

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session
April 1, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:33 a.m. on Friday, April 1, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Valerie Wiener, Chair
Senator Allison Copening, Vice Chair
Senator Shirley A. Breeden
Senator Ruben J. Kihuen
Senator Mike McGinness
Senator Don Gustavson
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Senator Elizabeth Halseth, Clark County Senatorial District No. 9

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Policy Analyst
Bradley A. Wilkinson, Counsel
Kathleen Swain, Committee Secretary

OTHERS PRESENT:

Kristin Erickson, Chief Deputy District Attorney, Washoe County District Attorney's Office; Nevada District Attorneys Association
Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office
John Wagner, State Chairman, Independent American Party

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Lynn Chapman, Nevada Eagle Forum; Nevada Families; Nevada Families Voter Guide

Janine Hansen, Nevada Eagle Forum; Nevada Families; Nevada Families Voter Guide

Juanita Clark, Charleston Neighborhood Preservation

James Smack, Stillwater Firearms Association

Dennis Gomez

Barry Smith, Executive Director, Nevada Press Association, Inc.

Julie Butler, Records Bureau Manager, Records and Technology Division,
Department of Public Safety

Richard Brengman

Chris Ferrari, Concerned Homeowner Association Members PAC

Stephanie Cooper Herdman

Yvonne Schuman, Concerned Homeowner Association Members PAC

Michelle Lee

Randolph Watkins, Commission for Common-Interest Communities and
Condominium Hotels

Jan Porter

Sabrina Gayhart, Angius & Terry Collections, LLC

Chris Yergensen, RMI Management, LLC

John Radocha

Jon Sasser, Legal Aid Center of Southern Nevada

David Stone, Nevada Association Services, Inc.

Garrett Gordon, Southern Highlands Homeowners' Association; Olympia
Development Corporation; Alessi & Koenig

Robin Huhn, D.C.

Tracey Donley

Gary Brodt

Ellen Spiegel

Keith Lee, Lawyers Title Insurance Corporation; First American Default Services

Troy Kearns

Michael DeLee

David Robman

CHAIR WIENER:

I will open the hearing on Senate Bill (S.B.) 175.

SENATE BILL 175: Revises provisions governing concealed firearms permits.
(BDR 15-186)

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SENATOR DON GUSTAVSON (Washoe County Senatorial District No. 2):

I will read from my written testimony ([Exhibit C](#)). Concealed carry weapons (CCW) permit holders do not want this information public because people would know who holds a permit. A person who has the records would know you own a handgun. They could break into your house or vehicle. This information should be confidential for public safety reasons.

I received letters of support from the National Rifle Association of America ([Exhibit D](#)), the Stillwater Firearms Association ([Exhibit E](#)) and Chester H. Adams, Sparks City Attorney ([Exhibit F](#)).

KRISTIN ERICKSON (Chief Deputy District Attorney, Washoe County District Attorney's Office, Nevada District Attorneys Association):

We echo the concerns of Senator Gustavson. We support this bill.

BRIAN O'CALLAGHAN (Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office):

We echo the comments from Senator Gustavson and Ms. Erickson.

JOHN WAGNER (State Chairman, Independent American Party):

I echo the comments from Senator Gustavson, Ms. Erickson and Mr. O'Callaghan.

LYNN CHAPMAN (Nevada Eagle Forum; Nevada Families; Nevada Families Voter Guide):

We support this bill. Permit holders should have a right to keep their information confidential. The element of surprise will sometimes save your life. It could be detrimental if someone used this information illegally.

JANINE HANSEN (Nevada Eagle Forum; Nevada Families; Nevada Families Voter Guide):

We support this bill. We have worked with many others since the early 1990s to improve our concealed carry laws. When these issues were initiated, we were promised this information would be held confidential.

JUANITA CLARK (Charleston Neighborhood Preservation):

I have provided my written testimony ([Exhibit G](#)). This will save time and money for the State, counties and individuals. We support this bill.

JAMES SMACK (Stillwater Firearms Association):

We support this bill as Senator Gustavson presented it. While driving in this morning, I heard on the news there have been a number of thefts in the Washoe County area where thieves have targeted homes whose owners have firearms. Firearms have strong resale value on the street. If the permit holders' information is public, potential thieves would know whom to target.

DENNIS GOMEZ:

I support this bill.

BARRY SMITH (Executive Director, Nevada Press Association, Inc.):

I oppose S.B. 175. I understand the safety concerns. It is not likely a burglar will go to the sheriff's office and go through the CCW permits to find out which houses they want to target. This issue went to the Nevada Supreme Court on allegations documents were being falsified in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010). This was about the process, not the identity. When the government requires a permit, the process should be open because it is a check on whether the process is fair and proper or whether someone is abusing it. If the process is closed, there is no check.

The Nevada Supreme Court ruled these permits are open records but may contain confidential information that should be redacted. The court left that question and sent it back to the sheriff. We operate in the courts under the fundamental principle of the open record law. The document is open and is a public record. We must have the ability to check on the process to ensure it is followed properly. There may be confidential information in that document, such as social security numbers.

CHAIR WIENER:

I will close the hearing on S.B. 175 and open the hearing on S.B. 279.

SENATE BILL 279: Revises provisions concerning the renewal of permits to carry concealed firearms. (BDR 15-1060)

SENATOR GUSTAVSON:

I will read from my written testimony ([Exhibit H](#)). I received letters of support from the Stillwater Firearms Association ([Exhibit I](#)), the National Rifle Association of America ([Exhibit J](#)) and Chester H. Adams, Sparks City Attorney ([Exhibit K](#)).

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SENATOR BREEDEN:

In the bill, you mentioned sheriff. Is it all law enforcement?

SENATOR GUSTAVSON:

The sheriff issues the permit in each individual county.

CHAIR WIENER:

Earlier, there were different ways for issuance. It was important to create continuity in the counties. The Sheriffs' and Chiefs' Association stepped up and said they would oversee this.

MS. ERICKSON:

We support this bill.

MR. O'CALLAGHAN:

We support this bill.

MR. WAGNER:

This bill has a side benefit. If you purchase a firearm, you must pay \$25 for a background check under the Brady Handgun Violence Prevention Act (Brady) for a CCW permit. This bill eliminates that \$25 fee. We support this bill.

MS. CHAPMAN:

We support this bill. It will save time, money, energy and will streamline the process for CCW holders.

MS. HANSEN:

I became aware this was an issue through my son. This is a good step forward for safety reasons. Those who have had a background check would not be required to pay the additional \$25 and expend their time and energy. We support this bill.

