

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

**Seventy-Seventh Session
March 28, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:11 a.m. on Thursday, March 28, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. 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 Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Michael Sprinkle, Washoe County Assembly District No. 30

Minutes ID: 617



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Thelma Reindollar, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

Mike Patterson, representing the Religious Alliance in Nevada
Allan Smith, representing the Religious Alliance in Nevada
Michon A. Martin, Chief Deputy Attorney General, Office of the
Attorney General
Brian O'Callaghan, Government Liaison, Office of Intergovernmental
Services, Las Vegas Metropolitan Police Department
Stacey Cramer, Program Director, SEEDS of Hope Program,
The Salvation Army
Bill Uffelman, President and CEO, Nevada Bankers Association
Venicia Considine, representing Legal Aid Center of Southern Nevada
Kristin Schuler-Hintz, Private Citizen, Las Vegas, Nevada

Chairman Frierson:

[Roll was called. Committee protocol and rules were explained.] We have two items on the agenda today. The first is Assembly Bill 311 so I will invite Mr. Sprinkle up to present his bill.

Assembly Bill 311: Creates the Contingency Account for Victims of Human Trafficking. (BDR 16-715)

Assemblyman Michael Sprinkle, Washoe County Assembly District No. 30:

Thank you, Mr. Chairman. Good morning, members of the Committee. I am here to present to you Assembly Bill 311. This bill establishes a contingency account that is created in the State General Fund. The money that goes into this account is used primarily, and specifically, for services for victims of human trafficking. Groups may apply through the Interim Finance Committee (IFC) for these funds. One of the unique things that I am really excited about this bill is that the IFC maintains oversight and can require follow-up from these organizations to make sure these monies are used for what they were specifically designed for. The intent, or the background as to why this bill came into place, is that oftentimes this Committee specifically has heard many bills with regard to human trafficking. There are private organizations, foundations, and individuals who take this issue very seriously and have gone out and done fundraising. There is no way for them to take that money and get it into the

state coffers so that it can be used for these services. In essence, this bill is allowing that mechanism to take place.

The bill itself in sections 2 through 4 sets forth definitions related to human trafficking. Section 5 creates the contingency account and specifies that the IFC administers the account, that the IFC may apply for grants or donations for the account, and specifies what happens to the monies if they are not used. Section 6 specifies the process that an organization must go through to apply for the funds and allows the IFC to request a follow-up report from the organizations to determine if the funds were used appropriately. [Assemblyman Sprinkle continued to read from ([Exhibit C](#)).]

Assembly Bill 311 is a simple but very necessary bill and I urge your support and passage of this bill. I would be more than happy to answer your questions.

Chairman Frierson:

Thank you, Mr. Sprinkle. Are there any questions?

Assemblyman Wheeler:

Assemblyman Sprinkle, thank you very much for bringing this bill forward. Please clarify what you stated, that the money primarily will be used for victims of sex trafficking. Is there any way the money can go somewhere else?

Assemblyman Sprinkle:

Thank you, Assemblyman Wheeler. That was a slip on my part. It is not primarily; it is specifically the only thing the money can be used for, services for victims of human trafficking.

Assemblyman Wheeler:

Thank you for clarifying that.

Assemblyman Carrillo:

Thank you again, Assemblyman Sprinkle, for bringing this forward. This is important, but do they have anything to fall back on now? I am not trying to say that to try to justify why this is needed, but I want to hear from you what they are using now and why are they falling short to help victims of human trafficking.

Assemblyman Sprinkle:

They have if they choose to raise the money and donate it specifically to the organizations that are providing these services. Part of the genesis of this bill is a bill that you have already heard and there is a fiscal note attached to it. Organizations were very concerned and very eager to try to help with that fiscal

note, and were able to actually raise the money as you may hear in some testimony later and there was no way for it to then be given to the state to help cover that fiscal note. That is just one specific example. This allows a mechanism to be in place for generations to come.

Chairman Frierson:

For the Committee's edification, we will have another bill before us in the next couple of weeks that addresses the existence of a victim's compensation fund. There are other funds, but they are not specifically for this purpose. So this is creating a fund, to my understanding, specifically for victims of trafficking.

Assemblyman Sprinkle:

That is correct. Thank you for that clarification.

Assemblyman Martin:

Great bill. There are so many in-depth concepts here that will help the state, not just on the specific meaning of this. My question is that most nonprofits, when they contribute money to an entity, require some kind of financial reporting back from the entity which they contribute to. I like the fact that this has specific purpose, but is there any contemplation of an audit report, or a financial reporting back to the nonprofit about what the money was expended on? I am curious as to the mechanism you are trying to set up. It is a great idea though.

Assemblyman Sprinkle:

Thank you. With regard to an audit, there is nothing that is specified within this bill that would address that. There are some contingencies in place with regard to the oversight that the IFC has so that when they administer through an application process, then they have the ability to get feedback from that organization to make sure that money was used specifically as designed within this bill.

