MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Eighty-second Session
May 3, 2023

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:02 a.m. on Wednesday, May 3, 2023, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Roberta Lange, Vice Chair
Senator Melanie Scheible
Senator Skip Daly
Senator Julie Pazina
Senator Scott Hammond
Senator Carrie A. Buck
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Assemblywoman Tracy Brown-May, Assembly District No. 42
Assemblywoman Heidi Kasama, Assembly District No. 2

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Bryan Fernley, Counsel
Veda Wooley, Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Shawn Azam
Jamie Cogburn, Nevada Justice Association
Jenny Drago

Lea Case, American Property Casualty Insurance Association
Jesse Wadhams, Nevada Insurance Council
Sylvia Smith-Turk, Stewart Title; Nevada Land Title Association
Tiffany Banks, Nevada Realtors Association
Chelsea Capurro, Zillow
Shawnyne Garren, Douglas County Recorder; Recorders Association of Nevada
Paul Moradkhan, Vegas Chamber
Sharath Chandra, Administrator, Real Estate Division, Nevada Department of Business and Industry

CHAIR SPEARMAN:
I will open the hearing on Assembly Bill (A.B.) 334.

ASSEMBLY BILL 334 (1st Reprint): Revises provisions relating to insurance for motor vehicles. (BDR 57-949)

ASSEMBLYWOMAN TRACY BROWN-MAY (Assembly District No. 42):
I appreciate the opportunity to present A.B. 334. This measure helps to protect automobile insurance consumers by setting stringent deadlines. We also have a proposed amendment (Exhibit C).

SHAWN AZAM:
I am a small business owner in the heart of Las Vegas. My family and I run two automotive collision repair facilities and have been operating in Nevada since 2011. Last year was the hardest we have ever experienced for our family, our businesses, our customers and for the industry as a whole.

I am presenting A.B. 334 today on behalf of almost 50 of our customers who have felt lied to, deceived and ignored by their own insurance companies, which were supposed to represent them, protect them and have their best interests in mind. Over the past six months, our customers and our business have submitted close to 50 complaints to the Division of Insurance (DOI), Nevada Department of Business and Industry, against insurers for unfair claims handling and delays on claims. Some of these customers have been waiting for up to two months for the insurance company just to have an employee come out and take a look at their vehicles.

Unfortunately, this has become a more common practice that hurts everyone in the industry. Our businesses are left in limbo, unable to move forward with

repairs. Consumers are left paying for rental cars and trying to figure out how to get back to their normal lives. Insurance adjusters are left overworked and stressed.

This bill brings Nevada consumer protections that other states have already mandated. It allows insurance companies a maximum of six days to inspect a vehicle once a claim has been submitted and two days after that to provide an estimate, once liability and coverage have been determined. It also allows customers to proceed with proper repairs if the insurance company delays longer than eight days in total.

I would like to share with you the experience one of our customers had last year. Imagine you are a single mother of two. You work hard every day to support your family and put food on the table. One day you are driving home from picking up your child at school, when suddenly a piece of debris comes into your lane. You strike it and pray for your family's safety. You pull to the side of the road only to find out that your undercarriage is damaged such that your car is leaking coolant and requires to be towed into a shop. You contact your insurance company and are advised to take the vehicle to the shop on October 12, 2022. You give a sigh of relief, knowing that you have been paying the same insurance company for ten years and have full coverage, even rental coverage. You rent a car and drive home, doing the best you can to keep your family in good spirits.

Over the course of the next few weeks, you get updates from the shop stating that it has disassembled your vehicle and sent the photos and repair estimate to your insurance company to review. However, it has not heard anything from the insurance company other than excuses. One month after the accident, the car rental company calls to say your insurance will no longer cover your rental car, since almost all policies cover a maximum of 30 days rental. Renting a car costs about $45 a day, which is $1,350 a month, which is more than you pay in rent.

Thinking of how you will get your kids to school, you anxiously start calling the repair shop, the insurance company and anyone else you can think of. The shop advises you that it is still waiting on the insurance company and has made numerous attempts to get an adjuster to come inspect the damage to your car. The repair totals $13,000, and you do not have enough money to fix your car on your own. So you wait. You borrow cars, you ask for rides, you ration your kids' food and you wait.

On December 13, 2022, two months after the accident, you receive a call from the shop that an adjuster has just arrived to review the damage to your car and approve the $13,000 needed to repair it. The next day, the shop tells you it has received paperwork for a mere $7,000, about half of what is needed and not even close to what was gone over in person.