JULIE BUTLER (Records Bureau Manager, Records and Technology Division,
Department of Public Safety):

Senate Bill 279 proposes to make the CCW renewal process the same as the initial application process in that the permittee would have to undergo another criminal history background investigation by the sheriff's office. The Department of Public Safety Records Bureau runs the criminal history records for the CCW applicants. We forward those responses to the sheriffs' offices. This bill is an

attempt to go back to the Brady exemption the CCW permit holders used to enjoy.

Before 2005, a person did not have to undergo a Brady background check when he purchased a firearm from a federally licensed dealer if he or she held a CCW permit. In 2005, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) determined Nevada's CCW statutes were insufficient to exempt permit holders from the Brady check because the renewal process was not as stringent as the initial application process. A background check was not conducted for the renewal. Due to public outcry, our office and the Sheriffs' and Chiefs' Association requested the ATF to delay its ruling on the Brady exemption and let us address the issue in the 2007 Session. Assembly Bill (A.B.) No. 21 of the 74th Session addressed that issue, but it failed. Consequently, the ATF finalized its ruling that the CCW permit holders do not qualify for an exemption from the Brady check. If S.B. 279 is passed, there is no automatic guarantee the Brady exemption will be automatically reinstated. The ATF must review and approve the language in S.B. 279 to get that exemption back. I have submitted S.B. 279 and other bills attempting to do the same thing—A.B. 205 and A.B. 282—to the ATF for its review. I will advise the Committee when I have additional information.

ASSEMBLY BILL 205: Revises provisions concerning the issuance of permits to carry concealed firearms. (BDR 15-51)

ASSEMBLY BILL 282: Revises various provisions concerning firearms. (BDR 15-962)

SENATOR GUSTAVSON:

We have the documents regarding Ms. Butler's testimony about the ATF, [Exhibit I](#), pages 2 through 6. We are confident we will get the approval from ATF and not have to undergo another background check every time we buy a firearm.

RICHARD BRENGMAN:

I bring the perspective of a firearms retailer. I am familiar with the ATF requirements for the Brady exemption. If you pass this bill, I am confident we will get the exemption back unless ATF unilaterally changes its rules. This is important to many Nevada residents.

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MR. SMACK:

The Stillwater Firearms Association membership supports this bill.

MS. CLARK:

I have provided my written testimony, [Exhibit G](#). We support this bill.

CHAIR WIENER:

I will close the hearing on S.B. 279 and open the hearing on S.B. 195.

SENATE BILL 195: Revises provisions relating to the costs of collecting past due financial obligations in common-interest communities. (BDR 10-832)

SENATOR ELIZABETH HALSETH (Clark County Senatorial District No. 9):

Senate Bill 195 will cap excessive collection fees. These excessive collection fees benefit collection agencies that take advantage of homeowners' associations (HOA), stop real estate transactions and hurt every constituent in our State. Walking the largest Senate district in Nevada with over 320,000 residents, I heard time and again about broken HOA laws, specifically collections. You will hear about outrageous fees that take advantage of struggling Nevadans. How can \$300 become over \$3,000? How does \$2,500 become nearly \$8,000? This money does not go to HOAs and residents. In many cases, it lines the pockets of greedy collectors and management companies. This system provides no benefit to consumers, first-time home buyers, investors or real estate agents.

Senate Bill 195 and the proposed amendment fix this problem. It provides a real cap on fees while providing the HOAs with the protection they need to best serve their communities.

CHRIS FERRARI (Concerned Homeowner Association Members PAC):

Concerned Homeowner Association Members PAC (CHAMP) is a coalition of interested parties including real estate investors. We are working with consumer credit counselors, real estate agents, minority organizations, labor union members and homeowners. We support S.B. 195 and the amendment we are proposing today ([Exhibit L](#)). We are concerned about potential loopholes left open in the Commission for Common-Interest Communities and Condominium Hotels (CCICCH) regulation, which includes a \$1,950 cap. We are trying to achieve a hard cap so when your constituents or investors purchase homes, they know what they are getting into and what the costs will be.

Some of the opponents to this bill will say they cannot do collections for a certain amount, and they need more money to do collections. The HOA gets nine months pursuant to statute. If homeowners pay \$50 a month and they are nine months in arrears, the HOA will only get \$450.

A couple of amendments—one sent by an attorney and collector and another sent by a management company—encouraged the sponsors of this bill to remove the bill from the process and substitute it with amendments that sound like they are doing something but denigrate the entire intent of this bill.

Our amendment, [Exhibit L](#), proposes a real cap that protects consumers. It is a reasonable compromise, now up to \$1,475 in collection fees. The HOAs are made whole. There is no open-ended provision allowing those abuses to exist any longer.

I provided a copy of a PowerPoint presentation ([Exhibit M](#)). The goal of the legislation is to ensure consumers are protected and stop the abusive collector practices, [Exhibit M](#), page 2. Based on \$50 per month HOA dues, collection agencies and management companies receive 88 percent of that money, and the HOA receives 12 percent, [Exhibit M](#), page 4.

I provided examples of demands showing \$528 in past due HOA fees with \$3,434 in collection costs ([Exhibit N](#)). Page 2 reflects \$308 in past due HOA fees and \$2,832 in collection fees. Page 3 reflects \$499 in past due HOA fees and \$3,550 in collection fees. Page 4 reflects \$326.70 in past due HOA fees and \$3,050.05 in collection fees. This translates to 819 percent in fees to collect those dollars.

The CCICCH regulation says, "An association or person acting on behalf of an association to collect past due obligation can recoup any costs in connection with the activity outlined in the fees." That open-ended language will continue the same practice and will not put in a real cap.

Our amendment, [Exhibit L](#), would impose a real cap on fees. An association can charge a homeowner for the services associated with preparing documents and recording notices as part of the foreclosure process. The amounts in the amendment are a compromise. The compromise allowing recovery of reimbursable costs will ensure they can make themselves whole from those costs, but there is a cap. A cost of \$600 for reimbursement of those fees and

time limits are incorporated into Nevada law on homeowner unit foreclosures. We have asked the fees that can be collected be limited to those the association actually incurs. We are trying to ensure the association is made whole and a collection company can no longer charge thousands of dollars the HOA will never see. We included language to ensure attorney fees apply appropriately. We do not want additional attorney fees added to the collection fees. Many times, law firms are also collection agencies. We have said the prevailing party will be able to collect the attorney fees. We are proposing this for the best interests of homeowners and your constituents.

SENATOR COPENING:

The associations are the homeowners. We know collection fees are a problem. The Commission and my bill proposed caps. The collection companies recognize it is a problem. A few of them take advantage, and we know that. That is the reason we are working on this.

