

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Ninth Session
May 10, 2017**

The Committee on Commerce and Labor was called to order by Chair Irene Bustamante Adams at 1:43 p.m. on Wednesday, May 10, 2017, in Room 4100 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/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Irene Bustamante Adams, Chair
Assemblywoman Maggie Carlton, Vice Chair
Assemblyman Nelson Araujo
Assemblyman Chris Brooks
Assemblyman Skip Daly
Assemblyman Ira Hansen
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblywoman Dina Neal
Assemblyman James Ohrenschall
Assemblywoman Jill Tolles

COMMITTEE MEMBERS ABSENT:

Assemblyman Paul Anderson (excused)
Assemblyman Jason Frierson (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Lesley E. Cohen, Assembly District No. 29
Senator James A. Settelmeyer, Senate District No. 17



STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Wil Keane, Committee Counsel
Kathryn Kever, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Marcus Conklin, representing Nevada Mortgage Lenders Association
Jonathan Gedde, Chair, Nevada Mortgage Lenders Association
Janis Grady, Vice Chair, Nevada Mortgage Advisory Council

Chair Bustamante Adams:

We have a work session today, and we will hear one bill. We will be taking the bills out of order. We will start with Senate Bill 185 (1st Reprint). We have an amendment to that bill ([Exhibit C](#)).

Senate Bill 185 (1st Reprint): Prohibits form contracts for consumer goods or services from including provisions that interfere with a consumer's rights to provide certain information to others. (BDR 52-27)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit C](#)).] The sponsor is Senator Parks, et al. Senate Bill 185 (1st Reprint) was heard in Committee on April 28, 2017. This bill prohibits a seller or lessor of consumer goods or services who uses a form contract from including in the contract a provision that (1) limits or requires the consumer to waive his or her rights to provide a review, comment, or other statement concerning the seller or lessor of the goods or services; (2) imposes a penalty on the consumer for providing such a review, comment, or other statement; or (3) declares that the provision of such a review, comment, or other statement is a breach of the contract.

Further, any such provision included in a form contract is unenforceable. A person who violates the provisions of the bill is guilty of a misdemeanor and is liable for civil penalties. A consumer or governmental entity is authorized to bring an action to recover the civil penalty and to retain any money awarded by the court. Finally, a person who maintains an online forum, such as an Internet website, may remove from the forum any statement or information that the person is lawfully entitled to remove.

There is a mock-up attached for the Committee members' consideration. The attached amendment adds Assemblywoman Cohen as a joint sponsor. The amendment also specifies that a person may not lease, for personal use, any living animal or household goods if the animal or goods have no more than a de minimis residual financial value at the end of the term of the lease or contract—the amendment does provide an exception for leases on contracts for furniture or household electronics. Additionally, the amendment specifies

that a retail installment contract for the sale of such items is subject to the provisions of the federal Truth in Lending Act. The failure of a person to comply with these requirements constitutes a deceptive trade practice and consumer fraud.

Chair Bustamante Adams:

Are there any questions?

Assemblywoman Tolles:

I want to ask about section 3, subsection 1. It says, "A person shall not offer to lease any living animal or goods intended for personal, family or household use" Can you expand on this? What is the purpose of this language?

Assemblywoman Lesley E. Cohen, Assembly District No. 29:

Some companies in Nevada are leasing items such as these, items that people need, such as hearing aids or brakes and engines for their cars, or very high emotional items, such as dogs or clothing—clothing is not included in this bill, though. The leases for these items have a high interest rate; some leases have an interest rate as high as 170 percent. At the end of the lease, the items have de minimis value. This bill is to help protect Nevada consumers.

Assemblywoman Tolles:

How did you determine which items to include on the list?

Assemblywoman Cohen

The list is comprised of things that we have seen, like hearing aids and dogs. We have specifically left out things like furniture and electronics because at the end of a lease the furniture still has value. We do not want to capture legitimate companies that rent those items. They maintain their value. At the end of a lease for things like hearing aids and car brakes, those items will not have value.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass Senate Bill 185 (1st Reprint).

