



NEVADA LEGISLATURE
LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY
MORTGAGE LENDING AND HOUSING ISSUES
(Nevada Revised Statutes 218.682)

SUMMARY MINUTES AND ACTION REPORT

The third meeting of the Nevada Legislative Commission's Subcommittee to Study Mortgage Lending and Housing Issues was held on January 28, 2008, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at www.leg.state.nv.us/74th/Interim. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

SUBCOMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman Marcus L. Conklin, Chairman
Senator Bob Beers
Senator Warren B. Hardy II
Senator Michael A. Schneider
Assemblywoman Marilyn Kirkpatrick

SUBCOMMITTEE MEMBER PRESENT IN CARSON CITY:

Assemblyman Tom Grady

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

David Ziegler, Principal Research Analyst, Research Division
Kelly S. Gregory, Senior Research Analyst, Research Division
Daniel Yu, Deputy Legislative Counsel, Legal Division
Lucinda Benjamin, Senior Research Secretary, Research Division

OPENING REMARKS

- Assemblyman Marcus L. Conklin, Chairman, welcomed members, presenters, and the public to the third meeting of the 2007-2008 Interim. He explained that Brian L. Kaiser, Business Research Analyst, Center for Regional Studies, University of Nevada, Reno, was scheduled to speak under Agenda Item III but was not able to attend the meeting in Carson City due to inclement weather.

REVIEW OF EFFECTS OF MORTGAGE LENDING PROBLEMS ON RENTERS OF RESIDENTIAL PROPERTY

- Jon Sasser, Legal Services Advocate, Washoe Legal Services, Reno, provided information on the affects of foreclosures on renters of property. Mr. Sasser said when a bank forecloses on a property, sometimes the property is: (1) occupied by the owner; (2) not occupied; or (3) occupied by a renter. The renter faces potential eviction as a result of a foreclosure. He referred to a newspaper article in *The New York Times* titled “As Owners Feel Mortgage Pain, So Do Renters,” [Exhibit B](#), and testimony given to the Subcommittee at the December 3, 2007, meeting by Jeremy Aguero, Principal, Applied Analysis, who said that nearly 60 percent of foreclosures are for houses not occupied by the owner. Mr. Aguero explained that of the 60 percent, approximately five out of six houses have out-of-state owners and only one house has an in-state owner, which supports the opinion that many are occupied by renters. Mr. Sasser also referred to information provided by Douglas G. Duncan, Chief Economist, Mortgage Bankers Association, at the December 3, 2007, meeting in which he pointed out that the percentage of defaults in Nevada for nonowner-occupied loans was about double the national average for both prime and subprime loans.

Under current Nevada law, tenants have minimal rights and most foreclosures are processed through nonjudicial foreclosure using a deed of trust. Under those laws there is no obligation for a bank to notify a tenant who is residing in the property being foreclosed upon. The first notice that the law requires a tenant to receive is an eviction notice. He explained that under *Nevada Revised Statutes* (NRS) 40.255 “Removal of person holding over after 3-day notice to quit; circumstances authorizing removal” [Exhibit B-1](#), the notice is three days and applies to renters on a month-to-month basis and those in long-term leases. There is no law in Nevada that states that the lease rights of a tenant trump the statutory right to evict. The law in most states determines that unless the lease existed prior to the mortgage, which is rare, then the first document prevails. The only instance in which a tenant may have some legal right to stay beyond the three days is if the tenant is living in a house where the rent is subsidized by the U.S. Department of Housing and Urban Development (HUD) Section 8 Housing Program, in which case, federal law trumps state law and the Section 8 lease prevails. Mr. Sasser said tenants in Section 8 housing units can only be evicted for good cause, and foreclosure is not good cause.

Mr. Sasser then referenced a chart provided by Mr. Aguero at the December 3, 2007, meeting, which estimated that 42 percent of the houses listed in the Las Vegas area are vacant. He explained that Las Vegas news sources have reported that unoccupied houses have been vandalized, encountered deterioration of amenities, and declined in property value.

Continuing, Mr. Sasser opined if there is a legal or legislative solution to the problem of vacant houses. He was of the opinion that there are two industries, banking and property management, that could work together to help address the problem. He said there is a precedent set by the HUD continued occupancy policy in situations where a Federal Housing Administration (FHA) home is repossessed by HUD. He also noted there are federal regulations that allow either owners or renters to remain in the property if it is going to be resold. It is a narrowly available assistance program and mostly used for individuals with disabilities and seniors. He did not know to what extent the program was used in Nevada.

