

**MINUTES OF THE SUBCOMMITTEE OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
May 6, 2015**

The subcommittee of the Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:09 p.m. on Wednesday, May 6, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SUBCOMMITTEE MEMBERS PRESENT:

Senator Greg Brower, Chair
Senator Tick Segerblom
Senator Aaron D. Ford

SUBCOMMITTEE MEMBERS ABSENT:

Senator Becky Harris, Vice Chair (Excused)
Senator Michael Roberson (Excused)
Senator Scott Hammond (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Assembly District No. 42

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Connie Westadt, Committee Secretary

OTHERS PRESENT:

Brad Beal, President, One Nevada Credit Union
Garrett Gordon, Community Associations Institute; Southern Highlands
Homeowners Association

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Chair Brower:

We will open the hearing on Assembly Bill (A.B.) 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):

Assembly Bill 141 addresses superpriority liens. Senator Hammond and Senator Ford sponsored Senate Bill (S.B.) 306, which proposes a number of changes to *Nevada Revised Statutes* 116. Assembly Bill 141 is straightforward and not as complex as S.B. 306.

Senate Bill 306 (1st Reprint): Revises provisions relating to liens on real property located within a common-interest community. (BDR 10-55)

Assembly Bill 141 simplifies the notice of foreclosure process by requiring holders of security interests to file their deeds of trust with the recorder's office, the common and accepted standard by which constructive notice is provided to all interested parties in a property. This will simplify the foreclosure notice process and ensure that all lenders who duly file notice of their interests with the recorder's office prior to a homeowners' association (HOA) filing a notice of foreclosure will be notified of the foreclosure action and have an opportunity to participate in the proceedings.

The Assembly was aware that S.B. 306 was being heard by the Senate and that amendments had been proposed. I requested A.B. 141 be left clean and straightforward. If there are changes to S.B. 306 regarding the subject of foreclosure notice requirements, then at some point we will marry the two bills. For now, because this is a very important piece of legislation, the Assembly wants to keep it clean. I understand some amendments have been proposed in the Assembly Committee on Judiciary regarding foreclosure noticing requirements. The intent is to marry that language to the language in S.B. 306 at the appropriate time.

Brad Beal (President, One Nevada Credit Union):

We support A.B. 141. One Nevada Credit Union is the State's largest credit union with about 75,000 members in Clark, Washoe and Nye Counties. It has been my privilege to be the president of One Nevada for the past 25 years. One Nevada is actively engaged in mortgage lending. Last year, One Nevada

issued over \$200 million in first mortgage loans, and we service about 16,000 loans, many of which are owned by Fanny Mae.

Homeowners' associations can foreclose on their liens without providing notice to the mortgage holders. That is a concern because the superpriority notice of those liens can extinguish One Nevada's first and second mortgage positions without notice of the foreclosure process. Assembly Bill 141 will provide notice of those lien foreclosures. One of the most fundamental principles of our great Nation is that property cannot be taken without due process. In the case of lenders like One Nevada, that property is the mortgage, and due process is proper notice.

The notice provision in A.B. 141 is consistent with that employed by other nonjudicial foreclosures in Nevada. One Nevada is aware that a broader bill passed by the Senate is now under consideration by the Assembly. One Nevada supports S.B. 306, which also includes notice requirements. Whether the Assembly will pass S.B. 306 is unknown; however, if it does, A.B. 141 could be blended into it. If not, then A.B. 141 would most certainly be needed to provide fundamental protections to lenders.

Garrett Gordon (Community Associations Institute; Southern Highlands Homeowners Association):

I have provided an amendment ([Exhibit C](#)) which takes the applicable section of S.B. 306 and places it in A.B. 141. Much time and effort was spent negotiating various provisions of S.B. 306, including this specific section. [Exhibit C](#) provides two consistent, compatible bills.

Senator Ford:

What do you perceive to be the inconsistencies?

Mr. Gordon:

The language from S.B. 306 does a better job of clarifying who, where and when a notice of default will be sent. Rather than first-class mail, the notice of default is sent by certified mail. Two locations are identified where the notice will be provided: one, a trustee sale guarantee will be pulled and the notice of default will be provided to any recorded interest on the property; and two, an address will be placed on the Division of Financial Institutions, Department of Business and Industry Website. This provides two locations where the notice will be sent. The negotiated language passed by the Senate is preferable.

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Chair Brower:

We will close the hearing on A.B. 141 and adjourn at 1:19 p.m.

RESPECTFULLY SUBMITTED:

Connie Westadt,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	6		Attendance Roster
A.B. 141	C	2	Garrett Gordon / Community Associations Institute; Sothern Highlands Homeowners Association	Proposed Amendment