

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

**Seventy-Eighth Session
February 25, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8 a.m. on Wednesday, February 25, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Ira Hansen, Chairman
Assemblyman Erven T. Nelson, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblyman Nelson Araujo
Assemblywoman Olivia Diaz
Assemblywoman Michele Fiore
Assemblyman David M. Gardner
Assemblyman Brent A. Jones
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman John Ellison, Assembly District No. 33
Assemblywoman Irene Bustamante Adams, Assembly District No. 42

STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Nancy Davis, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

Gerald Antinoro, Sheriff, Storey County Sheriff's Office, and
President, Nevada Sheriffs' and Chiefs' Association
Ron Pierini, Sheriff, Douglas County
Eric Spratley, Lieutenant, Legislative Services, Washoe County
Sheriff's Office
Derek Clark, Private Citizen, Minden, Nevada
Carol Howell, President, Northern Sierra Ladies Gun Club
Vernon Brooks, Private Citizen, Las Vegas, Nevada
Juanita Clark, Member, Charleston Neighborhood Preservation
Julie Butler, Administrator, General Services Division, Department of
Public Safety
Daniel S. Reid, State Liaison, National Rifle Association of America
John Wagner, State Chairman, Independent American Party
Paul Grace, Private Citizen, Reno, Nevada
Janine Hansen, State President, Nevada Families for Freedom
Megan Bedera, representing Nevada Firearms Coalition
Richard Brengman, Private Citizen, Gardnerville, Nevada
Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Bradley W. Beal, President, One Nevada Credit Union
Michael Randolph, Manager, Homeowner Association Services, Inc.
Bruce H. Breslow, Director, Department of Business and Industry
Joseph Decker, Administrator, Real Estate Division, Department of
Business and Industry
Garrett Gordon, representing Community Associations Institute
Angela Rock, representing Olympia Companies and Southern Highlands
Homeowners Association

Norman Rosensteel, Member, Community Associations Institute's
Legislative Action Committee
Samuel P. McMullen, representing Nevada Bankers Association and Bank
of America

Chairman Hansen:

[Roll was called. Rules and protocol of the Committee were reviewed.] I will open the hearing on Assembly Bill 139. Assemblyman Wheeler is going to present this bill.

Assembly Bill 139: Revises provisions governing the issuance of permits to carry concealed firearms. (BDR 15-522)

Assemblyman Jim Wheeler, Assembly District No. 39:

Assembly Bill 139 has its roots with the Nevada Sheriffs' and Chiefs' Association. I was asked to sponsor this to make all states with permits for concealed carry weapons (CCW) reciprocal to Nevada. I did not see a problem with it since we currently have reciprocity with 14 states. That basically is all the bill is. It is to accept CCW permits from any other state. There is an amendment to the bill ([Exhibit C](#)) from the Department of Public Safety (DPS), which changes the effective date to upon passage instead of October 1, 2015. I would like to turn it over to Sheriff Antinoro.

Gerald Antinoro, Sheriff, Storey County Sheriff's Office, and President, Nevada Sheriffs' and Chiefs' Association:

We are in favor of this bill because it does a lot of things for us, the biggest being the removal of the list that the DPS has to prepare every year. There have been a number of issues back and forth: seeing some of the language that other states have, the time, energy, and staff hours that the state has to put forth to go through all of that. Through discussion among the membership of Nevada Sheriffs' and Chiefs' Association, we decided that we do not need to place standards on other states. This makes it cleaner and easier for everyone; if you have a valid CCW permit from your state, we will recognize it. Basically the same as with a driver's license, we do not mandate other states' standards, yet we recognize their driver's licenses.

Chairman Hansen:

Regarding the uniformity of the requirements in most states, you mentioned driver's licenses, and I assume most states have fairly uniform requirements across the nation. Is that true also with the CCW process?

Gerald Antinoro:

I do not know how aligned the standards are for the CCW process. There is a pretty significant variance. There are other people in the room who are planning to testify who may be better suited to answer that question. Using the analogy of the driver's license, it has only been in recent years that there may be some standard of uniformity. There was a great amount of disparity up until recent years.

Ron Pierini, Sheriff, Douglas County:

The undersheriff who works for me is also the chairman of the CCW Committee for the Nevada Sheriffs' and Chiefs' Association. We have always talked about the fact that we should have this bill passed because it makes sense. When this originally started, we were very concerned about the standards of different states; are they the same, or are they less or more stringent than ours? That is why we drew up a policy with Nevada Sheriff's and Chiefs' to ensure that the CCW is valid, that the holder of the CCW has proper training, and he is educated. We are finding out that it is pretty much the same throughout the country. It just makes sense for us that this bill be passed because it gives us the opportunity to not have to deal with all the different states or have DPS do all the research to see if the standards are the same as ours. Across this country, there is a big push to having that. It makes things much easier, it saves our time, and I think people across the country want it.

Assemblyman Araujo:

How would we vet the different policies and regulations that other states have? It brings up a question of equity. If we are looking at standardizing the process, it does not appear that every state has an agreement to sharing the same policy.

Assemblyman Wheeler:

In 2007, the reciprocity was a pilot program. There were some concerns about different levels of training and vetting that were given, which is why we came up with the 14 states that we felt had standards equal to or more stringent than ours. Since then, there has not been a problem. The pilot program is over and we just need to move on, much like we did with the driver's license. We can accept CCWs from other states, the same as we do with other licenses. I think you will hear about traffic stops and safety of officers. I happen to know that all officers treat all traffic stops the same: with 30 seconds of blandness punctuated by 10 seconds of sheer terror. The officer makes sure he is safe at all times. He does not know whether a person has a permit or not or has a gun or not. As far as the safety of officers, I think that is moot.

Assemblyman Thompson:

Is there an information system where you can validate that the person from Colorado who has now moved here has a valid CCW? Just like a driver's license, there are so many fake driver's licenses, so how can you verify that the CCW is authentic?

Ron Pierini:

That is a very good point and one of the concerns that we have. Technology has gotten to such a level that almost every state has the ability to get that information. For example, if while making a traffic stop, the driver hands over his CCW permit, how do we know it is valid? Did he ever turn it in after it was revoked? I am a little concerned about the fact that there is not that kind of information for a law enforcement officer. I believe the technology throughout the country is the same as what we have.

Assemblyman Wheeler:

If the person moves here, there is nothing in this law that says he does not have to get a Nevada CCW. He still has to get a Nevada CCW within 60 days.

Assemblyman Elliot T. Anderson:

When I hear about a CCW, I usually have good thoughts about that individual, that he is a law-abiding gun owner, that he has training, if he were to fire a weapon it is not going to ricochet, and that he is not going to be aiming poorly. I know he has training. I wonder about the 36 states and territories that have not been given reciprocity under the current program. Can you explain what it is about those other states' training and qualifications that has led them to not be on this list?

Gerald Antinoro:

It can be as simple as their permit does not run the same length as ours. The current law says that the certification program has to be similar to Nevada. We have a five-year permit, and another state has a seven-year permit; that state would not meet the requirement. The other state may have two hours less training than we do. That is part of what goes into the preparation of the list each year.

Assemblyman Elliot T. Anderson:

Do you have a report of all the states, whether they have reciprocity under the pilot program and if not, why?

Gerald Antinoro:

I do not have a report with me, but I think we can get one from DPS.

Assemblywoman Diaz:

If we have reciprocity with other states' CCWs, would there not be a need to create a state registry of CCWs to ensure that we know who is allowed to carry guns? I think every state has different requirements for CCWs. Also, I was looking at other state requirements. What is the minimum age that Nevada requires for CCW holders? I think other states may have different age requirements.

Gerald Antinoro:

The minimum age for a CCW in Nevada is 21. There are a few states that are under the age of 21, but that would not be affected by this bill. The language in this bill says meets all other requirements. An 18-year-old from Georgia with a CCW would not be valid in Nevada, because he does not meet the minimum age requirement for Nevada.