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
SENATE BILL 185 (1ST REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MARCHANT VOTED NO.
ASSEMBLYMEN PAUL ANDERSON, BROOKS, FRIERSON, AND
OHRENSCHALL WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Cohen. The next bill on work session is Senate Bill 81(1st Reprint).

Senate Bill 81 (1st Reprint): Provides for the conversion of state-chartered savings and loan associations to savings banks. (BDR 56-163)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit D](#)).] Senate Bill 81 (1st Reprint) was requested by the Division of Financial Institutions, Department of Business and Industry. It was heard in this Committee on April 28, 2017. It revises existing law to eliminate state-chartered savings and loan associations and instead provides for the creation, operation, and oversight of state-chartered savings banks. Again, the Commissioner of Financial Institutions proposed this. He testified on this bill.

The Chair proposes to amend section 10 of the bill to say that the Commissioner may, by regulation, waive, modify, or alter any requirement of this chapter. This is to address concerns raised by various members during the hearing on the bill.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 81 (1ST REPRINT).

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui. The next bill on work session is Senate Bill 162 (1st Reprint).

Senate Bill 162 (1st Reprint): Revises provisions relating to psychological assistants, psychological interns and psychological trainees. (BDR 54-614)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit E](#)).] The next bill is Senate Bill 162 (1st Reprint). This bill is sponsored by Senator Gansert, and it was heard in Committee on May 5, 2017. The bill requires a person who wishes to obtain postdoctoral experience in psychology to register as a psychological assistant with the Board of Psychological Examiners. A person who is in a doctoral program in psychology may register with the Board as a psychological intern or a psychological trainee, as applicable. An applicant for such a registration must submit an application, an application fee, and his or her fingerprints. A person registered as a psychological assistant, psychological intern, or psychological trainee must renew his or her registration annually. However, the registration may not be renewed if the renewal would cause the person to be registered for more than three years. A person registered by the

Board is required to perform professional activities and services under the supervision of a licensed psychologist. The bill authorizes the Department of Health and Human Services to reimburse a licensed psychologist.

During the hearing on the bill, Senator Gansert proposed the attached amendment, which revises the expiration of certain registrations with the Board.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 162 (1ST REPRINT).

ASSEMBLYWOMAN NEAL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblywoman Tolles. The next bill on work session is Senate Bill 171 (1st Reprint).

Senate Bill 171 (1st Reprint): Requires certain pharmacies to post or provide written instructions for the safe disposal of unused drugs. (BDR 54-634)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit F](#)).] Senate Bill 171 (1st Reprint) is Senator Gansert's bill. It was heard in this Committee on April 26, 2017. The bill requires a retail community pharmacy to post in a conspicuous place on the premises of the pharmacy, or provide upon request, written instructions for safely disposing of unused drugs. There is an amendment attached which specifies the penalties for violation of the bill's provisions, and it outlines those in the various sections.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 171 (1ST REPRINT).

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblywoman Tolles. The next bill on work session is Senate Bill 199 (1st Reprint).

Senate Bill 199 (1st Reprint): Revises provisions relating to alcoholic beverages. (BDR 52-519)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit G](#)).] Senate Bill 199 (1st Reprint) is sponsored by Senator Settlemeyer. It was heard in this Committee on May 5, 2017. It revises provisions relating to alcoholic beverages. The bill provides for the operation of an estate distillery, which is defined as an establishment where at least 85 percent of the agricultural materials, in the aggregate, are grown on land owned or controlled by the owner of the distillery. An estate distillery may sell and transport not more than 75,000 cases of spirits each calendar year to a wholesale liquor dealer within Nevada and to manufacture not more than 400,000 cases of spirits each calendar year. Additionally, the total amount of spirits sold at retail by an estate distillery for off-premises consumption must not exceed 7,500 cases per year. A person must first obtain a license from the state in order to operate an estate distillery.