Now I am just trying to backtrack from where the money once came. I am sure that any nonprofit—not just nonprofit but any individual or organization—that was able to get money into this account certainly would be able to request some sort of report from the IFC; however, that is just an assumption on my part. It is not specifically written into this bill. I cannot imagine why it would be a problem though.

Chairman Frierson:

Thank you, Mr. Sprinkle. You may be able to get some answers from the state as far as their accounting practices across the board and their auditing

practices. I would imagine there would be a mechanism in place to audit all the existing accounts.

Assemblyman Ohrenschall:

In Clark County where I work, I know they have been trying to establish a home for quite a while for victims, especially juvenile victims, and I could see this bill helping move towards establishing that home. I just wanted to compliment the sponsor. Thank you.

Chairman Frierson:

Are there any other questions for Mr. Sprinkle? I have one, and it is related to a phrase starting in section 6, subsection 1: "A nonprofit organization or any agency or political subdivision of this State. . . ." Is there any definition of that anywhere in statute that you know of? Or, could you speak to the criteria that would be used to determine which organizations would be appropriately eligible to apply.

Assemblyman Sprinkle:

Thank you, Mr. Chairman. The intent of the bill was to allow for funds from any organization, nonprofit, or private individual. This is how I explained it to those who drafted the bill and that was the language that came back to me. Again, the legislative intent of this is for anybody, any organization, to be able to put funds into this account.

Chairman Frierson:

Thank you, and I do have some relief in that who they are applying to is the Interim Finance Committee who does not hand out money just willy-nilly, so at least there is a screening mechanism.

Are there any other questions for Mr. Sprinkle? I see none. Thank you, sir. I will now invite those here and in Las Vegas to testify in support of A.B. 311 to come forward.

Mike Patterson, representing the Religious Alliance in Nevada:

It is an honor to be here today in support of A.B. 311. First, I would like to thank Assemblymen Sprinkle and Hambrick, and the other cosponsors of this bill. We feel this is a very important issue. From the beginning of discussions on sex trafficking in Nevada, our question, as communities of faith, has been, "what can we do?" We quickly came to the conclusion that the Religious Alliance in Nevada (RAIN) could support the legislation that was being introduced, but saw that we could do even more by offering tangible help to the victims of this tragedy. Assembly Bill 311 gives us that opportunity. [Mr. Patterson continued to read from ([Exhibit D](#)).]

Chairman Frierson:

Thank you. Are there any questions from the Committee?

Assemblyman Wheeler:

Thank you, Mr. Chairman. You say you have \$1,000 already waiting?

Mike Patterson:

They tell me that we have at least \$1,000 already raised.

Assemblyman Wheeler:

Well, I am going to make a personal commitment to add another \$1,000.

Mike Patterson:

Thank you, sir. We appreciate that. Mr. Chairman, if I may, I would like to make a comment on the questions about accounting. My coworkers have told me that, in the past, we have set up an identification (ID) law fund for prisoner release and there were never any problems with the accounting back to our agency on that. So we feel confident in this.

Chairman Frierson:

Thank you. Are there any other questions? I see none.

Allan Smith, representing the Religious Alliance in Nevada:

I am here to echo the remarks of Mike Patterson and to urge your support of this bill. Thank you.

Chairman Frierson:

Thank you. Are there any questions? I see none.

Michon A. Martin, Chief Deputy Attorney General, Office of the Attorney General:

Good morning, Mr. Chairman and Committee. We are here in support of A.B. 311. This Committee, in particular, is well aware of all the issues surrounding human trafficking and, as we have discussed, the first step is really passing legislation. So whether it be Assembly Bill 67 or A.B. 311, that is our first step in really effectively combating human trafficking statewide. But what we need to do, and this goes to Assemblyman Carrillo's point, is the second step and that is what is as important as passing the initial legislation. It is building the infrastructure to support our victims and not just support our victims, but restore our victims. Take them from being victims to survivors, and this is a step in that direction. At this point in the state, we are really running at a deficit when it comes to services for these particular victims because they are unique. It is not quite domestic violence; it is not quite sexual assault. It is

somewhere in between and so we need to build those services and infrastructure to be able to support them in particular.

The other piece of this that I think is very important, and I think Assemblyman Martin has just highlighted it, is the potential of a public/private partnership with the state and how powerful that can be for the state. This body will be able to help in this area, to help these victims, and to do what I think Assemblyman Sprinkle is speaking about, and really do some good. That public/private partnership can extend beyond just this piece. If the public is willing to help support state government, I think it is very important and that this body is able to look at that relationship. When we talk about funds that have been raised, I appreciate very much the prior speakers raising funding for this. I will also indicate on A.B. 67, and you heard this in the testimony, that funds have been raised for that fiscal note. So \$7,109 has been raised and that public/private partnership can go a long way to doing what is right for this state and help the state do it in the right way. So thank you very much for the time. I am happy to answer any questions.

Chairman Frierson:

Thank you. Are there any questions for Ms. Martin?

Assemblywoman Cohen:

Ms. Martin, have we seen this in any other state, or is this something new to the country that is coming forward?