Keith Lee testified on my bill that the title companies will charge anywhere from \$350 to \$475 for one of these sections. In your proposed amendment, you have removed the higher charges in paragraphs (d), (e) and (f), [Exhibit L](#), page 2. Those were fully vetted by the Commission and my working group. They are hard costs incurred by the collection company from the title companies. Keith Lee testified it could be up to \$475. If you cap it at \$600 and subtract \$475 from \$600, that leaves \$85 for the collection process. I am concerned HOAs would go broke if collection companies would not work for \$85. Those are our constituents. The associations will have to raise assessments or impose special assessments. Those who live in HOAs would carry the slack for people who default.

My working group met with you and some investors regarding this issue. We wrote to you explaining this. But you are proposing lower charges knowing title companies charge that amount. This is not profit for the collection companies. How would we get title companies not to charge this?

MR. FERRARI:

We have had input and support for this bill from the National Association for the Advancement of Colored People, the Consumer Credit Counseling Services, the Asian Chamber of Commerce ([Exhibit O](#)) and numerous people. In speaking with entities outside your working group, I found there are other ways to ensure HOAs recoup their costs. Some of the items gone through on a line-by-line basis

are not always necessary but are thrown in. If a specific item is required, we would be willing to change our amendment to accommodate that.

STEPHANIE COOPER HERDMAN:

I support S.B. 195. Our law firm does foreclosures for the mortgage industry as a whole and associations in southern Nevada. We charge \$1,200 for association lien foreclosures even though we could charge more. The \$200 recording fee for the notice of default and certified mailings might exceed the cap. The number of certified mailings depends on the number of subordinate lien holders and people who have requested special notice. That being said, we are talking about \$5 per piece of mail. It takes a lot of those to equal \$1,200. Recording fees can add a few dollars per page. The \$200 recording fee and the postage would be the only items outside the profit made by the collection agencies.

These standardized letters require setting up the file one time and after that, just pushing a button. Those are the bread and butter for the collections industry. This bill makes sense and allows me a margin of profit I am comfortable with.

YVONNE SCHUMAN (Concerned Homeowner Association Members PAC):

I support S.B. 195, which advances four items on behalf of Nevada homeowners. First, collection activities should be taken only if needed. Because HOAs have a perpetual lien on the property, there is no need for many of the collection activities alleged to have been taken at great cost to homeowners. Second, collection activities must conform to the Fair Debt Collection Practices Act (FDCPA). The FDCPA prohibits a collector from pursuing an action they have no intent of taking. The number of foreclosures illustrates that collectors threaten to take foreclosure steps when they have no intent to foreclose.

Third, fees must be reasonable and based on costs. Little attempt has been made in the past to ensure fees are reasonable and tied to a measurable cost.

Fourth, S.B. 195 protects Nevada's homeowners and HOAs. It helps HOAs recover the nine-month assessments under the superpriority lien. It helps protect Nevada homeowners from outrageous fees imposed by the collection agencies. It would help prospective buyers who cannot purchase a home because they would be saddled with the collection costs on the property.

Senator Copening said the trustee sale guarantee costs are higher than what S.B. 195 permits. However, since the HOA and collection agency usually do not

intend to actually foreclose, they do not have to incur that cost. A letter is sent to a new homeowner for the nine-month assessment. Most will pay that. If the HOA does not intend to foreclose and that cost exceeds what is allowed in S.B. 195, the acquisition of the home will more than cover that cost for the HOAs. The HOAs are not disadvantaged by the caps.

Some have testified this should be left to the free market. Unfortunately, the free market is not in play here. The free market does not have the opportunity to work when one entity acquires services, does not pay for those services and receives a kickback. The person stuck with those fees has no input into which collection agency is used to service that property.

Some have suggested we do this by regulation rather than statute. The regulatory efforts have been inadequate. They have done more than the collection industry requested and nothing to protect homeowners—the majority of Nevadans who are in HOAs. It is incumbent upon the Legislature to protect the 500,000-plus Nevadans who live in HOAs rather than increase profits for collection agencies.

This is a simple illustration of what we are talking about. No one is suggesting collection agencies do not charge fees for their services. They should. It is just like the taxi driver situation where you have two taxi drivers. One takes you directly to your location and the other takes you in a circuitous route and charges two or three times as much. You should only pay what it should cost to go to the location where the first driver took you, not an obligation two or three times more that they tricked you into. This is happening here with the collection agencies.

MS. COOPER HERDMAN:

Litigation involving Nevada Association Services, Inc. is pending. The CCICCH and the judiciary are uncomfortable. The judiciary is looking to the Legislature to act because it wants to avoid rendering a decision that might somehow affect the Legislature.

SENATOR COPENING:

Did you say the CCICCH is uncomfortable? Please explain. I worked with three of the Commissioners on my bill, and they were comfortable with it.

MS. COOPER HERDMAN:

I reviewed the depositions and some of the testimony given. The Commission may not believe it has the authority if the Legislature wants to intervene. Something was said indicating you may withdraw your bill. I would be concerned if both bills were withdrawn because the Commission is not 100 percent comfortable it was supposed to make the regulations. The court is not 100 percent sure it should make a decision. If the Legislature does that, it would be the final word and would make it decisive.

SENATOR COPENING:

The Legislature charged the CCICCH with drafting the regulation. Maybe we should request a letter from the Commission stating it is comfortable with the regulations it put in place.

MS. SCHUMAN:

The CCICCH has the general authority or jurisdiction. When the Commission adopted the regulations, it made a significant number of amendments to the version drafted by the Legislative Counsel Bureau (LCB). That is where the challenge may arise.

CHAIR WIENER:

We will determine what is going on. We will contact the Commission to determine the status of our concerns with this.

MICHELLE LEE:

I support S.B. 195. As a real estate agent working with several banks on real estate owned properties, I have seen banks pay \$7,000 to \$10,000 to collection companies on a \$400 HOA bill. Representing banks, I have tried to work with collection companies to have interest or late fees waived, and they were uncooperative. Their position is they have a lien on the property, and either we pay it or we do not sell it.

RANDOLPH WATKINS (Commission for Common-Interest Communities and Condominium Hotels):

I represent the Commission for CICCH. The Commission took a position on the collections issue. In the 2009 Session, it was charged with adopting regulations. The Commission conducted numerous workshops over 12 months. Regulation LCB File No. R199-09 was extensively vetted by homeowners, investors, collection agencies, real estate agents and lawyers. It adopted

regulations in December 2010, which established the fees for collection processes. The regulation was forwarded to the Legislative Counsel Bureau for final review. In January, Governor Brian Sandoval put a hold on all regulations. This generated many collections bills. The Commission's position has not changed.