During the hearing on the bill, the attached amendment was discussed. The amendment clarifies that a single estate distillery may not sell and transport in Nevada more than 75,000 cases in a calendar year. The amendment also specifies that 85 percent of the agricultural raw materials used by an estate distillery must be grown on land in this state.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYMAN KRAMER MOVED TO AMEND AND DO PASS
SENATE BILL 199 (1ST REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I am going to assign the floor statement to Assemblyman Kramer. The next bill on work session is Senate Bill 206 (1st Reprint).

Senate Bill 206 (1st Reprint): Revises provisions relating to barbering. (BDR 54-535)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit H](#)).] Senate Bill 206 (1st Reprint) is sponsored by Senator Atkinson. It revises provisions relating to barbering. It was heard in this Committee on April 26, 2017. The bill increases from three years to four years the length of a term for appointed

members of the State Barbers' Health and Sanitation Board and prohibits the appointed members of the Board from serving more than three terms. Any term commencing on or after January 3, 2011, counts toward the limitation on the number of terms that may be served.

The measure requires the Board to place its budget and all financial reports prepared by the Board on its website. The Board must post licensing examination dates on its website not less than 60 days before the date of the examination.

The measure reduces from five to three the number of years that an applicant for a license as an instructor at a barber school must have practiced as a full-time licensed barber in Nevada or in another jurisdiction, whose requirements for licensing are substantially equivalent to those in this state.

Finally, the bill requires an applicant for a license to operate a barber school to submit information to the Board demonstrating the school that is issued a license to operate on or after July 1, 2018, will have at least two instructors who provide instruction at the school.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to do pass.

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS
SENATE BILL 206 (1ST REPRINT).

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
ARAUJO, BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Daly. Our next bill on work session is Senate Bill 292.

Senate Bill 292: Exempts physicians who are licensed in another jurisdiction from provisions governing the practice of medicine for certain purposes relating to athletics. (BDR 54-319)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit I](#)).] Senate Bill 292 is sponsored by Senator Hardy. It was heard in Committee on April 19, 2017. The bill provides for a temporary exemption from licensing by the Board of Medical Examiners or the State Board of Osteopathic Medicine for a physician or an osteopathic physician who holds a valid and unrestricted license to practice in another jurisdiction and is practicing medicine or osteopathic medicine for certain purposes related to an athletic competition or training. Such an exemption lasts for 10 days

for each competition or training session, but may be extended for not more than 20 additional days upon application to the appropriate Board. A physician who is practicing under such an exemption is prohibited from practicing medicine at a medical facility or providing services to persons outside the scope of the exemption.

There is a mock-up attached for the members' review. It provides exemptions for certain licensed professionals if they have entered into an agreement with an athletic team or organization to provide medical services to that team or organization. The amendment also extends exemptions to chiropractic physicians, doctors of Oriental medicine, and physical therapists. Finally, the amendment specifies that such an exemption: (1) does not apply to contests or exhibitions of unarmed combat; (2) applies only to visiting teams or organizations; (3) allows the professional to provide services only to athletes of a visiting team or organization; and (4) may be used for a maximum of 60 days in a calendar year.

After the mock-up came out, there were some more concerns raised by members. The Chair proposes to further amend the bill to (1) define a "visiting athletic team or organization" as an athletic team or organization that is primarily based at a location outside of this state; and (2) extend exemptions to athletic trainers.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYMAN DALY MADE A MOTION TO AMEND AND DO PASS
SENATE BILL 292.

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
ARAUJO, BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui. The next bill on work session is Senate Bill 311.

Senate Bill 311: Makes permanent the repeal of certain provisions relating to sellers of travel. (BDR 52-90)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit J](#)).] Senate Bill 311 is sponsored by Senator Settlemeyer. It was heard in this Committee on April 19, 2017. The bill makes permanent the repeal of provisions requiring certain sellers of travel to register and deposit security with the Consumer Affairs Division of the Department of Business and Industry.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to do pass.

