

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

**Seventy-sixth Session
May 16, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:55 p.m. on Monday, May 16, 2011, 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 Michael A. Schneider, Chair
Senator Shirley A. Breeden, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator James A. Settelmeyer
Senator Elizabeth Halseth
Senator Michael Roberson

STAFF MEMBERS PRESENT:

Scott Young, Policy Analyst
Matt Nichols, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Judi D. Kennedy, Executive Director, Nevada State Board of Optometry
Louis Ling, Esq., Counsel, Nevada State Board of Optometry
Gail J. Anderson, Administrator, Real Estate Division, Department of Business
and Industry
Mike Brunson, Coalition of Appraisers in Nevada
Daniel Leck

CHAIR SCHNEIDER:

We will open the work session on Assembly Bill (A.B.) 20 with the proposed amendment in a work session document ([Exhibit C](#)). The proposed amendment

has been agreed upon by the Nevada State Board of Optometry and the Nevada Academy of Ophthalmology. Jeanette Belz indicated she had been working with Louis Ling on a consensus amendment.

ASSEMBLY BILL 20 (1st Reprint): Revises provisions governing the practice of optometry. (BDR 54-501)

SENATOR SETTELMAYER:

I would like to disclose that my wife is a member of the Nevada State Board of Optometry; however, I do not feel this bill will affect me any differently than anyone else.

CHAIR SCHNEIDER:

George Flint, on behalf of Gerald A. Lent, O.D., requested that the Committee consider adopting language to address Dr. Lent's license renewal problem. Is Dr. Lent going to have a hearing before the Nevada State Board of Optometry to get his license back? There was an issue with his address and mailing his renewal notice.

JUDI D. KENNEDY (Executive Director, Nevada State Board of Optometry):

We reviewed Dr. Lent's situation. He was notified in March that by law his license was suspended. He was given from March until December 31 to cure the suspension. He communicated by phone in July with the Nevada State Board of Optometry. I sent him a detailed letter in March of the following year explaining what happened.

The simple answer is that between March 1 when his license was suspended and December 31, he communicated with me. I advised him what was necessary to cure the suspension, but he did not take those steps. This happens on an ongoing basis. The law requires the suspension and ultimately the revocation of the license. No one has ever come back to the Board and asked for the license back because it is clearly understood it is set by law.

CHAIR SCHNEIDER:

Would you please provide us with copies of the communication?

Senate Committee on Commerce, Labor and Energy
May 16, 2011
Page 3

LOUIS LING, ESQ. (Counsel, Nevada State Board of Optometry):
I sent copies of Ms. Kennedy's letter to Dr. Lent to all the Committee members.
Dr. Lent had nine months in which to cure his default, and he did not do that.
We want to make sure the record is clear.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 20 WITH THE PROPOSED AMENDMENT IN THE WORK SESSION
DOCUMENT.

SENATOR PARKS SECONDED THE MOTION.

SENATOR BREEDEN:
Is the proposed amendment from Jeanette Belz?

CHAIR SCHNEIDER:
Yes, it is the proposed amendment from Ms. Belz.

SCOTT YOUNG (Policy Analyst):
For clarification, there was an original proposed amendment submitted by
Ms. Belz that we considered when the bill was heard in this Committee. The
amendment in the work session document is a consensus amendment on which
Ms. Belz and Mr. Ling worked. This is not the same proposed amendment that
was submitted at the hearing on A.B. 20.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:
We will open the work session on A.B. 77. This bill addresses mortgage lending.
There are several documents and proposed amendments in the work session
document ([Exhibit D](#)).

[ASSEMBLY BILL 77 \(1st Reprint\)](#): Makes various changes relating to mortgage
lending and related professionals. (BDR 54-481)

MR. YOUNG:
Documents in the work session binder address requests made by
Sheila Walther. We had discussed the proposed amendment behind, page 4,

[Exhibit D](#), dealing with sections 44 and 72 of A.B. 77. On pages 6 and 7, [Exhibit D](#), there is a suggestion to make a change, but as discussed at the last hearing, instead of doing what is in the work session documents, which is deleting the words "in foreclosure," the discussion was to delete section 97 of the bill. Ms. Walther explained what that did at the hearing. To clarify, Ms. Walther is asking for not just the removal of the words "in foreclosure" in section 96, but instead she would accomplish her purpose by deleting section 97.

CHAIR SCHNEIDER:

Is that on pages 6 and 7, [Exhibit D](#), which indicates this issue was brought to the attention of Ms. Walther by Barbara S. Dimmitt of the Legislative Counsel Bureau Constituent Services Unit?

MR. YOUNG:

That is correct. The issue that Ms. Dimmitt brought to Ms. Walther's attention would be addressed by deleting section 97 of the bill.

CHAIR SCHNEIDER:

Are we looking at the proposed amendments on pages 6 and 7?

MR. YOUNG:

There is another suggestion from Ms. Walther which is the proposed amendment worked on by Senator Copening and Assemblyman Marcus L. Conklin, page 9, [Exhibit D](#).

CHAIR SCHNEIDER:

The testimony by ex-Senator Warren Hardy on behalf of Eagle Mortgage Company is on page 11, [Exhibit D](#).

MR. YOUNG:

That is correct. Ex-Senator Hardy was requesting a clarification of the legislative intent.

CHAIR SCHNEIDER:

Is it correct that the clarification will be in a Senate Floor statement?

MR. YOUNG:

Yes, that is correct.

Senate Committee on Commerce, Labor and Energy
May 16, 2011
Page 5

CHAIR SCHNEIDER:

We are dealing with the proposed amendment under on page 9, [Exhibit D](#).