Assemblyman Wheeler:

Section 1, subsection 1 of the bill references *Nevada Revised Statutes* (NRS) 202.3653 to 202.369, which states that a CCW permit holder must be 21 years old.

Assemblywoman Diaz:

Will we need to create a registry of CCW holders? Every state has a different CCW process and allows you to carry different guns. How will we know who is entitled to carry what gun in our state without that registry?

Gerald Antinoro:

Currently, we do not have that. If Minnesota allows you to carry a machete as a concealed weapon, we do not know that. We just know that you have a CCW permit. This is similar to Nevada because we do not list that you can carry a certain type of weapon; it just states you can carry one. It does not matter what your state allows, if it is not allowed in Nevada, the CCW is not valid. We would not allow someone to carry a machine gun as a concealed weapon. That is illegal here even if another state does allow it.

Assemblyman Wheeler:

Also, last session we passed what was called "one gun, all gun," so if the other requirements were met in NRS Chapter 202, they could carry either a revolver or a semiautomatic.

Assemblyman Ohrenschall:

Assuming this bill passes, let us say that someone has a CCW from Delaware and he comes here to work; while working here, he has a case pending in the Delaware criminal courts for battery or domestic violence. Eventually, there is

a conviction. How quickly will you find out that this happened? What happens now with the other 14 states when something like that happens?

Ron Pierini:

That is one of the things we mentioned earlier, the technology we have today. If you looked at the CCW from Delaware, dispatch could check and determine that the permit is not valid and the reasons why. Even with driver's licenses, within 15 seconds, we can get all the information for that person from different states.

Assemblyman Ohrenschall:

In your experience, has something like that happened with the 14 states?

Ron Pierini:

We do not have that problem. I can tell you that in Douglas County we have never had anyone who had a revoked CCW and still carried the card. The reality is that I have not had the experience.

Assemblywoman Fiore:

When you have a CCW permit, there is a diligent background check done. The question that we should be asking is, what about the people with guns without a CCW who are concealing them. This is a very simple bill and I support it wholeheartedly.

Assemblyman John Ellison, Assembly District No. 33:

I am in strong support of A.B. 139. I have had a CCW for many years for not only Nevada but Utah, which covers about 15 states, and I have applied for a CCW in Florida because it covers another 20 to 30 states. The reason is that I do not know where I will travel, and this makes those states available. I am receiving a lot of calls from all over the United States asking if they will be legal coming to Nevada and how long they can be here before reporting to the sheriff. I think it is because we are strong supporters of the Second Amendment. The only place where we are running into problems is the no-carry zone in Las Vegas. Other than that, if a CCW tells the sheriff he is going to be here for so many days, he is usually fine. I think this will strengthen the requirements, it will take the load off of the different departments, and I support this bill.

Assemblyman Araujo:

I want to ensure that we are addressing potential loopholes should this pass. Hypothetically, someone is denied a CCW in Nevada and finds another state with more lax policies. He goes to the other state, obtains a permit and he comes back to Nevada. Is he now recognized as being able to have a CCW?

Gerald Antinoro:

No. If he is a resident of the state of Nevada, he is required to have a Nevada CCW. He can obtain a CCW in other states as a nonresident.

Assemblyman Ohrenschall:

I grew up in Las Vegas and there were lots of ads stating, come to St. George, Utah, to buy your car and you will save so much money. I am wondering, with this bill, will we get a lot of applicants who go on a trip to the cheapest state, come back here with their permit from the other state, and we lose all that revenue?

Assemblyman Wheeler:

I am not sure I understand your question. You are stating that a Nevada resident would go outside the state for his CCW, where the law clearly states that he has to have his CCW changed over to Nevada within 60 days of moving here, so basically that would be an illegal activity on its own.

Assemblyman Ohrenschall:

So you do not think it could happen where someone has another residence or relative in another state where he might try to shop for the cheapest permit?

Assemblyman Wheeler:

Anything is possible, but the fact is, if his driver's license is in Nevada, he is a Nevada resident, and he should have a Nevada CCW. Under the reciprocity, he would be breaking the law if he did not get a CCW in Nevada.

Assemblyman Gardner:

Would this make it easier and less costly? Also, I am researching CCW permits around the country right now, and I am looking at a huge chunk of states who already do this, and we are just joining in. Is that correct?

Gerald Antinoro:

There are a number of states that do this. It would be a cost savings because of the time and effort of the DPS compiling the list every year while researching the gun laws of all 50 states.

Chairman Hansen:

Is there anyone else who would like to testify in favor of A.B. 139?

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

I am here in support of A.B. 139. I want to thank Assemblyman Wheeler and the other sponsors for bringing this bill forward.

Derek Clark, Private Citizen, Minden, Nevada:

I am speaking as a citizen and voter of the state in favor of A.B. 139. I am also a retired law enforcement officer. I retired as a lieutenant after 33 years. I think this bill clears up a lot of ambiguity. It makes the process much simpler for the folks in the field to deal with someone who has a CCW. Anything we can do to expedite things in the field for law enforcement officers is significant. I also feel that overall this bill, as written, is making everything much simpler.

Carol Howell, President, Northern Sierra Ladies Gun Club:

I also want to thank Assemblyman Wheeler for this bill and this Committee for hearing it. I am very much in favor of A.B. 139. I also have a CCW. Do not forget, we live in an open carry state, which means anyone in the state can strap a gun to his side and openly carry it, trained or not. The CCW means that the person has taken the initiative to get the training and licensing they need to carry a concealed gun for whatever reason. I do not want to strap my gun to my side and draw attention to it. The fact that I carry it is for protection. My son lives in Florida. For me to be able to carry my weapon to Florida, I have to go to Utah, get their CCW permit, and then get a permit in Florida to cover the states that neither Utah nor Nevada cover. This is, besides being burdensome, expensive and a pain in the neck. I think this is very much justified. We are a travel state. We are an entertainment state. We have people driving here from all over the country. They run into the same problem, yet someone without a CCW can strap a gun to his side and walk our streets. That just does not make sense.

Assemblyman Elliot T. Anderson:

A Nevada resident still has to have a Nevada permit. If this bill is passed, does that automatically trigger reciprocity provisions in other states? We are not mandating Florida to accept our permit, but we will accept other states' permits here. If that is not the case, what benefit do Nevada citizens get out of this?

Carol Howell:

Some of the states do not honor our CCW because we do not honor theirs. I anticipate that if we extend our reciprocity, so will they.

Assemblywoman Diaz:

Are you comfortable with the way Nevada vets and trains CCWs?

Eric Spratley:

Yes, I am.

Assemblywoman Diaz:

What is required in Nevada in order to get a CCW?

Eric Spratley:

The application for permit is under NRS 202.3657.

Assemblywoman Diaz:

How do we ensure there is quality training before individuals receive their CCWs? As an educator, I have to be retrained in order to be relicensed. It seems that my teacher licensure is not reciprocal in any other state. I would have to apply for a license in another state in order to teach there. Why would we not want people to get their CCWs in Nevada?

Eric Spratley:

Standardization would be fantastic. There is currently a bill working through the U.S. Congress for reciprocity everywhere across the United States. Certainly we hope there would be standardization, not only in the training but also being able to validate that the permits are true and valid. I am very comfortable in our state in that it requires eight hours of training and a live fire portion. Someone has to show he can hit the target. This is not just an online training. I am very comfortable with the way this legislative body has set that up. We trust your expertise in that regard. Our officers on the street do the best they can to validate an out-of-state CCW, through dispatch, making calls, and checking records. They check to ensure someone is not a prohibited person, not addicted to drugs, not a wanted person, et cetera. If it comes down to being unable to validate a CCW, it is not something we would go haywire on in the context of the stop.

Carol Howell:

Most of us have ongoing training. We are required to renew our CCW every five years, going back through the training and being retested each time.

