

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

**Seventy-Eighth Session
May 7, 2015**

The subcommittee of the Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:03 p.m. on Thursday, May 7, 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 Becky Harris, Vice Chair
Senator Ruben J. Kihuen
Senator Aaron D. Ford

GUEST LEGISLATORS PRESENT:

Assemblyman Erven T. Nelson, Assembly District No. 5

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Julia Barker, Committee Secretary

OTHERS PRESENT:

Jasen E. Cassady
Alan Rabkin, General Counsel, Senior Vice President, Heritage Bank
George Ross, Nevada Bankers Association
Josh Hicks, Rialto Capital Advisors, LLC
Mark Fiorentino, Focus Property Group; Olympia Companies; Astoria Homes
Phyllis Gurgevich, Nevada Bankers Association
Steve Byrne, EquiSource, LLC
Markus Conklin, Nevada Mortgage Lenders Association

Chair Brower:

I open the subcommittee of the Senate Committee on Judiciary with the hearing on Assembly Bill (A.B.) 130.

ASSEMBLY BILL 130 (1st Reprint): Revises provisions relating to the administration of estates of deceased persons. (BDR 12-862)

Assemblyman Erven T. Nelson (Assembly District No. 5):

The goal of A.B. 130 is to reduce costs of administration of estates.

Jasen E. Cassady:

I am a principal of Cassady Law Offices in Las Vegas. We primarily practice probate law, so the subject matter of A.B. 130 is right up our alley. I have submitted testimony describing the intent of the bill and what the sections do ([Exhibit C](#)).

Alan Rabkin (General Counsel, Senior Vice President, Heritage Bank):

The banks are involved with this bill because of customer interest. We tell customers who want to claim decedents' accounts that Nevada is behind in its levels of exempt probates, one of which is the affidavit process at accounts of \$20,000 and higher. That is a modest sum, requiring an affidavit to clear bank accounts. We originally sought to raise the limits for any kind of claimant seeking a uniform \$100,000 limit requiring an affidavit to access the account, but we understand concerns about nonspousal claimants to estates. We support the increase from \$20,000 to \$25,000 for nonspousal claimants and the \$100,000 increase for spousal claimants. The other change does not impact banks, but we support it as well. I have submitted my testimony ([Exhibit D](#)).

George Ross (Nevada Bankers Association):

The Nevada Bankers Association supports A.B. 130.

Chair Brower:

I will close the hearing on A.B. 130 and open the hearing on A.B. 195.

ASSEMBLY BILL 195 (2nd Reprint): Revises provisions governing deficiency judgments. (BDR 3-865)

Assemblyman Erven T. Nelson (Assembly District No. 5):

Assembly Bill 195 is a little more complicated.

Mr. Rabkin:

I have submitted my testimony ([Exhibit E](#)). This bill tracks back to the 76th Legislative Session's decision to add a provision to *Nevada Revised Statutes* (NRS) 40, precluding the transfer of a note secured by real estate less than the payoff of the note. It caps the deficiency for a transferred note at the value of the note at transfer. An example is a \$100 note transferred for \$90. The most the deficiency formula could use to determine the deficiency is \$90. It was originally thought it would be applicable to residential lending, not nonresidential lending. Through a series of Nevada Supreme Court decisions and a lot of mixed decisions from district courts, the area is in chaos. This bill unifies concerns and is a consensual bill getting back to the commercial lending area we were at prior to the 76th Session.

This bill does not impact the residential area we wanted to apply it to. While A.B. 195 does not make everyone happy, it improves investability of dollars in the State. Many out-of-state banks will not lend in Nevada because of NRS 40.459 and its interpretation. When banks run into a problem with loans, the bank is trapped with the loan and cannot transfer it out of the bank's portfolio because when it does, the bank suffers the consequences of the legislative decisions made in 76th Session. That fix was overbroad. We are fixing the fix and returning it to what we intended after the 76th Session.

Chair Brower:

I thought we were going to fix this last Session, and I am not sure why that did not happen.

Senator Ford:

The bill digest states as to "any debt secured by any other property if the promissory note or guaranty evidencing the debt was fully executed before July 1, 2011." Why did you pick that date?

Mr. Rabkin:

That is the date the changes became effective.

Assemblyman Nelson:

We had opposition to A.B. 195 by Mark Fiorentino. This reprint was a compromise. The bill protects everybody because of changes in the market. We are not taking protections away from residential loans. Those still have the protection of the secondary sale limit.

Josh Hicks (Rialto Capital Advisors, LLC):

Rialto Capital Advisors supports A.B. 195. It fixes a serious unintended consequence of the law in 2011 which was an eradication of the market for loans in Nevada. Rialto Capital Advisors purchases loans on the secondary market and provides necessary capital to banks that sell those loans. In some cases, banks that go into receivership have to put those loans into transfers to the Federal Deposit Insurance Corporation. This allows that and the free market to continue for these loans and opens up a secondary loan market in Nevada.

Mark Fiorentino (Focus Property Group; Olympia Companies; Astoria Homes):

I have submitted my written testimony ([Exhibit F](#)). This contentious issue was difficult to reach a compromise on. Assembly Bill 195 represents that compromise. It achieves a balance between leaving protections in place adopted in the 76th Session for those relying on it and removing it going forward to address concerns raised by financial institutions about how those protections impacted the market. It is a good compromise and we support it.

Phyllis Gurgevich (Nevada Bankers Association):

The Nevada Bankers Association supports A.B. 195. It returns a valuable lending tool to commercial lending.

Steve Byrne (EquiSource, LLC):

EquiSource supports A.B. 195. We also purchase notes from banks. The previous law had unintended consequences affecting the way we looked at those transactions, had a chilling effect and caused us to make forced decisions.

Markus Conklin (Nevada Mortgage Lenders Association):

Nevada Mortgage Lenders Association supports A.B. 195.

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Chair Brower:

I close the hearing on A.B. 195 and adjourn the subcommittee of the Senate Committee on Judiciary at 1:18 p.m.

RESPECTFULLY SUBMITTED:

Julia Barker,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
A.B. 130	C	4	Jasen E. Cassady	Written Testimony
A.B. 130	D	4	Alan Rabkin / Heritage Bank	Written Testimony
A.B. 195	E	3	Alan Rabkin / Heritage Bank	Written Testimony
A.B. 195	F	2	Mark Fiorentino / Focus Property Group; Olympia Companies; Astoria Homes	Written Testimony