

is a job that requires a professional electrician, they would probably hire a professional.

Assemblyman Goedhart:
The person you hire has to have a special permit, which is different from what a general contractor has.

Jim deProsse:
I was referring to a permit from the Manufactured Housing Division so we would inspect it after the work was completed.

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Daly:
Is there a delineation of types of contractors under the Manufactured Housing Division similar to the Contractors' Board?

Jim deProsse:
Chapter 489 of the *Nevada Revised Statutes* allows us to issue a specialty license for any corresponding category within the Contractors' Board license. Typically it is electrical and plumbing, not the more specialized fields, but essentially we could. We have aligned with those categories. The provisions here would change the examination requirement.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify in favor of this bill?

Warren Hardy, representing Associated Builders and Contractors of Nevada:
This reminds me of an issue we dealt with several sessions ago to try to figure out the function of the State Fire Marshal in inspections so we did not duplicate efforts. This is a similar situation. This bill gets us closer to a good balance of protecting the consumer. Whenever you have a special type of license, it means the price goes up to perform the service. We believe this will result in a quality product being delivered at a more economical price. We support this legislation and the amendment.

Chair Atkinson:
Are there any questions from the Committee? I see none. We will hear opposition to A.B. 363.

David Bowers, representing the City of Las Vegas:
The only concern that our Building and Safety Department expressed was that this might open the door to transfer the responsibility to the City for these inspections, but that has been clarified, so we agree with the bill.

Chair Atkinson:
Is there any opposition? Is there anyone to testify from a neutral position? I see none.

Assemblyman Ellison:
We worked hard to cover all of the concerns and the safety in this bill. I hope the Committee will support it.

Chair Atkinson:
Assemblyman Ellison, please talk to the parties about the Senate Bill and any other concerns. We will close the hearing on A.B. 363. I will open the hearing on Assembly Bill 398.

Assembly Bill 398: Revises provisions relating to commercial tenancies. (BDR 10-664)

Assemblyman James Ohrenschall, representing Clark County Assembly District No. 12:
The impetus behind this bill is to make Nevada a place where businesses find stability and predictability in their business dealings and to ensure that Nevada remains a competitive destination for new and expanded business interests. As it is now, businesses are forced to bring commercial lease disputes to Nevada's courts under statutes that were written for residential leases. Nevada's courts are attempting to fit this residential lease law to commercial situations, which creates much uncertainty for Nevada's business owners. Other business-friendly states including Texas, Florida, Arizona, and Illinois, and more than a dozen others already have commercial leasing statutes in place. This bill, which borrows a lot of its language from these commercial leasing statutes, represents a necessary step to ensure that Nevada remains competitive in attracting and retaining new business. I have a proposed amendment (Exhibit F), which is meant for cleanup. It adds the definition for "commercial premises" and streamlines the process for commercial landlords to deal with the personal property left behind following the termination of a tenancy. The language in this bill had required the landlord to search for and notify lien holders that the personal property had been left on their premises. This requirement is especially onerous for landlords who have no way to know who holds the liens on the tenant's personal property and would have to engage

in what could be a lengthy research process to find such lien holders. This amendment keeps in place the requirement for notice to the abandoning tenant that they have left personal property on the lease premises.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Jennifer J. DiMarzio, representing World Market Center Las Vegas:
World Market Center is the business entity with the most commercial space available for rent in the State of Nevada. It has 5.1 million square feet of rental space and just fewer than 1,000 tenants. The legal counsel for World Market Center, Jonathan Leleu, is an expert on the challenges that face businesses that engage in commercial leasing. He will explain how the lack of a commercial leasing statute is bad for business in Nevada and how this bill will help Nevada in attracting and retaining business.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Jonathan Leleu, In-House Counsel, World Market Center, Las Vegas:
This bill, if passed, will be Nevada's first commercial leasing statute. Nevada's statutory framework has leasing statutes that pertain only to residential tenancies. It has nothing about commercial tenancies. The primary difference between these two types of statutes can be exemplified in the enforcement of leases pursuant to each one. When a landlord needs to remove a residential tenant from his home, there are very strong public policy reasons why the eviction process must be adhered to. It is very important that a second set of eyes gets placed on what goes on in residential tenancies to ensure that the landlord is not wrongfully excluding a tenant from his shelter.

Those circumstances do not exist when you are dealing with commercial tenancies. Commercial businesses are business entities and do not require roofs over their heads. If a tenant does not pay his rent, commercial leasing statutes all over the country allow a landlord to lock the door to the premises without going through the eviction process. This is important, particularly in our context, where we deal with tenants from all over the world. In order to enforce our leases, we have to go through the eviction process pursuant to Nevada statutes, but by going through the eviction process, we terminate our lease and lose our tenant. We need to be able to enforce our leases out of state and out of the country, and even in countries that are not amenable to a United States resident chasing down one of their residents to enforce a lease.

A commercial leasing statute would save Nevada businesses that heartache. It would allow a commercial landlord to lock the door, preserve the lease, allow the lease to remain in effect without going through the eviction process, and have some leverage to get rent from a delinquent tenant. You can see how this advantages Nevada businesses.

A commercial leasing statute would also provide a lot of clarity to our court system. As Assemblyman Ohrenschall mentioned, our courts have been constrained with the obligation to interpret commercial leases in the residential context, which has created a lot of confusion. One part of the confusion is jurisdiction. In a justice court that is enforcing the eviction, there are arguments that the court does not have jurisdiction to hear the eviction matter because the amount in controversy exceeds the justice court's jurisdictional limit. We have seen arguments that enforcing the lease in the eviction context terminates the landlord's ability to enforce the lease from a monetary context later because it violates the one action rule. I have never lost one of those arguments, but the problem is that the arguments are even being made. That lack of clarity has cost Nevada landlords a lot of money. The fact that those arguments can be made, no matter how wrongly, presents an opportunity for this Committee to provide clarity.