Derek Clark:

In addition to the ongoing training, the background check is also done each time you renew your CCW. If there have been any issues that have occurred, they would show up.

Assemblyman Gardner:

I just looked up the Nevada teachers' reciprocity agreements, and there is an agreement with 42 states. My understanding is that the CCW would basically be the same thing; we will allow out-of-state CCWs to come to visit in our state, correct?

Derek Clark:

I think the people we are talking about are a short-term presence here in Nevada. They come in with a CCW, they are here for a few weeks, and they

leave. We are not transplanting them. If someone does seek residence, then he must go through all of the State of Nevada requirements for a local CCW.

Assemblywoman Seaman:

I want to be clear on something. Open carry is currently legal in Nevada and there is no training required. Is that correct?

Eric Spratley:

That is correct.

Assemblyman Elliot T. Anderson:

I feel relatively comfortable with Nevada's requirements, because of the live fire component and because CCW people are going to be relatively safer. I am concerned with the 36 states that do not have reciprocity now because their requirements are not like ours. Do you know why these states are not on the list? What is it about their training requirements and their processes in general? Do all of those 36 states have the same live fire requirement to ensure people know how to hit a target?

Chairman Hansen:

We will have someone else come up who is better equipped to answer that later. We will now go to Las Vegas for more comments.

Vernon Brooks, Private Citizen, Las Vegas, Nevada:

I am in favor of this bill. This is a logical quality of life improvement for anyone who has a CCW in another state. I would like to point out something that I have not heard yet: I think among CCW holders this is common knowledge, that when making choices to travel to other states, either for recreation or vacation, we actively choose places where our CCWs are recognized for the sake of uniformity in our daily lives. I for one avoid going to states that do not recognize my permit, like California. I will choose Utah instead. I think many people do that.

Also, we are willing to accept driver's licenses from all 50 states without knowing whether the person holding the license is at all familiar with school zones, or how far behind an ambulance to follow, et cetera. Yet we still allow them to come into our state and operate a several-thousand-pound weapon on our public streets. I think it is reasonable enough for us to allow minor variances in the training that was decided upon in another person's home state and give some credibility to the full faith and credit of our fellow states in this country.

Juanita Clark, Member, Charleston Neighborhood Preservation:

We thank each one of you for serving in the Legislature and your families for supporting you. We ask that you vote yes on A.B. 139. Allowing a person possessing a CCW in a state other than Nevada to carry a concealed firearm in Nevada is wise. Please vote yes on Assembly Bill 139. [Also provided written testimony ([Exhibit D](#)).]

Julie Butler, Administrator, General Services Division, Department of Public Safety:

The statutory comparison component for determining reciprocity has fallen to the DPS. That duty has been delegated to the General Services Division's Brady Unit. To give you some understanding of what that entails, my office starts in January of every year to research the laws of all 50 states and determine whether they meet the criteria of substantially similar to or more stringent than Nevada's requirements. The first thing that we look at is the age requirement. Nevada's age requirement is 21 years. Some of the other states have a component in which if you are 18 and a member of the armed forces or you need a concealed weapon for your job, you are allowed to carry concealed. That is a component where we would not recommend recognizing that state's permit.

We look at the training component. In Nevada, it is an eight-hour classroom training followed by a live fire component. We look to see if other states have a training component with live fire. There are nine states that do not have a training component. One of the reasons we do not recognize Arizona is that they have an online certificate that does not have a live fire component.

We also look at electronic verification capabilities. There has to be the ability for the law enforcement officer to look up the permit to ensure that the permit is valid. We have some states that we do not recognize because they only have an in-state verification capability. We also look at the length of the permit. In Nevada, the permit is good for five years. In some states, like Florida, the permit is good for seven years. There is a variety of reasons why those 36 states may not make the recommended list.

Daniel S. Reid, State Liaison, National Rifle Association of America:

This is a great bill and would respect the rights of individuals who possess a valid permit in their home state. The right to self-defense should not leave once you cross a state line. This is a great improvement over our current system. This is a list that can get narrowly construed. For example, we lost two states from the list this year, one of them is West Virginia. The reason West Virginia was removed from the list is that there is a minor exemption where if you are under 21 years old and it is required for your job to carry

concealed, you can possess a permit. Nevada dropped the entire state, including everyone over 21. We are talking about a very small subset of people for a permit that was long recognized by Nevada. Those are some of the examples of where states have been recognized before and are being dropped because of minor exemptions. This is a great improvement supported by law enforcement.

Chairman Hansen:

That is something we may want to consider as an amendment—if there are minor exemptions that are frustrating the possibility of reciprocity, like a law enforcement person who carries firearms, and who is under the age of 21, and because of that all of West Virginia is eliminated.

Assemblyman Elliot T. Anderson:

If some states extend their renewal by two years, that may be something that is not really going to affect someone's safety. What I worry about is when you bring a weapon on campus. If people are going to have a weapon on campus, I want to make sure they can shoot well. We are going to be talking about allowing those individuals to carry on campus. I am not so concerned if that person's state permit goes two years over, but I am concerned if he does not know how to shoot. I want someone who can defend himself without indiscriminately hurting someone else. I want the criminal to be taken care of and not have anyone accidentally get hit. Is there room to say that we can have reciprocity for anyone who has a substantially similar live fire requirement rather than just all requirements?

Daniel Reid:

I think CCWs across the nation have proven to be, regardless of the training required, law-abiding citizens. We do not have instances now in those states, like Washington, that do not require any training.

Chairman Hansen:

I heard earlier that some states allow 18-year-olds who are currently or have served in the military. The last time I checked, most people in the military learn how to shoot. That would be an example of a young man who is 19 years old and has served in Afghanistan, yet in Nevada he cannot have a CCW. That seems to be a reasonable amendment to this bill.

John Wagner, State Chairman, Independent American Party:

I have a CCW in Florida as well as in Nevada. When I applied for it, they knew that I also had a Nevada CCW. I went to a website called <packing.org> where I clicked on a state and found the laws of each state. Before I went to Colorado, I checked their requirements. I found that Colorado does not accept

Nevada's CCW, but it does accept Florida's, but only if you reside in Florida. Since I was travelling to Florida, when I got to the Colorado state line, I ejected the clip and got rid of the bullet in the chamber. The bullets came up front and the gun went in the back. When I left Colorado, I did the reverse. I know there are some states that do not honor our CCWs because we do not honor theirs. I think this is a good bill.

Paul Grace, Private Citizen, Reno, Nevada:

I have been lobbying for gun owners for 18 years. I am now fully retired from the Nevada State Rifle and Pistol Association. The problem that I have is that a lot of people in northern Nevada know who I used to be, a real lobbyist, so they call me and complain, usually blaming me for it. Two years ago I managed to get the revolver and semiautomatic issue taken care of, which was a problem for a number of people.

I have a personal problem: now that I am retired, I wander around pulling a fifth wheel trailer with my pickup. I travel through a lot of states. I go through a lot of fairly deserted areas in some of those states where I would like to have a firearm. I have had a CCW for almost 20 years. I never point a firearm at anything I do not intend to shoot.

This bill is absolutely wonderful for retired people like me because, if I could just get the 11 western states on board, which is where I am most of the time, I would not have to unload the firearm, clear the chamber, put the gun in a locked box in my trunk, and put the ammunition somewhere in the fifth wheel. It is pretty silly having to do that through alternating states, considering that CCW holders are usually pretty damn law-abiding citizens, unlike the average gang member who would be carrying a gun anyway and not give a damn about what our laws are. We go by the law. I ask all of you to please pass this bill to help all the other retired folk who would like to carry. I went to Alaska twice. They do not let you bring firearms in unless you have a long gun, and you pay \$50 for a permit to carry a 12-gauge shotgun. Then they spend an hour going through my trailer and automobile because they think I have a pistol hidden somewhere. They delay me an hour every time I go there, so I do not go there anymore.