There are delays after delays. Finally, on February 6, 2023, three months after the accident and the initial contact with the insurance company, after emails, phone calls and complaints, the shop finally calls to say it has received the full amount needed to fix your car, and it proceeds to order parts. Ten days later, you finally have your car back. After three months of sleepless nights, worry and stress, it only took ten days to repair your car. What did the insurance company do next? It said it was sorry. It did not offer to pay for three months of car rental.

Unfortunately, this is just one of the almost 50 complaints provided to the DOI. It is time to say no to improper claims handling, say no to families paying for the insurance companies' delays. This bill is a large step in the right direction and will help to stop the bad actors from delaying claims while protecting our consumers.

ASSEMBLYWOMAN BROWN-MAY:
As we started to research this issue, I reached out to the DOI and was informed that it received 308 complaints of delayed car repairs in 2021 and 449 complaints in 2022. Delay of car repair is a pervasive issue in Nevada. There is nothing in statute establishing how long insurance companies have to respond to claims.

The amendment in Exhibit C is the result of much negotiation with the interested parties to identify a fair time frame for businesses providing the service to respond to the consumer. This is clearly a consumer protection issue. We successfully negotiated six business days for the initial response from the time a claim is filed and liability is accepted by the insurance company, and two business days following that for the company to respond to the estimate for repair. That means the insurance company has eight business days total to respond once it has accepted liability of your claim.

SENATOR STONE:
In your research, did you find that these delay complaints were triggered by one or two different companies, or are you seeing a vast array of companies that are doing this?

ASSEMBLYWOMAN BROWN-MAY:
There are only a couple of bad actors in this field. I have never personally had an issue with this. I have reputable insurance companies. One thing we have seen is that the insurance companies that charge less have a tendency to do less. I do not want to call them out by name because there are some good adjusters out there. However, this problem is not widespread throughout the industry.

SENATOR STONE:
Have any of the problem companies used the excuse that there are material shortages? We have seen material shortages in many different industries as a result of the COVID-19 pandemic.

ASSEMBLYWOMAN BROWN-MAY:
No, we have not heard that excuse. To the best of my knowledge, the problem is simply that no adjuster is available. The most frequent excuse is staffing shortages.

It is important to point out that this bill does not require an adjuster to physically appear to inspect the vehicle. Many insurance companies now have applications that allow the customer to take a photo of the vehicle with their phone and file a claim using the app. The company can then respond to your claim using the same app. This will help them expedite the process.

SENATOR PAZINA:
Do other states have laws like this? If so, could you name a few with legislation similar to this in place?

ASSEMBLYWOMAN BROWN-MAY:
We looked at other states to find good examples. Both New York and California allow six days, as do several other states across the Country. That seemed reasonable, so that is what we asked for.

CHAIR SPEARMAN:
I wish you had been here when we heard the home warranty bill because it sounds similar.

Do we have a representative from the DOI here? I would like to ask them if this is a theme in the insurance industry today. If it is, perhaps we need to look at creating some type of umbrella, so people do not have to wait 18 months to get a first response.

ASSEMBLYWOMAN BROWN-MAY:
I did not see anyone from the DOI here today, but we are happy to follow up on that because I agree with you. This does indeed seem to be a common theme.

JAMIE COGBURN (Nevada Justice Association):
We are in support of A.B. 334, which is a great bill. I have had personal experience with this issue recently. About a week and a half ago, my car was hit in a parking lot. I was able to drive it home, but I have yet to hear from my insurance company regarding claim adjustment and scheduled repair. This is a common experience.

We represent many injured people. The first thing they are concerned about is their health and their car because they have to get to work. We have somebody dedicated to this issue in our office. All they do is call adjuster after adjuster saying, "Hey, we just need to get the repairs approved so the car can be fixed and our client can get back to a normal life."

We support this bill and ask you to do the same.

JENNY DRAGO:
I am a consumer in Las Vegas. I have had problems with getting my claim approved so my car can be repaired. It was a simple bumper job that should have taken no more than a week, but I was without my car for a month waiting on the insurance company. I had to pay for a rental car out of my own pocket, and the insurance company does not want to do anything about it. I thought I had a good reputable insurance company, but I am finding that it is not. It is extremely stressful to be without a car when you have children you have to take to and fro. Something has to be done about this. It is hurting too many people.