As a tenant advocate, Mr. Sasser emphasized the hardship foreclosure has on tenants. Based on information from the Nevada Legal Services Housing Self-Help Center in Las Vegas, approximately 20 tenants per week who have received a three-day notice to evict seek assistance from the Center. Many of these individuals are over the income guidelines for the program, or there is no legal defense that can be brought to bear in their cases. They can only appeal to a judge to let them remain in the housing unit for an additional ten days in order to find alternate housing, or they may be in the HUD Section 8 Housing Program, which offers some protection.

Mr. Sasser cited tenant stories presented in a Las Vegas *CityLife* article about situations in southern Nevada, [Exhibit B-2](#). The barriers faced by tenants include a lack of notification of a pending foreclosure, so they can look for alternative housing. He said there is no Nevada law that gives extra time at the end of the process; if one loses the case in court the tenant must be out of the house in 24 hours. A judge can allow ten more days to vacate, but that is the only flexibility allowed. To avoid the eviction process, some banks offer “cash for keys,” which can pay a tenant up to \$1,500 to move as soon as possible, but the money may not cover all moving expenses, which can total \$3,000 or more. Mr. Sasser noted that some tenants have difficulty recapturing security deposits from out-of-state landlords, which can be a lengthy and costly process, so they must pay all the costs of relocation.

Further, Mr. Sasser discussed the House of Representatives Resolution 3915, “The Mortgage Reform and Anti-Predatory Lending Act of 2007,” which is currently pending in the United States Senate. The Act includes a short provision that gives, for the first time, certain rights to tenants. Tenants would receive a 90-day notice to vacate, if they have no lease. They could have up to six months, if there is a lease that goes beyond six months. However, the provisions would only apply to extensions of credit after the date of the Act and would not apply to current mortgage loans.

Continuing, Mr. Sasser discussed judicial foreclosure proceedings in other states. The State of Illinois recently passed an act that took effect on January 1, 2008, which gives tenants that are current on their rent a 120-day notice after the notice of hearing in a judicial foreclosure proceeding. In Vermont, also a judicial foreclosure State, a tenant must be served with a copy of the complaint when the foreclosure complaint is filed. He noted that Rhode Island has a proposal to serve a 60-day advance notice of a pending foreclosure and a 60-day notice to vacate after foreclosure begins, [Exhibit B-3](#). The State of Michigan has a proposed statute that would require a 30-day notice prior to foreclosure.

Mr. Sasser also said unscrupulous landlords have taken unfair advantage of renters and referred to *The Modesto Bee* article titled “A renter’s dilemma: Foreclosure can hit those who don’t own,” [Exhibit B-4](#). He stated that California has a statute under which a tenant can sue for damages if within one year of ownership the owner collects rents but does not pay the mortgage. There may also be an opportunity for tenants to sue under common law for breach of contract if owners do not pay the mortgage. Mr. Sasser requested to work with staff to develop recommendations for the Subcommittee’s Work Session. In addition, Mr. Sasser offered to compile options pertaining to foreclosure issues in Nevada to address questions such as:

1. Should there be some type of mandatory notice that a foreclosure is pending;
 2. How much time should be allowed for vacating after a foreclosure; and
 3. Should there be laws, similar to California, addressing fraudulent situations.
- Responding to a question from Chairman Conklin regarding criminal protection for tenants that sign leases with landlords who know that a house is in foreclosure status, Mr. Sasser offered to conduct further research of Chapter 598 of NRS “Deceptive Trade Practices” and to contact Nevada’s Office of the Attorney General and provide the information to staff.
 - Answering a question from Assemblyman Grady, Mr. Sasser said he had not been contacted by individuals who were recently affected by flooding in the Fernley area and were renting homes that were supposed to be owner-occupied houses.
 - Chairman Conklin asked members of the Subcommittee to work with interested individuals to address renters’ issues and present recommendations at a later meeting.
 - Michele Johnson, President and Chief Executive Officer, Consumer Credit Counseling Service of Southern Nevada (CCCS), explained what statistics are now being compiled, but documentation has been difficult because consumers are using their discretionary income to relocate. Relocation expenses often cause renters to become delinquent on credit card and car payments; therefore the CCCS is being contacted after clients have already been evicted. Ms. Johnson said it is imperative that a renter have a leaseback

option from the mortgage company to help protect the renter from being adversely impacted by an unforeseen foreclosure. She supported consideration for renters in the eviction process.

PUBLIC COMMENT

(As directed by Chairman Conklin, this agenda item was taken out of order.)

