

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

**Eighty-Second Session
March 6, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 1:31 p.m. on Monday, March 6, 2023, 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/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Elaine Marzola, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Shea Backus
Assemblyman Max Carter
Assemblywoman Bea Duran
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Daniele Monroe-Moreno
Assemblyman P.K. O'Neill
Assemblywoman Selena Torres
Assemblyman Steve Yeager
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Cyndi Latour, Committee Manager
Elizabeth Lepe, Committee Secretary
Garrett Kingen, Committee Assistant

Minutes ID: 390



OTHERS PRESENT:

Jamie Cogburn, representing Nevada Justice Association

Annette Magnus, Executive Director, Battle Born Progress

Adam Zarrin, representing Leukemia and Lymphoma Society

Kristina Kleist, representing Clark County Collection Service

Brian Reeder, representing Receivables Management Association International

Mike Randolph, Owner/Operator of HOA Collections LLC

Roberta Ohlinger-Johnson, Legislative Chair, Creditor's Rights Attorney Association
of Nevada

Donna Armenta, Secretary, Creditor Rights Attorneys Association of Nevada

Chair Marzola:

[Roll was called. Committee protocols were explained.] I will open the hearing on Assembly Bill 223. Assemblyman Carter, when you are ready.

Assembly Bill 223: Revises requirements relating to collection agencies. (BDR 54-755)

Assemblyman Max Carter, Assembly District No. 12:

I am here today to present Assembly Bill 223, which revises requirements relating to collection agencies. I am going to tell you how this came about. I was in a situation where I had to get a mortgage on a property just as recently as this past October. Come to find out, the finance agency—the lender—tells me I have medical debts on my record. Some of them dated back six years to when my wife passed away, and most of them were from that two-year period—in fact, all of them when honestly, I was not thinking, as she had taken care of everything. I worked diligently to clean them up, no doubt that they were mine. I ran into a lot of bad behavior with debt collection agencies. This is one that I decided was something that I could work on. There were three accounts with this one debt collection agency, and I paid them off to the tune of about \$1,500. I said, "Okay, I need a payoff letter," because I was going into escrow. I needed a payoff letter fairly quick so I could get it cleared up and put it in with the title company. The person on the other end of the phone says, "Well, it should be off your record in two to three months." I said, "Sir, I need a payoff letter." He goes, "Well, if you come into our office, we can provide one, but that will be \$10 each for each of the three accounts." Honestly, it was kind of a slap in the face that I was doing everything right and had paid them quite a sizable amount of money that had included interest and fees and everything else. It inflated the debt to about double what it was. And then they want an extra \$10, a surprise bill at the very end. What this bill is meant to do is require a payoff letter in a reasonable amount of time. To walk you through the bill, I have Jamie Cogburn here.

Jamie Cogburn, representing Nevada Justice Association:

The bill essentially has two parts. One, which is the first part, conveys that there needs to be a letter that says a debt was paid or what this debt is, and to provide that within a certain time frame. The second part is what happens if that letter is not provided. That is essentially the bill. If there are any questions, I can answer those.

Assemblywoman Jauregui:

I have two questions. Is there anywhere in statute where "collection agency" is defined? I want to make sure it is encompassing everyone since we have debt collectors which are official businesses. We know there are some that focus on HOA [homeowners' association] collections. And then, obviously, there are some that focus on medical collections. Would this include collection agencies within existing businesses, maybe an agency department? I want to make sure it is all-encompassing.

Jamie Cogburn:

Actually, I do not know the answer to that. Now that you brought it up, I believe they define "debt collectors" in the statute under *Nevada Revised Statutes* (NRS) Chapter 649. I would have to look to see if they define "collection agency." If not, it would be best to amend the language to define that. As to your point regarding internal collection agencies or internal collection departments, debt collectors are defined as external third-party companies that collect the debt for an original creditor in most circumstances. So, a debt collector would not cover that. But to your point, I think it is best if it covers third-party debt collection companies that are defined under NRS Chapter 649 and internal collection departments, such as a phone vendor or something like that.