Michon A. Martin:

It is something I will need to look at because we are not sponsoring the bill; we are supporting it. I have not looked at that but the concept is one that I would think others have thought of, but I am very glad that we are thinking of it and looking to do it. I will get back to you though.

Assemblywoman Cohen:

And I ask you because I know this is something you are very passionate about and this is your life's work, so I know you are the person who knows what is going on throughout the country. Thank you.

Chairman Frierson:

Are there any other questions? I see none. Are there others here in Carson City wanting to testify in support of A.B. 311?

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

Good morning, Mr. Chairman and Committee members. We are going to support this and as eloquently as Ms. Martin stated, we echo her comments.

Chairman Frierson:

Thank you. Are there any questions? I see none. Is there anyone else here or in Las Vegas wishing to offer testimony in support of A.B. 311?

Stacey Cramer, Program Director, SEEDS of Hope Program, The Salvation Army:

The SEEDS of Hope Program specializes in providing services to victims of human trafficking. I am honored to be here this morning. Victims of human trafficking endure horrific conditions and suffer physical and psychological abuse. Victims are abused by not only the trafficker but also the trafficker's associates and customers. When they attempt to escape their situations, they are blamed by society, and often their families, for what has happened to them. [Ms. Cramer continued to read from ([Exhibit E](#)).]

Assemblyman Ohrenschall:

Thank you very much and again, I want to compliment you and The Salvation Army for all the good work that you do. I have seen it in family court in Las Vegas. Do you have a safe shelter right now for the victims, somewhere they can go when they have nowhere else to go?

Stacey Cramer:

Unfortunately, no. The primary struggle in the state of Nevada is that we have no specialized shelters for victims, meaning that they do get some assistance from other shelters such as homeless shelters or domestic violence shelters, but they do not specialize in that service. Unfortunately, it leads to victims running back to their situation, because if we do not specialize and we do not treat them for the victimization that they have gone through, it is much harder for them to overcome it.

Assemblyman Ohrenschall:

Do you think Mr. Sprinkle's bill might help lead to that public/private partnership that the Attorney General was referring to, maybe with your organization trying to get a shelter built in Las Vegas?

Stacey Cramer:

Absolutely. I know there are a lot of wonderful people and organizations in Las Vegas who are just ready to try to open those shelters and provide more intensive services.

Chairman Frierson:

Are there any other questions? I see none. Is there anyone else in Las Vegas to provide support for A.B. 311? I see no one. Is there anyone in Carson City or Las Vegas to testify in opposition? I see no one. Is there anyone in Carson City or Las Vegas wishing to offer testimony in the neutral position? I see no one. I will invite Mr. Sprinkle back up for closing remarks.

Assemblyman Sprinkle:

I just wanted to thank the Committee for their attention to this. I think it is a good bill and I am always open for further questions if they do come up. Thank you.

Chairman Frierson:

With that, we will close the hearing on A.B. 311. I will now open the hearing on Assembly Bill 332.

Assembly Bill 332: Revises provisions relating to real property. (BDR 9-732)

Assemblywoman Ellen B. Spiegel, Clark County Assembly District No. 20:

Thank you, Mr. Chairman and fellow members of the Assembly Judiciary Committee. Assembly Bill 332 began with things that I noticed while I was out campaigning and from people whom I spoke to during my campaign and subsequently. There are a lot of abandoned properties in Clark County and in other parts of the state as well. There are a lot of people who would like to buy homes and are unable to do so. In looking at U.S. Census data, I discovered that as of last year, the U.S. overall average rate for homeownership is 66.1 percent, but in Clark County it is 57 percent. In Washoe County it is 59.6 percent, and overall it is 59.1 percent, which makes me think that rural Nevada is under the Nevada overall rate. Clearly, we are below the national average in homeownership. Some of this, in looking to see where this came from, is really some additional fallout from the foreclosure crisis that has been an ongoing issue in Nevada, but the issue has changed somewhat. It is not still the things that we have been looking at and hearing about over the past couple of years; it has shifted. Now we are in a position where there is almost a discrepancy between the ability for investors to buy homes and people who want to live in homes. What happens is that, as properties have been coming on the market and foreclosures have been going through, many foreclosure sales have been going through big bulk sales where multiple houses are sold together in one block. Large investors are able to buy several homes at one time. Someone who wants to buy one of those homes is not really able to bid on those because they would have to buy all of the homes and that presents some difficulty for them. Other properties will come on the market and have cash offers presented to them on the very first day they come on the market.

So if somebody wants to go and look at a house because they are thinking this is something they might want to live in, there is no opportunity for them because they cannot see the house. There is also an issue of cash sales versus financing. Cash is king; cash offers are taken. Financing is very difficult to get these days for many consumers, even for people with good credit, or who have 20 percent or more money to put down. It is very difficult so again, regular homeowners are finding it nearly impossible to buy a home which is keeping those rates down.