ASSEMBLYWOMAN CARLTON MADE A MOTION TO DO PASS
SENATE BILL 311.

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
ARAUJO, BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Kramer. The next bill on work session is
Senate Bill 337.

**Senate Bill 337: Authorizes registered pharmacists to collect specimens and perform
certain laboratory tests. (BDR 54-945)**

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit K](#)).] Senate Bill 337 is sponsored by Senator Settlemeyer. It was heard
in this Committee on April 26, 2017. It authorizes a registered pharmacist to manipulate
a person for the collection of specimens and perform any laboratory test that is classified
as a waived test pursuant to federal regulations without obtaining certification as an assistant
in a medical laboratory.

There is an amendment attached for your consideration, which proposes to require the Board
of Pharmacy to adopt regulations to specify a registered pharmacist may only use
a fingerstick or oral swabs to carry out tests, and establish procedures and requirements of
registered pharmacists when performing tests.

Senator James A. Settlemeyer, Senate District No. 17:

The amendment brings a lot of clarity to the bill. On the first page of the bill, it says "oral."
If you go to page 1, line 6 of the amendment, it says "cheek." The State Board of Pharmacy
feels that it is beneficial to change that to "oral" or "nasal." They told me that there are many
nasal tests that, unfortunately, people are not properly administering and it would be helpful
to have pharmacists help them in the oral or nasal realm rather than cheek. Is that
acceptable?

Chair Bustamante Adams:

Are there any questions on that or any issue with making that change?

Assemblywoman Jauregui:

Are pharmacists now excluded from showing a patient or client how to use a diabetes kit because of the amendment?

Senator Settlemeyer:

I believe that the bill allows this for a fingerstick test, but we are limiting the scope or the amount of tests since there is such a large number of tests out there that the State Board of Pharmacy will give preapproval for. They only have a preapproval process for fingerstick tests. If the amendment does not include the words "oral" and/or "nasal," then fingerstick tests will be the only type of tests that pharmacists will be authorized to use.

Chair Bustamante Adams:

Seeing no other questions, I will entertain a motion to amend and do pass with the clarification on the words "oral" and/or "nasal" rather than "cheek."

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 337.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Is there any discussion?

Assemblywoman Carlton:

I want to thank the bill's sponsor. We have a great pharmacy board now, but we do not know what will happen in the future. I just want to make sure we accomplish what we have set out to do. I want to make sure that some pharmacist does not try to push the limit. Thank you for addressing my concerns.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON, ARAUJO, BROOKS, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR THE VOTE.)

Chair Bustamante Adams:

I will assign the floor statement to Assemblyman Hansen. The next bill on work session is Senate Bill 406 (1st Reprint).

Senate Bill 406 (1st Reprint): Revises provisions relating to court reporters and court reporting firms. (BDR 54-949)

Kelly Richard, Committee Policy Analyst:

[Read from [Exhibit L](#).] Senate Bill 406 (1st Reprint) is sponsored by Senator Hammond. It was heard in this Committee on May 1, 2017. The bill makes various changes relating to court reporters and court reporting firms. The measure revises the qualifications for a certificate of registration as a court reporter. A natural person may obtain a temporary certificate of registration from the Certified Court Reporters' Board of Nevada to engage

in the practice of court reporting on a temporary basis if there is an acknowledged shortage or the applicant is an active member of, or the spouse of an active member of, the Armed Forces of the United States and meets certain other requirements. The bill sets forth the fee for the issuance and the renewal of a temporary certificate of registration. The Board may, after notice and hearing, impose upon a natural person or business entity that violates any law or regulation governing certified court reporters and court reporting firms an administrative fine of not more than \$5,000 for each violation for which the administrative fine is imposed.