Janine Hansen, State President, Nevada Families for Freedom:

This is really an anti-crime bill. I have a bumper sticker that says "Criminals prefer unarmed victims." I think that is the truth. I do a lot of travelling by myself. I hope you all have a copy of the book *More Guns, Less Crime: Understanding Crime and Gun Control Laws* by John R. Lott, Jr. This book talks about the studies John Lott did. He started out being in favor of gun control and after doing the studies, he found that in states that allowed CCW

and more open carry of guns, there was far less crime. He has done the statistics on 39 states, research from 1977 to 2005. This is a self-defense issue. This is a Second Amendment issue. I think it is very important for the protection of law-abiding citizens.

I have had a CCW for about 17 years, and I appreciate the training. I have been ever so thankful, as I travel so much by myself, to be able to have a CCW. It is law-abiding citizens going through their own state to get a CCW that are the ones who help to reduce crimes. It is those who do not follow the law and have guns who cause the crimes. It is those of us who are prepared to protect ourselves and others that can help to reduce that. The statistics show that if you just happen to brandish a gun, there is no more problem with the crime. I think this is a very reasonable bill that will help to reduce crime and help protect law-abiding citizens in our community.

Megan Bedera, representing Nevada Firearms Coalition:

I want to echo the sentiments from Daniel Reid as well as our sheriffs who were presenting the bill. I would ask you to consider that we always ask, how does the law enforcement feel? Do they feel this is enforceable? Do they feel that this is protecting the citizens? We have had two sheriffs and a representative from a sheriff's department say yes. So the Nevada Firearms Coalition would ask that you please support this bill.

Richard Brengman, Private Citizen, Gardnerville, Nevada:

I am happy to see this bill, at last. It has been many years in the coming. I have been following CCW in Nevada for nearly 30 years. People are concerned about accuracy. The fact is that in most cases of CCW use, no shots are fired. Generally, when the offending party realizes you are armed, they are done. Basically the CCW is universal in all states, because they are based on physical reality. It is general knowledge that you do not shoot a fleeing suspect. A CCW does not mean you can brandish to win an argument; a CCW does not prevent you from being prosecuted for that kind of abuse of your right to carry.

Permits are slow to be issued, 90 to 120 days. So if a visitor wants to get a Nevada CCW, because he is going to be here for six months for a job, he will be here for half the time before he gets his permit. We need this bill so people can come here with their CCW and not be waiting, paying fees, et cetera. We are discouraging people from coming here. Snowbirds are going to Arizona because Nevada is hard. Current federal law already allows retired police officers from all states to have CCWs, and those permits, per federal law, are required to be recognized in Nevada. Are the citizens less able to exercise their Second Amendment rights than retired law enforcement? I also believe that

prior to "Shall Issue" in Nevada, we did have CCW permits if you were a friend of the sheriff, and no training was required.

Chairman Hansen:

Is there anyone else here who would like to testify in favor of A.B. 139? Seeing no one, I will move to the opposition.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

The Las Vegas Metropolitan Police Department (LVMPD) opposes A.B. 139. I appreciate the comments made by the sheriffs and other law enforcement individuals. The fact of the matter is that our jurisdiction, Clark County, houses 70 percent of the population of the state. It houses the majority of the CCW permit holders in the state. If this bill passes, the impact will be on us in our jurisdiction, more so than the other jurisdictions. Our main opposition to the bill is the fact that Nevada currently has a high level of standards for obtaining a CCW. Some of the key components of that are the training and live fire components that our residents must go through. That same criteria is not in effect in other states. As stated, there are 36 states that we currently do not recognize because they do not have the same level of training that Nevada residents are required to have. In some states, you can pay your money and get your permit. In other states you have to go through a background check, and sometimes the background checks vary. Sometimes they are more in-depth; sometimes they are less in-depth. There are examples from other states where a person made it through a background check where in fact he had a criminal record, yet he obtained a CCW in that state. Those same individuals, under this blanket reciprocity, could then come to Nevada and carry in our state.

The second critical component is that when our law enforcement officers in the field encounter someone at 2 a.m. who is carrying a concealed weapon and the individual says he has a permit out of Colorado, the officer in the field needs to be able to verify that. Someone could have a card that he printed up and laminated. People fake driver's licenses. If we do not have a 24/7 database in effect, the officer cannot verify if that permit is valid or not.

We talk about the criminal element; they are going to carry concealed anyway; that is true and this gives those folks an out. They can claim they have a permit from another state and the officer cannot verify it if that state does not have a database. In addition, the analogy of a driver's license has been used, that we acknowledge driver's licenses from other states. If someone comes here with a license from another state, he can drive here. The fact of the matter is, every state that I am aware of has pretty much the same criteria for

a driver's license. You have to take a test and show proficiency driving a motor vehicle. A CCW is vastly different than an automobile when it comes to the standards that are in place between states. This would not be an issue if there were a set of standards across the country that were equal.

Finally, I have total confidence in the CCW holders in our state. My concern is the people from other states who do not have the same level of training or standards who would come here. I do not see a benefit for Nevada citizens from this proposal, other than the fact that some other state may allow us to have reciprocity with them if we go to blanket reciprocity. We cannot guarantee that will be the case.

I gathered a few statistics this morning: In North Carolina, over a five-year period, 2400 CCW permit holders were convicted of crimes and authorities failed to revoke or suspend the permits of roughly one half of those folks; this included felons, murderers, rapists, and kidnappers. In Florida, more than 1400 permits were issued to offenders who had pled guilty or no contest to felony crimes such as sexual assault, child molestation, and burglary. Those states do not have a revocation process that is accurate. Now those individuals can come to Nevada and carry in our state. Again, without a database, we have to accept their CCWs.

Assemblyman Gardner:

We are not checking every car or everybody that comes to Nevada. This would only come before the officers if they were doing something else. Are you saying you want this as an add-on?

Chuck Callaway:

All we want is the standards that are currently in place to continue. I believe that Nevada has a very good process. I understand the resource issue on the state, that once a year they have to research what other states are doing and determine if they meet our criteria. I am certainly open to looking at that criteria, as mentioned, if we need to have an exemption where an 18-year-old has a CCW. I do not think that someone from another state should have the privilege in Nevada that Nevada citizens do not have. If you are required to be 21 in Nevada, I do not think an 18-year-old from another state should be able to come here and carry when Nevada citizens cannot. All I am asking for is that the current standards remain. I think they are sufficient and they work. I understand the resource issue the state has and I respect that.

Assemblyman Gardner:

We have lots of people coming into Las Vegas. Right now LVMPD is not checking those people, so there is no verifying whether people are following this

law or not. If that is a concern, why are we not seeing the crime from that right now?

Chuck Callaway:

We get 3 million 911 calls a year. Some of those cases involve people who are carrying concealed weapons, legally or illegally. If the officer encounters someone, and he claims he has a permit from another state, if it is one of the states we recognize under the current law, we have the ability to verify 24/7 that he has a valid permit. If this bill passes, we will no longer have that ability. If we were to encounter someone currently, and he was carrying concealed from a state that we do not recognize, he would be breaking the law in this state. Obviously if he did not have a permit at all, he would be also breaking the law.

Assemblyman Gardner:

Currently, we are not able to tell if someone has a CCW. If we expand this and we let other people come into our state with CCWs, I am wondering how that would cause any extra problems for LVMPD.

Chuck Callaway:

Under the current system, there is a mechanism to verify if out-of-state folks' permits are valid or not. We are not setting up checkpoints to see if people have CCWs, but if an officer in the field responds to a call and encounters someone with a concealed weapon, we have a mechanism in place to verify if that permit is valid through another state. If this bill passes, we will no longer have that ability.

Assemblywoman Fiore:

I am a resident of Clark County. I am not seeing an issue with people faking CCWs. Can you tell me differently?

Chuck Callaway:

I think you are correct, because under the current standards it is difficult to fake a CCW. We can verify those through the database that is currently in place. If we do not have the database, it will be very easy to fake a permit.