- D. Gary Longaker, Executive Director, Nevada Rural Housing Authority (NRHA), provided information on the legislative history of the NRHA and the programs it administers, its mission statement, and a brief outline of the organization's future plans ([Exhibit C](#)). Mr. Longaker noted that a housing analysis was approved by the NRHA Board in 2005, which confirmed the rapid growth in Carson, Douglas, Elko, and Lyon Counties and a shortage of affordable rental property. He said Pershing and White Pine Counties may have a shortage of rental property but not to the extent of the more rapidly growing areas in Nevada. He mentioned that the fair market rental rates published by HUD have kept up because they can be adjusted by 90 to 100 percent.

Continuing his testimony, Mr. Longaker stated the problems renters face in the rapid growth areas are similar to the problems faced by homebuyers. The shortage and higher prices force families to use a higher percentage of income to make rental payments or they are forced to commute. The largest program administered by the NRHA is the HUD Section 8 Housing Choice Voucher Program that provides assistance to 1,500 families in 15 rural counties in Nevada. Also, the NRHA owns six properties with 240 units that provide rental subsidies, and he emphasized that none of the rent payments for the units are delinquent. Mr. Longaker stated these programs can only assist a small percentage of families, and there is currently a shortage of assistance vouchers throughout Nevada because the NRHA was not aggressive at its onset to obtain new certificates and vouchers; consequently, Nevada has not kept pace with other states. There are 1,500 families on the waiting list; the fastest a family can be assisted is six months, and that is only if the client is handicapped or disabled. If the family is considered low income, the process could take more than a year before they receive assistance. Mr. Longaker offered to work with the Subcommittee and staff on housing issues.

- Ernie Adler, Counsel, NRHA, commented on out-of-state landlords that have houses that go into foreclosure. His law firm handles many consumer bankruptcies. He said in some situations landlords let houses go into foreclosure and then file bankruptcy in another state. Tenants do not have funds to hire an attorney in another state to intervene in the case to claim that the bankruptcy was filed in bad faith. Consequently, tenants cannot obtain a refund of deposits because the claims would be discharged in bankruptcy in another state.
- Answering a question from Chairman Conklin, Mr. Adler said that the average rental rate plus deposit is \$2,500 in Carson and Lyon Counties. He referred to a chart titled "Quarterly Nonbusiness Filings by District," and an American Bankruptcy Institute

article titled “Bankruptcy Filings Through First Three Quarters of 2007 Eclipse Last Year’s Totals,” [Exhibit D](#). In the United States the total number of bankruptcies filed during the first three quarters of 2007 increased approximately 40 percent over the number filed for the same period in 2006. In Nevada, for the first three quarters of 2006 there were 3,745 bankruptcies, which accelerated to 7,548 bankruptcies for the same period in 2007, an approximate 50 percent increase. The chart reflects the linear increase in numbers of bankruptcies in Nevada from March 2006 to September 2007.

Continuing, Mr. Adler said that the trend of home foreclosures in Washoe County is very similar to the bankruptcy trend, and he was of the opinion that this is not coincidental. In northern Nevada as opposed to southern Nevada, the bankruptcies are primarily owner-occupied houses with adjustable rate mortgages. He said these clients are not speculators. They are families in the process of losing their house, which is a very severe problem. His firm’s experience is that the lender cannot be contacted; instead, contact can only be made with a loan processor or manager and that person does not own the loan nor have the authority to negotiate, which is another problem that needs to be addressed. Mr. Adler estimated in Nevada a foreclosure costs approximately \$50,000 to process and was of the opinion that mortgage companies should be able to negotiate for a fixed-rate mortgage or mortgages at other rates.

In conclusion, Mr. Adler said the United States Congress is discussing restructuring loans by allowing a repayment plan to be filed through bankruptcy, which would allow individuals to have fixed-rate mortgages and discharge the unsecured portion of the loan. He suggested the Subcommittee examine the number of bankruptcies in Nevada because it is a trailing indicator of what is happening with mortgage foreclosures, which affect local economies in Nevada. He said if the fourth-quarter figures for bankruptcies continue to rise, it would indicate that the mortgage crisis is continuing.

- Chairman Conklin explained that three economists have testified before the Subcommittee that the foreclosure problems in Nevada will not bottom out until the end of 2008. He requested that Assemblywoman Kirkpatrick and Senator Hardy work together with staff and interested individuals on this subject and report their findings to the Subcommittee at a later meeting.
- Mr. Adler said he also conducted research on community land trusts and although there are no prohibitions in Nevada law, neither is there enabling legislation for such trusts. The trusts are an alternative to help provide affordable housing throughout the State of Nevada. Chairman Conklin asked if he would provide the results of his research to staff. Mr. Adler noted that the NRHA is also working on this topic.