Assemblywoman Jauregui:

I noticed that you have mentioned delivering a payoff in a reasonable amount of time, and the reasonable amount of time here is ten days. I have had to clean up statute in an HOA bill where they have to deliver resale packages. That was defined in statute as ten days, and it was interpreted to mean ten business days, which means if you request payoff on a Friday and Monday is a holiday, they do not start counting until Tuesday. Then you have lost Saturday, Sunday, and Monday. My only suggestion would possibly be to define days in here if you want them to be calendar days or business days.

Jamie Cogburn:

I think that is a great idea, Assemblywoman Jauregui.

Assemblyman Yeager:

In section 1, subsection 1, it talks about the day in which the debtor requests the payoff letter, and I wonder what your intent was with requests. How would the person make this request? Does it have to be in writing? Does it have to be notarized? Is it by phone? Is it by email? I just want to get your thoughts on what you meant and whether you intended that to be expansive or restrictive.

Jamie Cogburn:

The thought is for it to be more expansive, whether it is requested orally, such as you are talking to a debt collector, or you request it via email or written. That language can be cleared up and amended to make it clear. On those terms though, a payoff letter would need to be on a letterhead and not just an email. For example, I know sometimes a company can send an email that says that a debt has been paid. For purposes of someone trying to close escrow on a house—which is usually where this comes up—they are going to need

something on letterhead, especially with all the spam emails. I know that expands beyond your question, but thank you.

Assemblyman Yeager:

That does concern my second question. When you go to subsection 3, it talks about a payoff letter being a written communication. I certainly understand what you are saying. It has to be something on letterhead, but I suggest emailing that letter to the person. I know every company is different now, but it seems every organization I do business with is trying to get me to go paperless. I continue to say no and they continue to offer me incentives to go paperless. I feel there is this struggle every three months where they are asking if I mean to opt out of paperless, I tell them, yes, I mean to opt out of paperless. My concern is that I think we need to be clear. If we really want that to be a letter that is mailed, or if it can be prepared and then emailed electronically if the person opts into it, then we should put that in the bill. I think that might be good as well, just knowing how much people travel and often forget to change their addresses, particularly in a place like Nevada. Maybe this is not really a question, but a suggestion. I am trying to tighten up that language a little bit.

Jamie Cogburn:

I agree with you 100 percent. We will tighten that language up.

Assemblywoman Kasama:

I think this is a good bill. You should not have to struggle when you have proven and worked hard to pay off your debts, so I completely understand where this is going. My colleagues have asked the questions that I had as well. To reiterate, particularly with the definition of a collection agency, I think we want to make sure we do not address any in-house collections. For example, if it is the hospital calling and it is their own staff calling, we want to make sure that this does not roll over into that, and that it is truly a third-party collection company. Since you are working on clarifying some of this, I think that would be helpful if that was done as well.

Assemblyman O'Neill:

Assemblyman Carter, I am not sure you can answer these questions—but just in case you can—when you went back to that collection agency, you said that with the interest, you essentially pay double from what the initial debt was. I have to commend you on that, paying off your debts so seriously and not trying to fight it or ask for exceptions. It is highly commendable. Any idea what the profit was for that collection agency? And let me finish because they all sort of dovetail together. What is the profit they would be making on a percentage of the collection? You do not have to talk about you specifically, but do you have any idea what they normally make? Did they give an excuse why this was such a burden to them to get you a letter within a short amount of time? And how did they come up justifying, if they even did, \$10? Do you have any knowledge of that?

Assemblyman Carter:

I can answer some of those. For the fees, I found out afterward because another agency told me they could charge me anything they wished. I since found out, when I did this bill draft

request, that how much they are allowed to charge is covered in statute. That was done, I believe, four years ago. I am not sure of that amount right now. I probably paid them more than they were statutorily allowed to charge. I found that I was lied to. I do not know what their profit margin is. I know it was substantially higher than the initial bill was—about double.

Assemblyman O'Neill:

I would imagine that. I was curious if you knew because I know they usually buy the debt for around 50 percent of what is actually the loan amount. I was curious if that is still standard or what it may be. As my fellow Assemblywoman said, I like the bill. I think it has some appropriate protections in it. I thank you for it.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] I will now open testimony in support of Assembly Bill 223.

