

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eightieth Session
April 10, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:35 a.m. on Wednesday, April 10, 2019, 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk

COMMITTEE MEMBERS ABSENT:

Assemblyman Greg Smith (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Lisa Krasner, Assembly District No. 26
Assemblyman Jim Wheeler, Assembly District No. 39
Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Geigy Stringer, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Emily Ku, Management Analyst, Nevada Commission on Minority Affairs,
Department of Business and Industry
Eva G. Segerblom, Board Member, Nevada Justice Association
Maria Jacobi, Private Citizen, Enterprise, Nevada
Marcus Conklin, representing Nevada Mortgage Lenders Association
Joice Bass, Attorney, Legal Aid Center of Southern Nevada
Larry R. Hartman, Private Citizen, Las Vegas, Nevada
Mark Leon, Private Citizen, Las Vegas, Nevada
Michael Kosor, Private Citizen, Las Vegas, Nevada
Donald Schaefer, Private Citizen, Las Nevada, Nevada
Pete Bartholow, Private Citizen, Las Vegas, Nevada
Mark Stone, Private Citizen, Las Vegas, Nevada
Barney Wadley, Private Citizen, Dayton, Nevada
Garrett D. Gordon, representing Nevada Chapter of Community Associations
Institute; and Southern Highlands Homeowners Association
Donna Zanetti, Co-Chair, Nevada Legislative Action Committee, Community
Associations Institute
Marilyn Brainard, representing Nevada Chapter of Community Associations Institute
Valerie Hand, Private Citizen, Sun Valley, Nevada
Chuck Niggemeyer, Private Citizen, Las Vegas, Nevada
Randy Ecklund, Executive Director, Community Management, The Howard Hughes
Corporation
Michael W. McKelleb, Private Citizen, Henderson, Nevada
Norm Rosensteel, Co-Chair, Nevada Legislative Action Committee, Community
Associations Institute
Jeffrey Lofy, Private Citizen, Sparks, Nevada
Tonya Bates, Private Citizen, Sparks, Nevada
Al Delmue, Private Citizen, Sparks, Nevada
Sharath Chandra, Administrator, Real Estate Division, Department of Business and
Industry
Miles Dickson, Chief of Staff, Office of the State Treasurer
JoVon Sotak, Executive Grant Analyst, Office of Grant Procurement, Coordination,
and Management, Department of Administration
Helen Foley, representing Nevada Community Foundation
Heidi S. Parker, Vice Chair, Alliance for Nevada Nonprofits; and Executive Director,
Immunize Nevada

Jared Busker, Associate Director, Children's Advocacy Alliance
Michael Hackett, representing Nevada Public Health Association
Mark H. Fiorentino, representing John Ritter, Chairman, Nevada Advisory Council
on Federal Assistance
Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce

Chair Flores:

[Roll was called. Committee rules and protocol were explained.] We have an agenda that we intend to take slightly out of order, and also I wanted to alert everybody on Assemblywoman Krasner's Assembly Bill 257, on which she has worked very diligently with a group of stakeholders for the past couple of weeks, and I am very appreciative of her trying to include everybody in that dialog. Her spirit was in the right place and she has been trying to work with everybody. We are going to hold a work session for that document now. For the sake of clarity, we are going to have our committee assistant pass around the new conceptual amendment that Assemblywoman Krasner has. It is my understanding that she is turning her bill into a feasibility study. I think that is a great place to start. Again, Assemblywoman, I am very appreciative of your working with everybody and reaching out to different members of the community and ensuring that everybody had a voice. I understand you had a great meeting on Sunday and I wanted to thank you for that. I want to make sure that everybody has an opportunity to look over the work session document that is being handed out now. Afterwards I will hand it over to Mr. McDonald to address what is in your conceptual amendment, and then I will entertain a motion.

Assembly Bill 257: Provides for the establishment of the Nevada State Holocaust Museum. (BDR 33-1039)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 257 provides for the establishment of the Nevada State Holocaust Museum and was sponsored by Assemblywoman Lisa Krasner and others and heard in this Committee on March 29, 2019. The bill establishes the Holocaust Museum within the Division of Museums and History of the Department of Tourism and Cultural Affairs. We did have a couple of amendments. The first one, sent in prior to the meeting, that the museum shall be privately funded and a feasibility study shall be completed within two years from the date the act becomes effective or not later than July 1, 2021. We also received another amendment that clarifies that any gifts, grants, and donations that are sent in to the Division of Museums and History would be held in a separate account specifically for the Nevada State Holocaust Museum. And finally, we have some requests for cosponsors, and those are Senators Heidi Gansert and Ben Kieckhefer and Assemblymen Alexander Assefa, John Hambrick, and Jim Wheeler ([Exhibit C](#)).

Chair Flores:

Members, I would like to entertain a motion to amend and do pass Assembly Bill 257.

ASSEMBLYWOMAN BILBRAY-AXELROD MADE A MOTION TO
AMEND AND DO PASS ASSEMBLY BILL 257.

ASSEMBLYWOMAN GORELOW SECONDED THE MOTION.

Members, is there any discussion?

THE MOTION PASSED. (ASSEMBLYMAN SMITH WAS ABSENT FOR THE VOTE.)

Assemblywoman Krasner, if you would have that floor statement, please.

Assemblywoman Lisa Krasner, Assembly District No. 26:

Thank you, Chair Flores and members of the Committee. I appreciate your time. Nothing in the bill or in the two amendments I propose shall be construed to mean that a museum must be built by any specific date.

Chair Flores:

Thank you for the hard work that you put into this bill. I know there were many people interested in it, and I appreciate your working with everybody.

Next, we have Assembly Bill 246, which revises provisions relating to business entities.

Assembly Bill 246: Revises provisions relating to business entities. (BDR 18-996)

Assemblyman Jim Wheeler, Assembly District No. 39:

I am here today to present Assembly Bill 246. As you can see by the conceptual amendment (Exhibit D), the bill has been changed from creating a Commission on Asian and Pacific Islander Affairs. It will now be a subcommittee of the Nevada Commission on Minority Affairs. I believe it becomes a very, very simple bill. Since I have said it is a simple bill, I am now going to turn everything over to Assemblyman Leavitt.

Assemblyman Glen Leavitt, Assembly District No. 23:

I am excited and pleased to present Assembly Bill 246 for your consideration. I appreciate the opportunity to present it to you today. Assembly Bill 246 aims to promote the inclusion and advocacy for the fastest-growing group in our country and state. The United States Asian population grew 72 percent between 2000 and 2015, from 11.9 million to 20.4 million—the fastest growth rate of any major racial or ethnic group. Nevada has the seventeenth-highest number of Asian residents among U.S. states. Of the top 20 states on the list, Nevada's Asian population experienced the biggest swell from 2000 to 2010, more than doubling in size.

Currently, the mission of the Commission on Minority Affairs is to advocate for and to provide a voice to minorities residing in the state, and they have done an excellent job. The Commission provides study and discussion on education, housing, employment, civil rights, health, political empowerment, and economic development. The goal of A.B. 246 is to complement the work of that Commission by ensuring and establishing the Asian and Pacific Islander subcommittee within the Minority Affairs Commission.

After talking to members and different stakeholders, I would like to formally submit the conceptual amendment to the bill ([Exhibit D](#)), which will incorporate those changes. I will go through the amendment.

The conceptual amendment deletes sections 2 through 6 of the original bill, as well as sections 8 and 9. Under section 2, the new language seeks to clarify that the Nevada Commission on Minority Affairs, under *Nevada Revised Statutes* 232.852, shall have not less than one Asian representative. It will also create the Asian and Pacific Islander subcommittee under the Minority Affairs Commission and the subcommittee shall be chaired by one of the Asian and/or Pacific Islander representatives on the Nevada Commission on Minority Affairs.

Finally, section 7, subsection 1 replaces "The Commission" with "The Asian and Pacific Islander subcommittee under the Nevada Commission on Minority Affairs."

I am happy to answer any questions. I apologize that the conceptual amendment is a little different, but I talked to the stakeholders and I talked to the people who were very instrumental in creating and maintaining the Minority Affairs Commission, and they believe that this was a good compromise to creating a separate commission. We in no way wanted to take anything away from the Minority Affairs Commission. This is a good way to promote Asian and Pacific Islander affairs under that commission.

Chair Flores:

Everybody understands what you are trying to do. I know you have worked the bill behind the scenes very effectively. Members do not have any questions. I would like to invite forward anybody wishing to speak in support of A.B. 246. Seeing no one, is there anyone wishing to speak in opposition? Seeing no one, is there anyone wishing to speak in the neutral position to A.B. 246?

Emily Ku, Management Analyst, Nevada Commission on Minority Affairs, Department of Business and Industry:

The Commission on Minority Affairs has reviewed the proposed amendments submitted by Assemblyman Leavitt. We will be providing neutral testimony to give background on the Commission on Minority Affairs. *Nevada Revised Statutes* 232.852, subsection 2 states that the members appointed to the Commission on Minority Affairs must represent a variety of minority groups that reflect the general population of the state. Historically, the Legislative Commission has appointed two Asian commissioners to serve on the Commission on Minority Affairs at any given time, so there is always at least one Asian commissioner. It is a misconception that each commissioner works only in his or her minority community. The commissioners work together to conduct outreach to all minorities in the state, regardless of each commissioner's racial and ethnic background, and are not limited to only working with his or her community. For example, our black commissioners attend Asian events and vice versa. The amendment also proposes adding an Asian and Pacific Islander (API) subcommittee. The Commission on Minority Affairs already has seven subcommittees, which is a lot for a nine-person volunteer commission. This new API subcommittee would

overlap with existing subcommittees, possibly creating a duplication of efforts. For example, we currently collect data and information on minorities, including Asian and Pacific Islanders, on issues such as education, housing, health, employment, and economic development. This overlaps with five of the seven categories listed in section 7, subsection 1(e) of the bill.

Our outreach to the Asian and Pacific Islander community in the past year has included participation in over a dozen events in the Asian community and meeting with representatives from almost twenty different Asian community organizations. The Commission is continually working to reach more communities and strengthen existing partnerships within the Asian and Pacific Islander community, as well as other minority communities. We will continue to be an advocate for all minorities in our state ([Exhibit E](#)).

Chair Flores:

We do not have any questions for you, thank you. Is there anyone else wishing to speak in the neutral position? Seeing no one, Assemblyman, we will hear any closing remarks you may have.

Assemblyman Leavitt:

I am grateful to the Minority Affairs Commission for all that they do, and I agree with all of the testimony that was given in neutral. They do an outstanding job. The goal of this bill is only to supplement that good work and to continue that good work and integrate the Asian Pacific Islander community in a more expansive way, in terms of education and advocacy and in decision-making. We would love to complement the good work that is done by the Commission.

Chair Flores:

I am going to close out the hearing on Assembly Bill 246. I will open the hearing on Assembly Bill 369, which revises provisions relating to common-interest communities. For those of you who intend to testify in support, opposition, or neutral, we are going to limit your testimony to two minutes. If somebody has previously stated a point that you found prudent, it is perfectly all right for you to say, I completely agree with the previous statement made—and then add a comment and/or a different point that has not been addressed.

**Assembly Bill 369: Revises provisions relating to common-interest communities.
(BDR 10-284)**

Assemblywoman Sandra Jauregui, Assembly District No. 41:

I am here to introduce Assembly Bill 369. I have submitted a conceptual amendment ([Exhibit F](#)), which you will find on Nevada Electronic Legislative Information System, and we have the committee assistant distributing a hard copy to everyone as well. I will be presenting the conceptual amendment, as it replaces Assembly Bill 369 in its entirety.

From 2010 through 2014, my career was spent helping homeowners find a way to avoid foreclosure when, through no fault of their own, they were losing their jobs and thus losing

their homes. For many years, I worked with thousands of homeowners to help them pave the way to stay in their home. I was a foreclosure mitigation lead for Senator Harry Reid, helping put together housing fairs in the state of Nevada and bringing resources and programs to our state. I was also the program director for the Office of the Attorney General's homeowner relief program, Home Again. During this time, people were actively working with their banks to try to find a resolution to avoid foreclosure. There were many programs to help them with mortgage assistance, modifications, and principal reductions. However, what people quickly learned was that they could be in the middle of a mortgage modification or a repayment plan with their lender, but they were not safe from foreclosure.