JAN PORTER:

I am a homeowner and member of my association board of directors. I served on the CCICCH. I am the manager for Peccole Ranch Community Association. The assessments are \$65. I have provided a sample of what will be presented to my board next Thursday ([Exhibit P](#)). The agenda is on pages 1 through 4, and you will see the board regularly waives a number of fees. The average is \$969 in late fees and nonsufficient fund fees, [Exhibit P](#), page 10. Page 10 reflects approximately \$200 in violations. The board considers a number of payment plans. [Exhibit P](#), page 3, shows a payment plan where the homeowner is delinquent \$2,255.34 and requested a 91-month payment plan. Below that, you will see the write-off which comes from payments not timely received by the title company for the transfer of a home and others above the superpriority. The average we write off per month is \$2,906. The aging balance is on page 5 of [Exhibit P](#). At the end of March 2010, our aging balance was \$243,306.27.

This is what homeowner associations are dealing with. On page 6 of [Exhibit P](#), you will see the collector efforts we pursue throughout our HOA. We send a late letter on the eleventh day of the month. The assessments are due on the first day, late on the tenth. If we do not receive payment, we send a 30-day letter, a 60-day letter and a 90-day certified letter to all the addresses we can find for the homeowner. At approximately Day 100, it goes to collections. When we turn it over to a professional collection service, we send a notice to the homeowner saying it has been turned over to collection and he or she will need to contact the collection agency. Approximately 139 went to collections, [Exhibit P](#), page 6. The collection agency sends out approximately 100 notices, page 6. Approximately 39 percent to 40 percent of the people pay at that point.

When the process goes from the notice to the lien to the notice of default to the payment plan, approximately 40 people end up in payment plans. We have 17 to 20 homes in the foreclosure process. The board has a policy giving 120 days. Many times we find out the homeowner has a first deed of trust that will wipe out any action we might take. At this point, we have one property

that will go to foreclosure. The homeowner passed away in 2008. We do not want to foreclose on any home, but we have to look at costs.

Page 7 of [Exhibit P](#) shows the collection costs are high compared to the costs to the association. That is why I support the regulation adopted by the Commission. In the HOA where I live, we have a debt of \$11,700. We will probably not see that money. We do not want to foreclose, but our assessments will increase to cover what others do not pay.

SABRINA GAYHART (Angius & Terry Collections, LLC):

I spoke with the Washoe and Clark County deputy recorders regarding the \$200 recording fee for HOA notices of default. Associations are exempt from that fee. That fee may not be billed back to the homeowner. It must be absorbed by the entity foreclosing on the unit. In this case, if the Cooper Castle Law Firm is charging that fee, homeowners using her service are paying a \$200 fee they cannot recoup.

Associations in some cases do not want to foreclose. However, certain circumstances may arise where an association treats every unit differently. If an association has a policy of nonforeclosure, it communicates that to the collection agency, and fees are not incurred unless they need to be. Collection agencies are not just moving forward and setting sales on homes without the intention to foreclose. The collection agency must have authorization from the board to do so.

When a property is sold at foreclosure where the association can recoup the fees, that will not be the case in a negative equity situation. If there is a third-party bidder, the association could recoup some of those fees should the property be foreclosed on. However, if the association only recovers \$600, the collection agency will not be able to ask for any more than \$600. For any fees or costs outside of that \$600, the association will still be unable to recoup even if it sold at auction or sold after an auction to a third party. They will not recoup those fees because they are limited on the cap.

The other issue brought up is that each board chooses the collection agency it will use. During the open meeting for an HOA, we do presentations in front of all the homeowners regarding the fees and costs and the services we provide. The homeowners are able to voice their opinions regarding whether a collection

agency should be used. In this case, homeowners have input into what agencies and vendors are provided to that HOA.

Last December, the Commission for CICCH came to an agreement for a regulation covering the collection fees. We spent over a year and a lot of time in negotiating the standard fees and costs. This bill takes us a step backwards.

Section 1, subsection 1 of the bill relates to costs of collections. Homeowners' associations do not have funds readily available to them. They receive their funds from unit owners. Those unit owners pay fees based on the amenities available to them in their association. If a homeowner is delinquent, we as other homeowners will have increased assessments to cover those costs.

Associations are different in size and have other variables. Ultimately, the cost of collections is the same for every unit whether there is a \$10 assessment or a \$1,000 assessment. The fees in the regulation set by the Commission for CICCH are reasonable and fair. We have agreed to that.

SENATOR COPENING:

You mentioned a meeting at your HOA where you go over the collection fees and discuss the potential vendors to be used. Is that required by statute, or does your HOA choose to do that?

MS. GAYHART:

I do not sit on the board for my HOA. As a vendor, I propose our fees and services to an open board. I address homeowner questions at that time. I do not know if there is a requirement.

CHRIS YERGENSEN (RMI Management, LLC):

I echo the comments of the two previous testifiers. From a public policy standpoint, the Legislature created the Commission for CICCH for a purpose, to investigate regulating HOAs. It is an emotional topic. The Commission was to deal with specific issues on a day-to-day basis. It meets regularly and is in charge of regulating the HOAs in *Nevada Revised Statutes* (NRS) 116.

The Legislature recognized it is important to regulate collection fees. It charged the Commission with establishing reasonable fees. The Commission held public hearings and enacted a regulation. The members of CHAMP were there. The industry proposed a cap to help them with their foreclosed homes. I ask you to

give deference to the 2009 Legislature and the Commission on their regulation. Allow that regulation to at least go into effect and be tested. If it does not work, the Commission has more flexibility to fix what does not work. If you do this by statute, we will be here every other year. Please do not entertain S.B. 195.

JOHN RADOCHA:

I have a proposed amendment to S.B. 195 ([Exhibit Q](#)). I kind of support S.B. 195. If my income was \$100,000, I would not be here. When you are on a fixed income, this affects you. I will read my amendment.

I saw a document where it would only cost \$20 to send a fee or something to the clerks. The collection companies charge \$200. If it only costs \$20, why the \$200?

In the past, we paid our assessments by the fifteenth of the month. That was changed to the tenth and had to be on business days. Some people do not receive their pension checks until the eighth or ninth. Some of them do not have that extra money to pay. Rather than charging a \$10 late fee, the association sends a notice and gives it to a collection company.

A young man lives in my HOA, and he had to be in Los Angeles in January for eye surgery. He was in the hospital and blind for 1.5 weeks. He came back and paid in the middle of February. He was told he was late, and it was already in collection. When I saw him two days ago, he told me they wanted \$5,000 from him. I realize collection companies need to make some money, but let us not make them fat.

SENATOR COPENING:

If you will have that gentleman contact me, I will personally get involved to try to help him.

MR. RADOCHA:

I will do that.

JON SASSER (Legal Aid Center of Southern Nevada):

I signed in neutral on this bill. We are struggling to achieve a balance. We see clients in foreclosure who are going through mediation to try to save their homes and are dealing with these large fees. Clients come to us when they are

being sued and are dealing with the follow-up of that—garnishment of their wages or attachments of their assets. On the other hand, we have low-income clients living in HOAs who are struggling to make it. If their assessments are increased, we are sympathetic to their needs as well.