LEA CASE (American Property Casualty Insurance Association):
We want to thank the sponsor for continuing to work with us on this bill. While we cannot speak to the specific case mentioned by Mr. Azam, we encourage our members to do their best to get these claims out the door as quickly as possible. That is in our best interest, as well as the best interest of the customer.

We are still looking at the time lines and feel that eight days is not quite enough time. Strict time lines do not take into account any of the multiple issues that can come up when trying to get these claims adjusted properly. In addition, Exhibit C touches on the manner of repair, and that is the purview of the repair company, not the insurer. It is not something the insurer has control over.

We thank you for your time and will continue to work with the bill sponsor.

JESSE WADHAMS (Nevada Insurance Council):
We thank Assemblywoman Brown-May for her consideration of the comments we have made so far, but we continue to have concerns about some of the language in A.B. 334. There are some latent ambiguities with regard to the "manner of repair" language, and eight days is a relatively short time frame.

I would also note that the bill focuses on only one side of a two-sided equation. The insurance companies are highly regulated in Nevada. We have prompt pay statutes, and we have trade practice laws.

We have committed to work with the Assemblywoman and the proponents on getting to a solution that works for everyone.

CHAIR SPEARMAN:
Who is responsible for the charges that rack up when a claim is not being handled by the insurance company? As we heard, it is not the consumer who is promulgating the delays. Do consumers have any options other than walking away and letting their credit go into the toilet?

MR. WADHAMS:
The issue of who pays is between the insurer and the insured. The issue in this bill is not so much the payments as it is the time frame. I believe most of our regulated entities are trying to inspect and get these things processed as soon as possible. They do not want these cases to linger and run up costs.

CHAIR SPEARMAN:
I am asking because the insured is expecting prompt service, and the extra charges are caused by the delay, which is the fault of the insurer. If I am three days late paying my premium, my insurance is likely to be canceled. But if my insurer is a month and a half late approving the repair of my insured car, I have to pay all the bills with no recourse. That is the problem the bill is trying to fix.

MR. WADHAMS:
Unfortunately, A.B. 334 could set up even more delays. For example, section 1, subsection 4 of the bill says if the inspection of the vehicle cannot occur for some reason, the insurer is now restricted in its ability to negotiate payments and processes. There is no sort of corresponding obligation put on the repair shop. I would not say that this happens, but it could potentially set up a gamesmanship situation in which the shop hides the vehicle.

CHAIR SPEARMAN:
Are you saying the bill sets up the opportunity for people to be less responsive?

MR. WADHAMS:
I do not think I quite put it that way. There are always language issues.

CHAIR SPEARMAN:
You said gamesmanship. I am trying to understand. The insurers may be doing the best they can, but there are still bad actors. This bill is not designed for the good companies that are doing the right thing, but to catch the bad actors who are not doing the best they can, the ones that are not consumer-friendly.

You said this bill could make things worse. How?

MR. WADHAMS:
Let me start with the premise that we agree with you. No one wants to defend the bad operators and say that delays are beneficial to the consumer. That is not the issue at all. All I am saying is that if you look at the language in subsection 4, unless the repair facility makes the vehicle available, the insurer becomes limited to certain points. They can only talk about the labor and price of the parts. There are potential problems, but I am not saying someone would do these things. We have worked with the Assemblywoman, and we have all tried to work in good faith to ensure that the consumer is protected.

CHAIR SPEARMAN:
I am still puzzled. I understand the language, but insurance companies usually have attorneys on retainer, and consumers usually do not. The consumers are just trying to get their cars so they can go back to work and get on with their lives. The language is designed to make sure that there are no loopholes. Correct me if I am wrong, but the language is designed to make sure that the good people are still able to do what they should do while stopping the bad actors. I am trying to see how the language will create more delays.

MR. WADHAMS:
The language can be always tightened up. We do not have some philosophical disagreement with the point you are trying to make. It is simply that the language can be better refined

CHAIR SPEARMAN:
I understand that, but you said that if this bill were to go through, it would exacerbate an already bad situation. I am trying to understand how making sure people are required to do the right thing would exacerbate the situation.

MR. WADHAMS:
It sets up a potential for conflict between lawyers as to the meaning of subsection 4. We are trying to tighten up the language because we do not disagree as to where we want to go.