I soon started seeing requests come in to the Senator's office requesting assistance from homeowners whose homeowners' association (HOA) had foreclosed on them. This was not a big problem at first, but it quickly grew. We later learned that HOAs were starting to record a record number of notices of sale, or sale-date notices. Investors came in and started buying these homes for pennies on the dollar. One of the issues with HOA foreclosures is the fact that the homes are not sold for market value. Not only can homeowners possibly lose their homes, they also lose all of the equity in it as well. I decided to take action when, days before Christmas in 2018, I received a call from my constituent, someone active in the community, a single mom, a Service Employees International Union organizer and homeowner who had been successfully paying on her home for nine years. Please note, she was on time with her mortgage payments. She called her bank, which informed her that her HOA had foreclosed on her for under \$2,000 in unpaid HOA dues and disputed fees. My constituent owed roughly \$79,000 on her mortgage. She had owned her home for nine years and her home was worth \$220,000. The HOA had foreclosed and auctioned the home to a third party for \$100,000. So not only did my constituent lose her home, she lost \$141,000 in equity as well. We were successful in helping her redeem her home, but this is not always the case for all homeowners. I would like to turn to the PowerPoint slides and walk the Committee through how the current process works ([Exhibit G](#)). I have also given the Committee a handout that walks you through this process in more detail, including detail about what is included with each statutory notice.

On page 1 ([Exhibit G](#)) you will see the HOA foreclosure time line. As summarized in this presentation, you will note that a homeowner does get plenty of notice. Homeowners are required by law to be given notice at least four times. At least 60 days after an obligation owed by a unit owner becomes past due, a homeowner receives their first notice [page 2]. This is a notice regarding nonpayment and options. They would have to be at least 60 days, or two months, behind when they receive their first notice. Thirty days after the date of the first notice [page 3]—this would be Day 90 in the process—the second notice is sent, a notice of delinquent assessments. Thirty days after the notice of delinquent assessments—this is now 120 days into the process—the third notice goes out, the notice of default and election to sell; this is the first notice recorded with the county [page 4]. Ninety days after recording the notice of default and election to sell—this is now Day 210 of the process—the fourth notice goes out, the notice of sale [page 5]. Multiple copies are sent to the homeowner and a copy is posted on the house. There is one final notice at least 20 days before the date of sale. Once a sale date is selected, they have to give the homeowner notice with the sale

date [page 6]. The notice with the sale date can go out no less than 230 days after their delinquency. If they posted the notice with sale date 20 days after the notice of sale was recorded, the earliest that an HOA could foreclose is 230 days—that is the earliest.

Currently, it would take a minimum of 230 days for an HOA to foreclose and be made whole for, sometimes, as minor as \$600 in past dues, or, in my constituent's case, \$2,000. It usually takes longer than that. On average, no HOA foreclosure takes less than one year. My bill would begin to make them whole in as little as 45 days. The opponents of this bill have told me that they needed a process that was timelier—my bill is a timelier process than what currently occurs.

Page 7 has some statistics on HOA foreclosures by fiscal year. In 2006 there were 135 notices of sale by HOAs and only 14 foreclosures. From 2010 to 2015, by comparison, the numbers are astonishing. In 2013 there were almost 4,000 notices of sales sent to Nevada homeowners, and HOAs foreclosed in record numbers. They foreclosed on almost 1,200 homeowners. That was 1,200 homeowners who lost their homes and lost 100 percent of their equity. You can see how the recession and housing collapse resulted in a sustained spike in HOA foreclosures. Unfortunately, the Real Estate Division of the Department of Business and Industry stopped keeping track in 2015 because of the number of notices of sale that were coming in; it was just too much for them to do.

The only numbers I have for recent years are from the Lied Institute for Real Estate Studies of the Lee Business School at the University of Nevada, Las Vegas, which started keeping track for Clark County. The numbers are possibly much higher, but we do not have the numbers for other counties; we only have them for Clark County. On page 8, you can see that in Clark County these numbers are not heading in a positive direction. They are not heading down. Note that since 2015 the number of HOA foreclosures is growing, and this is in a good economy. Assembly Bill 369 seeks to put protections in place so that the next time we have a bubble burst, our constituents are safe.

My last graph on page 9 shows some of the examples of the kinds of losses homeowners face. I have chosen some houses in the north and the south of Nevada. These examples show how homeowners lose all of their equity. I have included the assessor parcel numbers so you can look these properties up and see the recorded numbers.

Our first example on page 9 is a home in Clark County, Las Vegas. It was purchased by the homeowner in 2002 for \$485,000. The HOA foreclosed in 2011 and the party that purchased the home, which was the HOA, bought it for \$30,580. What I failed to include was, not the amount the HOA foreclosed for—they could have foreclosed for \$1,000 or \$2,000—but the price that it was auctioned for which was \$30,000. This means the HOA foreclosed and then—they themselves were the buyer at the auction—bought the home for \$30,000 when the homeowner paid \$485,000 for it.

In North Las Vegas in 2007, a homeowner bought a home for \$280,589. Five years later, the HOA foreclosed on it and the amount that the property was sold to a third party for was

\$6,800. In 2008 in Reno, a homeowner bought a home for \$213,900. In 2012 it was foreclosed on and bought by the HOA for \$600. In 2006 in Sparks, a homeowner bought a home for \$295,000. In 2013 the HOA foreclosed on it and it was sold to a third party for \$9,000. In 2001—our last example—a homeowner in Las Vegas bought the home for \$103,074 and the HOA foreclosed on it in 2014 and sold it to a third party for \$8,000. These are the kinds of losses our Nevada homeowners are facing. Again, they lose 100 percent of the equity through a foreclosure.

I would now like to walk the Committee through the conceptual amendment ([Exhibit F](#)). The conceptual amendment significantly changes the approach the bill takes to provide relief to homeowners who are struggling to hang on to their homes or maybe just struggling, period. First, the amendment differs from the original language in that it will not eliminate the existence of the superpriority lien or otherwise change the priority of liens under existing law. I want to reiterate that. We are not removing the ability of the HOA to superpriority lien and take priority. It is important to note that if a lender forecloses, the HOA will still have superpriority and should be guaranteed payment of at least the superpriority portion of its lien against the homeowner. Again, they will be the first to pay off if a homeowner in trouble sells his or her home or if the bank proceeds to foreclose, because they will be the lien in first priority.

The conceptual amendment I am proposing eliminates the ability of a unit-owners' association to foreclose on a lien for unpaid assessment fines and fees, et cetera, and gives the association an alternative way to collect these debts. This amendment will help homeowners who may temporarily be in a financially distressed situation or who are caught up in a dispute with the HOA over their payment history to hold on to their homes. The amendment replaces the current foreclosure option with a method for an HOA to pursue the debtor in small claims court. Like other similar court actions, judgments against a delinquent homeowner may be enforced by whatever means available, including what I have suggested in my bill, via garnishment of the homeowner's wages.

Please look at the second paragraph of the conceptual amendment ([Exhibit F](#)). The amended bill would provide a means of collection currently existing in law, which would include, for example, the filing of a civil action court based on the amount in dispute. Given the nature of these disputes, a vast majority of them would go to the justice courts or possibly through the small claims process. The amendment also provides that civil actions to collect money from a unit owner are not subject to mandatory arbitration. Consequently, most of these claims would be resolved through the small claims process. This approach would bypass what is currently a long and complicated HOA dispute process. The amendment requires that actions filed through the justice court be heard and decided within 45 days after the date the summons and complaint is served on the defendant.

I spoke with the Honorable Melissa Saragosa of the Las Vegas Justice Court during my bill-drafting process because I wanted to make sure that we were giving the HOAs what they wanted—a timely process. She and her colleagues told me that currently, in the small claims court, it might take up to six months to hear complaints. We all agreed, and they were on

board, that if I added this element to the bill they would be all right with hearing HOA matters within 45 days. That is a timelier process than what the HOAs face currently.

Finally, like other civil actions, these civil actions would be subject to the same rules that currently apply to small claims process in justice courts, including a prohibition on the recovery of attorney's fees as set forth in *Nevada Revised Statutes* 73.040. No attorneys are needed in small claims courts. This is a savings to both the HOA and the homeowner.

I have with me Eva Segerblom. She represents HOAs and can walk you through why, for small HOAs, foreclosure is a cumbersome process. After Ms. Segerblom testifies, I would like my constituent, Maria Jacobi, to share her story.

Eva G. Segerblom, Board Member, Nevada Justice Association:

Nevada Justice Association is in support of this bill, specifically the conceptual amendment, for two reasons. First, the jurisdictional clarification to allow more of these disputes to be in justice court will provide greater access to justice. It also allows people to enter into that process without involving an attorney. There are still teeth for the association in terms of the ability to collect. They can garnish wages instead of taking away someone's home and all the homeowner's equity. If the amount is under \$15,000, the jurisdictional limit of having the dispute be in justice court will allow greater access to justice, it will be a speedier process, and it will benefit both the associations and homeowners overall.

Second, the association should not be in the business of foreclosure. I have represented associations. For big, wealthy associations, it is not a big deal to wait over a year and continually pay someone to execute that foreclosure process. But for smaller associations of under 30 units, it is very expensive, and it is a long time to wait to receive something that they really do not want, which is title to a property which they will then have to sell. It is very cumbersome for a smaller HOA to undergo that process, because you have to pay someone the entire time and wait a long time to see the recovery of any monies. For this reason, Nevada Justice Association is in support of the conceptual amendment of A.B 369. I am available to answer any questions about either the process through justice court or the process on the other side.

Maria Jacobi, Private Citizen, Enterprise, Nevada:

I get a little emotional because of the situation that I went through in December with my HOA. I live in Clark County, in the southwest part of town now known as Enterprise, District No. 41. If anyone is unfamiliar with that area, it is booming with new shopping centers, new homes, and it is not far from the Raiders stadium. I bought my home for \$94,500 and at this time, my home is worth \$220,000.

On December 5, 2018, I came home from work and noticed a white piece of paper hanging by a small piece of Scotch tape—not blue tape—Scotch tape. The paper was a 3-day notice to quit. That meant a three-day notice for me to leave my home. I did not understand what was going on, because I had never received anything on my home like blue tape on my garage or my front door, so I was in a bit of shock at the time. I could not understand

whether this was a joke or where the paper had come from. The paper indicated it was from a lawyer's office, Bohn Law Office, and that it was in support of their client, Saticoy Bay. The next day, I phoned the lawyer's office. The man who answered said my home was sold for possibly \$400,000 at an auction. He then indicated that if I did not have representation and I needed help, he would represent me. Shortly after that call, I started to receive numerous calls from California saying, Stay in your home—we can support you. After I researched the situation, I pulled up pending lawsuits involving Saticoy Bay with other homeowners. It seemed to me like a mob of HOAs were dealing with corporations and buying people out. I then reached out to resources and sought assistance from Legal Aid Center of Southern Nevada (Legal Aid), where I was educated on NRS Chapter 116 and discussed redemption of my home. As my home was sold for \$100,000, I could redeem my home for that amount plus additional monies that I owed. I was referred to and hired a lawyer to assist in the matter.

After requesting my case documents from Nevada Association Services, Inc. (NAS) that I did not know had come, I found certified letters sent to an old post office box, certified letters that did not even say whom they were from. Also, a picture was taken of a notice posted on my door on Monday, November 12, 2018, which was the observation of Veterans Day, a day I would have been home. The picture was of a posting of Notice of Foreclosure that I had never seen on my door, especially with blue tape as seen in the picture. Everybody knows what blue tape means. The picture noted the time it was taken—a time when I was home, and when I had left the house shortly after, I did not see that paper on my door.