An attorney at the Legal Aid Center reported a retired husband and wife lived in a condominium in Las Vegas. The wife's father died in Arkansas. They went to Arkansas for several months for the funeral and to close her father's affairs. While they were in Arkansas, their son lived in their condominium. He took care of it and continued to pay their dues. One day, their son was working on his car. He left a screwdriver on the stairs. This was a violation of the HOA rules, and they were fined \$20. Since they were in Arkansas, they were unaware of the fine. When they returned, the account had been turned over to collection. The collection company had assessed fees, penalties and legal costs for collecting the \$20. Upon their return and discovering the fine, they immediately called the HOA. They were told to call the collection company. When they called, they were informed they owed over \$1,000 in legal fees and costs. They said they were happy to pay the fine and a reasonable fee but felt \$1,000 was too much. The collection company would not reduce the fines but offered them a \$300 to \$400 per month payment plan. Another month passed as they discussed how they could pay. During that period, the lawyer sent more letters and added another \$1,000 in costs and fees. By the time they came to the Legal Aid Center, they owed over \$3,000. They were only collecting social security benefits, and they did not know how they would make the payments. The collection company refused to budge because it had a superpriority lien on their property.

Senate Bill 195 brings forward the concept of the fundamental unfairness of a situation like that. The punishment does not fit the crime. How do we do that on one hand, and make the HOAs whole on the other hand? That is what we are struggling with. Part of the answer is a reasonable relationship between the amount the HOA is out and what collection fees may be charged to collect that. There has to be some balance. Senate Bill 195 seeks to introduce that element into this discussion.

SENATOR ROBERSON:

In the example you gave, do you know which collection company it was?

MR. SASSER:

I do not know but will get the information for you.

SENATOR ROBERSON:

That would be good for the public to know.

DAVID STONE (Nevada Association Services, Inc.):

I own Nevada Association Services, Inc. (NAS), which is a licensed Nevada collection agency in Las Vegas. I was on Senator Copening's working group. Nevada Association Services, Inc., has just over 20 employees. In 2010, NAS collected in excess of \$16 million for HOAs. That went to HOAs.

I do not want this Committee to be under the impression that we do not help HOAs. We do. The HOAs are made up of the individuals who live there. To say we helped associations is saying we helped some of the 500,000 people who live in HOAs. Those are the people who pay their assessments on time, follow the rules and have the benefit of not paying collection fees and costs incurred when their neighbor failed to pay their assessments. That is fair and reasonable.

I am a consumer, and some of the proponents of S.B. 195 say they support consumers. As a consumer, I oppose S.B. 195 because it attempts to choke the ability of a collection agency to do that work. If you do that, either the collection agencies will not stay in business or the fees and costs to collect are imposed on the HOAs. One way or another, I would be responsible for paying those collection fees and costs. That is not fair.

Assembly Bill No. 350 of the 75th Session gave the authority to the Commission for CICCH to adopt this regulation. It took almost 16 months of vetting and discussions to get this regulation adopted by the Commission. The fact it took 16 months should be an indication this is a complicated issue. It is not as easy as saying you could charge \$50 for this or \$100 for that. There has to be some substantiation for those charges. I ask you to give deference to the Commission and what it has determined.

Many things we do not charge for are built into our fee structure. For example, we resolve hundreds of disputes each month between delinquent homeowners and their associations as well as bankruptcy issues, and we work out programs. We work with banks and reduce our fees. We work with homeowners who cannot afford to pay. We reduce our fees all the time. If you make it impossible

for us to conduct business, we will not be able to work with homeowners as we currently do.

If the Legislature decides to impose a fairly arbitrary fee schedule, as S.B. 195 lays out, it will put a burden on HOAs. They will be paying the collection fees and charges. If the association has to pay those things, it will be paying out additional costs. Associations will be on the brink of financial ruin because of the extra charge it takes to conduct collection activities. If associations cannot maintain themselves, that obligation will eventually fall to the municipalities. That is a definite possibility. We are beginning to see that in Arizona. The collection process is expensive for associations in Arizona, and they cannot afford it.

SENATOR ROBERSON:

You said you collected \$16 million for HOAs. How much money did your company collect in revenue to get that \$16 million for HOAs?

MR. STONE:

You asked me to tell you what my tax return was for 2010? I do not know. If I did, I would reluctantly tell you. We do make money, but I have a professional staff. I am not becoming rich because of this process.

SENATOR ROBERSON:

I find it surprising you can tally up numbers of \$16 million you collect for HOAs, but you cannot tell us what fees your company charged to collect it. I would think you would be on top of both those numbers. A ballpark figure is enough; you do not have to be exact.

MR. STONE:

You are asking me what my tax return was for my company for 2010?

SENATOR ROBERSON:

No, I am not. You made a point to say your company collected \$16 million last year for HOAs. I am trying to get an idea of what your company collects, what you charge in fines, penalties or fees relative to the amount going back to the HOAs. I am not asking for your tax return. I am not asking for private company information. I am trying to get an idea what your cut is if you claim you provide this great service by giving \$16 million back to the HOAs.

MR. STONE:

For clarification, we do not keep fines or violations. That money goes to the HOAs. If we do a letter, a notice of lien or a notice of default, I keep the fee for that. Those fees pay the rent. I will give you an estimate, and the process for collection is a process. If someone, for example, pays the delinquent assessment when he or she gets one of my initial letters, my fee is approximately \$130. That does not include the recording cost. We pass hard costs to the delinquent owner. The fees depend on where we are in the schedule. If we go all the way to the date of the foreclosure sale, which is months later and happens many times, my fee could be up to \$1,400 to \$1,500. It could be higher depending on how much work was done. That is the range of fees, as low as \$135 and as high as \$1,500 or \$1,600. I was not trying to be evasive. I wanted to make sure I understood the question. Does that address your concern?

SENATOR ROBERSON:

No. I will not pry into your business practices. Other members of the Committee may want to ask additional questions. I am just trying to get an idea of your gross revenue if you are returning \$16 million to the HOAs. In Mr. Sasser's example, a \$20 fine turned out to be over \$1,000 in fees. I do not know where that money is going. Does it go to the HOA or the collection company?

MR. STONE:

For the record, I was not involved in the screwdriver incident. This is the first I have heard about it. Until 2009, there were limits on the amount you could charge on a fine that was under \$100. That was stricken when the Commission set regulations. There used to be a cap on fines. If an account is turned over to me for a \$20 screwdriver fine or \$30 in late fees, I will not do it. I recommend they waive the \$30 because I do not want my company to be on the news or before this Committee being criticized for charging \$1,000 for a \$20 screwdriver violation. On its face, it seems unreasonable. That is an unusual situation. If those were, in fact, all the facts in this case, I would have a fundamental problem with it. I have been in this business a long time, and often what you are told is not really the full extent of the situation. I sense there is more to this story. On its face, if those are the facts, it seems unreasonable. My company would never do that.