Assemblywoman Fiore:

So, at the moment we do not have a problem, we are not creating a problem, and that "woulda, coulda, and ifs" that may happen is not happening. So currently we do not have a problem in Clark County, nor do I see us having one.

Chuck Callaway:

With a database in place, it is difficult to fake a CCW permit. With no database in place, it will be much easier to fake a CCW.

Assemblywoman Fiore:

But we do not have anyone faking it today. Why would they fake it tomorrow?

Chuck Callaway:

I do not know if it is accurate to say we do or we do not have people faking it today. I am not aware of a situation, but I am not going to tell you, in a city of 2 million people, that it has not occurred.

Assemblywoman Diaz:

Las Vegas is a very transient city. I know that LVMPD deals with a lot of individuals coming in and out constantly. I appreciate the fact that you came back to my point about the missing database piece in this bill. If there was a registry where everyone's CCW is going to be validated from state to state, then you know it is a legitimate CCW. I have no problems, if the state is going to go down that road, that you, a law enforcement official, have that protection. Are there ever any instances where CCWs are involved with law enforcement?

Chuck Callaway:

Through the course of our duties as police officers, when we respond out in the field we often encounter CCWs; 99 percent of the time they are law-abiding citizens, and they tell us they are carrying. We have very little problem with them. However, like I said, I have confidence in Nevada's CCWs because we have standards in place. My confidence level is not as high for some of the CCWs from other states where adequate background checks, adequate standards, and adequate criteria are not in place. On the other side of the coin, we average about 100 CCWs each year that we revoke or suspend because those holders have committed some type of crime and we are notified by the courts that their permit has been revoked. To say that every CCW out there never commits a crime would not be the case.

Chairman Hansen:

Julie Butler testified earlier about the criteria that her department uses to see how closely we align with other states. Do you feel that is inadequate?

Chuck Callaway:

I have confidence in the system that is in place. I understand there is a strain on the state. We would be open to looking at the criteria and potentially expanding it, if it could bring more states in. For example, seven years versus

five years is not seen as a public safety issue, and certainly those states could be included. I do see an issue with states that have no background checks, have no standards for competency with a firearm, or have no live fire component. Those are the areas that I have concerns with—those people coming here and having a privilege that the citizens of Nevada do not have.

Chairman Hansen:

I think Julie Butler has taken those things into account to come up with the lists of states; 36 states are still excluded because they failed to meet the criteria. I would like for you to get together with Ms. Butler to see if there are some areas that we need to amend into this law. I would love to see an expansion of the states that we can add to the list. Also, if there are inadequacies in the procedures, we would like to see those as well, because public safety is a huge issue for us.

Assemblyman Ohrenschall:

Officer Callaway, you are representing the largest law enforcement agency for our most populous county, so you have a unique perspective. You mentioned the 100 CCWs that have been revoked out of Clark County in the previous year. Has it been your experience that there have been many CCWs from the states that we do have reciprocity with who have been revoked in their home state but are still carrying here?

Chuck Callaway:

I do not have any information to relate to that. I think that could be a potential problem. Currently, with the states that we have reciprocity with, we are trusting those states because they have very similar criteria, they are doing the right thing, and if someone commits a crime they are revoking or suspending their permits. I would believe that in the database, that would be reflected. If someone came here from a state that we have reciprocity with and an officer used the database to verify, it would show that the permit has been revoked or suspended.

Assemblyman Ohrenschall:

That would only occur if the CCW had contact with the enforcement officer?

Chuck Callaway:

Yes, we are talking about when our officer encounters someone on a call. Obviously it can be stated that people come here and carry concealed and never encounter a law enforcement officer.

Assemblyman O'Neill:

This may be a difficult question, but what would the LVMPD position be if all of our visitors decided to open carry down the Strip? Would that be less intrusive and less upsetting to the community as a whole than if those weapons were covered?

Chuck Callaway:

I am not here to debate or discuss open carry. I think we are talking about apples and oranges. As previously mentioned by a testifier, she can open carry but prefers to have a CCW. She stated she goes through a high level of training to have that permit. Tomorrow, 40 million tourists could strap on guns and walk up and down the Strip. That may or may not have an impact on Nevada's economy. I do not know. Some people who do not feel comfortable with that may decide not to come back.

Assemblywoman Seaman:

Do you know how many states do not have a background check?

Chuck Callaway:

I do not know how many states do not have a background check, but I do know there are 36 states which we do not have reciprocity with because they do not meet our standards. I am assuming that some of that could be because of their background process.

Assemblywoman Seaman:

You are assuming, but you have no facts.

Assemblywoman Fiore:

How many CCWs who are nonresidents has LVMPD arrested?

Chuck Callaway:

I do not have that data, but can find out for you.

Assemblywoman Fiore:

So, just from your testimony today, it is "if bad things happen." You have no data, you are just up here working for your boss, who was pro-gun when he campaigned.

Chuck Callaway:

I do not think I am basing my testimony on no data. I am basing my testimony on the fact that we currently have a system in place which has a set of standards, and this bill will throw out that set of standards.

Assemblyman Elliot T. Anderson:

Do you have confidence that every person from another state who has a CCW has the training on weapon safety rules to ensure they are handling the weapon well and are being safe?

Chuck Callaway:

I have confidence in Nevada CCWs because of the standards we have in place. I have confidence in the out-of-state folks that we have reciprocity with because they have to meet similar or more stringent requirements. I do not have confidence in the CCWs in states that we do not have reciprocity with, because I do not know what level of training they are going through, but it is not equal to or more stringent than ours.

Chairman Hansen:

That is why out of 50 states only 14 are going to meet the current criteria. They are equal to or greater than prior to this bill being passed. Ms. Butler has obviously been doing a great deal of homework to ensure the citizens in Nevada are protected along these lines.

Assemblyman Gardner:

Do you know the CCW requirements in those 36 states, or are you basing this on the 14 states that are equal to Nevada?

Chuck Callaway:

I am basing my testimony on the simple fact that Nevada has a set of standards that require all of those things mentioned earlier: a resident 21 years of age, the person's background check has proven that they are not a prohibited person, they complete a course with an instructor, and they show competency with a firearm with a live fire component. The states we have reciprocity with have similar or more stringent criteria. I did not come in here with research from the 36 states that do not meet our criteria. I am coming here today strictly with the position that we currently have a good system in place with a good set of standards, and if we throw that out, then we allow folks from other states to come to our state and carry without meeting the same requirements as we require our own citizens to meet.

Chairman Hansen:

Thank you. Is there anyone else who would like to testify in opposition? Seeing none, is there anyone neutral on A.B. 139?

Julie Butler:

I would like to offer a friendly amendment to A.B. 139 ([Exhibit C](#)). In section 2 the default date is October 1. We would like to amend that to make it effective

upon passage and approval. The reason for this is that under current law, our department is required to provide the annual list of recommended states to the Sheriffs' and Chiefs' Association on or before July 1. It takes a substantial amount of research from my staff to conduct this annual comparison. In fact they start in January every year, and it takes a good five months to get the list together. Meanwhile, they are not doing their other primary duties, which are the Brady background checks, because they are diverted to doing this task. If this bill were to pass with the default date of October 1, my staff would have to continue this effort to provide that list by July 1, only to have it all undone in October.

Chairman Hansen:

We have already discussed that amendment with Assemblyman Wheeler, and we are comfortable with that.

Assemblyman O'Neill:

What do you think it costs your staff to do this task as it is currently assigned?

Julie Butler:

We could probably estimate that; I have an administrative assistant IV who devotes a one-half-person year doing this research. We started a process last year of getting our deputy attorney general involved to do a legal review as a double check of our review.

Assemblyman O'Neill:

I was just looking for approximate numbers. Do you think we will save at least \$60,000 to \$70,000?

Julie Butler:

Probably.

Chairman Hansen:

If there are areas that Mr. Callaway brought up that you think are valid points, we are relying on you and your department to ensure we do not do something where we could jeopardize the well-being of the citizens of the state of Nevada.