In 2018, I was in dispute for late fees only, and this is what led me to the predicament that led to the outcome of losing my home. After I started researching everything, I said, For goodness' sake, no one knocked on my door, everything was just sent certified mail, no one had contacted me, and no mediation had been offered; therefore, I never knew that the HOA had referred me to NAS until later, when it was too late. As I had a good lawyer, I was able to redeem my home, but it was a very stressful and emotional time from December 5, 2018 to February 4, 2019, which were the 60 days I had, by law, to redeem my home with the help of a lawyer. I did not understand the whole process until I was educated. This was the result of miscommunication and loopholes in the system, and as a homeowner I was not late on my mortgage; it was disputed late fees that ended up becoming a superpriority lien that I was not aware of, as life went on. People just live life and certified letters just come and go.

Chair Flores:

Assemblywoman, do you have additional comments for the record before we open up for questions?

Assemblywoman Jauregui:

Maria was in a unique position. I had knocked on her door during the campaign season. She and I built a relationship, so she knew who I was and had my personal number. When she found out she had lost her home, she reached out to me. I connected her with the Legal Aid Center who told her that the HOA had gone through the proper process and had a picture indicating that they had posted notice, so there was nothing Legal Aid could really do. They

said, because the HOA had legally given the notices, even though the notices had been mailed to an old mailing address, and also had a picture, her home had been legally auctioned off.

Maria found out about the auction within the 60-day redemption period Nevada currently offers. That is it—60 days. If she had found out on Day 61, all recourse would have been lost. When Legal Aid Center said that they had done everything they could, I found out who Maria's HOA was and I made a call to its president and asked, What can we do? The HOA was the likely reason why we were able to help Maria redeem her home. They said, We will keep the \$100,000 in the escrow account; we will lend your constituent our HOA attorney to help her get her home back; we will have the attorney contact the investor who bought it, because this investor is in the business of buying HOAs, which makes it very difficult for homeowners to be able to redeem their homes.

Maria reached out to me, we reached out to the HOA, and they helped us be able to secure her home during that redemption period. I do not know how many other homeowners have that kind of access. I want to make sure we are putting protections in. Although this might not be a big issue right now, as you saw in my presentation, there are just over 100 foreclosures per year currently, but that number is trending up. We need to make sure that we are putting protections in place so that the next time we are hit with an economic recession, our constituents are protected. If there are any questions from the Committee, we are open to them.

Chair Flores:

We do have quite a few questions.

Assemblyman Carrillo:

Would an HOA board member have to file the complaint and attend court and file the documentation to go through this process?

Assemblywoman Jauregui:

Any of the board members could file the paperwork. That is what makes the small claims process a great choice; anybody can file the paperwork, either the homeowner or someone on the board.

Assemblyman Carrillo:

What your constituent went through—was that because of her not paying HOA fees?

Assemblywoman Jauregui:

In Maria's case, she was contesting assessments that she disputed she was not at fault for, and late fees were added to that, with the two items totaling under \$2,000.

Maria Jacobi:

They were late fees caused by a credit card matter that I disputed, but I was still current on HOA assessments.

Assemblywoman Jauregui:

She was in dispute but was already starting to pay the disputed late fees. Additionally, that is another thing that we need to correct—she was already starting to repay the disputed fees, but—if you are in collections and still in arrears, they can still foreclose, even if you are on a repayment plan.

Assemblywoman Munk:

In the 210-plus days it took to foreclose, did the bank not get notice that the HOA was foreclosing?

Assemblywoman Jauregui:

By law, HOAs have to notify the bank as well. That is how Maria found out. She called her bank after she got the 3-day notice to quit and the bank told her, your HOA foreclosed.

Maria Jacobi:

Yes, when I called Wells Fargo regarding the foreclosure, they said they had sent a check for the \$500 late fee dispute, but their check was returned by the HOA because I was already making payments. They gave me a statement of that check, returned uncashed.

Assemblywoman Munk:

If the bank was given notice, you mean the bank let this house go—for as much as it was worth?

Assemblywoman Jauregui:

She was on time with her mortgage payments. The check that Maria was referring to was the bank's check to the HOA to help cure the disputed fees, and it was returned by the HOA because Maria was already on a payment plan.

Assemblywoman Munk:

But what I am saying is, the HOA has title to the house, correct?

Assemblywoman Jauregui:

Correct. The bank had no recourse. That is one of the problems. The HOA can superpriority lien, meaning they take precedence over the first deed or security instrument recorded. They become first position on title. They foreclosed on the property before the bank could take action. The bank would not have foreclosed because she was on time with her payment. Yes, HOAs can take action and foreclose on a property while she is on time with her mortgage payments.

Assemblywoman Munk:

So the bank let that property go even though she was current on her payments?

Assemblywoman Jauregui:

They do not really "let it go." They do not have a choice.

Chair Flores:

Assemblywoman Munk, I appreciate the back and forth, but let us state one question at a time, and please make sure that you come back to the Chair so that we can do a proper follow-up for the record.

Assemblywoman Jauregui:

The way the current process works is, the HOA forecloses and somebody buys the property. In this case, the person bought it for \$100,000. From the proceeds the HOA would keep what they are owed and then send any remainder to the bank and any remainder from that to the constituent.

Assemblywoman Bilbray-Axelrod:

Your constituent was receiving late notices. She was in contact with the HOA, knew that she was late, but then they mailed notices to a different address, a post office box? I am confused. Typically, if you were already talking with your HOA, they would continue to use that address. Maybe the post office box that she mentioned was the address that was listed on the county assessor's website.

Additionally, if anybody is here from the Real Estate Division, I am upset to find out that they stopped keeping track of those numbers [page 7, ([Exhibit G](#))] after 2015. That needs to be kept track of.

Finally, I am not familiar with what "blue tape" means. Your constituent said we all know what blue tape means; I only know it for painting. Could you explain that?

Assemblywoman Jauregui:

Maria, do you want to answer the Assemblywoman's questions? You had the conversation about the post office box, where you came to find out they were sending notices to an alternate address.

Maria Jacobi:

The HOA was sending notices to a post office box that I had not had for over ten years. They were sending certified letters there that I never received that had no notices in them.

When I bought my home, many homes in my area had been foreclosed upon, and you would see blue tape all over the house with a piece of paper, the Notice of Foreclosure. That is what "blue tape" means.

Assemblywoman Bilbray-Axelrod:

Assemblywoman, have you been in contact at all with the Real Estate Division about keeping track of these numbers?

Assemblywoman Jauregui:

No, I have not. Page 7 ([Exhibit G](#)) of the PowerPoint is research I did, and I just found out on Monday that they had stopped keeping track. I do not believe that they were ever required

to keep track; it was just something that they did until it became too much to handle for the staff that they had.

Assemblyman Assefa:

If we could pull the lens away from your constituent for a moment and look at this issue from the bigger perspective: For people who have been notified at least four times through the process and keeping current on their mortgage payments of about \$2,000 monthly, how much is their HOA fee, in comparison to their mortgage payment? What is the average HOA fee?

Assemblywoman Jauregui:

I do not know what the average HOA fee is for Nevada. They range. I paid \$38 in HOA fees for a home I used to own. I pay \$159 for a home that I have lived in. I currently pay \$72 for the home that I live in now. They can range from as little as \$38 a month to, in some condos, \$500 per month. Normally, if you are behind for two months, they can send a first notice, so as little as \$80 could start the process.

Assemblyman Assefa:

Why would someone be able to pay \$2,000 monthly for at least four months—we are talking about \$8,000 there—and default on his or her \$38 HOA fee? Is it a lack of willingness to pay? The inability to pay is not the cause if you are capable of paying \$2,000 monthly. Why would you not pay your HOA fee?

Eva Segerblom:

There is some confusion here. It was \$2,000 total, not \$2,000 a month, that she was owing the HOA. By the time the HOA was going to foreclose, it was \$2,000 of past-due late fees and the HOA's collection fees that she had to pay. It was not an unwillingness to pay in Maria's situation. What happened in her situation was that there was a dispute about late fees. She was paying the assessment, she was paying the mortgage, but there was a dispute about late fees. Typically, when something is disputed you do not pay it. Those were not paid until the HOA foreclosed for the amount, which ended up being \$2,000, total, at the time they foreclosed.

Assemblyman Assefa:

I understand, but I wanted to go away from the constituent as an example and go to the average homeowner who might go through this type of predicament. Let us say your mortgage payment is \$1,500 monthly. You pay it four times. That is a pretty big chunk of money when you compare it to your HOA fees that are \$38 to \$80 monthly. Why would you be willing to pay a big chunk of money to your bank to remain in your home but not be willing to pay your HOA fee?

Assemblywoman Jauregui:

I understand your question now, Assemblyman Assefa. Sometimes, it is not a matter of will. Another example happened to two people I know: their HOA fees were coming out of a credit card. When they received a new credit card after the expiration of an old one, they did not update their HOA payment, so they were sent to collections by their HOA. It can

occur, sometimes, over small oversights and not because you are willingly not paying your HOA dues. Sometimes, you did not update your payment information if you received a new debit card or a new credit card, or sometimes it could be that you are disputing fees. Sometimes it is that the homeowner is having an economic hardship. Sometimes, it is that they are not paying their mortgage payment and so they are also not paying their HOA payment because they are having an economic hardship. Sometimes, it could be a senior couple with limited resources deciding whether to pay for their prescriptions or to pay their HOA fees. And if a homeowner is in that type of economic hardship, we need to give that homeowner the ability to say, If I can no longer afford this lifestyle, then let me sell my home and at least retain and benefit from all of the equity, instead of having the HOA come in and take my home from me.

Assemblyman Assefa:

Do HOAs usually work with homeowners in creating payment plans?

Eva Segerblom:

There are some provisions under NRS Chapter 116 for payment plans and partial payments, but again, there has to be a continuous line of communication. So if one month is missed during that payment plan, then the process can start again. Sometimes, if a homeowner is very diligent and in constant communication with the HOA and the homeowner has the ability to take off work to attend hearings with the association, this can be worked out. However, it can be a very cumbersome process for the typical homeowner who maybe cannot read all of the very intense law that is associated with this and try to understand every single process that he or she has to take as a homeowner.

Assemblyman Ellison:

I have a different outlook on HOAs. Number 1, HOAs should not have first standing, period. The bank, which carries the biggest debt, is wiped out of this. Number 2, homeowners' association fees should be held in escrow accounts. The escrow account should collect the money and then pay the HOAs at the end of the month. I know it is a record-keeping nightmare for banks, maybe, but they can charge you a fee and they collect that extra money for the account. That is how this should be done. The money would go into an escrow account that pays the HOA fees out, as it does the homeowner's taxes and insurance; then you would not have this problem. I know you probably hear a lot of opposition to this, but that is the best way. I buy properties all the time and I add in the fees for the title company to handle everything. I do not bother with anything; I just send them one check every month. That is something you might want to consider and look at in the future. The way it is right now has caused some bad blood through the years with HOAs. I just wish they would come up with a better way to do it, and the only way to do it is by using escrow accounts.

Assemblywoman Martinez:

Once the HOA board members realize that the house is going through foreclosure, are they allowed to purchase these homes?

Assemblywoman Jauregui:

I will have to get back to you with an answer, because I know that some of that occurred in the past, but I believe there have been protections put in place that eliminate arms-length transactions.

Assemblywoman Martinez:

It would be in any board member's best interest to make sure that everything goes through so that he or she can turn around and purchase the home at a very discounted rate, which would not be fair to the homeowner.

Assemblyman Hafen:

First, I want to congratulate Maria for getting her house back and thank Assemblywoman Jauregui for assisting her, through the current process, to redeem her house. I want to disclose that I do live in an HOA. My HOA fees are \$250 a year or about \$21 a month, Assemblyman Assefa. Second, I want to say that living in an HOA is a choice that somebody makes prior to moving in. Last, I want to touch on the PowerPoint that is up on the screen [page 9, [Exhibit G](#)]. The most recent data is from 2008. I know there was legislation put in place in 2015 that actually assisted Maria in getting her house back. Is there a slide that I missed that shows how the current process is affecting homeowners?