REVIEW OF EXTENT OF MORTGAGE LENDING PROBLEMS AND IMPACTS IN NORTHERN NEVADA AND NEVADA’S RURAL COUNTIES

- Cash A. Minor, Chief Financial Officer, Elko County, provided information about the economy in Elko County and the positive effects the mining industry has had in the

counties that have operating mines: Eureka, Humboldt, Lander, and Pershing. He was of the opinion that the housing market in Elko County is strong, but housing prices are overinflated. As a normal part of business, there are some foreclosure properties, but they are not related to subprime loans. He referred to charts titled “Elko County Building Permits New Residential” and “Elko County Foreclosure by Taxing District,” [Exhibit E](#), and stated that housing starts dipped in early 2000, but recovered when the gold mining industry improved. Continuing, Mr. Minor said the local economy is cyclical and closely related to gold mining. He further explained the following:

- Eureka and Humboldt Counties have a strong mining industry;
- Lander County depends on net proceeds;
- Pershing County has mining operations and new industry jobs; and
- White Pine County has opportunities in mining and power development, but has had economic problems in the past.

He concluded that counties with mining interests have not been seriously affected by the foreclosure problems faced in other areas in Nevada.

- Brian L. Kaiser, Business Research Analyst, Center for Regional Studies, University of Nevada, Reno, was unable to attend the meeting because of adverse weather conditions. Mr. Dave Ziegler, Principal Research Analyst, Research Division, Legislative Counsel Bureau, presented Mr. Kaiser’s statistical data on Washoe County. The packet given to the members included information on foreclosures, existing home resales, data on new and existing home sales, and new housing inventories. Please see [Exhibit F](#).
- Jill Perry, Northern Nevada Director, Consumer Credit Affiliates, CCCS, said her agency services all Nevada counties except Clark County. She explained the role of credit and housing counselors and stated that clients in rural areas do not have access to the same resources as clients in urban areas. Ms. Perry discussed examples of client situations and was of the opinion that some were victims of subprime loans and some were not. She said at least half of her clients were seen for other circumstances.

REVIEW OF RECENT FEDERAL ACTIONS RELATED TO MORTGAGE LENDING PROBLEMS

- Shannon C. Raborn, Southern Nevada Director, Office of United States Senator Harry Reid, Las Vegas, provided an update on legislation acted upon by the U.S. Congress in 2007, and the \$180 million appropriation for additional housing counseling agencies through the Fiscal Year 2008 Omnibus Appropriations Bill, which focuses on areas in the nation with the highest rate of foreclosures. The funds will be administered by NeighborWorks, a national counseling agency approved by HUD.

Ms. Raborn said the first round of funding should be dispersed by the end of February 2008 with a second phase of funding later in 2008. Please see [Exhibit G](#).

Continuing, she discussed the House of Representatives companion to legislation cosponsored by Senator Reid, the Mortgage Cancellation Relief Act, and passed by the U.S. Congress just before the end of 2007, which excludes from federal income tax the income that is accrued to the homeowner when the lender forgives a portion of the mortgage debt and extends the deduction for payments of mortgage insurance.

Ms. Raborn said in 2008, Senator Reid is committed to: (1) obtain more funding for housing counseling agencies; (2) reconcile the House and Senate versions of the FHA Modernization Act of 2007, which lowers the down payment requirements and increases the loan limit; and (3) raise the conforming loan limits for Fannie Mae and Freddie Mac—the government-sponsored housing enterprises created by the U.S. Congress to bring liquidity to mortgage markets.

Concluding her remarks, Ms. Raborn said in the fall of 2007 Senator Reid worked with lenders and housing-counseling agencies in Nevada to coordinate five mobile resource centers. She said many individuals utilized the centers to speak directly to lenders or to receive assistance from housing-counseling agencies. Based on the large public response to the centers, Senator Reid is hosting another event in Las Vegas on February 18, 2008, at the Cashman Convention Center.

- Senator Bob Beers referred to a grant program discussed by the Interim Finance Committee pertinent to this issue and said the Department of Business and Industry (DBI) began accepting applications last week in response to a request for proposals (RFP). He asked for an update from Mindy Elliot, Director, DBI.
- Mindy Elliot, previously identified, discussed the NeighborWorks program and explained that an RFP was issued through Nevada's Housing Division, DBI, which had a submission deadline of January 28, 2008. She said the proposals received by the Division were forwarded to NeighborWorks by February 9, 2008, and explained that nonprofit organizations could apply directly to NeighborWorks or the Division. The organizations are required to have HUD-certified counselors in the proposed assistance programs. Preference would be given to metropolitan statistical areas with the highest foreclosure activity, which includes Clark County and rural Nevada. She further explained that the Division does not have in-house counseling but utilizes nonprofit organizations throughout Nevada.
- Assemblywoman Kirkpatrick requested information in hardcopy on the foreclosure rates for first-time homebuyers in Nevada. Ms. Elliot explained different types of loans including subprime loans and said that the FHA and Fannie Mae program loans in Nevada are not having the foreclosure issues that the subprime market is experiencing. She offered to compile statistical information on first-time homebuyers for a future Subcommittee meeting.