Subsequent to the hearing, Senator Hammond indicated that he would like to amend the bill by removing section 2, as well as any references to the temporary certificate of registration provided by section 2 throughout the bill.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYMAN KRAMER MOVED TO AMEND AND DO PASS
SENATE BILL 406 (1ST REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
ARAUJO, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblyman Marchant. The next bill on work session is Senate Bill 437 (1st Reprint).

**Senate Bill 437 (1st Reprint): Revises provisions relating to physical therapy.
(BDR 54-483)**

Kelly Richard, Committee Policy Analyst:

[Read from [Exhibit M](#).] Senate Bill 437 (1st Reprint) revises provisions relating to physical therapy. It was sponsored by the Senate Committee on Commerce, Labor and Energy. It was heard in this Committee on May 5, 2017. The bill changes the name of the State Board of Physical Therapy Examiners to the Nevada Physical Therapy Board. It revises the composition and duties of the Board and allows the Board to issue a citation to a licensee for certain violations.

A physical therapist must provide immediate supervision of a physical therapist technician while the technician performs the treatment. The Board must also adopt regulations prescribing the activities a physical therapist technician may perform only under the immediate supervision of a physical therapist.

The measure also combines similar provisions governing physical therapists and physical therapist assistants. It also allows the Board to issue a licensure by endorsement of a physical therapist assistant.

The bill provides that if the Board is seeking an injunction against a person improperly holding himself or herself out as a licensed physical therapist or physical therapist assistant or practicing physical therapy, the Board must only show that the person violated existing law to establish that immediate and irreparable injury, loss, or damage will result from the person's continued action.

There is an amendment attached that was discussed during the initial hearing on this bill. The amendment allows the Board to define the necessary supervision required of physical therapy assistants.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 436 (1ST REPRINT).

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
ARAUJO, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblyman Brooks. The last bill on work session is, Senate Bill 468 (1st Reprint).

Senate Bill 468 (1st Reprint): Makes changes relating to overtime and the calculation of hours worked for certain domestic service employees. (BDR 53-149)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit N](#)).] Senate Bill 468 (1st Reprint) is sponsored by the Senate Committee on Commerce, Labor and Energy on Behalf of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. It was heard in this Committee on May 3, 2017. The bill enacts provisions to provide that the employer of a domestic service employee, who resides in the household where he or she works, may exclude from the employee's wages certain periods for meals, sleep, and other periods of complete freedom from all duties. If a period excluded from the employee's wages is interrupted by a call to duty by the employer, the interruption must be counted as hours worked for which compensation must be paid. In addition, the employer may enter into a written agreement to exclude the employee from overtime requirements. The attached amendment revises the bill to provide a definition for "domestic service employee."

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass Senate Bill 468 (1st Reprint).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 468 (1ST REPRINT).

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON,
ARAUJO, FRIERSON, AND OHRENSCHALL WERE ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblywoman Neal. That concludes our work session.

Chair Bustamante Adams:

We will have a five-minute recess. [Recess began at 2:15 p.m.]

[Meeting was reconvened at 2:19 p.m.]

We are going to open the hearing on Assembly Bill 468. It is back in our Committee, so we can have a policy discussion.

Assembly Bill 468: Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-1028)

Assemblywoman Sandra Jauregui, Assembly District No. 41:

I am just the conduit for Assembly Bill 468. I am going to turn this over to the expert, so he can walk you through the bill.

Marcus Conklin, representing Nevada Mortgage Lenders Association:

This has been an unusual process. We have been working in a transparent way, so we could come forward with a product that we think is worthy of your time and has the maximum effect. We know that it is unusual for a bill to move to the Assembly Committee on Ways and Means and then back to the Assembly Committee on Commerce and Labor. This has allowed us the opportunity to continue to work on the bill.

The Division of Mortgage Lending, Department of Business and Industry, worked with us through several meetings and spent many hours with us to ensure that they knew all the details of the bill. They worked with us on the language of the bill. It is a very simple bill, but it is also a nuanced bill. Getting this right is very important.