What is also happening is that because of this, many of our communities that were filled with single family homes are now filled with rental properties and it is changing the character of our neighborhoods. As a matter of social policy, there has always been an objective that we want our residential neighborhoods to have a little bit more stability and have people who want to buy homes have the opportunity to buy those homes.

All of this stems from low inventory and part of why there is low inventory on the market is that there are a number of homes that have not been foreclosed on. These properties are just sitting there abandoned. I think we have all seen them. You can tell an abandoned property because there are certain things that you notice—disrepair, broken windows, and other signs that nobody is living there because nobody is taking care of the property. These are a blight and are bringing down property values of the rest of the neighborhood. Simultaneously, it is making it difficult for others in the neighborhood to have their real estate values appreciate and also could present opportunities for additional crimes such as people breaking into the house and people using the house for nefarious reasons. There could be issues with squatters coming in; there are many issues that arise when you have abandoned properties.

Assembly Bill 332 is designed to provide a mechanism to expedite the foreclosure of abandoned properties. This will help banks and it will help homeowners in two different ways which I will explain a little bit later. It helps Nevadans buy homes by increasing the available housing stock and it gives the banks an incentive to sell their properties to Nevadans who wish to live in the homes. As we go through this bill, the current law provides that a notice of default (NOD) and election to sell real property subject to a deed of trust must include an affidavit containing information concerning the authority to exercise the power of the sale. If the affidavit is not recorded in accordance with existing law, a court must declare void the trustee sale and a civil action may be brought against the beneficiary, the successor in interest of the beneficiary, or the trustee.

This bill, as it is drafted, has some key elements. Section 2 establishes criteria for determining if the property is abandoned, and the first thing that I want to make sure that everybody understands is that the intent of this bill is to make it easier to foreclose on abandoned "houses"; not to make it easier to foreclose on abandoned "homes." I make the distinction between a house and a home because we want to make sure that people really are not living there and that people are not tied to that. There is a difference in my mind between having an administrative process where you are foreclosing on a piece of property versus a home—there is an emotional tie; there is a familial tie. This bill seeks to have that differentiated. Some of the things that we look at: Are there children registered for school at an address? Are there visible signs that the property has been neglected? Is anybody registered to be getting any kind of public assistance to this address? So we want to make sure that it is not a place where people are living or people have ties to. We want to make sure that it is actually abandoned property; an abandoned house, not an abandoned home.

Section 3 establishes a procedure to be used if somebody wants to make a determination that this is an abandoned property. What it does is it gives an incentive to the banks that if they agree that they will sell this to somebody who intends to live in it, certain other procedures and some requirements will be waived. It will make it easier for the banks to go through with the foreclosure. [Ms. Spiegel continued to read from [Exhibit F](#).]

Another issue, which I had never heard of, is zombie foreclosures. What this is that the homeowner themselves would like to abandon the property. They have walked away from it; they have made that decision. These properties sit vacant and abandoned for multiple years and the foreclosure has not begun. [Ms. Spiegel continued to read from [Exhibit F](#).]

So what we have here is that Legal Aid Center of Southern Nevada has come up with a remedy for this and that would be to add to section 2, subsection 1, paragraph (b).

We are going to hear from Legal Aid Center of Southern Nevada as they have a number of other issues. I spoke with them last evening and we reached agreement on compromise on many of the things that will be presented. The one thing that we were not able to work out, and I will just point that out now and come back to it later, is that they asked to remove section 3, subsection 5 which, from my perspective, gives the banks the incentive to sell to somebody who intends to live in the property as a single family home. That is really where this bill came from so that is a major sticking point for me.

Chairman Frierson:

I am sorry, Ms. Spiegel. Who was proposing to strike that section?

Assemblywoman Spiegel:

It is the Legal Aid Center of Southern Nevada. I believe they are here this morning and will be speaking to this point. So that is the one piece, out of all the materials they submitted yesterday, that we did not either agree to, or reach compromise on. What I have committed to doing is to keep working with the Legal Aid Center and to also bring together a workgroup with the additional stakeholders so that we can address this and any additional issues. With that, I think this is a good bill. It will help turn around our housing economy a little bit and it will also help Nevadans be able to do what they really want to do which is get their lives together and live in a house. I am happy to answer any questions.

Chairman Frierson:

Are there any questions?

Assemblyman Hansen:

One of the problems we have in Nevada for foreclosures is that we have made it a penalty that you have to have a physical note before a foreclosure can actually proceed forward. Is that one of the reasons, possibly, these abandoned properties are sitting because nobody can figure out where that actual physical note is and to begin those foreclosure proceedings, and that you would be criminally liable in the absence of that?

Assemblywoman Spiegel:

I do believe that is part of the problem and part of the issue. Part of what this bill does is in this procedure that is established, it allows that if the property is declared an abandoned property, the bank can foreclose on it even if it does not have that documentation.

Assemblyman Hansen:

I do have a question for Legal actually. I think they are called adverse possession laws where you can actually move into a property, and if you stay in it long enough, it is a squatter's rights kind of a thing. I had a situation in Reno where we dealt with that. Does that law preclude this or have anything to do with this in any way?