SENATOR STONE:
I am going to follow up as well. This is a consumer protection product. An automobile is a necessary piece of infrastructure for people today. We do not live in New York City where you can just jump on a subway and go to work. When people lose their cars, they need to get them fixed quickly. This bill basically allows six days, after which the insurer corresponds with the repair shop and says, "Okay, you didn't take a picture of the left fender; just take another picture and send it to us." The process has gotten automated today. Insurance adjusters have codes for every piece of a car that needs to be fixed and a formula for the cost of the labor.

Do you believe that the eight days is enough to get an appropriate response so that the automobiles can be appropriately repaired? If not, what is missing from this bill that would allow an insurance company to expeditiously provide the service consumers are paying for?

MR. WADHAMS:
Industry members seem to think that eight days might be too limited. I cannot say what time the industry might settle on.

We do appreciate the chance to start to modernize the industry. You will see language in Exhibit C regarding digital inspections, for example.

SENATOR STONE:
I appreciate that response. To me, it seems like eight days is plenty of time to be able to review something and come up with a logical reason as to why it can be accomplished or not. It seems to me that the insurance companies should pay for the costs of delay. That should be nonnegotiable. There needs to be some accountability. That is what the Assemblywoman is trying to achieve here, and it is a good idea to have that accountability.

You mentioned that there are just a handful of companies that are not providing the service customers need. It might be that their premiums are lower because they do not hire enough staff. But customers should be able to expect a certain level of service so they can continue to go to work and feed their families. I hope you will continue to work with the sponsor. I tend to think she has a good point, unless you can tell me why eight days is not enough, and I have not heard a good reason yet. My aunt worked for the American Automobile Association for 40 years as an adjustor. I chatted with her last night, and she said, "We get back to the customer in 36 to 40 hours, and we never have any problems."

MS. CASE:
Thank you for your comments. The strict time line is an issue in some cases, especially as our cars become more technologically advanced. You mentioned the left fender photo that may not have been taken correctly. It could be that when you take the left fender off, the electrical system behind it also needs repair. That means the estimate you gave for repair is now completely wrong. Eight days does not allow for any of those different issues that might come up as our cars become more technologically advanced.

SENATOR STONE:
I appreciate that response. But I also know that part of that advanced computer technology is self-diagnostics, where you can insert a plug and find out everything wrong with that engine. It will tell you that the odometer is not

working because the left tire and axle were damaged. The technology works in both directions. I am not trying to be argumentative; I just think the Assemblywoman has a great idea for accountability. I look forward to your continued negotiations with her to protect the consumer.

CHAIR SPEARMAN:
You bring up a good point. A good business plan means you are updating it all the time. When a grocery store has a spill, the manager has a plan to deal with it that was developed before the store opened its doors for the first time: put down warning signs and get out the mop.

Like my colleague, I am not trying to be argumentative. Eight days may be a short time for an insurer but imagine how long it is for someone whose car is the only means of transportation. For the insured customer, two days is a lot, and eight days is an eternity to wait to hear from an insurance company that will only pay for a rental car for a month. I do not know anyone who could do without a car for eight days. I do not know all the particulars about the case presented today. But it seems to me that someone who is in business to do business and who wants to stay in business will plan for these things. They do not happen all the time, but they do happen, and they are no one's fault.

Let me just make a suggestion, and I will leave this alone. Perhaps the small insurance companies should partner with some of the larger companies. Maybe one of the insurance companies that is doing things right could put on a seminar with the others to show them how it is done. My truck was hit when I was not in it, and because the other person reported it via text, my insurance company contacted me within 12 hours. Because I was in the service, I have a really good insurance company. These are the kinds of companies that the people who cannot figure it out ought to be going to and saying, "Help me get better."

I am asking you to go back to the people you represent and ask them to walk in the shoes of their customers for a while and then see if they can do a little better by them.

ASSEMBLYWOMAN BROWN-MAY:
I would like to clarify a couple of points. The time frame in the bill is eight working days, not eight calendar days. In addition, there is a second response time written into the bill. If a vehicle is dismantled and additional repairs are identified at that point, the clock starts again with a supplemental

repair. That puts us at 16 days. There can then be multiple supplemental requests for repairs as the car is dismantled if additional repairs or damages are identified and new repairs are necessary. The clock starts over again every time we have a new request.