Assemblywoman Jauregui:

The most current one on that slide [page 9] was in 2014, which is the very last example. Correct, after that foreclosure in 2014 there was a Senate bill passed in 2015 [[Senate Bill 306 of the 78th Session](#)] that did put in the protections for homeowners that I walked you through during the presentation. All of these protections, this time line, and these notices [pages 1 to 6] were what the 2015 legislation did. It made these notices and the 60-day redemption possible. I do have these studies for Clark County by the Lied Institute of Real Estate Studies [page 8], which show that even with those protections in 2016, after [S.B. 306 of the 78th Session](#) passed, there were still 41 foreclosures just in Clark County; in 2017 there were 50 foreclosures; and in 2018 there were 65; so, again, this is trending up. I know that this is not an accurate number; there are more. We got these numbers by actually looking up foreclosure by foreclosure and seeing how it was coded. I have been in contact with some of the HOA management companies who have told me that amongst their members, there were 108 foreclosures in 2018. So I know there are probably more and these numbers are not accurate. You would have to go through and pull county records one by one and try to figure out how they were coded, as to whether it was an HOA foreclosure or a bank foreclosure. Prior to 2015 some of the sales prices were less; a perfect example of more recent data is Maria's. In 2018, her home, worth \$220,000, was foreclosed on for less than \$2,000 in past-due late fees and was sold at auction for \$100,000—for a loss of \$141,000 in equity.

Assemblyman Hafen:

Maria got her house back, though—through the process that is currently in place. She did not lose her equity.

Assemblywoman Jauregui:

Correct. Maria did redeem her house during the 60-day period.

Assemblyman Leavitt:

I want to go on record for saying that I appreciate your efforts in representing us, in the admirable way that you helped your constituent.

When you enter into a contract to purchase a home that is in an HOA, is the process or provision of foreclosure disclosed in the documents that you sign? Are you made aware before you even sign to purchase the house that, if you do not pay your HOA fees or any of the associated fees, the potential of foreclosure exists?

Eva Segerblom:

Sometimes. It depends on how current the covenants, conditions, and restrictions (CC&Rs) are. Covenants, conditions, and restrictions are typically written before a community is built. Sometimes, associations will update those CC&Rs periodically. Nevada law allows that if there are changes in the law, associations have to abide by them and they do not have to amend their CC&Rs. What a homeowner will get is a copy of all governing documents, which are the CC&Rs, bylaws, and articles of organization of the association. If the CC&Rs are not updated to include the current foreclosure process, then no, homeowners would not know about those time lines. They would know specifically that their home could be foreclosed upon, but they would not know the process or the current time lines.

Assemblyman Leavitt:

I, too, extend my gratitude for the constituent down south getting her home back. With her as an example, in her HOA's governing documents, which I am assuming you have reviewed, is the notice that the HOA has the potential to foreclosure in place?

Assemblywoman Jauregui:

I did not review Maria's loan documents or her CC&Rs. I referred her to Legal Aid Center of Southern Nevada.

Chair Flores:

We do not have any more questions. I ask you both to step back, and I would like to invite forward anyone wishing to speak in support of A.B. 369. As a reminder and a courtesy, I will allow speakers two minutes in the interest of fairness.

Marcus Conklin, representing Nevada Mortgage Lenders Association:

We are in support of A.B. 369. The Nevada Mortgage Lenders Association will support any effort that effectively eliminates the extinguishment of the first deed of trust and the homeowner's equity in a property. Under the current process, a number of individuals will use the superpriority lien process to strip the deed from the note, which effectively separates the two. As you heard from this testimony, from time to time, it almost looks as though you not only have to pay what somebody paid in order to get your home back, but you still owe the note on top of that, effectively doubling what you now owe on your home, versus what

you used to owe. For reasons like that, we support this bill. It is also my understanding that the Advisory Council on Mortgage Investments and Mortgage Lending that we commonly refer to as "the MAC" are also in support of this bill.

Assemblyman Carrillo:

Assemblyman Ellison said adding dues to the escrow is a possibility. If dues are taken from an escrow account on a monthly basis, homeowners would not even have to think about it. In Maria's situation, she was trying to work with the HOA and then all of a sudden they just said, Hey, we are sending your check back, and we are done talking. Is that a possibility that the banks would entertain? Or are the logistics not in existence for homeowners to work with?

Marcus Conklin:

I do not represent the banks—you would have to talk to Nevada Bankers Association. However, I can tell you some history, if it is acceptable to the Chair. In the past, lenders have traditionally staunchly opposed escrow accounts because things that typically go into the escrow account are both complicated but also organized. For example, if you live in Clark County, your taxing agent is one entity. Everybody knows where to get it, they know where to look up the property, and they know where to get the information. My understanding is that insurance companies use a clearinghouse so that the information is in a common place to gather. While there are many insurance companies, it still pales in comparison to the actual number of different HOAs. And sometimes, many homeowners have multiple HOAs, or in the middle of the season they will change their HOAs, or their dues change, et cetera, and all of that adds cost, time, and effort, making it very expensive and incredibly difficult to comply. The industry has opposed that for as long as I can remember.

Assemblyman Carrillo:

I apologize for putting you on the spot. When the bankers come up, I will ask them. Thank you.

Joice Bass, Attorney, Legal Aid Center of Southern Nevada:

We are a nonprofit, pro bono legal services provider. I am here to express Legal Aid Center's support for the conceptual amendment to A.B. 369, which would eliminate the power that homeowners' associations currently have to take people's homes when they become delinquent in paying their monthly assessments. As part of Legal Aid's work and mission, we have represented many homeowners over the years in legal disputes with their HOAs, including homeowners who are in the process of being foreclosed upon by their HOA. Many of those homeowner clients have not received all of the legal notices that they were entitled to receive leading up to the foreclosure. Some of those clients had been in the middle of trying to reach an agreement with the HOA to bring their account current by making extra payments. A few of those clients had tried to pay their HOA the entire amount owed, only to be told that the account had already been turned over to a collection law firm and the money could no longer be accepted. We even had one client who had her assessment payments diverted by the HOA's management company to cover late fees and other charges that she

had not been informed of, which then caused her assessment account to be perpetually delinquent. Another client, a military veteran, paid his HOA's management company the entire amount that they told him was due, only to then receive a notice in the mail a few days later that the foreclosure was going forward because the account was still delinquent by the additional amount of attorney's fees and costs that had been tacked on. We represented a homeowner whose HOA management company told her that they would hold off on foreclosure when they had already foreclosed. Every single one of those homeowners were shocked and devastated to learn that an HOA can indeed take a person's home for as little as a few thousand dollars.

In our experience, the average total amount of an HOA lien in foreclosure is about \$6,000 to \$10,000, most of which is attorney's fees and costs. We have seen foreclosures on as little as \$1,500 on overdue assessments. That a person's home can be taken away for that small account of money with very few protections in place, unlike when mortgage lenders foreclose, is, in our view, unconscionable and it should not be allowed to happen.

Chair Flores:

Madam, I am going to have to cut you off.

Assemblyman Carrillo:

This question is for Mr. Conklin. Do all Nevadans end up paying higher interest rates on their mortgage than they would in another state because HOAs can foreclose and extinguish?

Marcus Conklin:

Assemblyman, the vast majority of loans in this state are sold on the secondary market. So when the transaction takes place, somebody makes a loan and takes that loan and sells it out on a secondary market. In order to get it in the secondary market, the loan gets bundled into what we call tranches. Those tranches are weighed based on their risk. Tranches could be in a good area that is accelerating and that lowers the risk. There are many factors that are considered. What has happened ever since the market collapsed and a large number of superpriority lien foreclosures took place is that secondary market gives negative marks on their tranche rating so that when somebody goes to buy it, they pay less. When they pay less, the effect of that is that the consumer pays more or that the lender has to absorb more cost. All of that rolls down to the consumer at some level. Could I say, Gee, there is a quarter-point difference? I cannot say exactly what it is, but it is, in fact, true. I have seen a number of bond ratings that have absolutely said right in them, "We are lowering the rating of these tranches for the simple fact that they are in HOA communities in a state where superpriority liens can be extinguished."

Chair Flores:

Members, are there additional questions? Seeing none, is there anybody else wishing to speak in support of Assembly Bill 369? Seeing no one, I would like to invite those wishing to speak in opposition to Assembly Bill 369 to fill all the seats.

Larry R. Hartman, Private Citizen, Las Vegas, Nevada:

I own a home in District No. 4 in Las Vegas where I also serve on the board of directors of that homeowners' association. I also am a community manager of a 5,500-plus-unit HOA in District No. 36 in Las Vegas. I am here to state that I am against this amendment as it will increase the financial burden on homeowners' associations by requiring them to pursue delinquent homeowners' assessments through small claims. As a volunteer board member, navigating the legal process will be cumbersome and will cause confusion without the aid of an attorney, which in turn will increase expenses.

Homeowners' associations are very well received by municipalities because they reduce the burden on municipalities for infrastructure. If a homeowners' association is unable to recover delinquent assessments, communities will fall into disrepair and property values will definitely fall. These are a few reasons why I am against this conceptual amendment. [([Exhibit H](#)) was submitted by Mr. Hartman but not referenced in his testimony.]

Mark Leon, Private Citizen, Las Vegas, Nevada:

I am a volunteer homeowner board member of Mountain's Edge Master Association, an HOA of 11,866 single-family homes in southwest Las Vegas. I am against this bill because it effectively removes the ability of the HOA to foreclose on a lien for delinquent assessments in a financially viable way. As a member of the board, it is my duty to spend homeowner money wisely. It is not wise to spend many thousands of dollars on professional legal services in the pursuit of assessment debt that, in all likelihood, amounts to just a few thousand dollars or less. Since each homeowner account stands on its own, there is no economy of scale to apply. The problem simply multiplies. If this bill becomes law, there will be problems collecting assessments. Everybody in my HOA is on Facebook and on Nextdoor and they all talk to each other. As soon as it becomes possible for homeowners to stiff the association on assessments without serious consequence, it is going to happen and it is going to spread like wildfire.

The notion proposed in the bill of taking my homeowners to small claims court is completely unrealistic. There are only two types of people in HOAs: paid professionals and the volunteer homeowners who serve on committees and the board of directors. It is not cost-effective for the association to pay our legal professionals to represent us in small claims court, and it is unreasonable for this legislation to expect me, an unpaid volunteer, to take time off of work to spend days downtown suing my fellow homeowners. I am not doing that. However, I still need to pay the landscapers, and I still need to pay the water bill. So what I am going to do is raise assessments to make up for the income lost due to homeowners who strategically decide not to pay their assessments. Thus the predictable result of this bill is that I will be forced to punish the good people who faithfully pay their assessments as agreed, while rewarding the actions of those bad actors who thumb their noses at the association and their fellow homeowners by withholding payment.

Michael Kosor, Private Citizen, Las Vegas, Nevada:

I, too, serve and currently have served three terms as a board member and treasurer of my Las Vegas HOA. I am a retired hospital chief executive officer, so I am familiar with the

problems associated with collecting dues in a very regulated and challenging environment. I am going to take your advice, Mr. Chair, and say I concur with everything you just heard from the other board members here before me. In addition, I hope you have a copy of my talking points that I have provided to the Committee ([Exhibit I](#)).

There are large fees associated with an HOA. I am a taker of those fees. Those fees are regulated, mandated. I, as an HOA board member, generally have to contract out the collection of fees. I do not control any of those fees. That is an area we can be looking hard at. However, I will say we are an involuntary creditor here. We are obligated to do what we are doing. We have no choice under the law and under the CC&Rs. This is a challenging environment.

I believe there is opportunity for reform, and I would ask that reform not simply be dismissed because the banking industry feels like it is too cumbersome. There are ways; clearinghouses for insurance did not always exist in the beginning. Let me suggest to you that the Uniform Commercial Code, when written, assumed there would be a six-month foreclosure period. That no longer exists. Currently, mortgage lenders have a substantial economic incentive to delay foreclosures, which we saw in the last recession. The value of the collateral that they are preserving through their imposition of a delay actually falls back on the homeowners. The lender does not have to pay or reimburse the homeowner for the consequences of their delay. That, I argue, is a cost shifting that is an unjust enrichment on the part of the banking industry.

Chair Flores:

Thank you, sir. We do have your comments.