- Chairman Conklin asked Ms. Elliot to provide information on:
 - How many clients are counseled via the Internet;
 - How the success rate of those programs is quantified;
 - What is the penetration rate; and
 - How many individuals that need counseling have access to the Internet.

Responding to Chairman Conklin's request, Ms. Elliott suggested the following questions be added: (1) Is the Internet training sufficient? (2) Is it effective? and (3) What is the default rate? She stated she would present the results of her research at a future Subcommittee meeting.

PUBLIC COMMENT

No individuals provided public comment at this time.

SCHEDULING OF FUTURE MEETINGS

- Chairman Conklin requested information from the members on topics for the next meeting that would be scheduled for March 2008.

ADJOURNMENT

There being no further business to come before the Subcommittee, the meeting was adjourned at 10.41 a.m.

Respectfully submitted,

Lucinda Benjamin
Senior Research Secretary

David Ziegler
Principal Research Analyst

APPROVED BY:

Assemblyman Marcus L. Conklin, Chairman

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by David Ziegler, Principal Research Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit B](#) is a packet of information offered by Jon Sasser, Legal Services Advocate, Washoe Legal Services, Reno, including *The New York Times* article titled “As Owners Feel Mortgage Pain, So Do Renters.”

[Exhibit B-1](#) of the packet is Chapter 40.255 of NRS “Removal of person holding over after 3-day notice to quit; circumstances authorizing removal” and Chapter 118A.244 of NRS “Notice or transfer of security to tenant and successor in interest required upon transfer of dwelling unit.”

[Exhibit B-2](#) of the packet is the Las Vegas *CityLife* article titled “Gone, baby, gone.”

[Exhibit B-3](#) of the packet is *Providence Journal* article titled “Rhode Island Legislation Would Give Renters Foreclosure Notice.”

[Exhibit B-4](#) of the packet is *The Modesto Bee* article titled “A renter’s dilemma: Foreclosures can hit those who don’t own.”

[Exhibit C](#) is a letter dated January 28, 2008, to Assemblyman Marcus L. Conklin, Chair, regarding the history and mission statement of the Nevada Rural Housing Authority (NRHA) including a housing analysis of the effects of mortgage lending problems on renters, given by D. Gary Longaker, Executive Director, NRHA, Carson City.

[Exhibit D](#) is a chart titled “Quarterly Nonbusiness Filings by District, District of Nevada” and a chart titled “Bankruptcy Filings Through First Three Quarters of 2007 Eclipse Last Year’s Totals,” submitted by Ernie Adler, Counsel, NHRA, Carson City.

[Exhibit E](#) is a letter dated January 28, 2008, to Assemblyman Marcus L. Conklin, Chairman, regarding mortgage lending and housing issues in Elko County, prepared by Cash A. Minor, Chief Financial Officer, Elko County.

[Exhibit F](#) is a packet of information submitted by Brian L. Kaiser, Business Research Analyst, Center for Regional Studies, University of Nevada, Reno, and presented by Dave Ziegler, Principal Research Analyst, Research Division, LCB, which includes:

- A document titled “Washoe County Housing Market Summary”;
- A chart titled “Home Foreclosure Trends: 2006-2007”;
- A chart titled “Existing Home Sales Statistics, Reno, Sparks, and Rural Northern Nevada, 2007 Annual”;

- A chart titled “Existing Home Resale Data: 2007, Washoe County, Nevada”;
- A chart titled “Housing Sales, Reno, Sparks, Incline Village, Washoe County, Nevada”;
- A document titled “Summary Statistics for Approved-Unbuilt Subdivisions in the Greater Reno-Sparks Area as of 9/30/07”;
- A map titled “Single Family Units in Standing Inventory as of 10/1/07”; and
- A chart titled “Summary Statistics of Remaining Single Family Units in the Greater Reno-Sparks Area as of 10/1/07.”

[Exhibit G](#) is a letter dated January 28, 2008, to Assemblyman Marcus L. Conklin, Chairman, regarding an update on efforts in the U. S. Congress to respond to the nation’s foreclosure crisis prepared by U. S. Senator Harry Reid and presented by Shannon C. Raborn, Southern Nevada Director, Office of U. S. Senator Harry Reid, Las Vegas.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.