Assemblyman Elliot T. Anderson:

Could we find out why each state is not on the list of reciprocity? I do not think that if a state allows an 18-year-old in the military to have a CCW or a permit expires two years later than ours those are good reasons to deny reciprocity, but I start to change my mind when you have people who do not know the weapon safety rules. People who go through the live fire training have to learn weapon safety rules on the range. We are probably going to end

up with weapons on campus this session. I do not want people who are irresponsible with weapons in these environments. If you could provide the requirements of the other states, that would be very helpful.

Julie Butler:

We can certainly get the list that we provided last year with what and why we made the recommendations for those states ([Exhibit E](#)). I will say one of the difficulties that we have is when you put certain criteria in statute, such as a minimum age limit, it gets to be a slippery slope. If you are going to set boundaries, it is difficult to know when to make exceptions. It is easiest for us to say the law is the law.

Chairman Hansen:

You do not really have the option of ignoring what the statutes require. The fact is, of the 14 states that you have agreed to, they at least meet or exceed our standards, correct?

Julie Butler:

That is correct.

Chairman Hansen:

Is there anyone else here in the neutral position to A.B. 139? Seeing no one, I will ask Assemblyman Wheeler to come back for closing comments.

Assemblyman Wheeler:

One of the things that was discussed is safety concerns of people carrying concealed from other states. Mr. Callaway said he is afraid of someone coming in without a background check. I know of no state that does not at least conduct a background check. When you look at the safety issue, I guess the safety is different when you have a gun on your hip or you have a gun on your hip with a windbreaker over it.

Chairman Hansen:

I will now close the hearing on Assembly Bill 139. [Other letters of support not mentioned include ([Exhibit F](#)) and ([Exhibit G](#)).] I will open the hearing on Assembly Bill 141.

Assembly Bill 141: Revises provisions relating to the foreclosure of liens by a homeowners' association. (BDR 10-751)

Assemblywoman Irene Bustamante Adams, Assembly District No. 42:

The topic today is regarding homeowners' associations (HOA). I know that a lot of you know this is a very complex issue. There are several bills on HOAs

between both houses, and I recently learned that there is a bipartisan group that Senator Hammond and Senator Ford have been working with to deal with the broader issues. This bill is very specific, very targeted. This bill ensures that everyone with a security interest in a property receives fair notice and an opportunity to participate in a foreclosure proceeding impacting that interest. It is similar to the basic premise of due process and a concept invented within the American property law. Consequently, it is imperative that whatever may occur with legislation addressing broader HOA priority lien issues, this legislation proceed independently to ensure that, at minimum, those with duly recorded security interests are given an opportunity to be heard. Last year, the Supreme Court of Nevada issued an opinion, *SFR Investments Pool 1, LLC. v. U.S. Bank, N.A.*, 130 Nev. Adv. Op. 75 (2014), wherein the court held that an HOA lien holds a position superior to that of a first deed of trust. [Continued to read from prepared testimony ([Exhibit H](#)).]

As mentioned earlier, it is very straightforward; that is the intent. I did have some people stop by my office late yesterday who wanted to add an amendment. I asked if they were working with the larger group in the Senate, and they said they were. I told them that it would be my preference that they stay with that group. It is dealing with larger, more complex issues, and I do not want to muddy the waters with this bill. I know that when you have this chapter open, there is a tendency to want to make it a Christmas tree and add all kinds of ornaments. I ask people to work with the larger group and let this bill stand on its own. At this time I would like to introduce Bradley Beal.

Bradley W. Beal, President, One Nevada Credit Union:

I am president of One Nevada Credit Union, which is the state's largest credit union. If you have not heard of us, we serve 75,000 Nevadans in Clark County, Washoe County, and Nye County. I have had the good fortune to be president for 25 years and have seen a lot of mortgage lending over that time. Earlier this month One Nevada Credit Union celebrated its sixty-fifth birthday. We have been involved in mortgage lending for over 30 years. Last year our credit union originated just shy of \$200 million in first mortgage loans, most of which we sold to Fannie Mae so we could recycle those dollars and make more loans. We also maintain our own portfolio, which contains about 600 loans totaling about \$86 million. We also service another 1000 loans for Fannie Mae, totaling about \$175 million.

As mentioned, Assembly Bill 141 will simplify the notice process for these HOA lien foreclosures so that anyone else with a recorded interest can receive notice and can participate in the foreclosure. This is a matter of simple fairness of due process and it is good public policy, and it happens in every other form of foreclosure proceeding when the other interested parties receive notice and are

able to participate. This legislation is critical for ensuring that we are able to protect the interests of our credit union and our 75,000 member/owners. We appreciate that Assemblywoman Bustamante Adams is sponsoring this bill. I am here to provide my perspective on any questions.

Chairman Hansen:

The problem is that you have mortgages and you are not being notified prior to the sales, and because of the way it is currently set up, whoever has the first lien on the HOA can sell the property without you getting a nickel, potentially, after the sale. That is really the root problem, correct?

Bradley Beal:

That is correct.

Assemblyman Elliot T. Anderson:

This is as simple as it gets. This is an incredibly necessary step to have notice. The Fifth Amendment of the *Constitution* prohibits the deprivation of property without due process. At its basic level, due process is notice and opportunity to be heard. Currently we do not require a full-on judicial foreclosure, but that is what the Fifth Amendment contemplates. We are already giving quite a break to the non-judicial foreclosure process. We are waiving all of the court rules to make it easier on your behalf when you are exercising your rights under *Nevada Revised Statutes* (NRS) Chapter 107, but also the superpriority rights under NRS Chapter 116. I think at a very basic level, notice cannot be negotiable if we are going to take someone's property—especially when you are talking about a potentially \$10,000 sale wiping out a \$200,000 deed of trust. It cannot be negotiable, and we have to have notice and cannot live in a state that allows property to be taken without notice.

Assemblyman Nelson:

I agree with the import of the bill. The only question I have is for the HOA. How are they going to know exactly where to send the notice? I have seen many deeds of trust that are recorded that have printed in the top left-hand corner, recorded at the request of a law firm or a title company or someone else. If I represent an HOA and now I have to comply with this, which is a fundamental part of due process, do I send notice to the law firm if that is all that is noted on the recorded deed of trust?

Bradley Beal:

I posed that very question to our foreclosure attorneys yesterday. They tell me that they rely upon the address on the deed of trust.

Assemblywoman Bustamante Adams:

This is one of the questions that was brought up late yesterday and is being discussed over in the larger group. That is why I asked those individuals to stay in their lane and work it out with the title companies and the realtors and the banks who are working as a group together. The intent, if this passes, is to work with the larger group. The tendency is when you have a very complex issue, sometimes it dies. But at minimum, we would at least have this due process in place. My goal is that they will work it out because there are other interests involved and then marry these two together.

Assemblyman Nelson:

Do you think it would be prudent to put that in as an amendment to A.B. 141, if the other legislation does not pass? That is my concern. I have handled many of these issues in my law practice.

Assemblywoman Bustamante Adams:

We could work through that if it becomes an issue. With that large a group and that many interested parties, in the event that they cannot pass that bill, this would be a vehicle that stays alive. We could then look at amending it.

Assemblyman Ohrenschall:

If this were to not pass, what do you envision the future being for underwriting these kinds of loans on real property? What kind of messages are you getting from the federal lenders?

Bradley Beal:

I hesitate to speculate on where we would go if we had to contend with this. I think it would be very messy indeed, and it would make lending much more difficult. I am reluctant to be more specific than that.