The bill that is before you is a catch-up bill. It borrows language from statutes around the country. We discovered that there are more than 20 states that have commercial leasing statutes. These 20 states are ahead of the curve in terms of giving businesses a safe place to do business—a place where businesses feel that the statutes protect them and where the courts can provide some predictability in enforcing their leases. This bill would put Nevada in a good competitive position and is very business friendly. Nevada has done a good job at being business friendly, heretofore. Nevada has made a big effort to streamline the process so businesses can register to do business here. All it takes is downloading some forms from the Office of the Secretary of State's website, and within five to ten minutes a business can be operating in the State of Nevada. The second step is to make Nevada a place where businesses can thrive and make Nevada a place that is more efficient, provides predictability, and provides profitability.

This is a positive, pro-Nevada bill. It provides immediate help to Nevada businesses at no cost. We have a residential leasing statute, and we need a commercial leasing statute to clarify those issues and to clarify our statutory framework. We cannot put enforcement provisions that are contrary to existing statute, due to the fact that you would void that provision of the lease because you would be writing a contract that is contrary to statute. At worst, if you do

not have a severability clause in the lease, you would void your entire document. It has to be done at the legislative level.

Chair Atkinson:
Are there any questions from the Committee?

Assemblywoman Kirkpatrick:
You are in a redevelopment area in downtown Las Vegas and utilized Tax Increment Financing (TIF) funds to help you to get started. Is that correct?

Jonathan Leleu:
Yes, that is correct.

Assemblywoman Kirkpatrick:
The hotels and the premium outlets malls have been leasing for a long time, and they have evictions. Now when the economy is bad, you are asking us to dictate to your business. Why do you not have the parameters of the eviction process in your leases?

Jonathan Leleu:
The answer to the question "Why now?" is that Nevada is a relatively young state with respect to this industry. Commercial leasing was not a dominant force in Nevada's industry until about 20 years ago. At that time, you started to see businesses like ours, which is a monument to the diversification of the economy here, develop. The premium outlet malls are new establishments, and our business is six years old. Once you introduce these businesses that thrive on these particular documents, that is when you see these questions and problems arise. It was not as big an issue then as it is now.

Assemblywoman Kirkpatrick:
The Meadows Mall has had commercial leases for 35 or 40 years. I thought the businesses could set their parameters when they began leasing. I do not understand why we have to put things into statute that you may come back to change next session because there is no more flexibility. I understand your situation is different because you open twice a year for big trade shows and people leave their belongings in the building. What about the typical shopping center where they already have those provisions?

Jonathan Leleu:
I have not seen other shopping centers' leases and how they are structured. If they have provisions in their leases that are contrary to Nevada law, those provisions are in fact void. If Meadows Mall has a provision in its lease that

entitles it to lock a tenant out pre-eviction in the event of nonpayment of rent, that provision is void.

Assemblywoman Kirkpatrick:
I probably need to know a little more detail on your project because public funds were involved in your project, and maybe the taxpayers need to get their money back if people are leaving you and the taxpayers holding the bag. When it comes to a private business, it is different. I am unclear about what your situation is. If we put this in law and people already have things in place, they are going to be forced to renegotiate their leases. At this time they may want a better price. It may have an unintended consequence. There must be a specific issue to put something in the law after 45 years.

Jonathan Leleu:
World Market Center has just fewer than 1,000 leases. They range from a short-term lease of two to three years to a long-term lease of over ten years. Once the tenants lease a space from us, they have the ability to access their premises at any time. It is true that we are open for trade shows for one week twice a year. That does not mean the tenants do not have access to their space year-round. We encourage them to use their space year-round. If a company from California leases space from us, it can use that space year-round. These are true leases that confer a property right, not license agreements which are temporary and give them the right to use the premises. The eviction process must be adhered to in order to terminate those documents. Licenses terminate on their own in the event of nonpayment.

We are in the redevelopment district, and we are reimbursed a percentage of the amount of money that we pay in property taxes annually for a period of time. We had to build first and start paying property taxes before we started to get any reimbursement. Without the World Market Center there, the property taxes would not have increased.

Assemblywoman Kirkpatrick:
I understand redevelopment, but what specific issue caused you to bring this issue at this time? Why do we need this legislation after 45 years? I need a specific example.

Jonathan Leleu:
The issue is the lack of clarity that we have in our courts in enforcing our leases.

Assemblywoman Kirkpatrick:
I want to be able to give my constituents a specific example of why we are putting something new in statute.

Jonathan Leleu:
We had a Canadian company tenant who was delinquent in paying their rent because they were attempting to coerce more favorable lease terms. They were engaged in a hostile renegotiation. When World Market Center said "No," that we were not going to negotiate further and were going to adhere to the terms of the lease, the tenant moved out and took their product to Canada. When we attempted to pursue them in Canada, we had to go through an inordinate number of steps to get jurisdiction. As we were going through those steps, the company bankrupted the Canadian company and moved its assets to China. China is a difficult place to enforce an American lease. The tenant is alive and well in China doing the same business with impunity. There is nothing we can do. World Market has encountered many companies that have left us holding the bag.

Assemblywoman Kirkpatrick:
Do you believe that this legislation would allow you to expedite the process before the tenant leaves you in an unfavorable position?