I recognize that the Division of Mortgage Lending must remain neutral, but it is my understanding that no one, either consumers or industry, has expressed any opposition to this bill to them. Both the Division of Mortgage Lending and the Nevada Mortgage Lenders Association are committed to continuing our work on the bill if necessary. This includes working during the interim.

Anytime someone brings a 96-page bill before the Committee, it can be daunting. Assembly Bill 468 has one purpose. It is a licensure bill that combines *Nevada Revised Statutes* (NRS) 645B.900 and NRS 645E.900, the mortgage bankers license and the mortgage brokers license, into one license. This new license will be called the mortgage loan originator's license. That is all this bill does. On page 1 of the bill, the Legislative Counsel's Digest says, "This bill repeals the provisions of law that regulate mortgage bankers and revises the provisions of law that currently regulate mortgage brokers to apply to both mortgage brokers and mortgage bankers, both of which are now included in the term 'mortgage loan originator'."

Four sections of this bill—sections, 6, 11, 110, and 112—are functionally important. The rest of the bill is conforming language. For example, every time you see "mortgage banker" it will be replaced with the words "mortgage loan originator." Every time you see "mortgage broker" it will be replaced with the words "mortgage loan originator."

Jon Gedde will go into detail about this bill. He will give a detailed explanation why it is necessary and what it means to the industry. There is also an amendment ([Exhibit O](#)) on the Nevada Electronic Legislative Information System (NELIS) submitted by Nevada Mortgage Lenders Association. The Nevada Mortgage Lenders Association consulted the Division of Mortgage Lending when they drafted this amendment. We want to make sure that every nuance of the transition is covered in this bill.

Jonathan Gedde, Chair, Nevada Mortgage Lenders Association:

I will walk you through the proposed amendments to this bill. The bill has one major function. It consolidates the licensing of mortgage brokers and mortgage bankers into one license. Current changes from "mortgage broker" to "mortgage loan originator" should instead be "mortgage company". "Mortgage agent" should be changed to "mortgage loan originator" to align with federal verbiage; this will occur throughout NRS Chapter 645.

According to the Division of Mortgage Lending, there are currently 6,569 individual mortgage agents and 254 broker companies. All of these are licensed under NRS Chapter 545B. There are 90 mortgage bankers licensed under NRS Chapter 645E, and 28 of those bankers also carry a B license. This breaks down to 62 companies that function under the E license. The E license is now an inferior license because the broker's license allows you to do bank loans as well as broker loans. There is really no reason for a separate NRS chapter to exist. In addition, it has become more and more complex to keep up to date with federal rules and make sure that our state laws comply with federal guidelines.

We have proposed to change the effective date of this legislation to January 1, 2020, with the exception of the last two sections, as indicated. This is an important change, and we need to give both the industry and the Division of Mortgage Lending time to ensure that there are no unintended consequences. The Division of Mortgage Lending needs time to rewrite the administrative code. We do not want to rush that process.

A minority of the Nevada Mortgage Advisory Council raised the concern that there may be unintended consequences because of this legislation ([Exhibit P](#)). We have been very careful to ensure that this does not happen but want to amend this bill and make the effective date 2020. This gives everyone plenty of time to adjust to these changes in licensing. Before this bill goes into effect, there will be an additional legislative session, and any problematic items can be corrected.

Another change we are proposing is a terminology correction. The original draft of the bill changes the words "mortgage broker" to "mortgage loan originator." Instead, it will be changed to "mortgage company." The term "mortgage agent" should be changed to "mortgage loan originator." This is being done in order to align the verbiage throughout NRS with federal verbiage.

The definition of commercial property will move from NRS 80.015, where the bill currently places it, into the definitions section of NRS Chapter 645B. This is a more appropriate place for this definition.

We want to add the definition of "commercial mortgage loan" from NRS Chapter 645E into the definitions section of NRS Chapter 645B, and add the definition of "institutional investor" from NRS Chapter 645E into the definitions section of NRS Chapter 645B. We want to make sure that these definitions are not lost.