The process we are trying to limit starts when a claim is submitted to the insurance company. The insurance company determines that the customer has a policy that covers the damaged vehicle and accepts liability, and then it puts the estimate together for repair. The eight days does not include the completion of repairs. That can take a lot longer because often parts have to be ordered. It is eight days just for the insurance company to tell the repair shop to begin repairs.

I filed this bill at the start of Session. We identified hundreds of complaints in Nevada through the DOI. I immediately reached out to the interested parties in the first weeks of Session to say, "I am going to have a bill about car insurance repair delays, and I would like to know what is standard business practice. What does an insurance company typically do that we can build a bill around?" My intention was never to attack the good actors, the people who are there supporting our constituents, but just to add in a time frame for the people who are not responding.

As of last night, I believed there was no opposition to this bill. This morning, I find we do have opposition. We are now 84 or so days into the Session, and we still do not have a time frame for auto insurance repair responses. Unfortunately, I think that speaks to the issue at hand.

I would encourage your consideration and support of A.B. 334. Eight days is a reasonable amount of time. California allows six days; New York only allows two days. We gave Nevada companies eight days, and we feel confident that it is time to protect our consumers.

MR. AZAM:
I would like to respond to some of the comments we have heard. I have in front of me responses from one of the top three insurers in Nevada. We have said that the bad actors are often small insurance companies, but unfortunately sometimes the larger companies get into trouble in this way too. In both of these incidents, the repair shop sent the insurance company an estimate of the cost of repairs on June 21, 2022. In both cases, the insurance company replied

that it would be completed by July 18. In other words, one of the top three insurance companies planned to take a full month to complete an in-person assessment of the damage.

CHAIR SPEARMAN:
I will close the hearing on A.B. 334 and open the hearing on A.B. 392.

ASSEMBLY BILL 392 (1st Reprint): Makes various changes relating to property. (BDR 10-209)

ASSEMBLYWOMAN HEIDI KASAMA (Assembly District No. 2):
Thank you for allowing us to present A.B. 392. Before I begin, I want to point out that section 1 of the bill has to do with deceptive trade practices regarding 40-year listing agreements. Section 2 of the bill is entirely unrelated to section 1 and has to do with cleanup language needed in *Nevada Revised Statutes* (NRS) 645. Both sections of the bill make changes to NRS 645, but they are otherwise completely unrelated.

As many of you know, I have been an office manager for the Summerlin office of Berkshire Hathaway HomeServices Nevada Properties. Being in real estate is almost like being an elected official: every day is a surprise as to what awaits you. There is never a dull moment, as we know.

Last year, our corporate broker brought to my attention that we had unusual liens showing up against properties we had listed for sale. When escrow was opened with the title company on properties we were selling, the title company discovered liens from MV Realty with a 40-year listing agreement. That type of lien is binding on the heirs and the estate. Imagine your kids discovering a lien like this maybe 30 years from now. In our case, when we asked the owners about these liens, they told us they had no idea where the liens came from.

What MV Realty does is advertise on the Internet that it will do a comparative market analysis on your property and pay you $500 to $1,000. In exchange, you agree to allow it to list your property when you sell it, even if that does not happen for 40 years. When you are ready to close on the property, the title company will contact MV Realty to get a lien release, for which it charges a commission of 3 percent. The company has not done any of the work to sell the house, and it has not been communicating with the owner.

The paperwork is expertly drawn up. It does say it is a 40-year listing agreement, but that is not clear in any of the advertising. The company is preying on owners who are looking for quick cash, and it is a deceptive trade practice.

Section 1 of A.B. 392 is intended to stop this egregious deceptive trade practice. In Florida, the Office of the Attorney General (AG) is suing this company, and other states have begun to pass bills like this or file lawsuits against the company. I reported this to Nevada's AG last summer. I also introduced this bill because I wanted to get it in statute and stop this practice.

SYLVIA SMITH-TURK (Stewart Title; Nevada Land Title Association):
I co-chair the State Legislative/Regulatory Action Committee for the American Land Title Association. I would like to thank Assemblywoman Kasama for bringing our portion of this bill to the Committee. I will be addressing section 1 of A.B. 392 only.

We refer to the type of lien Assemblywoman Kasama described as a nontitle recorded agreement for personal service (NTRAPS). We find the acronym fitting for this.

These NTRAPS are recorded in the property record. They consist of an agreement to provide a future service in exchange for a small upfront monetary fee that is paid to the owner when they sign these agreements. These are strictly personal service agreements; however, they are recorded even though they technically should not be and do not constitute interest in the real property.