Jonathan Leleu:
That is absolutely correct. In my example, while we were negotiating and while they were not paying rent, instead of continuing to renegotiate with them and having to go through the eviction process, we could have locked the door and kept them from entry. We could have been at a better advantage and may have saved the tenancy.

[Chair Atkinson turned the gavel over to Vice Chair Conklin.]

Vice Chair Conklin:
Are there other questions from the Committee?

Assemblyman Ellison:
Will this bill address all commercial business?

Jonathan Leleu:
Yes. It will address the entire commercial leasing industry.

Assemblyman Ellison:
In section 16 it addresses abandoned property. Currently, if you had abandoned property, would you have to put that in storage?

Jonathan Leleu:
Yes, that is correct.

Assemblyman Ellison:
You would have to box and store all of the property.

Jonathan Leleu:
Once a tenant abandons the property, any commercial landlord must send a certified letter with a return receipt requested to the former tenant to advise them that their personal property is still on site and give them 14 days to retrieve the property. Upon the expiration of the 14 days, the property may be disposed. The landlord is then obligated to determine who owns the personal property, determine if there are any liens on the property, and notify the lien holders that the property is there and give them the same opportunity to retrieve it. It is even onerous to describe. Consider a showroom full of product from all over the world. If that product is abandoned, World Market Center will take years to determine who owns what.

Assemblyman Ellison:
I own a strip mall and have had problems with tenants. I am glad this bill has been introduced. Will you address subleasing?

Jonathan Leleu:
The landlord's relationship with the tenant is by virtue of a prime lease. A sublease is similar to a subcontract, which creates a relationship between the tenant and a third party. If the third party, the sublease, does not pay their rent to the tenant, it does not alleviate the tenant's obligation to pay the landlord. This bill is about the prime lease and not the sublease.

Assemblyman Ellison:
You address the damage done by the sublease and that is good.

Jonathan Leleu:
We are not trying to hurt anybody or touch existing leases. The way this bill is crafted, the business points that are in existing leases such as the square footage, the term of the lease, and the monetary obligations stay intact. Existing leases do not need to be renegotiated. This bill further defines the lease termination process, which is currently under a statute that does not fit.

Assemblywoman Bustamante Adams:
Can you address the tenant's rights?

Jonathan Leleu:
We knew we had to present a fair bill. Section 15 outlines a series of provisions that gives commercial tenants rights in the event that the landlord acts improperly pursuant to this statute. If the landlord locks the tenant out of the premises, and the tenant is not in breech of the lease, there are a series of penalties that can adhere to the landlord who has acted improperly.

Assemblywoman Bustamante Adams:
If there was an issue between the landlord and tenant of a commercial property, does it stay in the same court system?

Jonathan Leleu:
If the commercial landlord needs to seek an eviction of a tenant, it serves a five-day notice to pay rent or quit. If the tenant does not pay his rent or leaves the premises in that time, a complaint is filed in the justice court in the county where the property is located, which is the same court where residential evictions are heard. What happens then is what this bill attempts to address. It is unclear in cases of eviction. We are not entitled to seek remedies beyond the eviction for money that is owed. What about the past due money and the future value of the lease when the lease accelerates? Opposing counsel has argued that we are not entitled to seek that because it violates the one action rule in the rules of civil procedure, which means we can only bring one action per contract. I have defeated every one of those arguments, but they are still being made. There is also a question of whether the justice courts have jurisdiction over the eviction matters. Rents for residential tenants are lower than for commercial leases. Rents of $10,000 to $20,000 per month are common at the World Market Center. The jurisdictional limit for the justice court is $10,000. If the tenant falls a month or two behind in rent, an argument can be made that the justice court does not have jurisdiction to hear the eviction matter. The arguments are being made because the process is not clear.

Vice Chair Conklin:
Are there any other questions from the Committee?

Assemblywoman Bustamante Adams:
Where did you borrow the language for this bill?

Jonathan Leleu:
A good portion of this bill came out of the leasing statute from Texas.

Assemblyman Hardy:
Would this have helped me when my tenant pulled out of a ten-year lease in the middle of the night after I did about $200,000 worth of improvements, which was part of the lease?

Jonathan Leleu:
Yes. You would have been able to lock the door if they were in arrears, and the judge would have had some clarity of how they were going to enforce your lease, particularly with the fixtures. When you are dealing with a law that is nebulous, it gives a lot of room to move around. If we had a law that was concrete and one in which the judges could have confidence, it could give them the ability to make more solid rulings.

Vice Chair Conklin:
Are there any additional questions from the Committee? I am looking for new testimony in support of this bill.

Roland Sansone, Founder, Sansone Companies, Las Vegas, Nevada:
I own approximately 1 million square feet of office and retail space in Las Vegas. I support A.B. 398 because I feel it is fair for both tenant and landlord. It gives a reasonable amount of time and direction to be able to recapture the premises, re-lease it to someone else, and dispose of abandoned property. In this economic climate, we have had many tenants who have not paid their rent and abandoned the premises. This bill helps us in leasing the premises again in a timely manner. We are currently losing from two to four months in resolving the personal property issue. We would prefer that the tenant remove his personal property because it costs us to remove and store it. Almost all tenants will remove any and all personal property before they are locked out which can take one and a half months or more. The five-day notice to pay rent or quit the premises is typically served after the tenth of the month, which means five judicial days after the day they are served. If they do not contest it, a summary eviction is filed, which takes an additional five judicial days. It can take from five to six weeks before you can get in front of a judge. The tenant has plenty of time to remove his personal property. We cannot do anything with the property but keep it because the law is unclear.