Assemblywoman Spiegel:

I am not an attorney and am not familiar with those laws. I will say that if someone is living in the property, it would probably make it difficult for a third party to meet the criteria that are enumerated here in section 2. That

said, the person who is the homeowner, if we adopt that amendment that was put forth by Legal Aid, would be able to say, "I have abandoned this property." They would be able to sign over and assert that it is abandoned which would then make it possible to foreclose on that.

Chairman Frierson:

Are there any other questions?

Assemblywoman Diaz:

I like the concept of the bill to ensure the houses that are abandoned go to families. My question is in section 3, subsection 5. As I read it, it says that it can be purchased by somebody who is going to occupy the house, or somebody who can then sell that property to someone who is going to occupy it. I am thinking of my community where a lot of folks cannot compete with other people who have more money to invest in the properties and they are going to be picked up first by the people who have the money versus the people who really want to buy them to live in them. What is the balance and how can we ensure that the sale is first offered to that homeowner who wants to live in it versus the one who just wants to pick it up and then sell it?

Assemblywoman Spiegel:

That is a fabulous question. It is something that I have been asking people for at least the past six months, probably closer to nine months. The language that is in here is the closest that we can get, but the point you are raising is really where this came from. It is not just your district; it is really wherever we have abandoned properties. Community leaders would like to see those homes filled with people who want to achieve the American dream and own a home in a decent neighborhood. That is what we are trying to do with this bill and that is part of where this section came from. I am open to suggestions. I have been asking people from every walk of life, across the board, every profession, everyone I can find, and trying to come up with the right solution. This is not perfect, but it is getting us far closer to where we want to be than where we are today.

Chairman Frierson:

Are there other questions? I have a few and thank you, Ms. Spiegel. You and I have been working on this through two vehicles for some time. We have had some in-depth discussions about it. Since we are on section 3, subsection 5, this would appear to be a preference for owner-occupied.

Assemblywoman Spiegel:

Yes.

Chairman Frierson:

There is a distinction between owner-occupied and, essentially, an investor. There seems to me to be folks that are somewhere in between. For example, I want to buy a retirement home for my mother. I am not really an investor, but it is also not owner-occupied. I am not buying it to sell to her, or put it in her name. I am buying it so that my mom can live in it. Under this current concept in section 3, subsection 5, I would be treated like an investor. Am I mistaken?

Assemblywoman Spiegel:

I do not believe that you are mistaken. I would be open to putting in language where it would be owner-occupied housing or within extra reason consanguinity-occupied housing. If you wanted to be one, two, or three degrees, I think that would be reasonable.

Chairman Frierson:

Thank you. Section 2, subsection 1, paragraph (b), subparagraph (5) indicates that it would be looking at payments pursuant to Social Security payments. My question on that particular subsection is, how would we know?

Assemblywoman Spiegel:

Thank you, Mr. Chairman. First, one of the issues that has been pointed out both by Legal Aid and members of the banking community is that Social Security and public assistance payments are no longer being done by check or by mail; they are being done by direct deposit in most cases. We are looking at eventually changing the language to being registered with one of these agencies, and whereas you and I might not know, somebody would be able to check, is really the thinking.

Chairman Frierson:

Section 2, subsection 1, paragraph (b), subparagraph (7) lists two or more criteria for abandonment. I am concerned about some of them that are not homeowners' associations that are possibly in low-income households where maybe the windows were broken so they boarded them up temporarily until they could afford to replace them, or they have overgrown or dead vegetation.

Assemblywoman Spiegel:

I would like to point out to the Committee before I answer your question that an important distinction to make is this only applies if the owner is not serving in the armed forces. It is not possible for somebody to go in and say that Mr. John Doe is serving overseas. That property will not be qualified to be deemed an abandoned property. I have had discussions with Legal Aid about these other provisions and we agreed that we would make it three or more of the following conditions. Things like the weeds would have to be in violation of

city or county code so it is not just a casual observer saying that there are a lot of weeds; it would have to actually be a legal violation. By raising the number of conditions, I think we get to the issues that you are asking about.

Chairman Frierson:

Thank you, Ms. Spiegel. As you know, I submitted a modification of that language and I did just that, making it three or more and that was part of the reason. I still have a concern about folks that have not abandoned their homes that simply get a fine from the county or the city, so the scenario would still concern me. I am looking at sub-subparagraphs (II), (III), (IV), (XI), or things that might be common in a community that is not an association; maybe low-income, multiple windows being boarded up, doors being smashed through or unhinged, or stripped of copper. I have had neighbors that have been the victim of theft and moved out while they were having that dealt with.

Assemblywoman Spiegel:

An important distinction to make in this bill is that, as part of the process when a third party goes to the recorder's office and wants to have this property declared an abandoned property, notice has to be sent to the homeowner of record. If that property really is not an abandoned property, the homeowner has the opportunity to go in and state that it is not an abandoned property: either he still lives there; he still has an interest in it; or he has not abandoned the property. The homeowner always has that recourse so even in the low-income areas, even if all these conditions existed, if the homeowner went in and said this is not an abandoned property, that property would not be given that designation.