Donald Schaefer, Private Citizen, Las Nevada, Nevada:

I live in a homeowners' association, a master community of 6,616 homes. I am the treasurer of that master association. I concur with the two previous gentlemen's comments on the impact this conceptual amendment has on an HOA. Two sessions ago, this great Legislature provided S.B. 306 of the 78th Session, which clearly outlined my obligations as a board member as well as what information has to go to a homeowner. It also provided information to the bank so that they could retain their position in first order of lien. This is important, because we are not in the business of trying to own homes. We are in the business of helping manage communities, and we have a fiduciary responsibility to collect assessments that are due our association.

I cannot overemphasize, as one of the members of the Committee pointed out, an impound account would solve this. Number one, it would take the HOA out of the business of foreclosure. If we have an impound account, the bank has a way to pay dues whether it is monthly, quarterly, yearly, whatever, and if the money is not in the impound account, the bank would pay it and they would increase the debt due from the owner. This would absolutely solve it and get us out of the business of trying to foreclose on homes.

Pete Bartholow, Private Citizen, Las Vegas, Nevada:

I live in District No. 41 in Las Vegas, Nevada. I am opposed to A.B. 369. As a former volunteer board member, I could not imagine having to navigate the small claims process, and I do not feel that the current system that was put in place in S.B. 306 of the 78th Session is broken. I would like the Legislature to not be in favor of this bill.

Mark Stone, Private Citizen, Las Vegas, Nevada:

I am a homeowner. It has been assumed or at least insinuated that HOAs are playing like the wolf that just cannot wait to take a home from a homeowner. That is just not true. Homeowners' association boards are nonprofit; they do not want to own the homes as it does nothing for them.

About the process of collections: In private collections, a homeowner receives several letters, friendly reminders that they are in arrears with their assessments. In most cases, the reason homeowners end up getting sent to collections is because they refuse a payment plan or they do not keep with their payment plan or they do not adhere to the letters that were sent to them. Going to collections is really the last-ditch effort to try to collect the association fees, because the board has a fiduciary duty to pay the bills of the association even when homeowners walk away or stop paying.

When people close on their home purchase, there in their documents are their signatures saying they understood that they had assessments to pay. I do like the idea of the escrow account to include assessments.

I have tried to navigate the small claims process. It is very cumbersome and very time-consuming. When I showed up expecting to try to save the HOA some money by not having an attorney, the defendant showed up with an attorney. So all of a sudden, it was me against an attorney, and I was not expecting that. I would disagree that it is going to be a cost savings to go to small claims court.

Barney Wadley, Private Citizen, Dayton, Nevada:

I am the president of a very small association in Dayton. I agree with Assemblywoman Jauregui. There needs to be reforms on the unscrupulous HOAs. Our association dues are \$14 a month. Right now, we have approximately 10 percent of our 102-person association that is in some form of nonpayment of dues. I wholeheartedly agree with Assemblyman Ellison. If we could get escrow accounts established for all these people, it would eliminate the majority of our problems. By doing this, the association would be assured of getting the money, and it would not place an undue burden on the homeowner. I agree with the last person who spoke; I do not know how many of you have ever dealt with the small claims process. It is a nightmare. Even if you go in and get a judgment, the judge can order the person to pay, but that person can snub his nose at you and say, Come get me. It takes a lot of extra legal maneuvering to be able to recover your money.

Chair Flores:

Sir, we are at the two-minute mark. Thank you.

**Garrett D. Gordon, representing Nevada Chapter of Community Associations Institute;
and Southern Highlands Homeowners Association:**

I want to thank the sponsor. She met with us two weeks ago and I will meet with her again this afternoon. We are always willing to roll up our sleeves and find solutions.

The question is, what will incentivize homeowners to pay assessments that they agreed to pay when purchasing the home in order to timely pay the obligations of the community? This debt is certainly different from other debts, since nonpayment of these assessments has a direct impact on neighbors who are paying their assessments on time. Assessments can certainly go up and property values can go down within the entire community if it is not properly maintained. I mentioned we are always willing to discuss other options, such as impound accounts. In my six sessions here doing HOA law, in the last three or four sessions, impound accounts have been brought up. We have always supported that option as it takes HOAs out of the collection business altogether. But we do argue, for now, that the current process that is in place works. Forcing homeowners to now sue each other and potentially garnish wages and seize assets is just not an adequate replacement for the current system.

We are not the only state that has this process. We are not alone. Twenty-one other states, including the District of Columbia and Puerto Rico, have similar priority lien statutes in place. In Nevada, the Real Estate Division of the Department of Business and Industry reports that there are 550,000 units registered in the state of Nevada. Over one-half million constituents live in HOAs. According to our research, we believe 186 foreclosures have happened since January 2017. Calculate over one-half million unit owners and 186 foreclosures, and that does not include those which have been redeemed as was the constituent's you heard today. That is 0.00037 percent. We think that this long and complicated process that has been alluded to is working to avoid foreclosures until there is no other option.

Chair Flores:

I am going to have to cut you off. I believe those remarks are on the Nevada Electronic Legislative Information System, correct?

Garrett Gordon:

Yes. [Garrett Gordon did not submit any remarks as exhibits.]

Assemblyman Carrillo:

You mentioned the impound accounts; are you aware of anywhere in the United States where these are in place? If the wheel has already been made, can we possibly duplicate it?

Garrett Gordon:

When we dealt with a bill that would have required impound accounts two sessions ago, the research came back with no—no other state currently requires them. They are permissive; lenders can create them just like they create impound accounts for insurance and for property taxes, but nothing would require it. There was a bill in 2015 that would have required it, which we strongly supported in order to take HOAs out of the collection business, but that

bill was never approved. But we are always willing to discuss that option; we think it is a good one.

Assemblywoman Hardy:

Let us say homeowners choose not to pay their HOA fees. Is it true then that those who are paying are eventually going to have to be paying more—be penalized for the ones who are not paying their fees?

Garrett Gordon:

In short, yes. An HOA is a nonprofit association. They are required to hold a budget hearing at the end of every year, look at what obligations they are going to have on the books, the landscaper, snow removal for up north, what have you, and they also have strict requirements under NRS Chapter 116 for reserve accounts, capital contribution accounts, et cetera, and then they divide that by the number of homeowners, and that is their assessment. So you are absolutely right; if homeowners are not paying their assessment, it certainly negatively impacts the homeowners who are and can result in higher assessments moving forward.

Assemblywoman Hardy:

Mr. Wadley said it can be difficult, first of all, going to small claims and then being able to collect on the judgments. Someone told me that even if you get a small claims judgment, you could not collect on that until the house is sold. Is that accurate, or did I not hear that correctly?

Garrett Gordon:

I might defer this small claims process to Donna Zanetti, who is an HOA attorney and deals with the courts more than I do. Yes, the sponsor was correct about attorneys not being required in small claims court. However, an HOA is an entity, and someone needs to show up on behalf of that entity. It could be a volunteer board member, which will not happen; they will hire counsel. But, to your point, if a volunteer board member made his or her way down to small claims and was able to obtain a judgment to now garnish wages or seize assets—I would say no volunteer board member is in that business and counsel would certainly be needed. As far as what you can do with that judgment lien, I will defer to Donna Zanetti, but you can record it on the property—so now the HOA will have another lien on the property, and also seize assets or garnish wages which, to be totally honest, for the record, HOAs want nothing of—garnishing wages or seizing assets. We are just asking for the current system to stay in place.

Donna Zanetti, Co-Chair, Nevada Legislative Action Committee, Community Associations Institute:

If you get a judgment, yes, it could be recorded against the property, and then you would have the other remedies to execute on your judgment. You go back to the small claims court to get various writs of execution. It was suggested by the sponsor that you could garnish wages, as one example. But the problem with that is that HOAs do not know where their homeowners work. You could potentially garnish bank accounts. Again, HOAs do not have that information in their records. Maybe you could attach a vehicle and sell that. Most

HOAs do not know what vehicles their homeowners own. Practically speaking, we would have to hire a private detective to go find these assets in order to be able to execute on them, and that requires expending more money. There are real barriers to being able to collect a judgment that you might get through a small claims court.

Assemblywoman Hardy:

I worked in justice court, so I have a little bit of experience with small claims and know that it can take continually going back to court, trying to collect. I see it as being more difficult to collect on a judgment to collect these fees. That is somewhat of a concern. Thank you for the clarification.

Assemblyman McCurdy:

My question is in regard to the HOAs purchasing homes that were in foreclosure. I find that problematic and very concerning. Is it possible for you to provide the Committee with data as to how many homes were purchased by the HOAs over the last ten years, with the focus on the more recent five years?

Donna Zanetti:

It is a bit incorrect to say that HOAs are purchasing homes. When an HOA has a foreclosure sale on a home, if there are no third-party bidders, then the HOA makes a credit bid—the HOA takes the property on a credit bid. A credit bid is the last resort if there is no interested purchaser for the property. That is how HOAs obtain property; they are not going out with the idea that they would come home with a property.

Assemblyman McCurdy:

Thank you for the clarification.

Donna Zanetti:

We could try to accumulate some data on how many homes were credit bids rather than third-party purchases.

Assemblyman McCurdy:

If you will provide how many homes were purchased with the credit bid that would be appropriate. Thank you.

Donna Zanetti:

I would like to point out that every state in the Union that we are aware of allows an HOA to foreclose on its assessment lien, whether judicially or nonjudicially. For Nevada to abandon its position of allowing nonjudicial foreclosure would make it an outlier in a way that will not benefit community associations for the reasons stated.

I want to focus mostly on talking about the small claims process in justice courts. There are a very limited number of justice court justices to handle very important matters. If the justice court were to give the 45-day time frame for HOAs, it would be at the expense of the other kinds of claims that it handles, which include protective orders, landlord-tenant mechanic's

liens, just to list a few. According to the Justice Court *Rules of Civil Procedure* Rule 92, all cases are generally supposed to be heard within 90 days of service. It makes it difficult to assume that they will be able to handle the workload of dealing with HOA delinquent assessments and awarding those cases within the 45-day time line. Also, this is going to cost the associations more money out of pocket, because there is personal service on the defendant—they will have to locate this defendant and serve process and pay for that. Additionally, NRS 73.030, subsection 1 says that while the losing party pays the cost of proceedings, subsection 2 says that the prevailing party must deposit the amount assessed as costs with the court before entering a final judgment, which means that if the association is prevailing, it will then be taking more money out of its pocket to pay before it gets its final judgment on which it could possibly execute. This is not necessarily a process that will save the association time or money.

Chair Flores:

I am going to have to cut you off. I appreciate that.

Marilyn Brainard, representing Nevada Chapter of Community Associations Institute:

Thank you for giving us the opportunity to present a full picture of what happens with foreclosures and HOAs. I served 10 1/2 years on my board in Wingfield Springs Community Association in east Sparks. I can tell you that we have had some of the credit buys that Ms. Zanetti referred to, when no one steps up to purchase the property. It does happen, and I am sorry if there was an impression that a board member was buying it personally. I have never heard of that happening in the 10 1/2 years I have served. On my board, I know no one did it.

You have heard a lot of things today, so I do not want to be repetitious. Why is this so important today, in 2019? In this state, significant improvement in our economy due to energetic efforts to attract new companies means many new citizens are moving to our fine state. Many will be purchasing a unit within a community association. For many, this may be their first opportunity to live in an HOA. The question is, if many new developments are being built using the community association model, will these new owners still be protected by the compromise legislation created in the 2015 Session? The process has proven to be very effective—just ask the owners who serve as volunteers on a nonprofit corporation board. You have heard about the challenges of using the small claims court process—I cannot emphasize enough—should this bill go into effect, who is going to volunteer to serve on the board if they think they have to take time from their jobs to help protect the association at a small claims proceeding? It is very unrealistic and it is unfair. I just cannot imagine it ever working.

Chair Flores:

I have to cut you off, but before you leave, we have a question from the Committee.

Assemblywoman Duran:

I know that you contact homeowners with certified letters. Is there any way you can send a letter to the bank to try to reach them during the process? The young woman testified that

her HOA was sending the certified letters to an old address. Do you work with the bank to try to get the homeowners up to date?

Donna Zanetti:

The statute as it exists today requires that, beginning with the notice of default and election to sell, that and all subsequent notices are sent to the bank. The banks are aware very early on in the process as to whether someone is delinquent in paying their assessments. They do have an opportunity to step in and take action.