[Chair Atkinson reassumes the gavel.]

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify in favor of A.B. 398? I see none. Is there anyone to speak in opposition?

Bart Larsen, Attorney, Kolesar and Leatham, Chtd., Las Vegas, Nevada, representing National Association of Industrial and Office Properties:
We do not disagree with the intent of the bill, but the bill as drafted does not accomplish that intent. The bill needlessly complicates an area of the law that is already well developed and already functions well, but not perfectly. It attempts to legislate interactions between commercial parties who have historically been free to deal with each other on their own terms and to enter into agreements to fit their situations. The bill as drafted conflicts with certain provisions of *Nevada Revised Statutes* (NRS) Chapter 40, which prevents the bill from functioning as intended. Some of the activities that are prevented in section 14 are not things that need to be spelled out in a commercial context. Every commercial lease carries with it a covenant of quiet enjoyment, which requires a landlord provide unfettered use and enjoyment of the property. Any type of activity like this is a violation of that covenant, if not a violation of an expressed provision of the lease. There are remedies that already exist for those violations for a tenant. For example, NRS Chapter 40 allows a tenant to bring an action to resolve disputes in real estate. It is not hard for a tenant to go to court and get a temporary restraining order to prevent a landlord from doing something like the list in section 14.

I believe the primary motive for the bill is to give the owner the capacity to lock the tenant out if they are not paying rent. It falls into the definition of a forceful detainer under NRS Chapter 40, which subjects the landlord to liability for damages and creates a whole host of new issues that have to be dealt with. In a commercial situation, you have tenants that you have to assume have a certain level of sophistication and knowledge and are able to deal with each other on a relatively equal footing. They should be free to agree among themselves how these issues are going to be addressed. The remedies are spelled out in the second half of section 14. These remedies already exist in law. The court granting an ex parte temporary writ of restitution expressly conflicts with NRS 40.300, which bars issuing temporary writs of restitution on an ex parte basis.

There are a number of other issues that conflict with trying to enforce this bill. From a landlord's point of view, the last section is troubling because it may affect how landlords are able to collect common area maintenance (CAM) charges from their tenants. Often the formulas for calculating CAM charges are not spelled out in commercial leases in the detail that this section seems to require. I have dealt with a lot of the same jurisdictional arguments in litigating commercial evictions, but the bill does not solve any of those problems. It does nothing to define when a summary eviction is proper in justice court and when it is proper in district court. If you want to get to the heart of what is slowing these evictions down, there needs to be a definition delineating when

jurisdiction is appropriate in one court or the other. There should also be some revision made to the summary eviction statute in NRS 40.253 to clarify that a summary eviction has no preclusive effect on a landlord's ability to seek damages for the breech of a lease and later action. This bill does nothing to address these arguments. Instead, it overly complicates matters that really are not an issue that often comes up in commercial landlord-tenant relationships.

Assemblywoman Kirkpatrick:
In a commercial eviction, does the constable deliver the eviction notice or is it just the landlord?

Bart Larsen:
The way the summary eviction process is handled is explained in good detail in NRS 40.253. It starts with the service of a five-day notice on the tenant by the landlord.

Chair Atkinson:
Are there any questions from the Committee? I see none. Can the owner lock out the person occupying the unit?

Bart Larsen:
Not unless the tenant voluntarily surrenders possession of the property. If the tenant is opposed, the landlord has to go to court and get an order of summary eviction or pursue an unlawful detainer action.

Chair Atkinson:
When they get the order, who locks out the tenant?

Bart Larsen:
The constable takes the order, posts a 24-hour notice on the property, and goes back the following day to change the locks.

Chair Atkinson:
That is what happens in residential evictions.

Jonathan Leleu:
The eviction process is the same for residential and commercial leases. Upon the breech of a lease, the landlord serves the tenant with a five-day notice to pay rent or quit. That service is done by a process server. Upon the expiration of those five days—and we have to include time for service, so it takes about eight to ten business days—if the breech is not cured, the landlord will file with the justice court in the county of jurisdiction a complaint for summary eviction and have issued instructions to the constable.

In Clark County, when a complaint for summary eviction is filed, an order is electronically generated and transmitted to the Constable's Office. The constable then waits approximately three days following receipt of that order and posts the eviction order on the premises. The following day the constable returns to the property to complete the eviction with the lockout. The lock is changed and the premises are surrendered to the landlord. It is an arduous process, particularly when you are trying to deal with a tenant who is simply trying to renegotiate his lease by hostile means.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify on this measure? Is there any neutral testimony? I see none.

Assemblyman Ohrenschall:
This bill will follow the lead of the 20 other states who have commercial leasing statutes. It will make our business climate more business-friendly. I am willing to work with anyone who has concerns.

Chair Atkinson:
The opposition should get in contact with Assemblyman Ohrenschall before we bring this bill back to the Committee so he can attempt to address those concerns. Are there any other questions or comments on A.B. 398? Seeing none, I will close the hearing on A.B. 398. I will open the hearing on Assembly Bill 429.

Assembly Bill 429: Revises provisions governing manufactured home parks. (BDR 10-565)

Assemblyman James Ohrenschall, Clark County Assembly District No. 12:
Years ago many of our constituents moved into mobile home parks in which they now reside. At that time, their homes were "mobile." Mobile home parks had to be competitive because raising the rents meant the loss of a tenant to another mobile home park. Over time, the laws changed and many mobile homes are no longer mobile. One of the reasons for this is because of the restrictions that have been allowed by the Legislature and are now in place in many larger Nevada communities that prohibit the placement or relocation of older mobile homes. Ironically, from a legal perspective, it is easier to move a site-built house than a mobile home within certain Nevada counties. Like many of you, I represent constituents who live in mobile home parks or, as they are commonly called now, manufactured home communities.