Chairman Frierson:

I know what the intention is because you and I have talked about it extensively, but those sub-subparagraphs (II), (III), and (IV) are things we need to be careful about so that we do not put folks that do not live in homeowners' associations (HOA) or in low-income situations at a disadvantage. I know that you want the same thing.

Assemblywoman Spiegel:

I do. I will also point out that sub-subparagraph (V) is not just assessments to an HOA, but I have agreed that it should be at least three months or more. So again, it is not that somebody is two days late with their payment and all of a sudden their house gets declared an abandoned property. That is not the intention.

Chairman Frierson:

And is that three months or more in the amendment?

Assemblywoman Spiegel:

Yes.

Assemblyman Ohrenschall:

Thank you for bringing this bill. I appreciate your leadership in this area. I think I definitely understand the problem that we are trying to deal with. When I go door-to-door, I see a lot of empty houses that I cannot tell if they are abandoned or not. If the bill were passed, either with or without the amendments, and my kids are out of the house, I have lost my job, and there is a seasonal job offer in Wisconsin, so I go for three or four months to work and I lock up the house. I have a friend who is going to watch the house, collect the mail, but I am behind in payments. The friend does not watch the house like he should and maybe some neighborhood kids bust in the back door, and they are having parties back there. I am going through a rough patch but I have not walked away. I am intending to come back. Under this bill, if I were to lose the house, what would be my options, once I come back, to try and get it back. How would that work?

Assemblywoman Spiegel:

Thank you, Mr. Ohrenschall, for your question. First of all, as it is going through the process, you would get a notification that someone has come in and wants to have this property listed as an abandoned property. It would be sent to the addresses on record at the county assessor's office so if there are multiple addresses and your friend is checking your mail, you would be getting that notice. Also, there would be a few days where your mail is forwarded to the post office or the temporary address while you are out of town. That would give you the opportunity to go in and put the brakes on the whole thing. This process does take a number of months, but there is stated in a section that if this has been done in error, the homeowner, down the road, would have some recourse through the title company. It might not be to get back that particular property, but it would be to get back the compensation that you have lost, and to be compensated for that.

Assemblyman Ohrenschall:

Thank you for clearing that up.

Assemblywoman Diaz:

Where there has been no power or gas at a house for so many months, and where no one is paying for any type of utilities, it would be obvious that house is abandoned as well.

Assemblywoman Spiegel:

I am happy to add it; it was actually in my original language and it was inadvertently omitted. We can put that in.

Chairman Frierson:

In the original bill, it was in section 2, subsection 1, paragraph (b), subparagraph (3).

Assemblywoman Spiegel:

Yes, it is on page 2, line 24. There are no kids in school at the address. All indications are that the property is vacant.

Chairman Frierson:

I apologize, Ms. Spiegel. I am going back and forth between the original and the amendment, and the other proposed amendment from Legal Aid. It appears you proposed in your amendment to change it from two of the following to five.

Assemblywoman Spiegel:

Legal Aid proposed to change it from two to five; I agreed to three. And that is not in here as it was a discussion that took place late last night, which is why in my PowerPoint there are a number of changes, and I am going to have a working group and come back to the Committee with everything that we have agreed to.

Chairman Frierson:

Are there any other questions for Ms. Spiegel? I see none. I would invite those here and in Las Vegas wishing to testify in support of A.B. 332 to come forward.

Bill Uffelman, President and CEO, Nevada Bankers Association:

I appreciate the opportunity to appear on this bill today. The Nevada Bankers Association supports the concepts that are in the bill. And as Assemblywoman Spiegel said, it is a work in progress. Senate Bill 278 was mentioned, not by number but in passing, and we have been working with Senator Ford on the list of criteria and other items. One of the things that we talked about relative to S.B. 278 is the notion that a public official, such as a sheriff or constable, actually visit the property 15 days prior to the filing of the notice of default. That individual who has the power of the law, if you will, would submit an affidavit to the bar because the bar would request they make that visitation, that the property, in their opinion, is an abandoned property; vacant and abandoned. That notion comes from some other states where they also worked on this very issue. It is ironic because six or eight months ago, we were talking about it as an industry and said that power of a public official doing it is so

much better than us saying that it is abandoned. It just raises it a notch and I hope that in the end, if we process this or another bill, it would become part of the law.

I want to go back to the question about a deed in lieu where the individual says he is done; he is through; and he wants out. I have been talking to the banks about how long does it take. First, how do you do a deed in lieu when the borrower says that they want out; what form do they use? Nobody knows; we have not done that many deeds in lieu. It is ironic that this past spring with the National Mortgage Settlement, one of the banks presumed they would be doing deeds in lieu. The reality is they wound up doing short sales. I can say with certainty that the 30 days that was spoken of is too short, whether it is 60 days or 90 days. I just know that a national bank with the systems that are in place cannot possibly get the piece of paper processed in 30 days especially if it comes in an unsolicited fashion. It is one thing if they have been talking to that owner with options such as deed in lieu or short sale. The process, or the notion of initiating the process, is a great idea but I think 30 days is too short.