Assemblywoman Duran:

With the process that is in place, do we know whether the banks notify the persons that have the loans that the foreclosure is taking place? Is that up to the bank?

Donna Zanetti:

No. We do not know and do not have any control over what the banks do once they receive that information; but they are required by law to be notified.

Valerie Hand, Private Citizen, Sun Valley, Nevada:

I am currently a homeowner in a 1,600-unit association in Sun Valley. I am a former board member, and I am a practicing community manager. I am not going to digress with what everybody else has said. What I would like to touch upon is what seems to have brought this to the forefront, which is this very unfortunate and compelling story of the woman who lost her home. Some of the information was misleading, so I would just like to clarify a few points that were not touched on.

First and foremost, at the end of the day, it was acknowledged that it was the homeowners' association that helped this woman, during that 60-day process, get her home back. There was discussion about whether homeowners are aware that the associations can foreclose; per NRS, for the last five or six years, we have to send to every homeowner every year a collection policy along with the annual budgets, so they are reminded every year of the collection process and the cost associated with not paying their assessments. Whether they read it or not is another story, but by law, we send it out every year.

The woman from the nonprofit law firm said there were managers denying payments or boards denying payments or applying payments to late fees—again, those are things that are addressed already in the statute. It is possible that there is a manager or a board member out there that is not properly applying law, but that is a different issue. We should not be taking away the rights of the association because there are a few people who are not following the process.

Lastly, the most compelling part of this is the taking of homeowners' homes away because they did not pay their assessments. As it was pointed out, there is a long process with many notices and I would argue, the exact same story could be told about property taxes. Some people owe thousands in property taxes, some owe hundreds, but if you do not pay them, your home gets taken for nonpayment through a process, and there is still a right of

redemption. The HOA is not that different in that we need those funds to keep our communities rolling, just like everybody needs to pay their property taxes to keep the community rolling, and there are consequences if you do not pay.

Chuck Niggemeyer, Private Citizen, Las Vegas, Nevada:

I am president of my board and have been in this position for approximately 14 years. My association is small; it only has 90 homes. Had the present law been in effect back in 2011, our association would not be in the situation we are in today. We had a foreclosure occur in 2011 due to nonpayment of assessments. There was a credit buy because we had no alternative. The home is still in that situation. The bank, to this day, still has not come forward to take back the property, and this situation has cost my association approximately \$42,000 to date. That \$42,000 has been made up with increased assessments—yes, that is what we have had to do because of that. Had we had the 2015 law in effect then, we would not have that problem today. Today's law and the procedures we do are not broken. We should stay with them. I am totally opposed to this bill in all forms.

I would say this about impound accounts: Our association is also subject to what is known as an improvement district, which is like a loan—it is a bond. When I took my mortgage out, we paid that separately. Then all of a sudden, the bank came back and said, We will start impounding that amount, which they did. So the process can be done. It is being done. When I hear they do not want to do that, I do not believe it. It is possible.

I support everything else that has been said today and I am definitely opposed to the bill.

Randy Ecklund, Executive Director, Community Management, The Howard Hughes Corporation:

We have heard some great thoughts and ideas related to the experiences people have had. I just want to let you know, in the 30-plus years that I have worked with associations, the elected volunteer boards have been very judicious in their use of any foreclosure powers. It is not something they welcome, but certainly they have a responsibility to the rest of their membership to make sure that they are doing their duty to collect what they need to in order to make sure the bills get paid. It is the hope of every management company, as they work through the administrative process, to make sure that all the notices and processes are being followed, and we would hope that somewhere along the line, that individual would reach out for some self-help to avoid the catastrophe that foreclosure can bring.

I also want to help you understand the obligations of those boards. Many years ago, it used to be that some of the expenses were somewhat discretionary. With the evolution of associations and responsibilities they take on, we have any number of obligations that these volunteer boards are overseeing: anything from roadways and parks and recreation to building maintenance to any number of health and safety issues. So it is not a small task that we are asking these people to do, and they are just trying to make sure the bills get paid in a fair manner for all their membership. Ultimately, if we take away this resource, this tool that they rarely use, it is going to raise assessments. They are going to have to make sure they have money set aside in a system that is already very limited—hand-to-mouth-wise—to

make sure they can pass through any type of economic downturn that might take place and make sure that they have what they need to operate. It would be a detriment to associations, in general, for this particular tool to be taken away.

Chair Flores:

We appreciate it.

Michael W. McKelleb, Private Citizen, Henderson, Nevada:

I am an HOA attorney, but I am also the secretary for the Crescendo Homeowners Association board of directors. I have served in that position for approximately two years. I came with many things I would like to say today, but those who came before me have covered them very well.

There are a few things I would like to point out. Earlier today, we had a picture painted of overzealous boards being the rule rather than the exception. In the slides that we saw earlier today, note that the Great Recession started approximately at the end of 2006/beginning of 2007, yet, according to the slides we saw, the foreclosures did not spike until almost 2011. In other words, most HOAs waited between three to four years before they began to exercise their right to foreclose. In fact, my own HOA did that. They waited three years before they exercised the right to foreclose on a property. Even to this day, the bank still has not come in to foreclose that home. I have an association as a client. For ten years, payment has not been made on a mortgage; there is a squatter in the home; there are three trees that are dead in the front yard, and this year the association was required to remove them so they would not fall onto the road.

If this bill is to pass, you are going to remove the ability of an association to meet the fiduciary duties of fulfilling the obligations according to their CC&Rs and state law, yet make them make these payments and then increase assessments. It is important that this legislative body know that most CC&Rs, not all, have a restriction on how much assessments can be raised every year. In my own association, it is 15 percent. We came against that cap because we are still trying to recover from all the nonpayments we received during the Great Recession by catching up our reserve account. The way our CC&Rs are currently written, we had to do a special assessment and everybody had to make a one-time payment.

One last thing: The solution that is offered today is to get judgments, to get judgments against homeowners, under the belief that most of them are paying their mortgage. For those who are not paying their mortgage and choose not to pay their HOA assessments, when the HOA sues them and receives judgments and they then put in applications to get into an apartment after they lose their home, those judgments will mean they cannot get qualified or approved.

Norm Rosensteel, Co-Chair, Nevada Legislative Action Committee, Community Associations Institute:

I have been a community manager for 33 years. I have lived in associations for 20 years and I serve on my association's board of directors. This bill, as written, will be detrimental to the

vast majority of homeowners and community associations in the state of Nevada. I agree with all the comments that have been made before and, as stated before, there is no state in the country that forces associations to go to small claims court to collect assessments.

Jeffrey Lofy, Private Citizen, Sparks, Nevada:

I am the president of the Miramonte Homeowners Association. I would like to talk about responsibility. When you purchase a residence, it is your responsibility to pay your mortgage, and it is your responsibility to pay for the taxes, electricity, water, and sewer. When you purchase a residence in an HOA, you are given documents to read, and it is your responsibility to read those documents and make sure you understand them. Our HOA has about 560 homes; at the current time, we have 54 unit owners who are 60 days late or delinquent in their payments, for a total of \$13,447. Of these 54 units, 4 units have liens and 1 is in bankruptcy. It is the responsibility of the homeowner to make sure that their HOA dues are paid and that they continue paying them, and if they move or if they have a different address, it is their responsibility to make sure that the HOA knows about that.

Tonya Bates, Private Citizen, Sparks, Nevada:

I am a community manager in Washoe County and Douglas County. I was not going to testify today, but I was encouraged by the Community Associations Institute Legislative Action Committee to testify. In 2012 when I first moved to Washoe County, I was in charge of dissolving an association. Because the association was dissolving, we were unable to place liens on those properties. So I took 38 homeowners to small claims court in the City of Sparks Justice Court. I am reaching out to the attorney of record at this time who took over after that association had dissolved. According to the succeeding manager, none of those 38 people have paid their judgment—this is seven years later. You are giving us an option that is going to be a detriment to the HOAs.

Al Delmue, Private Citizen, Sparks, Nevada:

I am the board president of Renovista Ridge Master Property Owners' Association. I agree with all the comments that have been made and I definitely oppose this bill. Earlier on, they talked about late fees. To the best of my knowledge, you cannot foreclose on late fees. The banks and the mortgage companies are not responsible for late HOA fees. They get notified. They can keep these properties. In most cases they step in, they pay the assessments, and they start their own foreclosure against the homeowner, and the HOA does not get involved. The banks and the mortgage companies need to be responsible, and that will stop all this. Our HOA works with homeowners. We will do anything to help them. Foreclosure is a last resort for us. We have never taken possession of a home. Anyone has a right to go down on the courthouse steps and purchase a home. I totally support escrow accounts. The Legislature needs to figure out a way to put the escrow accounts in place—that would solve all of this and would stop this bill.

Chair Flores:

Is there anyone else wishing to speak in opposition of Assembly Bill 369? Seeing no one, is there anyone wishing to speak in the neutral position to Assembly Bill 369?

Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry:

To provide clarification to a point of discussion earlier about the data that the Division collected, part of NRS Chapter 116 requires foreclosure notices to go to the Real Estate Division of the Department of Business and Industry. At the peak of the recession, the Division made a concerted effort to collect this information. The idea was to reach out to the homeowners to see if we could be the point of contact. At that time, homeowners were getting so many notices that those notices were piling up and homeowners just did not want to look at them. The program intended that a letter from the Division, as a neutral party, would help bring the homeowners to the table or at least make them understand the situation that they were in—and in that way help them to resolve their situation before the foreclosure happened. That was the intent of what we were doing. Three years into the program the data showed that homeowners were not even returning the Division's calls or answering our queries. The intent was there, but we could not get any success. We are not required to track this number, but we made an effort. Around 2015, the volume of foreclosures became so much that we had to divert some of our attention to the foreclosure mediation program, where bank liens were piling up. It was a resource allocation decision. However, the point made today has been taken; we do get the notices, so we will try to create a better, more efficient way to track some of this without unduly burdening staff. The data that Assemblywoman Jauregui had was data that we provided to the Legislative Counsel Bureau a while ago.

Chair Flores:

Members, are there any questions? Seeing none, is there anyone else wishing to speak in the neutral position to Assembly Bill 369? Seeing no one, Assemblywoman, we are ready for closing remarks that you may have.

Assemblywoman Jauregui:

I would like to go over some of the information you have heard.

You heard that every single state in the country allows HOA foreclosures; that is not true. There are only 25 states that allow superpriority liens and only two of them allow nonjudicial foreclosure, Nevada and the District of Columbia. Every other one of those 25 states requires the HOA to go through the judicial foreclosure process in order to foreclose on the home.

It was mentioned that if this bill passes, the costs would be passed on to the homeowners. However, you have heard firsthand from the HOAs that when they foreclose, those costs are passed on to the homeowners as well. A testifier gave the example of a home that the HOA had been hanging on to which had been foreclosed on that cost the HOA \$42,000; well, those costs were then passed on to the homeowners. Either way, those costs to the HOA are passed on to the homeowners.

You also heard that HOAs are not in the business of garnishing wages and seizing assets of their homeowners, but that is exactly what they do when they foreclose—they seize and take possession of the largest assets of their neighbors.

Someone expressed, what would incentivize homeowners to pay their HOA dues if this bill passes? Assemblyman Hafen said it himself. People choose to live in HOAs because of the lifestyle. They want to live in an HOA to have well-kept grass and well-kept grounds; they want that guard at the front gate; and they want the gated community. That is their incentive, the lifestyle that they choose. People stop paying their HOAs when they are in hard times, not willingly.

Testifiers said it would be unreasonable to hire an attorney to go represent them in small claims court; however, they hire an attorney to represent them during the foreclosure process.

You also heard that every homeowner would have to pay more if this passes, but you also heard that because we are in a state that allows HOA foreclosures, every single Nevadan who borrows on a mortgage already pays more because we allow HOAs to extinguish those loans. Because we are a high-risk state, we pay more in interest rates. I did the math. On a \$350,000 home at 4 percent for 30 years, that home would cost you \$601,543. If we pay half a percent more because we are a higher-risk state, that same home would cost you \$638,423. Homeowners are paying \$36,880 more over the course of the loan because we are a higher-risk state for allowing HOAs to extinguish.