You have probably talked to senior citizens living in one of your manufactured housing communities who have informed you that their monthly incomes come

entirely from Social Security checks. One of my constituents told me her social security check was about $700 per month and her mobile home lot rent is just under $500 per month. She lives on the rest. I frequently talk to seniors in my district who have reached their economic breaking point. They can no longer afford their lot rent. The increase in lot rents has effectively evicted some of them from their homes.

Assembly Bill 429 promotes stability in the lives of residents of manufactured housing communities. Under this bill, a manufactured home park owner can raise rents as much as he wants to. This is not a rent control bill. It provides that a resident of a manufactured housing community who has lived in that community for over five years will have the choice of accepting the higher rent or being relocated, so he does not lose 100 percent of his investment in his home. The bill was not drafted exactly as I had hoped.

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Ellison:
When the rental rates are raised, is it because of increased utility and other costs to the landlords?

Assemblyman Ohrenschall:
When I talked to my constituents, the increases seem to be much higher than the Consumer Price Index. It may vary in different parts of the state.

Assemblyman Ellison:
What are the utility rates in Clark County?

Assemblyman Ohrenschall:
I know they are going up.

Assemblyman Ellison:
Maybe if you give us a breakdown, we would have a better way to look at this.

Assemblyman Ohrenschall:
My intent is not to ban the normal costs of business. I understand the park owner has to cover his expenses. This bill is trying to prevent gouging. There is a lot of elasticity in the relationship between the resident and the owner of a mobile home park. A resident makes a sizeable investment to buy, transport, and set up the home. Then it is not easy to move. In my district, I get estimates of $5,000 to $10,000 to move a mobile home, and many are too old for another park to accept. They may not even survive the move. You have

residents who do not have the flexibility of an apartment renter. They cannot just pick up and leave.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone to speak in favor of this bill?

Penny Zynda, Private Citizen, Las Vegas, Nevada:
I have lived in my mobile home park for 20 years. My space rent has increased every year. For the last few years, while we did not get a raise in our social security, it was increased $20. We are here to support this bill because senior citizens living in a mobile home park in Nevada are being squeezed to maintain a place to live. Some are earning only $700 per month. When you pay $500 to $525 on space rent and know it will increase in a few months, it does not leave much for groceries. We have to pay our own utilities except for water and garbage. The increases hurt us, so any help that we can get from this bill is greatly appreciated.

Chair Atkinson:
Are there any questions from the Committee? Is there anyone else to testify in favor of this bill?

Donave Stanley, Private Citizen, Las Vegas, Nevada:
I live in a mobile home park in Las Vegas and am secretary-treasurer for a group we have in our park called Seniors Helping Seniors. We have taken it upon ourselves to see that the people who live in our park get the help they need. Assemblyman Ohrenschall has been working diligently to help us and we appreciate him. Some of these people would have nowhere to go if the rent were raised $20. They would be on the street. Some people have no backup and $20 means their weekly grocery allowance. We support this bill.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Ruben Flores, Private Citizen, Las Vegas, Nevada:
I reside in a mobile home park where I have lived for 20 years. When I moved there I had a good job and paid $275 per month for rent. In 2003 I had heart surgery, and since then I have been receiving $715 per month social security. Everything was fine until my rent increased to $504 per month plus utilities. When I applied for a rent subsidy, I did not qualify because the state gave me a $250 supplement. I have been harassed ever since because I try to keep up my home the best I can. If they raise the rent one more time, I cannot afford it. I paid $15,000 cash for this mobile home and it is now worth maybe $1,500.

We have 52 empty mobile homes in the park because people abandon them. There is nobody to help, so what can we do?

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Ellison:
How big is the mobile home park where you live?

Ruben Flores:
There are 357 occupied units.

Chair Atkinson:
Is there anyone else wishing to testify?

Ernie Nielsen, representing Washoe County Senior Law Project:
We are one of six legal service organizations in the state that provide free legal services to low-income people. We provide services to senior citizens in Washoe County. Nevada Legal Services is the other legal service program that often deals with these problems. Both organizations support this bill. I do not have any data about how often large rent increases occur in Washoe County, but I can find out if the Committee wishes me to do so. I know that it takes far less than a 40 percent increase to yield an unaffordable housing situation for seniors on fixed incomes. It is important to consider this. Concerning the $5,000 language, I have never seen a senior citizen who has purchased a mobile home for less than $5,000. I do not think you should consider the $5,000 to be a windfall. I do not know what is being determined as fair market value. I know that Nevada Legal Services indicates it sees them valued consistently under $5,000. I do not know how much salvage value is incorporated into that analysis. These tenants have invested their nest eggs and money into their homes. They cannot move them if the costs get too high. When they have to leave, the language you are considering today represents the only money they can possibly get to cover their investments in their homes.

I have not talked to the sponsors of this legislation, but there may be some need to change section 6, which deals with the basis of an agreement. Although I totally agree with the ability of a tenant to terminate a lease if the cumulative increase is more than 40 percent in five years, I do not think it belongs in this particular section, because all of us in the legal service community have read this section to be the only grounds that a landlord can use to terminate a lease. That area starts on page 11, lines 32 and 33, where it says, “Notwithstanding the expiration of a period of tenancy” and goes on to say that these are the only ways that a landlord can terminate. So if we start introducing additional

reasons for tenants to leave, we would have some legislative difficulties. I would like to talk to the sponsors to see if there could be some changes.