SENATOR KIHUEN:

Earlier, we discussed fees charged for form letters, template letters. How much does your business charge for a form letter?

MR. STONE:

It depends on which letter. Our initial letter is \$135. It is not simply a perfunctory act of pushing buttons. At various points in the process, the fees are adjusted. The minute our fee is imposed, we take on liability, and risk is involved. Additionally, if you go to a restaurant and pay \$5 for a hamburger, the restaurant only paid 50 cents for that hamburger meat. There is a markup for employees and insurance in any service provided. We are sued on a regular basis. We must have employees to service that one letter. I testified that for every initial demand letter going out, we receive 1.5 phone calls. People call in once with a question or concern. Then, they place another phone call with more questions. If it were as simple as pushing a button, I could generate letters all day from my home. The Fair Debt Collection Practices Act compliance, state law and the general support needed to accommodate homeowners are significant costs.

SENATOR KIHUEN:

We discussed capping that at \$75, which is too high, and \$130 almost doubles that. I have yet to receive a response justifying \$130 or even \$75. I know you must make phone calls and have follow-up regarding those phone calls. How do you charge \$130 for that simple letter?

People in Nevada are facing hard times. They are facing foreclosures and bankruptcy. How do you expect them to pay \$130? When you send a letter over and over again, that is \$130 times five, six or seven times. People cannot pay that right now.

MR. STONE:

We do not send a \$130 letter time and again. That is not the way the process works.

SENATOR KIHUEN:

You do not, but many agencies do. I have received many calls from constituents. I get more phone calls and e-mails about HOA issues than any other issue, more than education, immigration or the budget. People speak out when they are struggling. Many people who would love to be here cannot be

here, or they do not know the hearing is videoconferenced from Las Vegas. Our responsibility as Legislators is to represent those who cannot be here. Those are the people who call me every day. I am not against the collection companies. I agree. You are a business and you need to make money. We are not antibusiness. However, \$130 for a form letter seems outrageous.

MR. STONE:

If your concern is runaway fees, that is where the regulations come in. I encourage you to come by my office whenever you would like to see what it takes to run a collection machine. This is a titanic operation, not in numbers, but in the responsibility and duties. It is expensive to run this type of operation.

You want justification of the fees. We provided the Commission with an Excel spreadsheet breaking down every single task—the number of hours it takes, the phone calls, the pro rata share of insurance, the rent, everything. I will provide it to the Committee. The Commission expressed the same concerns as you. I hope that will give you a better idea of why these fees are reasonable and justified.

GARRETT GORDON (Southern Highlands Homeowners' Association; Olympia Development Corporation; Alessi & Koenig):

The diverse group of my clients provides a balance and good perspective on this issue. Southern Highlands is an association; Alessi & Koenig is a law firm that provides collection activities. They work together, and we have worked together as a team over the last month vetting these bills and trying to come up with a good legislative solution. Southern Highlands recently had a homeowners' meeting, and three or four times more homeowners than normal attended the meeting. They support the cap, but they support collection activities because the assessment-paying homeowners do not want to subsidize their neighbors for nonpayment.

We should have a cap, and there should not be runaway fees. However, Southern Highlands has a responsibility under State law to balance its budget. If assessments are not paid, they must be written off as a bad debt. Decisions must be made regarding which vendors to pay and which vendors not to pay. This could end up costing assessment-paying neighbors higher assessments. There should be a consequence for nonpayment. I am glad to have this dialogue of the consequence and what the cap should be. The regulation includes a cap of \$1,950, but more work should be done. It should fall onto the Commission and regulations. If we come back every two years to work on this, we should

work on inherent questions in the interim. For instance, we have recently discovered the situation of one large property with 100 owners. Each person owns an equal interest in the property. Is the cap per owner because it requires a lot of work? Is the cap per property? How do time-share owners fall into this? The Commission has started to vet these issues. We support the regulation.

There can never be enough transparency and disclosure with these fees. The amendment contemplated a one-page schedule of fees. If this is not paid, this is what could happen. There is not a runaway train. There is notice to each homeowner. For whatever reason, that amendment could not coexist, in my clients' opinion, with CHAMP's amendment. I welcome providing that amendment to you, proposed by Angela K. Rock, President, Olympia Management Services, LLC ([Exhibit R](#)), and maybe we can find another vehicle for it because more disclosure and transparency are important.

SENATOR MCGINNESS:

You think this is important, but you want to put it off to another interim?

MR. GORDON:

My understanding is the cap created in the regulation was approved last December and, pursuant to the Governor's freeze on regulations, that was captured within that regulation. The Governor may have taken the position that regulation is no longer frozen. It would take an approval by the Legislative Commission's Subcommittee to Review Regulations to make it effective.

SENATOR MCGINNESS:

Or we could vote this bill out, right?

MR. GORDON:

Yes.

SENATOR COPENING:

Mr. Gordon's statement is correct. It was not a holdup from the Governor, but it is on the list of the Legislative Commission that received regulations it needs to approve. I have talked to the chair of the Subcommittee to Review Regulations. I also serve on that Subcommittee, and I have expressed the importance of approving something right away because we must move on capping these fees. He understands that and is working on it.

ROBIN HUHN, D.C.:

Just this week, I received two phone calls from people whose fines started out for one person at \$100, and another person at \$200. Their fines are now over \$4,000. They do not know what to do. These people wanted to pay, and they asked for the amount to be discounted. The property management and collection companies are not willing to talk to them or compromise. This is greed.

SENATOR COPENING:

I agree. If you would like to provide me with those names, I would be happy to look into that and try to help them.

TRACEY DONLEY:

I represent the short sale homeowner who has lost his job. I listened to Mr. Stone's testimony, and I must bring some facts to the table. His testimony contradicted the testimony of Ms. Cooper Herdman who said she gets \$1,200 per unit for collections. They made a good profit. If Mr. Stone's business expenses are too high, he should look at his business model. I did that because I had to curtail the spending in my company.

I attended the committee hearing when we testified against these collection agency fees. I am taken aback that people on the CCICCH have interests in HOA management companies and collection companies and are allowed to make decisions that will benefit collection agencies. We have laws allowing HOAs to collect nine months on a superpriority lien. If the HOA made the effort to discover whether a property was being short sold or in foreclosure, it would not be at the collections agency because that would serve no purpose. If someone is unemployed and running out of unemployment benefits, he must decide whether to feed his children or pay the HOA fee. The decision is clear. When there is no money to pay a bill, it will not get paid.