We want to strike "dual licensure" from NRS 645B.035 and strike "brokerage" from NRS 645.060.2(b). These are minor changes to the verbiage. These changes have been carefully considered, and the Division of Mortgage Lending has given us their input.

At the suggestion of the Division of Mortgage Lending, and with our agreement, we have proposed to change the word "shall" to "may" in NRS 645B.710. This section concerns discipline and the implementation of discipline.

We want to add the definition of "applicant" from NRS 645E.020. It is used throughout NRS Chapter 645B, but not defined. We do not want to lose the definition inadvertently.

We want to remove two sections in the bill. The language in these sections is no longer necessary. It does not serve a purpose. These items are covered in other areas of the bill, or they are redundant. This language is on line 44, page 8, and on lines 1 through 11 on page 9.

The final three sections are changes suggested by the Division of Mortgage Lending. We agree that they are important and necessary changes.

The first change is a simple one. It consolidates the definition of mortgage loan originator— known previously as a mortgage agent. The next change is a change in the bonding requirement. It allows the Commissioner of the Division of Mortgage Lending to prescribe the form in which the bond must be provided. The current statute contains an actual form. The more appropriate way to do this is with a form prescribed by the Commissioner.

The last change is an important one. It has a substantive effect on NRS Chapters 80 and 86, which govern foreign corporations and foreign limited liability companies (LLCs), respectively. In NRS Chapter 80, an exemption/restriction exists for foreign corporations. NRS Chapter 86 does not contain this exemption/restriction for foreign LLCs. The Division of Mortgage Lending has indicated that because this language is only in NRS Chapter 80, some foreign LLCs are now using this loophole in NRS Chapter 86 to say that they do not need to comply with Nevada law. This will close a loophole for foreign LLCs.

Janis Grady, Vice Chair, Nevada Mortgage Advisory Council:

I am here today to show that this amendment has the support of the majority of the Mortgage Advisory Council.

Chair Bustamante Adams:

Are there any questions?

Assemblyman Kramer:

You mentioned changes in the amendment regarding foreign LLCs. What page is that on?

Jonathan Gedde:

Our proposed change is on the bottom of page 2 of the amendment the Nevada Mortgage Lenders Association submitted ([Exhibit O](#)).

Assemblyman Kramer:

Is this the amendment on NELIS?

Jonathan Gedde:

Yes, this is our proposed amendment. The changes that we have requested would be effective October 1, 2017. This concerns exemption restrictions. It would amend NRS 86.5483, section 3 to include the following: "(c) Solicits business for the activities of a mortgage company as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100; or (d) Arranges a mortgage loan secured by real property which is not commercial property as defined by (reference new location of NRS 645E.040)."

Assemblywoman Tolles:

The majority of the Nevada Mortgage Advisory Council agrees with this. What are the concerns of the members who do not agree?

Janis Grady:

Mr. Gedde has already covered the concerns of the minority of the Nevada Mortgage Advisory Council. They are concerned about unintended consequences. The majority of our board supports this amendment.

Chair Bustamante Adams:

Are there any other questions from the members of the Committee? [There were none.]

Marcus Conklin:

I want to go back to Assemblyman Kramer's question and provide him with some additional information. Section 89 of the bill deals with foreign LLCs. This is on page 68, and the wording begins on line 19.

There is no loophole for foreign corporations in NRS Chapter 80. They have to abide by the law. For some reason that same provision was not put into NRS Chapter 86; this deals with foreign LLCs. The concern is that foreign LLCs are not abiding by Nevada statute and law because there is a loophole in that chapter of NRS. We want to close that loophole so that everybody has to abide by the law.

It is an unintended loophole. I have worked with legislation in this area for a number of years, and I have dealt with the Secure and Fair Enforcement (SAFE) Mortgage Licensing Act of 2008. It is quite possible that we have missed some things over the years. This cleans up the language.