I would like to address the issue of passing through costs. Certainly those costs are justified. The real issue is if people are paying 60 to 80 percent of their income on rent, it is untenable and cannot last. There has to be some graceful way of disconnecting the tenant from the park. This bill gives the landlord some options and allows a graceful exit. It is built on some economic decision making models. I think this is a good bill and I would hope that you seek to pass it through.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone to speak from a neutral position?

John Bennetts, Private Citizen, Silver City, Nevada:
It seems that this is a problem of the Legislature copying California law. The legislators should be very careful when they copy California law because it complicates matters. This problem could be solved simply by having building inspectors check the mobile homes to see if they meet the code, when they were built, and give a certificate of occupancy if they do. Then the tenant will be able to shop for a new space. With agreement between the tenant and the perspective landlord, they could move the coach with no problem. This problem has been generated by the State of Nevada copying California statute.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone to testify in opposition?

Larry Schnell, Owner, Lone Mountain Mobile Home Community, Carson City, Nevada:
I have a 51-space park in Carson City. I disagree and am opposed to the proposed modifications of *Nevada Revised Statutes* (NRS) Chapter 118B, as noted in my written statement (Exhibit G). Section 1 of A.B. 429 states that if a landlord increases rent by 40 percent or more during a five-consecutive-year period, the landlord would have to pay to have the tenants moved. Mobile home park owners have a difficult time controlling costs during inflationary cycles. We are not in such a cycle now and hopefully we will not see a spike in inflation in the foreseeable future, but we cannot predict the future. There is no way we can say that our costs would not increase 40 percent or more in any five-year period. The proposed changes to the NRS would handcuff park owner/operators if we indeed did have runaway inflation. If the costs of utilities, maintenance, and casualty and liability insurance did

escalate more than 40 percent in five years, we would have no control over that.

The only fiscal item I have any control over is my profit. If I was unscrupulous, perhaps I could increase that profit to a point where I could exceed 40 percent. If I was to do so and my costs were to remain under control, I would price myself out of the market and create vacancies and jeopardize my business. Park owners are smart enough not to do that. Rents increase in reaction to escalating costs but not to increase profits to the degree that this measure suggests.

I believe that the proposed change to NRS Chapter 118B, is a form of rent control. Hopefully, legislators have been convinced that rent control in any form has never been successful. Mobile home park operators have been fair to their residents and should continue to do so as long as the Legislature does not impose rent controls that would restrict our ability to run our parks, keep them in good condition, and provide a viable housing opportunity for those who wish to live there.

Senior citizens are being squeezed whether they live in a mobile home park or not. They are suffering the costs of increases in utilities, insurance, and cost of living no matter where they live. Our industry has a partial remedy for that in place. It is the Lot Rent Subsidy Program, which is administered by the Manufactured Housing Division. Those who are truly in need can apply and be given a subsidy based on their income and need. This subsidy is paid for by all of the mobile home park owners in the state.

Chair Atkinson:
Are there any questions from the Committee?

Assemblywoman Carlton:
Can you give me some of the guidelines on the subsidy program? Are you familiar enough with it?

Larry Schnell:
No, but I do have tenants in my park who are in the program. As a landlord I have to do verifications on their behalf with the Manufactured Housing Division. The tenant supplies the information. I contribute to the program based upon the number of spaces in the park. I pay about $867 per year.

Jim deProsse, Administrator, Manufactured Housing Division, Department of Business and Industry:
The state collects $12 per space from the park owners in the amount of about $300,000 per year. The money is redistributed to eligible participants in the Lot Rent Subsidy Program and gives them rent relief of 20 percent of their space rent up to $100 per space per month. There are currently 270 recipients.

Assemblywoman Carlton:
Do you have a reserve?

Jim deProsse:
We collect the revenue from the park owners. We take administrative costs from the revenue and redistribute the balance. The reserve is currently about $60,000.

Assemblywoman Carlton:
How complicated is it to apply to the program?

Jim deProsse:
It is an annual renewal program which is tied to the National Poverty Level Guidelines. The guideline number has lowered substantially to $902 per month for a single person, so we are denying a lot of people.

Assemblyman Ellison:
How many units do you have to own to be required to contribute to the rent subsidy?

Jim deProsse:
I think it is for all mobile home park owners.

Assemblyman Ellison:
Mr. Schnell, are your water rates the same as for a house, and what do you pay for your mobile home park?

Larry Schnell:
I do not know what a water bill for a house in Carson City is. The water bill for the mobile home park with 51 spaces is over $2,000 per month. It seems to increase by $100 per month each year and that is only for water and sewer.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Russell Rowe, representing Manufactured Home Community Owners' Association of Nevada:
We are respectfully in opposition to the bill. We do not see the problem. The numbers from the Division over the last five years indicate an increase in rents of approximately 10 percent in Clark County and 12 percent statewide. In Clark County last year there were categories of mobile homes that had no increase and other categories with decreased rents. This bill could encourage park owners to increase rents higher than they would have because they would be anticipating the unpredictable. We do not know what is going to happen to inflation and costs. If we are limited by statute to increasing the only revenue we have to cover our cost to break even, we are going to have to prepare and increase rents more to cover the unknown. This is something you do not want to do. Rick LaMay owns a park in Reno and has a tenant who has lived there for 30 years. The rents started at about $150 and are now about $350, which is approximately a 4.3 percent increase over 30 years. It obviously fluctuates from year to year and cannot be predicted. These types of requirements in statute put us in a difficult position to predict, and we have to cover ourselves by increasing rents to be sure we have reserves for the unknown. I am willing to work with the bill sponsors to address the concern.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Susan Fisher, representing Nevada Housing Alliance:
I spoke with the sponsor of the bill today to let him know of our opposition. Historically, we have always opposed a rent control type of bill. We have no problem with the distance we have to move a home. The problem is where we are going to move them. There have been no new manufactured home parks built in this state for many years. We sympathize with the home owners in the parks, but we also sympathize with the park owners because they are in the same situation as the residents. The park owners are also an aging population and cannot afford to retire if they have to buy or move the homes.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify in opposition?