Some of the other items such as the bona fide purchaser, we have suggested be added to S.B. 278. The notion of the sale to owner-occupied is a great idea but as institutions, we cannot say we would sell a property only to owner-occupied. When the Real Estate Owned (REO) is done, the institution owns the properties and they literally have a seven- to ten-day process that it is not listed and nobody outside the institution knows that it is now in their inventory. They then give notice to nonprofits in the National First Look Program which triggers about another seven to ten days that the nonprofits can have the right of first purchase on that property. If none of them wants it, then it gets listed in the general market.

The conversation we have been having is that nonprofits can be working with first-time homebuyers, those who intend to be owner-occupied. You have met all the criteria; you have your finances in order; and you have been preapproved for an amount. In effect, the nonprofit makes the bid on their behalf to make that purchase and then it is completed in the name of the owner-occupied person. It gets them in that first window so that we can perhaps get some of these properties moved into the owner-occupied category more efficiently.

Chairman Frierson:

We are in the support section of testimony.

Bill Uffelman:

I am absolutely in support of the concept of the bill.

Chairman Frierson:

I realize how difficult it is to be in support of the concept, but support means you support it as is.

Bill Uffelman:

I support it as amended and I am suggesting there are items for that amendment. I am trying to improve the bill and I presume I am on the list to get to work with the Assemblywoman.

Chairman Frierson:

Yes, but we need to be consistent. It is difficult to sign in opposed to a bill that you do not necessarily oppose. Technically, under our criteria, you should be on the opposition side unless you support it as the sponsor is trying to introduce it without any changes. You are here now, but I need to be consistent for other bills. I need to be fair.

Bill Uffelman:

I understand, Mr. Chairman, and I apologize. I came in this morning and did not check off whether I was for or against it. I did not have an opportunity to talk with the sponsor of the bill. I was trying to help improve some of the language that was discussed this morning so with that, I want to see a bill like this pass whether it says A.B. 332 or S.B. 278.

Chairman Frierson:

Are there any other questions? I have a general question in section 3, subsection 3. Can you explain why subsection 3 would be needed, or if it is simply referring to the process that is already in existence regarding what happens after notice of default is entered? Why would that be necessary if we already have statutes in place to deal with the posting of notices, and the process for foreclosure after notice of default?

Bill Uffelman:

It is probably because some of this language was language taken from S.B. 278, which has an expedited process for abandoned property. This bill, as I read it, does not expedite it.

Chairman Frierson:

I realize that we all have been going to the same meetings with different bills trying to accomplish the same means, but it did seem to me that this is simply reiterating what is already the law once the property has been deemed to be abandoned.

Bill Uffelman:

I absolutely agree with you, Mr. Chairman.

Chairman Frierson:

Are there any other questions? I see none. I will now invite those here and in Las Vegas in opposition to A.B. 332 to come forward.

Venicia Considine, representing Legal Aid Center of Southern Nevada:

Good morning, Mr. Chairman and members of the Committee. I am appearing today as a concerned citizen and as an attorney who represents clients in a variety of consumer-defense-related issues including foreclosure defense. I am grateful for the opportunity to testify on this important piece of legislation.

I do want to say that I spoke with the sponsor of the bill last night. I did send in my testimony and our proposed amendments before 5 p.m. so I want to apologize as I spoke with the sponsor after the 5 p.m. deadline. She was very gracious to discuss the proposed amendments, some of which have already been discussed.

Many of the amendments that we proposed were already discussed and, unfortunately, although many of those amendments have been resolved, we are still in opposition to the bill due to section 3, subsection 5. To point out just a couple of the areas that Assemblywoman Spiegel did not cover, which we did last night, we suggested and compromised on section 3, subsection 2, which allows a beneficiary who has reasonable belief to enter the property. We did discuss the option of having the affidavit showing that the property is abandoned, and for that affidavit to be required prior to the beneficiary being allowed to enter the actual dwelling. So that was one thing we talked about last night and we compromised on. I do know that we will be going into a working group and working on this further.

What we see with regard to abandoned properties is more the zombie foreclosures. I have clients I have been working with for a couple of years who were told that their house is going into foreclosure. They were told they needed to leave the property and, at that point, packed up and left the property. I am getting some calls now two or three years later where they are finding out the property is still in their name. The trustee sale never occurred. [Ms. Considine continued to read from [\(Exhibit G\)](#).]