You also heard that no other state forces HOAs to go to small claims court. Guess what—we are not like any other state. Not every other state in this Union was as hard hit as Nevada during the recession. And just because no other state is doing it does not mean that we are not a pioneering state and we cannot pioneer something new in this state.

There were other questions that Committee members had to the opposition; I will do my best to also get those figures. It will be difficult to accumulate how many HOAs foreclosed on and retained the property, because it is hard to identify which foreclosures were HOA foreclosures as opposed to bank foreclosures. I will try to compile that information for the Committee as well.

Chair Flores:

We have questions.

Assemblywoman Bilbray-Axelrod:

I appreciate your passion. We all recognize that we want to help our constituents with the best legislation. You heard the idea of an escrow account a few times; it was said that this has not been done before—talk about something pioneering. Would you be open to that? Because that could solve both sides of the problem.

Assemblywoman Jauregui:

I was not aware that there had been a bill proposed to escrow HOA assessments before, but I am definitely going to bring up that hearing and find out what stopped that process.

Assemblyman McCurdy:

I want to make a slight modification to the request as it relates to the HOAs who were procuring the homes on a credit bid. Can we define the number post-2015, because it seems as though there were measures put in place in the 2015 Session that would probably have alleviated the issues of concern prior to 2015.

Assemblywoman Jauregui:

The total numbers are on page 8 ([Exhibit G](#)). You will see 25 in 2015, then 15, 41, 50, and 65 in 2018 that we were able to identify, so that should not be too hard to compile. We will have to go through every single one of those and see who the purchaser was at auction, but I am willing to do that.

Assemblyman Assefa:

I know we are pressed against time on the calendar, but could we put some stakeholders around the table and talk about possible solutions, or is this it for you, Assemblywoman? Possible solutions have been mentioned here, and we have talked in private about them. I think we can get somewhere if we can get to work on this particular issue.

Assemblywoman Jauregui:

Thank you, Assemblyman Assefa. As you heard, I do have another meeting later this afternoon with Mr. Gordon. We are pressed for time as we have a deadline on Friday, but the discussions are not over.

Assemblywoman Martinez:

I had a situation like the young lady who lost her home. I had the payment going out of my credit card for my car insurance. I was going through a very difficult time and I was not paying attention to the mail, and I did not realize that I had lost my insurance for the vehicle. Of course, the Department of Motor Vehicles sends you notice. I ended up having to pay something like a \$500 fine. My point is that I paid the fine, I did not lose my driver's license, and my car was not taken away. I think it is amazing that, because of a similar situation where her credit card lapsed, she came close to losing her home. That is just unfathomable to me that one organization can have so much power, especially when she was willing to pay. In my situation, the only thing that happened was that I ended up having to pay more for my insurance because it had lapsed. I had been insured with American Express for 15 years and because of the lapse, they set me back as a new car owner. I cannot imagine what she had to go through. I think it is very unfair that homeowners are put in a situation where even if you are willing to pay, they do not work with you. That is my comment.

Assemblywoman Jauregui:

I agree. They say, We do not want to seize assets and garnish the wages of our fellow neighbor. But as your neighbor, I would rather you garnish \$200 a month from my paycheck than take my home away.

Chair Flores:

Thank you, Assemblywoman. I ask that you please include Vice Chair McCurdy and Assemblywoman Hardy in those conversations as you move forward. We have a very small window so, hopefully, you will have many meetings within the next couple of hours and tomorrow.

I am going to close the hearing on Assembly Bill 369 and open the hearing on Assembly Bill 489, which requires the establishment of and funds a pilot program relating to federal grants.

Assembly Bill 489: Requires the establishment of and funds a pilot program relating to federal grants. (BDR S-1109)

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:

Joining me here at the table today is Mr. Miles Dickson. He is chief of staff with the Office of the State Treasurer. We are here to present Assembly Bill 489, which creates a matching grants pilot program to provide funds to state agencies, local government, and nonprofit organizations, and it requires the establishment of a pilot program and funds the pilot program relating to federal grants. During this past interim session, I had the pleasure to serve as the co-chair of the good governance subcommittee of the Southern Nevada Forum. For those of you who may not be aware, the Southern Nevada Forum was developed by a group of local legislators, the Las Vegas Metro Chamber of Commerce, business leaders, concerned citizens, and various other stakeholders. To determine regional priorities, the forum divides into committees. Those committees are transportation and infrastructure; economic development and workforce; good governance; education; and health care. These committees conduct the deep dive into their individual subject matters. They discuss, debate, and formulate a list of priorities to present to the entire forum membership to create a cohesive set of priorities for the regional meeting that is conducted prior to the legislative session.

The committee that I was co-chair of, the good governance committee, had three top priorities. The first was a grant-funding program to create a matching fund pool for bona fide grant opportunities and fund at least two additional staff positions in the southern Nevada field office of the Office of Grant Procurement, Coordination, and Management of the Department of Administration. The second priority was grant processes. We wanted administrative and/or legislative changes to streamline Nevada's process for the review and approval and/or denial of acceptance of gifts or grants and grant-related work plans. Our third priority was the compensation of state board seats.

Assembly Bill 489 addresses the first two priorities of that subcommittee. For far too long, Nevada has received a disproportionately low rate of federal grants on a total and per capita basis. The federal government offers numerous grants we could be accessing to improve the lives of our constituents. These grants could go towards things like building infrastructure, affordable housing, health care centers, work development, and other services. The major reason why we have not accessed these funds is our inability to provide a financial match or in-kind services. A state policy report published by federal funds information for states found that Nevada ranked fiftieth in the country for federal grants, not including Medicaid, in 2015.

Nevada is leaving a lot of money on the table. By making a modest investment in grant-match opportunities, we can leverage significant resources to invest in our communities. To make a concerted and direct effort to access these funds, this bill requests an investment of \$5 million. The appropriation will come from the State General Fund to provide targeted opportunities for state agencies, local government, and nonprofit organizations to seek grants of money for matching federal grants under the pilot program.

You have before you the original bill that came out of the Legislative Counsel Bureau, and also a conceptual amendment for this legislation ([Exhibit J](#)). We will briefly walk you through the current version of the bill. I will ask Mr. Dickson to take over from here.

Miles Dickson, Chief of Staff, Office of the State Treasurer:

To build out a bit on the process that Assemblywoman Monroe-Moreno alluded to: It has been a long conversation, as many of you probably know, about federal grants in the state of Nevada and some of the opportunities and challenges. This really came to the forefront in 2011 when the state first created an office for grant management procurement, a centralized grants office, which is referenced in the bill.

In 2015 the Legislature created a permanent advisory council called the Nevada Advisory Council on Federal Assistance, informally called the Nevada Grants Council. It was tasked with identifying the major barriers and opportunities relative to federal grants in the state. In the last two interim reports that the Nevada Grants Council provided, they referenced the issue of match funding multiple times. That is based on feedback that the council gathers from grant professionals both in state government as well as throughout the state in nonprofits and local government. This is an idea that has come up numerous times.

The importance of federal matching is essentially that many, if not most, federal grants, especially on the competitive side, require a state or another recipient organization such as a nonprofit to put some skin in the game, essentially to help pay for some share of the program. Those match requirements vary greatly. Often they can be as low as 20 percent and sometimes they are dollar for dollar, but more often they are somewhere on the lower end. This bill takes direct aim at that.

Before I get into the sections, I also want to add that the Nevada Grant Office does a lot of surveying, both on behalf of the Nevada Grants Council as well as outside of it. Last year

they did a survey and 25 percent of potential grant recipients reported very frequently or frequently passing on grants because of a lack of match funding. Two-thirds indicated that an available pot of matched funds would definitely or probably increase the number of federal grant applications they submitted. This is, in many ways, right in line with what folks are saying they need as a tool.

As a quick housekeeping note, you have a conceptual amendment, as the Assemblywoman mentioned ([Exhibit J](#)). There are a few major changes, not substantive, but frequent changes. I will flag those for you and then I will walk you through the substantive ones as we go through. The two nominal changes are, it expands eligible organizations from state government, local government, and nonprofits to include conservation districts as well as tribal governments. You also see a change throughout the bill that expands to allow philanthropic grants to be eligible for the match program. You will see that reflected throughout.

Section 1, subsection 1 [page 1, ([Exhibit J](#))] creates the match fund program for the purpose of providing grants to state agencies, local governments, nonprofit organizations, conservation districts, and tribal governments to satisfy match requirements.

One of the changes that we will work on right after this hearing is at section 1, subsection 2 [page 1]. We need to modify the language in the conceptual amendment to make sure that we are not holding up the Grant Office or any eligible recipients by first requiring approval from the Interim Finance Committee (IFC) of the Legislative Counsel Bureau. Initially, the bill was drafted to require the Office of the State Treasurer to review any grants at \$100,000 and above and essentially approve the Grant Office's recommendations for that. In conversations with the Assemblywoman, we discussed that it really is not in the purview of the Treasurer's Office to do this, and perhaps even more importantly, what we are trying to do is create processes that are streamlined for agencies, nonprofits, and local governments. Any grant that is not exempted out at *Nevada Revised Statutes* 353.335, essentially grants at \$150,000 and above governmental grants, need to come through IFC for approval for acceptance.

In section 1, subsection 2 we are proposing that rather than the Treasurer's Office being tasked with this, it actually be up to the IFC. We want to make one additional language change or two here. Rather than having language that says "must review and approve recommendations," we would like to modify that to "must review and authorize the transfer of funds." The reason is that at the very beginning of a federal grant process, a recipient/applicant has to provide match-fund proof. If we require a first review and approval from IFC before they can proceed with a federal grant application, the time line is going to be a little out of whack. As you can imagine, the feds do not always take Nevada's, or for that matter any state's, opinion on when to release grants and what the time line is, so we want to move the language here to allow IFC to have authorization oversight for the funds, not necessarily the early review. If we require early review, the program, frankly, will not work. I can unpack that more if you would like.

The one other thing is the last few words in the amendment of section 1, subsection 2 said "not exceeding." It should say "exceeding," and the difference here is that NRS 353.335 already has requirements for what sorts of grants or what grants at what thresholds have to come through IFC. We are trying to lock this pilot program to existing NRS law and process so we are not creating two different distinct pathways for federal grants. Subsection 2, in short, should mimic NRS 353.335, the existing process.

Moving into section 2, it tasks the Nevada Grant Office, which is housed in the Department of Administration and is responsible for providing grant coordination training and other assistance throughout the state, with developing and administering the program.

Section 3 directs which match fund awards should be prioritized; for example: grants that add services for Nevadans; grants that address the needs of underserved and rural Nevadans; grants that help recipients build capacity for future grant opportunities; and those that have a plan to sustain the grant in the next budget year.

Section 4 [page 2, ([Exhibit J](#))] establishes eligibility requirements for match grants. For example, a grant must demonstrate it is a bona fide grant opportunity and that the recipient was unable to use money in its current budget to satisfy a match requirement. Said another way, this is a program of last-resort funding, not first-resort funding. We are still encouraging agencies or nonprofits to exhaust the tools already in their toolkit to see if they can get a match, but for that, we would be able to provide through this match fund program. We want to really emphasize that piece.

Finally, we made a few additions based on input the Assemblywoman received in terms of eligibility requirements: (1) A requirement that the grant is competitive. Broadly speaking, there are two types of federal grants: there is formula-based aid and competitive-based aid. We wanted to hone in on competitive-based aid. It is often more likely to have some aspect of real, not maintenance-of-effort dollars, but match dollars; plus, it frankly is more related to helping people get working together on big projects that can change, whereas formula-based aid is more of a matter of whether you meet the criteria set up by Congress or the Administrator. (2) The other aspect is the grant will provide at least \$2 for every \$1 in state match. Notably, this will narrow the number of eligible recipients. But because Nevada is so far behind in its share of federal grants, we are not overly worried about being narrow here. We think there is going to be plenty of opportunity for grants that are 2:1 matches to come through the program.

Section 5 [page 2] has reporting requirements for the pilot program, which allow us to understand the program, how it is being used, what additional monies are being received, and ultimately how successful it is. To emphasize: this is a pilot program that allows the state to really understand if we have taken the right approach to address the issue that has often been reported and seems to be holding us back.