Michael Randolph, Manager, Homeowner Association Services, Inc.:

I have operated Homeowner Association Services, Inc. for the last 15 years. We are a collection agency that specializes in recovery for HOAs. I am in favor of this bill. I thank the Assemblywoman for cleaning up this one piece of legislation as a stand-alone bill. I would ask for a minor amendment. I would like to see the words "by certified or registered mail, return receipt requested" added to the bill. That same wording appears in NRS 116.31162, subsection 1, paragraph (a), and subsection 3, paragraph (b). We get our addresses and our ten-day mailing when we file the notice of default through the title report that we purchase from our title plant. My firm has mailed to all holders for the last 15 years. Under this amendment to NRS 116.31163, we could add the requirement to mail by certified or registered mail, return receipt requested. We mail first class so the homeowner gets the notice; we mail certified to prove

we mailed it because most of my certified homeowners mail comes back to me. For the banks and for the courts in the future, this would give them the proof that you mailed to the lender, and only certified mail would do that. I think this would reduce the amount of potential litigation in the future if the standard was you had to mail to the lender of record by not only first class mail, but certified or registered mail, return receipt requested. That would clean this bill up.

Bruce H. Breslow, Director, Department of Business and Industry:

Our agencies are the ones that deal with HOAs. I have never seen anyone cringe more often than they do at the word HOA, whether it be the Legislature, the attorneys, the Supreme Court, and everyone else. I am not hopeful because of the piranha effect that any large fix will solve everyone's issues with HOA laws in our state. This is a very small fix that is about fairness and notice. I am hopeful that this will not be bogged down by all the other parts. I am still waiting for someone to talk to the Real Estate Division about the real life issues they have with HOAs. I am starting a series of meetings to insert ourselves into some of the discussions. This is small, but it is important. It is about fairness, and I want to go on record by saying I support what Mr. Beal is trying to do.

Assemblyman Jones:

Do we have any statistics on how many superpriority liens actually go through where people pay \$7,000 for a \$500,000 house?

Bruce Breslow:

I do not have statistics in front of me, but there were hundreds of contested lawsuits bundled into a combined action. The Supreme Court chose a few, and they opined that under Nevada law you could foreclose and wipe out the first. While it may be a perfect interpretation of current Nevada law, that is also what is wrong with everything about current Nevada law. I know that the U.S. Department of Justice in Washington, D.C. had talked to us about coming here because of the problems they saw with HOA foreclosures. There are so many different interested parties here. Everyone has a piece of the action, and I am hopeful there is a solution, especially for the people who do not have a piece of the action; but I cannot give you any statistics. I can tell you that it is just not a fair situation.

Joseph Decker, Administrator, Real Estate Division, Department of Business and Industry:

I would like to express that the Real Estate Division is interested in the financial well-being of HOAs and often the lender is in the best position to quickly cure an HOA default. They can also serve to stabilize property values through managing their security interests if they are notified. The Division supports removing this exclusion in the interest of ensuring throughout the HOA lien

process that the lender and other lienholders have every opportunity to address their interests in light of the HOA's action.

Chairman Hansen:

Is there anyone else who would like to testify in favor? Seeing no one, I will move to the opposition.

Garrett Gordon, representing Community Association Institute:

The Community Association Institute (CAI) is made up of thousands of members, hundreds of HOAs, community managers, et cetera. Many of these folks are technical experts in this process. As was mentioned, it is a very complex process. First, we are 100 percent in support of the intent of the bill. What this bill does is shift the burden from notifying the bank with respect to the notice of default. Current law says the bank has to tell the HOA who to send the notice to. If changed, the HOA will now have to go on its own dollar, possibly hire counsel, also spend money on title companies, which of course is borne by the homeowners, to figure out who to send the notice to. We are in support, but the devil is in the details. We have been working on a bill with Senator Ford and Senator Hammond in response to the superpriority liens. As Assemblyman Elliot Anderson knows, we were in a working group meeting for about 4 1/2 hours. We discussed this same issue for approximately 45 minutes. As mentioned, we have to presume that this bill will not pass. We need to look at this piece of legislation on its own. We have only a few technical amendments with respect to who we send the notice to. It should only be the current lienholder. As you know, these loans are reassigned many times. It can go to a servicer, a bank in Florida, or a bank in New York; just let us respond to the title report and send it to the most current lienholder.

Secondly, the address was mentioned. We respectfully ask that the notice be sent to the last known address on the title report that we order and rely upon with respect to who we send this out to.

I appreciate the sponsor's meeting with us yesterday afternoon; I appreciate her keeping an open mind on the few technical amendments and letting this bill go forward with respect to standing alone. I will continue working with the larger bill. Hopefully it will come out of the Senate and on to you, and we can deal with this issue in a comprehensive manner. If not, I think a few tweaks to this bill will make it even better.

Assemblyman Elliot T. Anderson:

What exactly are the concerns in how to show notice? The way I understand the recording system is that is the title system. If I am going to court, I would file an affidavit and I would go to the recorder's website and look at all the

recorded documents on the piece of property. These are the addresses I would certify on that affidavit that I sent notice to; all the addresses listed on those recorded documents. I would put that in the affidavit and that would be my evidence to the court to show that I have satisfied notice. I cannot tell you how many cases I have seen where that is how notice is shown, just by an affidavit. To a court you have shown good faith in providing notice. I do not think they would slap you out of court if it was not the right address; that is on the person who recorded their security interest to provide the right address. If you show you provided the notice to the address they listed on the deed of trust, would that not satisfy notices for the court?

Garrett Gordon:

I think you are absolutely right; however, there is some ambiguity, and why not fix it now rather than have the HOA hire a lawyer at the expense of all the unit owners and go argue in court whether it was done right or not. If we can tighten it up, it would be best for everyone.

Angela Rock, representing Olympia Companies and Southern Highlands Homeowners Association:

The key is evidence in court, go to court, file in court. If there is anything anyone in the HOA industry knows right now, we are road weary of litigation. There have been millions of dollars spent in litigation going over statutes that at some point we all thought were clear. What we are asking is to avoid having to file that affidavit in court. Let us make it clear now, we are not trying to turn it into a Christmas tree, per se, but we have asked the sponsor to consider three things: the who, the where, and the when. The who is the current lien holders. The where is the address listed on the deed. If they have moved their offices, we can rely on what is coming through on the trustee sale guarantee. The when is that we are allowed to rely on the trustee sale guarantee because the way this statute is written, it is a little amorphous. This could be real time. If someone is in line in front of me filing something with the county recorders and I am the next person in line with my notice of default, I am not going to have real time notification of that. That is what is called a lag time or a blind spot. The association and the homeowners pay \$400 to get the trustee sale guarantee; we need to be able to rely on that information. All we are asking for are those simple tweaks of the who, the where, and the when that will allow us to properly capture the interest holders who deserve notice so that we can avoid future litigation.

Assemblyman Nelson:

What you are asking for helps the intention of the bill, does it not? The intention of the bill is to ensure the lender gets notice. You want to make

sure the correct lender gets notice at the correct address. The amendment you are proffering will serve that function, correct?

Angela Rock:

Absolutely, that is why we spoke with the sponsor yesterday and would like to continue to work with the sponsor.

Norman Rosensteel, Member, Community Associations Institute's Legislative Action Committee:

I echo the previous comments; our main goal is to stay out of court. We do notify everyone of record, and we do keep a record of who we have notified. We just want to clarify this as much as possible so we do not wind up in court.

Assemblyman Elliot T. Anderson:

I am not looking for litigation, but the idea is how to prove notice if it were contested, because if it were not contested the sale would go on through non-judicial means and everyone, in theory, would be happy. If the sale was done properly, there would not be any grounds. I do not understand why the ten-day window is needed because as long as you can show that you, in good faith, provided that notice, that you did a recorder's search on that date, and you documented it, that would be enough. The idea of notice is not to make you crawl over every rock, and I understand why you get the title report because that gives you more certainty. I am having problems understanding why you cannot just say, we looked at the recorder's website this day, this is what was on there, this is where we sent it, and that shows the court that in good faith you tried to notice everyone.