We submitted proposed amendments [\(Exhibit H\)](#). We are not happy with section 3, subsection 5. We would like it deleted or severely amended because it essentially deletes the protections of *Nevada Revised Statutes* (NRS)

107.080(5) and (6). Those are the only provisions in statute that say if a foreclosure occurs and that foreclosure was not done properly, then a court must return the home to the homeowners. This is the only provision that allows a wronged homeowner who has been wrongfully foreclosed on to get the property back although the provisions only allow for damages. Essentially, the way section 3, subsection 5 is written is that a homeowner who is wrongfully foreclosed on, whether or not that affidavit was filed at all, or was filed and was fraudulent in the information that was given, section 3, subsection 5 of this bill blocks the wronged homeowner from getting their property back. Prior to the discussion with the sponsor last night, it also blocked them from getting any damages on that. I believe we are working toward making damages an option, but we would like to see someone be able to get their property back when they truly have been wrongfully foreclosed on and the statute has not been followed.

At this point, those are the issues that I have spoken with the sponsor about, and I look forward to working with her on but, unfortunately, we are in opposition due to section 3, subsection 5. I appreciate the opportunity to testify this morning. I will answer any questions the Committee may have.

Chairman Frierson:

Thank you, Ms. Considine. Are there any questions? I see none. I think you have some valid concerns. I am glad that you have been working with the sponsor and are willing to continue working with the sponsor. This is a somewhat complicated issue that we are going to need time to get done. I look forward to hearing from you all and what you come up with, or at least the status of where all the parties are.

Is there anyone else wishing to offer testimony regarding A.B. 332?

Kristin Schuler-Hintz, Private Citizen, Las Vegas, Nevada:

I am neutral on this bill. In general, I think it is a great idea. I think it would be prudent to allow under section 3 the inclusion of that recorded affidavit with the notice of default so it could be filed concurrently with it. I would also encourage the Committee to look at putting in a section above section 3, subsection 4 that once it is recorded as being a vacant or abandoned property, the provisions of NRS 107.086 and 107.087 do not apply. Those are the provisions that make it part of the foreclosure mediation program and the provisions that provide notice to occupants or tenants at the property of the foreclosure. If you include the notice with the notice of default, you are going to reach the homeowner wherever he may be because the title report that is recorded and mailed has a variety of addresses for the homeowner. That would make sure it goes to the homeowner. If you exempt it from NRS 107.086, no matter what happens with the program being opt-in or opt-out, it gets it out of

that section and makes it one less thing for anyone to have to deal with. Thank you very much.

Chairman Frierson:

Thank you. I know that you have testified regarding foreclosure situations before. Have you spoken with the sponsor of the bill?

Kristin Schuler-Hintz:

I have not.

Chairman Frierson:

As we talked about this yesterday, it is protocol to speak with the sponsor of the bill when expressing concerns about a bill and, in particular, if you are planning on offering proposed amendments. As a courtesy, we ask that you provide that in advance because the Committee does not have an opportunity to review them on the fly, and the sponsor does not have an opportunity to consider it along with the other stakeholders. I would ask that you get with the sponsor of the bill with any suggestions prior to the hearing, and that would also apply to future bills dealing with issues that you have concerns with because we do have other foreclosure-related bills that we are going to be considering. As time runs out, it is going to be increasingly frustrating to be discussing language without the benefit of having looked at it first. It may be something the sponsor likes and we would not know it if we did not have an opportunity to see it in advance.

Kristin Schuler-Hintz:

Absolutely. Thank you.

Chairman Frierson:

Is there anyone else here wanting to offer testimony regarding A.B. 332? I see no one. I invite Ms. Spiegel to come up for any closing remarks.

Assemblywoman Spiegel:

Thank you, Mr. Chairman and members of the Committee. I appreciate your consideration of this bill. Obviously, there is still work to be done. Mr. Chairman, I especially appreciate your offer of your woodshed. I think it will be helpful for me to gather all of the stakeholders in one place and be able to work on the issues that are outstanding. I am confident that we will be able to come back to this Committee with some resolution. And then finally, Ms. Schuler-Hintz, I would appreciate it if you would send me the language in your proposals because there were considerations and we can certainly include you in the stakeholder meetings. With that, I thank you for your consideration

and I am looking forward to coming back together and addressing this important issue.

Chairman Frierson:

Thank you, Ms. Spiegel. I will now close the hearing on A.B. 332 and open it up for any public comment either here or in Las Vegas. I see no one. I appreciate everyone's patience and want to thank the Committee, in particular the subcommittee that met late last night, for being here on time this morning. The meeting on Judiciary is adjourned [at 9:31 a.m.].

RESPECTFULLY SUBMITTED:

Thelma Reindollar
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 28, 2013

Time of Meeting: 8:11 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 311	C	Assemblyman Michael Sprinkle, Assembly District No. 30	Prepared testimony
A.B. 311	D	Mike Patterson / RAIN	Prepared testimony
A.B. 311	E	Stacey Cramer / Salvation Army	Prepared testimony
A.B. 332	F	Assemblywoman Ellen Spiegel, Assembly District No. 20	Prepared testimony
A.B. 332	G	Venicia Considine / Legal Aid Center	Prepared testimony
A.B. 332	H	Venicia Considine / Legal Aid Center	Proposed amendments to A.B. 332