The agreement calls for the homeowner to list with the company. If the homeowner does not list with the company, whether the homeowner sells the house personally, lists with a different company or loses the house to foreclosure, the homeowner is indebted to pay a 3 percent commission to the company. This commission is calculated based on the value of the property at the time the owner signed the agreement.

As Assemblywoman Kasama indicated, it often happens that the people who have acquired title have no idea this agreement exists. They are not the ones who signed it, and they do not know anything about it until they try to sell the property. Over 800 of these agreements are currently on record in Nevada. The bulk of them are in Clark County, but there are a lot of them in Washoe County

and some of the rural counties—Elko, Humboldt, Pershing, Douglas. They are pretty much spread throughout Nevada.

Let me give you a couple of real-life stories. Our company closed the sale transaction for a seller. He bought the property in 2013. He went through a divorce and refinanced in 2021, then signed an NTRAPS agreement in 2022, for which he was paid approximately $1,300. He sold the property to an investor in 2023. He was in trouble financially, and the property was in foreclosure, so it was never listed. When we reached out to get the demand on the agreement, the company demanded $16,000 to release that lien, and unfortunately, he had to pay.

In another situation, the owners of a property wanted to refinance because they were in financial distress and facing foreclosure. The agreement with MV Realty said the company would subordinate or give up its place for a new loan. However, the lending company demanded the lien be paid in full because it did not like the fact that the property would be encumbered. The owners had no choice because they had to get the new loan. In the end, they had to pay MV Realty $25,000. Again, MV Realty did nothing to earn that money.

These are just two examples of the issues these agreements can create. They create hurdles and costly clouds on the title to the property. Our industry is also concerned about being able to obtain releases in the future if we are unable to find these companies. That situation will require a court action called a quiet title action for the lien to be removed at the homeowner's expense. It can cost thousands of dollars and delay things anywhere from six months to a year.

This bill was written to prevent future agreements of this type and to deem them void and unenforceable. Any previous or already recorded agreements will be required to record a notice clearly indicating the agreement, the amount due, the expiration date and clear contact information. If that notice is not recorded, it will be considered void and unenforceable.

Similar bills have passed in other states. Currently, Utah, Georgia, North Dakota and Idaho have passed bills. As Assemblywoman Kasama indicated, several AG's offices have filed lawsuits, including Florida, Massachusetts, Pennsylvania and North Carolina.

This section of the bill was modeled after the private transfer fee legislation passed in 2011. We have met with Nevada's AG and will follow up on this issue.

ASSEMBLYWOMAN KASAMA:
I would like to turn over the presentation now to Tiffany Banks, who is general counsel for the Nevada Realtors Association. She will go over section 2 of the bill.

TIFFANY BANKS (Nevada Realtors Association):
We are happy to be here today alongside Assemblywoman Kasama to explain sections 2 and 3 of A.B. 392. Section 1 of this bill has our full support.

Section 2 sets forth certain duties of a person who acts as a property manager while performing his or her duties pursuant to a property management agreement. A property management agreement is a legally binding contract between a client and a broker in which the broker agrees to accept valuable consideration from a client or another person for providing property management for that client. Property management means the physical administrative or financial maintenance and management of real property or the supervision of such activities for a fee, commission or other compensation pursuant to the property management agreement. It is important to note that in order to hold a property management permit, you have to be a Nevada real estate licensee.

The intent of this bill and the language provided is to clarify the relationship between a property manager and owner. It is not intended to set forth duties creating a separate license for property managers.

The language contained in section 2 closely mirrors the language already in existence under NRS 645.252 to set forth duties of a licensee acting as an agent in a real estate transaction. Where this differs is that it expands and clarifies those duties specific to a property manager, such as accounting for all money the property manager receives. Existing law already sets forth actions that may be taken if unlicensed property management activities are conducted that require a license, so that is not discussed here.

Section 3 is a straightforward change, revising the definition of the term "agency" to include a relationship arising out of a property management agreement.

The Nevada Realtors Association is committed to working with Assemblywoman Kasama on legislation that protects consumers while clarifying the responsibilities of those engaging in property management in Nevada.

CHAIR SPEARMAN:
How old were the property owners in the two cases you gave? I ask because we have statutes that protect seniors in cases of deceptive trade practices.