Angela Rock:

I think you are making sense here in the room, but it has been all of our experience over the last two years that the best of intentions do not always end up that way when property rights are in dispute and homes do go for pennies on the dollar. It has been my experience that those do end up in court and you start going through everything with a fine-toothed comb. We would like to avoid some of that because what I have seen more than the associations recovering assessments through HOA foreclosure sales has been the hundreds of thousands of dollars that have been spent on legal fees over the last four or five years that the homeowners bear. If we can fix that with a few words, we respectfully ask that it be done.

Chairman Hansen:

Is there anyone else who would like to testify in opposition at this time? Seeing no one, is there anyone who would like to testify in the neutral position?

Samuel P. McMullen, representing Nevada Bankers Association and Bank of America:

I want to make it clear that I support the concept of this bill, but I thought it would be good to give some additional input about the process you are hearing about. This relates to notice of sale. For those of you who are not foreclosure experts, there are all sorts of documents that happen; this is one of the last in a chain of foreclosure documents that an HOA completes. The Nevada Bankers Association looked at how the game has changed by the *SFR* decision. What the Supreme Court of Nevada did in that case was to lead to certain implications and certain actions you have to take. What that said was that by giving the HOA a superpriority, for their nine months of assessments, it takes precedence over every other priority. Then someone can buy a house by paying off the superpriority lien amount, which could be \$5,000. We have many cases at this point where there is a multi-hundred-thousand-dollar loan for a multi-hundred-thousand-dollar house that is going through an HOA foreclosure sale for only \$5,000 or \$10,000. The lenders' loans are basically extinguished through NRS 116.3116.

What we did is try to grapple with that and what it meant to us. We have not actually come out and said, why do we not just extinguish the right of extinguishment? We looked at that, and it may have to happen because of other features, particularly the position of the federal lenders, and whether they will even write loans under this circumstance. That is an issue that needs to be addressed. Other issues are: what is the most appropriate way for the banks to protect their security? For the HOAs to get funded? How can we expedite that? How can we make that happen faster? How can we make that whole process work? You have constituents who are severely impacted by this.

What we have done, prior to notice of sale, is talk about a document that would be a very clear notice dealing with the same issues here: how do you get it, who do you send it to, how do you make sure it is reliable? There are a lot of dollars at issue. If an HOA processes the notice and leaves out a lender because it did not pay \$400 for a trustee sale guarantee, the import of that to the HOA is that they do not want to have a lawsuit because they did not notify everyone. At this point there are huge rights and lots of dollars at issue.

We are trying to knock down the probability or possibility of lawsuits in favor of some other smarter exercises. The first one is giving the lenders notice of what the nine-month lien is, or the amount of that and the collection amounts allowed by statute, and allowing an opportunity to pay those off. In effect, what the banks need to do now, beyond all else, is protect their security. If they have a \$500,000 loan, the homeowner may be current on his loan but is not paying his HOA assessments; then he has created a situation where a foreclosure sale

can happen for the smallest amount, not the largest amount. All the other lenders dance to the tune of the HOA foreclosure and the implication of that. Give us an opportunity to craft something that will take away the issue for the HOA completely because they will get the maximum amount allowed by statute. They do not lose the rest of the non-superpriority amount; they can try to collect that in other ways. Secondly, we are trying to ensure that we reduce most of the similar provisions that are utilized for other real estate transactions that could be included in this, all of which are about going to a court of competent jurisdiction. Again, your constituents as HOA members pay for all of that. There has to be a smarter, better way. The point is, before notice of sale, we are creating a product with the right for people to get accurate information, HOAs to be compensated for the collection and production costs of that notice and pay off the nine months, and trying to get the lending business in Nevada back in order. It is pretty torqued up, and real people's lives are affected.

Assemblyman Thompson:

If the HOA is trying to foreclose, when it goes over to the credit union, does the credit union do a last minute attempt to reach out to the homeowner, try to work out some terms, and try to keep the homeowner in his home? I represent the North Las Vegas area, and I have a lot of homeowners that this would affect, and we want to keep neighborhoods whole.

Bradley Beal:

The last thing we want is the house back. We want to keep the people in their homes, and we will go to whatever reasonable lengths to keep them there. If we received a notice of lien sale, we would go to the HOA and pay the lien off and not let it go to sale. We would go to the homeowner and see what the problem is and what we can do to help resolve it. Can we reduce the rate or put the loan on interest only for a while? If we can understand the difficulty they are having and what they are doing to resolve it, we will definitely work with them. We modified a couple hundred homes during the recession. We had about a 90 percent success rate on our modifications. Our objective is to keep them in the home.

Assemblyman Thompson:

I would love to discuss how the modification process works because that has really been a major difficulty, because people have been getting balloon rates on the back end. A true modification and reducing it down to the value of the home—I would love to discuss that.

Garrett Gordon:

Part of the legislation in the Senate would add a redemption period. So after the foreclosure happened, there is a period of time where the bank or the

homeowner could redeem. Again, it is adding another period of time to allow protections for the homeowner, for the lenders to give them a last chance effort.

Assemblyman Jones:

You mentioned that you get a title policy for \$400 and you are secure in your notice because the title company will take it over if they made mistakes on who to give notice to. So why is there a problem? You have the policy, there should never be any issues, and the title insurance company would have to take care of it.

Samuel McMullen:

We are focusing on a micro part of the whole process, the notice of sale, and ensuring that it gets to the right people. Generally, the HOAs have a trustee sale guarantee policy that guarantees and protects the HOA and the trustee if for some reason they do not comply with the sale. This is not just the notice of sale; it is everything that happens up to that point, and it has to be done sooner rather than later. There are a number of notifications. We are trying to ensure that not only can they use the trustee sale guarantee, but also get the money reimbursed when the creditor steps in. We are trying to create a system that will be as close as we can to being flawless and make sure it is workable. This is a sense of how complicated this issue truly is.

Assemblyman Jones:

Do you have a better knowledge on how much this has really happened, with the superpriority lien taking over and wiping out the first and second trust deeds?

Samuel McMullen:

It is dozens. One finally went all the way to the Supreme Court and got the resolution of the interpretation issue in NRS 116.3116. I do not have the exact numbers, but there are several more now due to that case. That is a disruption in the lending industry. It cannot settle a half-million-dollar asset for ten thousand dollars and not have that loan to the bank paid off.

Chairman Hansen:

Is there anyone else who would like to testify in the neutral position? Seeing no one, I will invite Assemblywoman Bustamante Adams back up for closing remarks.

Assemblywoman Bustamante Adams:

As mentioned earlier, this is very complex and there is a lot of work that needs to be done. That is why the working group in the other house is working on

a bipartisan effort. That is why I asked Mr. Gordon to stay in that lane. Let me have this as a clean, stand-alone issue. If we do get this bill out of this house, my desire is to ensure that this portion is consistent for the homeowners and the other interested parties as well.

Chairman Hansen:

I will now close the hearing on A.B. 141 and open up for public comment. Seeing no one, I have some Committee business. I have a bill draft request introduction.

BDR 14-911—Makes various changes relating to criminal procedure. (Later introduced as [Assembly Bill 193](#).)

ASSEMBLYWOMAN DIAZ MADE A MOTION TO INTRODUCE
BILL DRAFT REQUEST 14-911.

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I am going to reschedule the work session scheduled for February 27, 2015, to March 2, 2015. I have set up an HOA subcommittee that I will announce at a later date. This meeting is adjourned [at 10:26 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 25, 2015

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 139	C	Assemblyman Wheeler	Proposed Amendment from Julie Butler, General Services Division, Department of Public Safety
A.B. 139	D	Juanita Clark, Las Vegas, Nevada	Written Testimony
A.B. 139	E	Julie Butler, General Services Division, Department of Public Safety	CCW Reciprocity Report
A.B. 139	F	NV Firearms Coalition	Letter of Support
A.B. 139	G	Stillwater Firearms Association	Letter of Support
A.B. 141	H	Assemblywoman Bustamante Adams	Prepared Testimony