Annette Magnus, Executive Director, Battle Born Progress:

[Read from written testimony, [Exhibit C](#).] We are here today in support of A. B. 223 and thank Assemblyman Carter for bringing forward this important bill. We know that so many Nevadans have debt and they work hard to pay off that debt. Debt collectors should absolutely be required to provide proof that you have done so without additional fees or unnecessary time added on. This is a fairness issue. The more we can do to increase the amount of information Nevadans can get about their debts, the better. All Nevadans deserve a transparent, fair, and easy process when it comes to debt collection. Nevadans should not have to jump through so many hoops just to pay off their debts and get proof of it. Thank you, and please support this simple yet important piece of legislation.

Adam Zarrin, representing Leukemia and Lymphoma Society:

Our mission is to cure blood cancers and improve the quality of life of patients and their families. We are testifying in support of A. B. 223. A blood cancer diagnosis often brings extraordinary financial pressure during and after treatment. It can even happen when patients have insurance coverage. The patient will rack up insurance premiums, copays, coinsurance, travel, and other out-of-pocket costs. In the three years following a blood cancer diagnosis, a patient's costs can range anywhere from \$7,800 to \$9,127. These spendings never return to prediagnosis levels. This means that the burden of medical debt continues beyond diagnosis and treatment. According to the American Cancer Society Cancer Action Network, half of cancer patients have medical debt; half of those debt holders faced debt collections; another half delayed or avoided care for serious issues. Additionally, medical debt disproportionately impacts historically marginalized communities. African-American patients were more likely to have medical debt, and have that debt placed in collections. This pressure harms cancer patients and their families. Assembly Bill 223 takes the first steps toward addressing the harm caused to patients and their families. Although A. B. 223 is a good start, we encourage the Legislature to consider other actions; for example, limiting liens and wage garnishment. In fact, this past fall, Arizona passed these measures by a vote margin of 72 percent to 28 percent. Like A. B. 223, these are popular and pragmatic solutions to tackle medical debt

and protect individuals. We appreciate the Committee's time and consideration, and urge your support. Thank you.

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] We will move to opposition testimony. Is there anyone wishing to testify in opposition to Assembly Bill 223?

Kristina Kleist, representing Clark County Collection Service:

Today, we must oppose this bill as drafted. However, we have spoken with the sponsor and will continue to work with him regarding our concerns. Primarily, we do agree with some of the Committee's comments and believe there needs to be clarification in section 1 regarding the form of the payoff letter request so that a collection agency can adequately and appropriately respond to a payoff request. We believe this payoff letter needs to be in writing, preferably by mail, with as much detail about the account and contact information as possible. We would also like to propose that under the parameters of this bill, a customer should be limited to one payoff request per account per 180-day period. This is not meant to prohibit an individual from requesting payoff letters more frequently, but rather to prevent nefarious actors from circumventing the intent of the protections and rights in this bill. The objective of our recommendations is to add safeguards for both parties. With the inclusion of a private right of action, there needs to be a way for each party to know frivolous lawsuits cannot be filed, and to be able to present adequate evidence in their defense. As the lawyers among us know, documentary evidence is the most reliable. We appreciate the sponsor's willingness to work with us on this bill, its language, and your consideration of our recommendations. Thank you.

Brian Reeder, representing Receivables Management Association International:

The Receivables Management Association International is the association for debt buyers. I have a similar testimony; we are working with the bill sponsor to see if we can get some clarification on a couple of pieces of the bill. Thank you.

Mike Randolph, Owner/Operator of HOA Collections LLC:

I am certainly in a niche market. There are several reasons I have problems with this bill. One, in the homeowners' association collection industry, there are law firms, collection agencies, and management companies that record liens. However, this bill only strictly deals with collection agencies and not the other two parties who are entities trying to collect debt. Under NRS 116.3116, subsection 13, it says, "The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to NRS 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner." Under NRS Chapter 649, if someone feels they have been abused by a collection agency, they can go on the Nevada Division of Financial Institutions, Department of Business and Industry website, download the form called a verified complaint, file that with just the cost of a stamp to encourage the compliance department of the financial institutions to notify the

collection agency that we have a complaint, and then we have 10 days to respond by certified mail, under oath, that we have responded and dealt with the situation and not having homeowners have to find an attorney to get this. So, I can understand institutions where you are dealing with retail collections or medical collections, however—

Chair Marzola:

Sir, I need you to wrap up your testimony, please. Your time has ended.