I have some suggestions. We should stop all the hearings about how much a collection agency can earn. The homeowners' associations should ascertain whether a property is in foreclosure or short sale. If it is a short sale, they should make a phone call to the listing agent when they see a fine. They are quick to check properties for violations. The same people could check for a sale sign on a property where payments have not been made.

Today, I brought invoices from a collection agency that forced two of my fully-approved, short-sale clients into foreclosure. They lost their homes. Two associations were on the first invoice. On the first one, the assessments were \$4,439.20, and the balance due was \$7,047.20. There was a subassociation, and the actual amount of the assessments was \$415.80. The balance due on this invoice is \$2,393.09. On top of this, the property was only worth \$29,000. No one would back down. I wrote to the Real Estate Division Administrator because I could not get anywhere with anyone. It is not your job to intervene when these collection agencies run rampant. It is your job to protect the people you are serving. You are serving a population where the vast majority are underwater on their houses. Quite a few people are doing short sales and foreclosures. A compromise would be to create a regulation limiting these collection agencies, and it can be temporary. For example, look at it again in three years.

It is not your business to protect someone regarding his or her business model. It is your job to protect the public. While I understand Mr. Stone is trying to tell you he will assess charges to the HOA communities if his income is curtailed, he cannot do that if you set a limit. He cannot charge anyone. Once you set a limit, he cannot charge 1 cent more to anyone.

GARY BRODT:

I support capping the fees. I was president of a subassociation in Sun City Summerlin, and we had a house that went into foreclosure. Our management company filed a lien with the Clark County Recorder's Office. When the house sold, we got more than the nine months in back assessments. Since I left the board, a new management company has come on, and the first thing it does is hire a collection agency. This takes the burden off the management company. The board does not have to file the lien, the collection agency will do that. That is another fee, and the fees add up. Collection is a big business, and I appeal for you to cap this.

ELLEN SPIEGEL:

I oppose S.B. 195. I have been a member of Senator Copening's working group. An HOA is a privately held corporation, and its board has a fiduciary responsibility to the shareholders to have a budget based on anticipated receipts of assessments and to collect the debts owed. In my community, assessments are \$41 a month. Senate Bill 195 would prohibit my association from charging more than \$75 to collect a year's worth of overdue assessments. The process is

the same to collect a \$492 debt as it is to collect a \$1,000 or \$5,000 debt. The costs are the same irrespective of the amount of the debt—the mailing costs for sending mail by certified and regular U.S. mail, filing fees, title company liens and other fees. If S.B. 195 were enacted as written, my association would be forced to pay more to collect the debt than the debt itself. The association would not be able to recoup its collection expense.

As a result, board members would be placed into a no-win position where whichever course of action they took would be a breach of fiduciary responsibility. Board members have a fiduciary responsibility to collect the assessments, but they also have a responsibility to spend their budget prudently. It is not prudent to spend more to collect a debt than the debt itself. I do not know how this could be resolved if S.B. 195 were enacted.

As I listened to testimony this morning, it struck me that many of the proponents of this bill are speaking of foreclosed properties. They are speaking about the superpriority lien as meaning an HOA can never collect more than nine months of assessments. Not all properties in arrears or in the collection process go to foreclosure. Foreclosures can take up to two years to go through. Many assessments are not paid during those two years or longer. Other homeowners who do not pay go into collections. They are eventually put on a payment plan and come out of collections. Then, they do not pay again, and there are ripple effects. All of that should be considered when looking at this bill. Homeowners' associations should be able to collect the money they need to run themselves. Please consider this as you assess this bill. I urge you to oppose S.B. 195 and support the regulations put forth by the Commission for CICCH.

KEITH LEE (Lawyers Title Insurance Corporation; First American Default Services): We oppose S.B. 195. We support the regulation promulgated. My clients are title insurers who issue trustee sale guarantees. Generally, the collection agency hires us. We get involved when it is time to file a notice of default to pursue foreclosure on a lien. We open a file and issue a trustee sale guarantee. The trustee sale guarantee is similar to a preliminary title report showing all people in the chain of title regarding a particular unit. That is an important and essential part of the foreclosure action. As required by NRS 116, all people in the chain of title, and any others who requested special notice, must be notified of the notice of default and eventually of the trustee sale. It is not necessary for the debt collection agency, management company or the HOA to hire one of my

clients or any other title company. They can do the title search themselves and see what they come up with. They hire a title company because we issue a guarantee that is based upon liability so there is recourse if we are negligent in what we do and a problem arises. If we leave someone off the title we should have discovered and that person objects to or tries to set aside the sale, there is insurance to guarantee the title search and information we provided is accurate. That is not a necessary element, but most people in charge of collecting a debt come to my clients or those similarly situated to get that.

My clients and all title companies must file their rate schedule with the Division of Insurance, Department of Business and Industry. That is a sliding rate schedule based on the amount of the guarantee. Generally speaking, the amount of the guarantee is at the lowest level. I mentioned a \$300 to \$450 range. Actually, the lowest I have seen is \$290. Occasionally, there is an additional charge if it has been a long time since the first title report was issued with the trustee sale guarantee. If the collection agency or someone requests it, we will do a takedown that is somewhere in the range of \$0 to \$75 in addition.

SENATOR COPENING:

On the itemized listing, [Exhibit L](#), page 2, paragraphs (d), (e) or (f), what is the preparation and recordation of the notice of sale? Is that the process of notifying?

MR. LEE:

We are covered outside of that. If the collection agency requests it, we do the recording as an accommodation. We pass on the recording fee, but we do not charge for that service. Our fee is the trustee sale guarantee. The amendment, [Exhibit L](#), page 2 and on to page 3, is intended to address our situation. If that is the case, the only issue we have is the language in paragraphs (c) and (d) on page 2. My clients are an agent to someone in this. We need to understand what that means. We object to any "not to exceed" costs because our costs are set by the rate schedule filed with the Division of Insurance. That document is readily available. Those rates are set and depend upon how much of a guarantee of title the debt collection agency wants from us.

TROY KEARNS:

I am a real estate agent in Las Vegas, and I support this bill. I appreciate the questioning from Senators Roberson and Kihuen as to the amount of money

gained to get \$16 million because I have had conversations with Mr. Stone. He is trying to find middle ground.

We had a property in escrow, and we had not received a demand from a collection company. The collection company said we owed \$4,000, and the service or the bank had paid that amount. But in the interim, that property had gone into escrow, so the collection was wiped out. It was paid by the collection company. Once the collection company found out the property was in escrow, it wanted to conduct the escrow even though it should be withdrawn from escrow and taken back. The company charged an additional \$1,600 to conduct an escrow that usually costs approximately \$300 because it realized there was more money on the table.