MS. SMITH-TURK:
The gentleman who paid $16,000 was in his early 40s. I do not know the age of the other owners.

CHAIR SPEARMAN:
Is MV Realty an actual real estate company, or is it someone trying to get away with something?

ASSEMBLYWOMAN KASAMA:
They are an actual real estate company. I believe they started in New Jersey.

SENATOR STONE:
Thank you for enlightening us on this sham and scam. This is a form of extortion. Is MV Realty licensed in Nevada?

ASSEMBLYWOMAN KASAMA:
I do not know. I know they were licensed in New Jersey, but I do not know if they are licensed anywhere else. They started on the East Coast and moved west. I was shocked when we started understanding what was going on.

SENATOR STONE:
Do not you need a cooperative agreement if you are an out-of-state broker and your broker is selling a piece of property here?

ASSEMBLYWOMAN KASAMA:
They are simply entering into an agreement regarding a listing.

SENATOR STONE:
Do you not still have to be licensed in Nevada to consummate that listing?

ASSEMBLYWOMAN KASAMA:
You are correct. If you want to list a property and so on, you need to be licensed. However, they were not listing it or marketing it. They were only putting a lien on the property.

SENATOR STONE:
It is disturbing to hear that situations like this exist. I appreciate you bringing this forward and helping people who, through no fault of their own, tried to sign up for a service and inadvertently signed their rights away.

SENATOR PAZINA:
I agree with my colleagues. It is horrifying that Nevadans are getting caught up in these agreements.

My question is twofold. First, how many people in Nevada would you say are currently trapped in these agreements? Second, how would they know if they are?

ASSEMBLYWOMAN KASAMA:
As Ms. Smith-Turk testified, they did a title search and found about 800 people in Nevada in this situation. Most of them do not know it and will not until they try to sell the property or refinance. When they pass away, their heirs will find out as soon as they try to sell the property.

SENATOR PAZINA:
Is there a way people can determine if they are caught up in this?

MS. SMITH-TURK:
Property owners can contact their favorite title company, and as a free service, we will do what we call a property profile. In order for such an agreement to exist, the owner must at some point have been contacted by MV Realty, signed the agreement and received payment. The owner may not have understood the exact agreement being signed. It might not have been MV Realty; Orion was another company we found in Las Vegas doing this.

SENATOR DALY:
I am fully in support of section 1 of the bill.

In section 2, subsection 1, paragraph (d), subparagraph (3), it says there has to be a provision in the agreement that the property manager will keep information confidential for at least one year afterward. If it is confidential information, they should have to keep it confidential. Why does the bill say it only has to be kept confidential for a year?

MS. BANKS:
This was not something we asked for. I would say this is just how the Legislative Counsel Bureau drafted the bill. I think the point is that it be kept confidential for one year after the revenue termination of the property management agreement regardless of a court order. If it is something that does not have to be kept confidential, this would not apply. This is not something that was important to us.

ASSEMBLYWOMAN KASAMA:
This is just adding language we have had for 40 years in the real estate chapter. The information you have to keep confidential includes anything the clients share with you that they want kept confidential, such as the fact that they went through a divorce. One year is the time that has been in our regulations.

SENATOR DALY:
If that is the standard, I do not have an issue with that. I would still like to know why the confidential information is being kept for just one year. But if that is the standard, I understand.

CHAIR SPEARMAN:
I know that deceptive trade practices are already defined in statute. Would this bill look backward or just forward? I am trying to figure out a way for people who have been duped to get their money back. I guess this is one more for our legal folks.

ASSEMBLYWOMAN KASAMA:
The bill talks about the practice not being allowed going forward. However, the language was worked out with the title association that notice has to be done. If notice is not done within a year, the agreement will become null and void. That is how they are dealing with the ones currently in place.

CHAIR SPEARMAN:
Mr. Fernley, can you weigh in? I want to make sure we get this right. If someone challenges it, I want to make sure we have it covered.

ASSEMBLYWOMAN KASAMA:
Section 1, subsection 7 deals with notice for the agreements that have already been recorded.

BRYAN FERNLEY (Counsel):
That is correct. Section 1, subsection 7 requires a service provider who has entered into a service agreement on or before October 1, 2023, to record a notice of service agreement with the county recorder in which the property is located. That has to include certain information about the notice of service agreement, the legal description of the property and certain other information. If that is not recorded by July 31, 2024, the service agreement is void and unenforceable.