This is on page 69, subsection 3, paragraphs (a) and (b) of the bill. If you look at the bottom of our amendment, on page 2, we want to amend NRS 86.5483, section 3 to include the following: "(c) Solicits business for the activities of a mortgage company as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100; or (d) Arranges a mortgage loan secured by real property which is not commercial property as defined by (reference new location of NRS 645E.040)."

This will close the loophole. This says you can be exempt unless you are conducting these activities. If you are conducting these activities, you must be licensed and operate under the laws of Nevada.

Chair Bustamante Adams:

Are there any other questions from the members of the Committee? [There were none.] Seeing none, I am going to go to those in support of Assembly Bill 468. Is there anyone in support of Assembly Bill 468? [There was no one.] Is there anyone in opposition to Assembly Bill 468? [There was no one.] Is there anybody in neutral? [There was no one.]

Chair Bustamante Adams:

We are going to close the hearing on Assembly Bill 468. That concludes our business for the day. I want to mention that Assembly Bill 405 has been moved to Friday. It is a work session item.

Assembly Bill 405: Establishes certain protections for and ensures the rights of a person who uses renewable energy in this State. (BDR 52-959)

[Assembly Bill 405 was agendized but not considered.]

[(Exhibit Q) (Exhibit R) (Exhibit S) (Exhibit T) were submitted but not discussed and will become part of the record.]

Chair Bustamante Adams:

Is there any public comment? [There was none.] This meeting is adjourned [at 2:44 p.m.].

RESPECTFULLY SUBMITTED:

Kathryn Keever
Committee Secretary

APPROVED BY:

Assemblywoman Irene Bustamante Adams, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for [Assembly Bill 185 \(1st Reprint\)](#), dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Senate Bill 81 \(1st Reprint\)](#), dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Senate Bill 162 \(1st Reprint\)](#), dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Senate Bill 171 \(1st Reprint\)](#), dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Senate Bill 199 \(1st Reprint\)](#), dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Senate Bill 206 \(1st Reprint\)](#), dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Senate Bill 292](#) dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Senate Bill 311](#) dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Senate Bill 337](#) dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Senate Bill 406 \(1st Reprint\)](#) dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for [Senate Bill 437 \(1st Reprint\)](#) dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is the Work Session Document for [Senate Bill 468 \(1st Reprint\)](#) dated May 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit O](#) is a proposed amendment to [Assembly Bill 468 \(1st Reprint\)](#) presented by Jonathan Gedde, Chair, Nevada Mortgage Lenders Association.

[Exhibit P](#) is a letter dated April 18, 2017, regarding [Assembly Bill 468 \(1st Reprint\)](#) written by Darren K. Proulx, Chair, Nevada Mortgage Advisory Council, to members of the Assembly Committee on Ways and Means and Assemblywoman Jauregui.

[Exhibit Q](#) is a letter to Chair Bustamante Adams in support of [Assembly Bill 468 \(1st Reprint\)](#) and members of the Assembly Committee on Commerce and Labor, authored by Coby Baker, Chief Executive Officer, Alderus Mortgage, Las Vegas, Nevada.

[Exhibit R](#) is a letter dated April 12, 2017 in support of [Assembly Bill 468 \(1st Reprint\)](#) to the members of the Nevada State Assembly, authored by Steve Lone, Mortgage Broker/Mortgage Banker/Owner, Lone Mortgage, Las Vegas, Nevada.

[Exhibit S](#) is a letter dated April 17, 2017 in support of [Assembly Bill 468 \(1st Reprint\)](#) to the members of the Nevada State Assembly, authored by Kurt Nikolai, Managing Partner, First Option Mortgage, Atlanta, Georgia.

[Exhibit T](#) is a letter in support of [Assembly Bill 468 \(1st Reprint\)](#) to members of the Assembly Committee on Commerce and Labor, authored by Brad Henderson, Qualified Employee, Nova Home Loans, Las Vegas, Nevada.