The steering committee seems to be composed of people who are in the industry. I am in a regulated industry. I would be biased. If you realize most of the money going to the collection company went to the HOA, that would make it whole. Mr. Stone pointed out associations in Arizona are having difficulty getting their fees, and they are going bankrupt. That is because Arizona does not have a superpriority. The HOAs in Arizona carry with the homeowners an obligation to go after the homeowner versus in Nevada, where we have the luxury of an adjusted superpriority lien that changed in October 2009 to nine months. They will always get that money.

It is interesting that it costs the City of Las Vegas approximately \$29 to file a lien, and an HOA charges \$350, same lien, same process. We have an HOA fining an occupant where there is a standoff. When we sell a property, many times it is vacant, and many times it is occupied. Eventually, we offer cash for keys. These people are saying they will wait until they get evicted. The HOA is fining our client, a bank, and saying you have to fix the garage door. We cannot go onto people's property. That is trespassing. We replaced the sod in the yard with the permission of the homeowner because we were getting fined by the HOA. But this HOA is going to put us into collections for not fixing a garage door on a property occupied by the former owner, even though the owner is a bank or financial institution because it has been foreclosed on. Please consider who gains more.

Foreclosure is usually a last resort, but it seems in the HOA process to be a fear tactic and first resort.

SENATOR COPENING:

You brought up an interesting issue. I have heard people inquire about the makeup of the Commission and the fact people who serve are in the industry, and they also serve on the Commission. Do most boards not consist of members from their industry and outside people as well?

BRADLEY A. WILKINSON (Counsel):

Generally speaking, most regulatory boards are made up of industry representatives, although they also typically have one or two members of the public.

SENATOR COPENING:

Is that because of their experience and expertise? If they are interpreting law, do they need to know the law?

MR. WILKINSON:

I assume that is the basis for that.

MICHAEL DELEE:

My first experience with this issue was a real estate transaction; I have since researched a lot of this. You heard earlier testimony that the collection machine is expensive. It is broken. This bill goes a long way to put in a stopgap measure by limiting the fees. The real problem is lack of transparency and the inability for HOAs to directly collect. We need to see some changes in NRS 116.31175. This has been misinterpreted as a secrecy law preventing disclosure of liens. However, the liens are filed, so they are public record. Real estate practitioners must have that information to avoid finding out at the last minute when an escrow is due to close that an additional several thousand dollars are being demanded. This bill does not address that, but it does stop the outrageous fees that destroy deals in the escrow world. It also sends a message that we need to replace the machine, not simply grease some of the wheels.

DAVID ROBMAN:

I hear stories of horrible HOA boards and fines that range from \$400 to \$10,000. We do not have these problems in my HOA because we are compassionate for those who are not doing well. I have been out of work for 3.5 years, and my savings has taken a hit because my mortgage and assessments are paid on time and in full each month. Other people are not so lucky. We have instituted waiving fines and late fees. We can only do that if

they come to us. I write our newsletter, and I have told homeowners to come to us with problems of any nature. I oppose this bill because anything that would hamper our ability to collect these funds at this time would be a problem.

SENATOR COPENING:

I wanted to put on the record I made a disclosure on February 15 that I work for an HOA. I work as a lifestyle director. My job has nothing to do with NRS 116 or the laws therein. It is event planning. I did ask for a legal opinion from the Legislative Counsel Bureau before I took the job. I took the job in late September 2010 and explained to the Legislative Counsel Bureau that I had the working group that had started a year earlier. I wanted to get on the record at the time I put my working group together that I was working for Palm Mortuary. When we were finished with the preliminary work by about August 2010, I was still working for Palm Mortuary. I did not begin working for an HOA until later, around September 27, 2010. The Legislative Counsel Bureau said there was no conflict of interest in my bringing these bills and the working group. Once you disclose something, you do not have to do it a second time. However, there has been some concern of a conflict of interest. I wanted to ensure the Legislative Counsel Bureau said long ago that there was no conflict of interest.

SENATOR ROBERSON:

We are in April, and we have a deadline of April 15 to get votes out of Committee. Senate Bill 195 was scheduled to be heard earlier, and it was bumped to today. Given the fact the majority of this Committee has cosponsored this legislation, I would ask the Chair if she would entertain a motion to vote on this bill today.

CHAIR WIENER:

I will consider putting it on a work session.

SENATOR BREEDEN:

I appreciate lower fees, but did you use a formula, or how did you come up with your fees?

MR. FERRARI:

We reached out to numerous people involved in this process. We had some collection people in our group. We had some who practice in the area of private HOAs. In addition, they perform this function on behalf of Fannie Mae and Freddie Mac. It is based on what we saw and the language from the

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Commission for CICCH and its input. We culminated that information, and they indicated they thought that was a fair amount. They could still make plenty of profit within that margin.

SENATOR BREEDEN:
Do you have a spreadsheet we could look at?

MR. FERRARI:
Yes.

SENATOR COPENING:
Of the nearly 3,000 HOAs we have, how many of the boards of directors of those 3,000 did you meet with to take into account the fees?

MR. FERRARI:
I am not involved, but the people have been doing this for approximately a combined 50-plus years. They have been actively involved in the collection process for that period of time. I cannot guess how many people they have dealt with.

SENATOR COPENING:
In formulating this bill, are you saying you have not met with any of the HOA boards of directors to see how it may negatively impact them?

MR. FERRARI:
These are people in the industry. They speak with the people every day about how this process works, and they bring their combined decades of experience together to put those numbers together.

CHAIR WIENER:
I will close the hearing on S.B. 195. The hearing is open for public comment.

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There being nothing further to come before this Committee, we are adjourned at 11:05 a.m.

RESPECTFULLY SUBMITTED:

Kathleen Swain,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 175	C	Senator Don Gustavson	Written testimony
S.B. 175	D	National Rifle Association of America	Letter of support
S.B. 175	E	Stillwater Firearms Association	Letter of support
S.B. 175	F	Chester H. Adams	Letter of support
S.B. 175 and S.B. 279	G	Juanita Clark	Letter of support
S.B. 279	H	Senator Don Gustavson	Written testimony
S.B. 279	I	Stillwater Firearms Association	Letter of support
S.B. 279	J	National Rifle Association of America	Letter of support
S.B. 279	K	Chester H. Adams	Letter of support
S.B. 195	L	Concerned Homeowners Association Members PAC	Proposed amendment
S.B. 195	M	Concerned Homeowners Association Members PAC	PowerPoint presentation
S.B. 195	N	Concerned Homeowners Association Members PAC	Examples of payoff demands
S.B. 195	O	Asian Chamber of Commerce	Letter of support
S.B. 195	P	Jan Porter	Peccole Ranch Community Association Agenda

S.B. 195	Q	John Radocha	Proposed amendment
S.B. 195	R	Garrett Gordon	Proposed amendment from Angela K. Rock