CHELSEA CAPURRO (Zillow):
We want to express our strong support for A.B. 392. I have been informed that 19 states have passed or have pending legislation on this issue. This is a great sign that the states are catching on to this practice.

Homeownership can be the gateway to financial stability and generational wealth creation. This bill seeks to protect this important resource for homeowners. Consumers rely on real estate professionals to act in good faith and help them understand complex real estate processes, and by and large, they do. However, regulation is needed to protect consumers from emerging deceptive trade practices by bad actors that lock homeowners into lengthy and costly listing agreements with terms they do not fully understand. These predatory agreements include paying homeowners small amounts of cash upfront in exchange for exclusive future listing rights of their homes, binding for up to 40 years, enforced through a lien that restricts heirs and costing tens of thousands of dollars for homeowners to terminate an agreement. This bill provides crucial protections for consumers.

SHAWNYNE GARREN (Douglas County Recorder; Recorders Association of Nevada):
I wanted to address Senator Pazina's question about how homeowners find out if they have one of these on record against their property. As Ms. Smith-Turk mentioned, you can reach out to a title company and ask it to perform a search.

However, the records in the recorder's office are public, and all of our records are indexed by name. This means you can do a search yourself of your own property or that of a family member. Most of the 17 counties in Nevada have their records accessible online, and you can search them by name. One thing that is interesting about these records is that the NTRAPS are recorded as memorandums and are not clearly identified as liens. If you do not know what you are looking for, you may have trouble finding the information. That is where some of the deceptive part of it comes into play.

When one of my staff members was reviewing one of these documents, she brought it to my attention and said, "What is this? A 40-year listing agreement—does this make any sense to you?" Her background is in title; my background is in real estate, and I have been in the recorder's office for 16 years. When I looked into it, I was quite bothered by the document. However, statute dictates that if the document is presented in recordable form, a recorder must record the document. We do not have the authorization or discretion to determine validity or enforceability of a document. All the same, I reached out to our legal counsel and asked if we had to record it. I was told that we do.

With that said, we are very much in support of section 1 of A.B. 392.

PAUL MORADKHAN (Vegas Chamber):
We are in support of A.B. 392. We appreciate the work that has been done by the bill sponsor and the industry. Obviously, the Vegas Chamber does not support the practices that have been discussed today. We appreciate the efforts of the bill sponsor and others to bring greater transparency and consumer protections to Nevada.

SHARATH CHANDRA (Administrator, Real Estate Division, Nevada Department of Business and Industry):
We are neutral on this bill. I am available to answer any questions you have.

CHAIR SPEARMAN:
I will close the hearing on A.B. 392 and open the hearing on A.B. 398.

ASSEMBLY BILL 398 (1st Reprint): Makes various changes relating to insurance. (BDR 57-1045)

MR. COGBURN:
Assembly Bill 398 is a bill that would prohibit what are called self-depleting insurance policies. A self-depleting insurance policy is one where payments for the costs of defense, legal costs and fees are deducted from the whole, and the policy can deplete over time. If my law firm has a policy for $100,000, any payments for attorneys' fees or the cost of defense will be deducted from that $100,000. If $20,000 is paid out today, there will only be $80,000 left in the policy. This does not have to be a single event type of policy, meaning it is $100,000 for one action. It could be a policy that covers the entire State, company or Nation.

I will give you a recent example. There is a nursing home chain that is going insolvent. The owners had a $3 million policy that covered over 200 different facilities across the Nation. That company was in the process of closing and liquidating all of its nursing homes. All the claims for that year will need to come from the $3 million. However, after all the attorneys have been paid, there will not be much left for anything else.

I will walk you through this bill. Simply put, it says if you issue new policies or renew policies, you cannot have a self-depleting policy provision that reduces the limited liability stated in the policy by the cost of defense legal cost and fees or other expenses related to the claims.

Section 1, subsection 2 makes a blanket statement that you cannot otherwise limit the availability of coverage for the cost of defense or legal costs.

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CHAIR SPEARMAN:
There being no questions, I will close the hearing on A.B. 398. Is there any public comment? Hearing none, we are adjourned at 9:24 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Introduced on Minute Report Page No.**	**Witness / Entity**	**Description**
	A	1		Agenda
	B	1		Attendance Roster
A.B. 334	C	2	Assemblywoman Tracy Brown-May	Proposed Amendment