Section 6 is the appropriation of the \$5 million from the State General Fund. Sections 7 and 8 set expenditures and effective dates, respectively.

I will conclude. Thank you for the opportunity to be here.

Chair Flores:

Thank you both for the presentation. I know this is a conversation that has occurred in this Committee for many, many years. I appreciate the hard work that both of you are putting into this bill.

Assemblywoman Bilbray-Axelrod:

This is an issue that is near and dear to my heart. I have worked on these issues, in my past life, for several years. Thank you. I might have missed something with the bill being here and the amendment there, but one of the things that I have come across in my work with nonprofits is that many times these matching funds can be in-kind donations. Nonprofits are not recognizing that. I will talk to folks and they will say we have had our rent paid for the last two years and they are not using that to leverage those grants. Will the Office of the State Treasurer have that capacity to help folks recognize things that they are already getting? I think that could be an important component of what you are trying to do. There might be more money on the table than we are aware of.

Assemblywoman Monroe-Moreno:

With the amended language, we are taking it out of the Office of the State Treasurer and back to the Nevada Grant Office where it should have been. But yes, the in-kind donations are also included.

Miles Dickson:

To echo the Assemblywoman, we are moving the Treasurer's Office out of this space. I think the Grant Office can help agencies understand that one of the major functions of the Grant Office is helping train grant applicants as well as administrators. One of the great resources the Office can provide is working with local governments, nonprofits, and state agencies, as defined by statute, to help them understand what qualifies for in kind. Sitting right behind that answer is the fact that, unfortunately, Nevada has very little control over Congress' requirement or federal agencies' requirements of what is match, or what is in kind and what is not. We do not have a lot of control over the criterion and therefore, if the state is receiving a federal grant and sub grants down to nonprofits, it is not in our ability to shift most of that. I do think you and the organizations have a great resource in the Grant Office that can help people understand what is going to be eligible for in kind and what is not going to be.

Assemblyman Ellison:

Grant writers do have a place to bring in extra revenues. In 2015 we had several new members for the process, just to help different groups like this. Can you tell me where we are with the employees we put on then?

JoVon Sotak, Executive Grant Analyst, Office of Grant Procurement, Coordination, and Management, Department of Administration:

In 2015, I believe you are talking about the increase to the Grant Office of one staff member. Is that correct?

Assemblyman Ellison:

By the time the Governor was done giving the State of the State Address, I thought there were five or six new employees who went to three different areas. I thought they were all going to Las Vegas. Could we check into that and see where they are?

JoVon Sotak:

I am not sure what the recommendation was. In the Nevada Grant Office, which, as Mr. Dickson mentioned, was established in 2011, we were originally staffed with four people, and then we received one additional head count, and that is all here in Carson City. That additional head count came out of the 2017 Session. I am not too sure about the 2015 Session, but I can look into it. There is, sometimes, some confusion because there are several different grant offices which include the Office of Community Partnerships and Grants in the Department of Health and Human Services, which manages and coordinates their grant programs, and there are different grant professionals throughout the state. Our office is a centralized resource to support all agencies as well as local agencies and community organizations.

[Assemblywoman Monroe-Moreno submitted ([Exhibit K](#)), which was not referenced in testimony.]

Chair Flores:

Members, are there any other questions? [There were none.] Thank you all again. I appreciate all the hard work. I would like to invite all those wishing to be in support to please come up.

Helen Foley, representing Nevada Community Foundation:

Nevada Community Foundation (NCF) is one of the largest charitable foundations in the state and serves to connect philanthropic donors with nonprofit organizations that improve the quality of life and create opportunities for Nevadans. Since 2015, the NCF has been very actively supporting legislation to focus on improving Nevada's federal grant capacity and competitiveness. We thank Assemblywoman Monroe-Moreno for this bill.

As many of you know and as you have heard today, we are forty-ninth in receiving these grants. We have moved up from forty-ninth to forty-eighth. That sounds like a small amount, but if we could move up to forty-seventh sometime in the next biennium, it would mean \$250 million more that we would be receiving from the federal government than we do now. I cannot say that it would always be another \$250 million for each step that we took, but it is tremendous. Our sister state of Arizona decided to get very serious about this and put more money into training their different state agencies and local governments how to better apply for the grants, streamlining their processes of approvals of those grants, and

allowing some matching funds. They have been able to move up ten points. It could make a dramatic difference, not only to all of these nonprofits and local governments but for the state budget and what we could do for Nevadans if we could bring home more of those dollars that we pay in our taxes that other states are receiving instead of us.

We have a very robust group of members who have participated in the Nevada Grants Council, and I am very pleased that Mark Fiorentino is with us today representing Mr. John Ritter, who has been one of the leaders in that area. Also, Las Vegas Global Economic Alliance, the Las Vegas Metro Chamber of Commerce, the Council for a Better Nevada—have all been extremely involved in this—Southern Nevada Strong and The Lincy Institute as well, and several others. There is a commitment from the private sector to do this, and we certainly hope that the Legislature assists us with this effort.

Heidi S. Parker, Vice Chair, Alliance for Nevada Nonprofits; and Executive Director, Immunize Nevada:

Immunize Nevada is a statewide nonprofit immunization coalition founded in 1995 after the national multiyear measles epidemic in 1989. Since then we have grown from a volunteer-led organization to a staff of eight working statewide in offices in Las Vegas and Reno. In 2017 we were approached by Nevada Volunteers to consider applying for an AmeriCorps planning grant. Our familiarity with federal funding, our statewide program structure, and our work with rural Nevada counties made us a good fit for this program's focus areas. We received this grant in 2018 and we are halfway through the program planning process to establish ten AmeriCorps members across Nevada to be liaisons with public health immunization providers, schools, and parents in order to help students start child care or school on time and stay healthy throughout the year.

AmeriCorps grants require a 24 percent match minimum. This was a doable match for the small size of our planning grant. We were able to leverage existing grant funding to fulfill our portion, making it a win-win. Now that we are moving on to the operational funding application, the match has become a more difficult piece. In order to effectively run the program and include all necessary expenditures, our expected match has increased to as high as 44 percent, depending on how we ultimately decide to structure the program. This has put us in a challenging position to find additional match sources so we can implement a successful but also sustainable program. Not finding the full match amount would require us to decline funding of over \$116,000. At a time when federal public health funding continues to be at risk, being able to access non-Centers for Disease Control grant sources such as AmeriCorps helps us and other public health-focused organizations diversify our funding mix.

We appreciate the increased efforts of the Nevada Grant Office and the Southern Nevada Forum to support not only state agencies, but also local governments and nonprofits, by reducing and removing these barriers to federal grant funding. This proposed program is

a much-needed approach to ensuring Nevada is able to access and maximize funding opportunities that require the match, and we thank Assemblywoman Monroe-Moreno and the Committee for supporting organizations working in communities across the state to make Nevada a healthier and thriving state for everyone.

Jared Busker, Associate Director, Children's Advocacy Alliance:

To emphasize Ms. Parker's point, I was in AmeriCorps VISTA and I would not be here without that program. Anything that we can do for further funding of that program is essential.

In relation to this bill, the Children's Advocacy Alliance is in support of anything that we can do to maximize the amount of federal funds that we bring into the state. We believe that this is a first step that we need to make and that will help us better fund children and families.

Michael Hackett, representing Nevada Public Health Association:

We, too, are in support of this bill. Many of our member organizations are reliant to varying degrees on grant funding to carry out the mission and the objectives and programs that they conduct. We are very well aware of the challenges that the state has experienced in terms of being able to better leverage federal dollars that are out there. We are very supportive of this bill, and we appreciate the bill's sponsor for bringing it forward.

Mark H. Fiorentino, representing John Ritter, Chairman, Nevada Advisory Council on Federal Assistance:

I am here this morning on behalf of Mr. John Ritter. First, he sends his apologies that he was not able to testify in person. John is the chairman of the Nevada Advisory Council on Federal Assistance. That council was established by the Legislature in 2015. It is made up of a number of private sector folks, a couple of legislators, staff members from the Office of the Governor, and a member of the Office of the Attorney General staff. The council was set up specifically to study what other states are doing and to make recommendations on what Nevada could do better to be more competitive in securing federal grants. Since its inception, it has gone through the process of continuing to study and look at what other states have done and to make recommendations. This bill incorporates one of the recommendations of the council, so obviously John is asking you to support it. We understand that dollars are very tight and that the funding may be the most challenging part of this, but we would ask that, as you finalize your deliberations on this bill, you not only move it forward but—if at the end of the day in this session, the funding is not available to actually fund the program—that you should still establish the program. There is a lot of work, as you can see from the bill, in setting it up and getting the procedures set. We are here to support you in any way that we can in getting it done, and I would be happy to answer any questions that you may have.

Chair Flores:

I do not believe we have any questions for you.

Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce:

Without belaboring the point, we agree with Ms. Foley's comments earlier. We appreciate our involvement with Southern Nevada Forum and believe that this is a great avenue for us to maximize federal matching and funding capacity for the state. We are fully in support of this conceptual amendment.

Chair Flores:

Is there anyone wishing to speak in opposition of Assembly Bill 489? Seeing no one, is there anyone wishing to speak in the neutral position for Assembly Bill 489? Seeing no one, we are ready for any closing remarks, Assemblywoman.

Assemblywoman Monroe-Moreno:

Thank you so much for hearing the bill. As legislators, all of us have had one or more bills die because of the fiscal note that is put on that bill. We have a lot of good legislation in this building brought to us by stakeholders, by community members, and by organizations that, as the budget is looked at, we just cannot do. What A.B. 489 does is put another tool in our toolbox to help us address the needs that are brought to us as a community that we just cannot do within our state budget. I know that I am asking for a large amount of money. I may not get that, but as has been suggested, I ask that you consider moving this bill forward so that even if we do not get the funding that we need this session, we can at least establish the program to move forward and continue with this process.

Chair Flores:

Thank you, Assemblywoman, and thanks to all who have worked behind the scenes on the bill. It has been an ongoing conversation for many years. I am going to close the hearing on Assembly Bill 489. Members, as you know, Assembly Bill 489 was sponsored by this Committee; we have waived the 24-hour rule. It may be prudent that we move this.

ASSEMBLYMAN LEAVITT MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 489.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN SMITH WAS ABSENT FOR
THE VOTE.)

Assemblywoman Monroe-Moreno can have that floor statement.

I would like to invite anyone wishing to speak for public comment to please come forward.
Seeing no one for public comment, this meeting is adjourned [at 11:12 a.m.].

RESPECTFULLY SUBMITTED:

Geigy Stringer
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for Assembly Bill 257, dated April 10, 2019, presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is a proposed amendment to Assembly Bill 246, presented by Assemblyman Glen Leavitt, Assembly District No. 23.

[Exhibit E](#) is written testimony presented, dated April 10, 2019, by Emily Ku, Management Analyst, Nevada Commission on Minority Affairs, Department of Business and Industry, regarding Assembly Bill 246.

[Exhibit F](#) is a proposed amendment to Assembly Bill 369, presented by Assemblywoman Sandra Jauregui, Assembly District No. 41.

[Exhibit G](#) is a copy of a PowerPoint presentation titled "HOA Foreclosure Time Line," presented by Assemblywoman Sandra Jauregui, Assembly District No. 41.

[Exhibit H](#) is written testimony, dated April 10, 2019, submitted by Larry R. Hartman, Private Citizen, Las Vegas, Nevada, in opposition of Assembly Bill 369.

[Exhibit I](#) is written testimony, dated April 10, 2019, submitted by Michael Kosor, Private Citizen, Las Vegas, Nevada, in opposition of Assembly Bill 369.

[Exhibit J](#) is a proposed amendment to Assembly Bill 489, submitted and presented by Miles Dickson, Chief of Staff, Office of the State Treasurer.

[Exhibit K](#) is a document titled "The Federal Grant Competitiveness Project: Ensuring Nevada Receives its Fair Share of Federal Grant Funding | 2019 Legislative and Funding Priorities," submitted by Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1, in support of Assembly Bill 489.