Marolyn Mann, Executive Director, Manufactured Home Community Owners' Association:
We represent approximately 60 percent of the total spaces in the State of Nevada. I am here to share our opposition to Assembly Bill 429, which we view as a discriminatory rent control bill. It is rent control because we believe that whenever you stipulate at what price a free enterprise entrepreneur

must sell his goods, it is price control. When the entrepreneur's product is rental real estate, it becomes rent control. It is discriminatory because it singles out manufactured home communities and asks one group of private citizens to assume the public burden of subsidizing another group. How can it be fair to place a segment of the economy under control while allowing the rest of the marketplace freedom?

Records show that over 70 percent of the communities are family owned. Most are senior citizens who are not wealthy and have only one source of income, which is the community they own and operate. Under this bill, they would be required to limit their income by subsidizing their tenants. It is wrong to presume that all residents are on fixed incomes or are unable to meet rent increases. Should the rent increases meet the 40 percent threshold, the bill allows the tenant to terminate his contract and have the landlord pay moving costs? To move the homes, it costs between $3,500 and $8,000 depending on the size, condition, and location of the home. If the home is unable to be moved, landlords would have to pay the greater of fair market value or $5,000. Most of the older homes will have a negative value, especially if there is asbestos removal required or other complications.

As an industry, we are not against helping the truly needy and we prove it every day. The Nevada Lot Rent Subsidy Program is the only mandatory rental assistance program of its kind. It is funded entirely by community owners. This plan was enacted without further burdening the taxpayers or asking community owners to go into the subsidized housing business. Since 1992, we have contributed approximately $6 million to help residents remain in their homes that they could otherwise not afford. There is a huge focus on affordable housing and a desperate need to keep communities from closing. Limiting our income devalues our property, removes all incentives to remain in the industry, and could result in the loss of a valuable source of affordable housing. We need incentives to stay in business, not more regulations that make it more difficult to operate.

In conclusion, it has been shown that rent control eventually condemns the residents to live in a downward spiral of deterioration. Community owners will either be forced to defer maintenance because they are not allowed to recover the cost of doing so or will eventually convert their properties to other uses. It is inevitable that rent control leads to lower property values, which lead to lower tax revenues. Nevada's manufactured home communities have a sound landlord-tenant law, an excellent program of owner-manager continuing education, and a proven rental assistance program. Nowhere else in the housing industry can tenants find such help, protection, rights, and special

considerations. I urge you to consider the negative impact this bill will have on our industry.

Chair Atkinson:
Are there any questions from the Committee?

Assemblywoman Carlton:
Have any of your park owners analyzed how much they have paid per space over the years to how much money has come back to them from the subsidy money?

Marolyn Mann:
There has been $6 million contributed. The Division has taken 33 percent to administer the fund, so not all of the money is going back to the residents.

Assemblywoman Carlton:
Have your members analyzed how much of the money has come back into their parks?

Marolyn Mann:
We have not done an analysis that way because not every park has residents who are on rental assistance.

Assemblywoman Carlton:
It seems if you have a senior-citizen-dominated park, you would benefit from it more than others. I am curious who the real beneficiaries of this money have been.

Marolyn Mann:
It depends who qualifies and who does the paperwork. There have been waiting lists, but there are only 257 people on the program now. If there was a huge need, there would be more people on the program.

Chair Atkinson:
Are there any questions from the Committee? I see none.

Jeanne Parrett, Manager, El Dorado Estates, Las Vegas, Nevada:
I am opposed to the bill because it creates a form of rent control. I have managed this mobile home park for almost 17 years and some of our people have been in a position to need the lot rent subsidy. We as managers try to help our people stay in their homes. In some cases, we end up with homes because residents go into nursing homes, live with family members, or die and the family members cannot continue to pay for the home. When we get those

homes, some of them are not even worth $2,000, let alone the $5,000 requested in this bill. I think the $5,000 figure is way out of line for a fair market value.

Chair Atkinson:
Are there any questions from the Committee? I see none. Mr. deProsse, will you answer Assemblywoman Carlton's question?

Jim deProsse:
I do not have the numbers on how much it costs the Division to administer the subsidy program, but it is far less than 33 percent and it is much less than it has been in the past. I will report that information to you.

Chair Atkinson:
Is there anyone else to testify in opposition? I see none. Is there anyone to testify in neutral?

Jim deProsse:
To clarify some of the previous testimony, NRS Chapter 118B is unique to Nevada. It pertains to people who live in manufactured home parks that also own the home and rent the space. People who rent the homes and spaces from the park are excluded. We collect the Lot Rent Subsidy Program money of $12 per space from all of the lots that are covered under NRS Chapter 118B. It includes 25,800 spaces. Over the past five years there has been an average increase in rent of 17.4 percent. Of all the parks in the state, those that have increased rents greater than 40 percent in the last five years is 7.4 percent. Our investigative unit receives landlord-tenant complaints pertaining to NRS Chapter 118B. We have had no formal complaints about rent increases, yet we have no jurisdiction over the amount that is charged. We get inquiries and informal complaints from tenants relative to rent increases, and our position is that we do not influence what a landlord charges.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else wishing to testify from a neutral position?