SENATOR COPENING:

I need clarification on the number of proposed amendments to A.B. 77. There are a total of three proposed amendments and one legislative intent.

MR. YOUNG:

That is correct.

MATT NICHOLS (Counsel):

I hope I don't confuse this further for the Committee. I think to accomplish what Ms. Walther asks for in the e-mail that ... we would actually need to amend section 97. There is a little one-section mock-up that should be in your work session document behind that e-mail, and it would essentially return some language to section 97. But, the idea here is to be consistent with the Federal Trade Commission's regulations. The idea is to take out the language in section 97 which limits a residence in foreclosure to a residence in which the homeowner occupies ... , sorry, to eliminate the requirement that a residence in foreclosure must be a principal place of residence. So, the section would stay in but be amended slightly rather than be deleted as a whole.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED A.B. 77 WITH AMENDMENT INCLUDED IN [EXHIBIT D](#).

CHAIR SCHNEIDER:

The proposed amendment, pages 6 and 7, [Exhibit D](#), was with the language provided by Mr. Nichols on section 97.

SENATOR COPENING:

Yes, to clarify, that would be with the language provided by Mr. Nichols.

SENATOR BREEDEN SECONDED THE MOTION

THE MOTION CARRIED. (SENATORS HALSETH, ROBERSON AND SETTELMAYER VOTED NO.)

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CHAIR SCHNEIDER:

We will go to the next bill in the work session, A.B. 398. This bill addresses commercial tenancies. There is a proposed amendment from Jennifer DiMarzio in the work session document ([Exhibit E](#)). The proposed amendment has been agreed upon by all parties.

ASSEMBLY BILL 398 (1st Reprint): Revises provisions relating to commercial tenancies. (BDR 10-664)

SENATOR SETTELMAYER:

The bill is a good compromise. We are giving a little to both the tenants and the property owners.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 398 WITH THE JENNIFER DIMARZIO AMENDMENT.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will open the work session on A.B. 524. There is a bill summary in the work session document ([Exhibit F](#)).

ASSEMBLY BILL 524: Increases certain fees for residential and general appraisers to cover an increase in federal registry fees. (BDR 54-1199)

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

I have submitted a written statement as a result of the Committee's request for recommendations to address appraiser issues ([Exhibit G](#)) and a packet of information titled "Recommendations Addressing Appraisal Issues" ([Exhibit H](#)).

Senate Committee on Commerce, Labor and Energy
May 16, 2011
Page 7

CHAIR SCHNEIDER:

I have a question about appraisal management companies. You indicated that banks own some of those. Is that an "arms-length" transaction?

MS. ANDERSON:

The appraisal management company is a subsidiary of the bank and is a separate entity. There is federal oversight of these companies.

CHAIR SCHNEIDER:

The supervision of interns appears to be a good policy. There is a two-year internship, but if interns are not being supervised, that would not be in the consumer's best interest. There should be significant supervision of interns. Is there anything we can do about the appraisal management companies?

MS. ANDERSON:

Appraisal management companies are under federal oversight. We register them because they have requirements under Nevada law. We have jurisdiction over appraisers who are licensed in Nevada. If we have an undue influence case, we could serve them and do something. We have not had anything yet to review that was submitted directly by an appraiser.

CHAIR SCHNEIDER:

I have lost a lot of confidence in the federal government on these issues.

I would like to have the Committee review everything, and I would like to meet with you and anyone else you would like to include and discuss this with Mr. Nichols to develop an amendment for this bill.

MIKE BRUNSON (Coalition of Appraisers in Nevada):

We are not opposed to the amendments proposed by Ms. Anderson on A.B. 524.

DANIEL LECK:

The only issue I have is with the first 50 assignments on which the supervisor must accompany the intern. If the average is 30 appraisals a month, in less than 2 months an intern could go out alone on any assignment for the next 22 months.

Senate Committee on Commerce, Labor and Energy
May 16, 2011
Page 8

My son is an intern for me. I am a general certified appraiser. I do primarily commercial appraisals. My son is in his third year as an intern, and I will not let him get his license yet. That is my decision with him. I still go on every assignment with him. Fifty assignments are not enough. I am making the recommendation that the supervising appraiser go out with the intern for at least one year. That way you will not be creating sweatshops, and the intern would get the benefit of the supervising appraiser's experience.

CHAIR SCHNEIDER:

That sounds like a good idea. Ms Anderson and I will discuss that issue.

I have received written comments from Timothy R. Morse, M.A.I. ([Exhibit I](#)), and correspondence from Chris C. Lauger, M.A.I. ([Exhibit J](#)).

We will close the work session on A.B. 524 and adjourn the meeting of the Senate Committee on Commerce, Labor and Energy at 2:45 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____

| <u>EXHIBITS</u> | | | |
|-----------------|---------|------------------|--|
| Bill | Exhibit | Witness / Agency | Description |
| | A | | Agenda |
| | B | | Attendance Roster |
| A.B. 20 | C | Chair Schneider | Work Session Documents |
| A.B. 77 | D | Scott Young | Work Session Documents |
| A.B. 398 | E | Chair Schneider | Work Session Documents |
| A.B. 524 | F | Chair Schneider | Work Session Document |
| A.B. 524 | G | Gail Anderson | Written Comments |
| A.B. 524 | H | Gail Anderson | "Recommendations Addressing Appraisal Issues" |
| A.B. 524 | I | Chair Schneider | Correspondence from Timothy R. Morse |
| A.B. 524 | J | Chair Schneider | Correspondence from Chris C. Lauger |