Mike Randolph:

Thank you.

Roberta Ohlinger-Johnson, Legislative Chair, Creditor Rights Attorneys Association of Nevada:

I am the legislative chair for the Creditor Rights Attorneys Association of Nevada, an industry group of attorneys who represent creditors from Main Street to Wall Street. We practice before all courts in the state of Nevada. I speak in opposition to A. B. 223 as drafted. We have spoken with the sponsor and offered an amendment, but we are not there yet. My first concern with the bill is, I believe that as drafted, it is overbroad to the harm that was described today. This bill as drafted would apply to all phases of collections, except it would not address anything with in-house collections. There is a difference between first-party and third-party collections as was pointed out. *Nevada Revised Statutes* Chapter 649 and federal law only govern third-party collections, and this bill would only reach third-party collections. Third-party collectors are already required under the Fair Debt Collection Practices Act (FDCPA) to send a dunning letter within five days of their first contact with the consumer. I have provided the Consumer Financial Protection Bureau's (CFPB) model letter [testimony was not provided] that we would send out under Regulation F, which is our federal governing regulation that prescribes that. That is required; it is not optional. We can be sued under class action if we do not do that. The letter must state, among other requirements, the exact amount due. If the sponsor's experience was with the collection agency at the beginning of the process—this bill is broadly drafted, so we would cover all phases of the process—he would know the exact amount being claimed due. The form provided by the CFPB even has a check box for the payment—

Chair Marzola:

Ma'am, your two minutes have expired. Can you close out your statement, please?

Roberta Ohlinger-Johnson:

Yes, thank you. In short, we are concerned that this bill would not only duplicate requirements at the federal level, but it would also become a provision for nuisance lawsuits.

Donna Armenta, Secretary, Creditor Rights Attorneys Association of Nevada:

I am going to pick up where Roberta, who just spoke, left off. Our opposition is to the lawsuit portion of this bill. We completely agree as to payoff letters and see the necessity to have a payoff request, but we do not think a lawsuit—where he would seek declaratory judgment where a consumer would then get a judgment against themselves for the amount

that they owe on the debt—helps the consumer when they can file a complaint internally through the Division of Financial Institutions (FID). The Financial Institutions Division is the one that regulates under NRS Chapter 649. That is who gives the licenses and does the regulations. A lawsuit itself would have to be brought in district court by the person seeking declaratory relief. They would not be allowed to go to small claims or justice court; they would have to go to district court to seek declaratory relief, which starts at a cost of \$250. A person would then have to serve that upon the collection agency within 120 days and pay a private process server to do that, and then file a motion with the court and attend hearings. Or, this could all be done quickly and processed quickly through the Financial Institutions Division with a stamp and mailing it to the Division.

We have presented an amendment to the bill sponsor [testimony was not provided] where this would be a payoff request and would be an administrative process that the debtor consumer could proceed through the FID, who licensed the collection agency. It would cost them nothing but the cost of a stamp. It would be faster than filing a lawsuit, which could irritate the courts with no damages. Recently, federal courts have backed out and have actually required to push back the saying lawsuits require actual damages—

Chair Marzola:

Ma'am, your two minutes are up. Can you please wrap up your testimony?

Donna Armenta:

We would ask that the Committee consider our amendment [testimony was not provided] as it would be better for the consumer to be able to proceed with the demand payoff request through an administrative process instead of a lawsuit.

Chair Marzola:

Is there anyone else wishing to give testimony in opposition for Assembly Bill 223? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Assemblyman Carter, would you like to give some closing remarks?

Assemblyman Carter:

I just want to say thank you to the Committee and everyone who participated in this hearing for the productive discussion.

Chair Marzola:

I will now close the hearing on Assembly Bill 223. I will now open up for public comment.
[There was none.] This meeting is adjourned [at 2:01 p.m.].

RESPECTFULLY SUBMITTED:

Elizabeth Lepe
Committee Secretary

APPROVED BY:

Assemblywoman Elaine Marzola, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony, dated March 6, 2023, presented and submitted by Annette Magnus, representing Battle Born Progress, in support of Assembly Bill 223.