Bernard Santos, Private Citizen, Carson City, Nevada:
I am a retired attorney and I live in a mobile home park. I own a double-wide mobile home and lease a space from the park owner. Initially I paid $264 for rent space per month. I now pay $417 per month and it keeps increasing. Recently, I filed a complaint with the Manufactured Housing Division to try to determine how the owner arrived at the rent increase amount. I consulted the Consumer Price Index (CPI) and found that my park owner or manager uses the

West Coast CPI, which includes Oakland, San Francisco, and San Jose. Those cities have populations in excess of 1.5 million people. Carson City has about 57,000 people, so I have difficulty comparing it with the big West Coast cities when it comes to determining the CPI increase. That is no problem, but I have a problem with the proposed bill with the $5,000 limit. I paid $70,000 for my home and have made improvements in excess of $10,000. I have invested $80,000 in my home. I pay my own water and utilities and the cost of doing business for the park. I question why I should pay for the park's utilities and water. I have not received an answer. I did not receive a satisfactory answer when I filed a complaint. There are 168 spaces in my park and I understand the cost of maintenance, but I am already paying for the cost of everything for my home, so why the other costs? My primary concern is with the $5,000 value for the homes. I support this bill and do not accept the concerns about rent control.

Chair Atkinson:
Are there any questions from the Committee? I see none. Is there anyone else to testify in neutral? Seeing none, the sponsor will conclude.

Assemblyman Ohrenschall:
I want to clarify that the bill establishes a minimum $5,000 value or fair market value, whichever is higher. It would not be a $5,000 limit; it would be a minimum. A manufactured home in our laws is considered personal property, not real property. As such, it depreciates the way an automobile does. For many of my constituents who own mobile homes that are 35 to 40 years old, they may have put their whole life savings into purchasing them. Now if the park were to close, the fair market value could be a scrap value of $1,000 or $1,500. The reason the $5,000 value was included was to put in a minimum amount.

In regard to the market forces not being able to have their effect, if people wanted to pay a 200 percent increase, they could still do it. The bill would not prevent that. It would be up to the renter if he wanted to pay the increase or be moved within 150 miles. Ms. Fisher commented that there have been no new parks opened recently, but this allows the home to be moved up to 150 miles. Mr. Schnell, the mobile home park owner in Carson City, talked about how the park owners have to pay for increased utility costs, as we all do. We came up with the 8 percent figure because owners of commercial real estate enjoy an 8 percent cap on their property taxes.

In terms of the rents, in the last five years only 7.4 percent of manufactured home communities in the state have raised their rent cumulatively over 40 percent. That is true, and there are a small percentage of parks that would

be affected by this bill. Those are parks that are either so attractive to people or there is price gouging. The mobile home Lot Rent Subsidy Program is an outstanding program and many people benefit from it. There are probably a lot more people who qualify for the program and have not applied. I believe that the cost of the program is passed on to the residents. If you visit parks in Clark County, you will see many empty spaces because it is not economically practical to move in, and many people have given up because it is not economically feasible to continue to live there. That is a reason the rents have not gone up in the last five years. Because of the economy, it would have been impractical to raise rents. I talked to Ms. Zynda in Las Vegas, and her rent has increased more than the CPI by more than 45 percent.

Many of the opponents said this bill is rent control. This bill is actually "tent control" because we do not want our constituents to live in tents. The law so far has benefitted the landlords at the tenants' expense by making their perfectly livable homes worth nothing. Landlords have benefitted because of the inelasticity that occurs because of a resident not being able to move to another mobile home park. In Clark County, we do not have open zoning and cannot move a mobile home easily. The laws currently hurt the mobile home park resident. Under A.B. 429 the score would be evened by having the landlord pay a small fraction of what has already been collected to relocate those who cannot afford to pay the higher rents. If this were rent control, it would say you cannot raise the rent, but it does not. This allows market forces to correct for previous regulatory oversteps that have hurt tenants.

Chair Atkinson:
Are there any questions from the Committee?

Assemblyman Goedhart:
We are coming out of a period of low inflation, so we may be looking at some acceleration in inflation. I would encourage you to explore an option to tie this into the CPI.

Assemblyman Ohrenschall:
I went a different direction here to say that a park owner can raise the rents as much as he wants, but if someone has lived in a park for five years and the rents have increased higher than the 8 percent tax cap that owners of commercial property enjoy in this state, then the cost of doing business would include the cost of moving someone out of the park. If you cannot move the home, then it will be the fair market or minimum $5,000 value to give the person a fresh start.

Chair Atkinson:
Are there any questions or comments from the Committee? I see none. Is there any public comment? [There was none.]

The meeting is adjourned [at 4:01 p.m.].

RESPECTFULLY SUBMITTED:

_____
Earlene Miller
Committee Secretary

APPROVED BY:

_____
Assemblyman Kelvin Atkinson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 30, 2011 **Time of Meeting: 12:48 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Roster
A.B. 358	C	George Temen	Proposed Amendment
A.B. 363	D	Assemblyman John Ellison	Conceptual Amendment
A.B. 363	E	Bjorn Selinder	Letter of Support
A.B. 398	F	Assemblyman James Ohrenschall	Proposed Amendment
A.B. 398	G	Larry Schnell	Letter of Opposition