

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Eighty-second Session
May 8, 2023**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:03 a.m. on Monday, May 8, 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:

Assemblyman Max Carter, Assembly District No. 12
Assemblywoman Venicia Considine, Assembly District No. 18
Assemblywoman Sandra Jauregui, Assembly District No. 41

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Hassam Jessop, Nevada Realtors
Jonathan Norman, Nevada Coalition of Legal Service Providers

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Mendy Elliott, Nevada Housing Coalition
Dylan Keith, Vegas Chamber
Bill Brewer, Nevada Rural Housing Authority
Paul Catha, Culinary Workers Union Local 226
Laura Tooker, Nevadans for the Common Good
Connie McMullen, President, Senior Coalition of Washoe County
John Sande IV, Nevada State Apartment Association
Brenda Lovato, Institute of Real Estate Management
Debra Minton, Capital Equities, Las Vegas
Annette Magnus, Battle Born Progress
Lilith Baran, American Civil Liberties Union
Jamie Cogburn, Nevada Justice Association
Adam Zarrin, Leukemia & Lymphoma Society
Mike Randolph, HOA Collections LLC
Roberta Ohlinger-Johnson, Creditors Rights Attorney Association of Nevada
Sandy O'Laughlin, Commissioner, Division of Financial Institutions, Nevada
Department of Business and Industry

CHAIR SPEARMAN:

I will open the hearing on Assembly Bill (A.B.) 298.

ASSEMBLY BILL 298 (1st Reprint): Revises provisions governing housing.
(BDR 10-249)

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

I am here today to present A.B. 298. Over the last 18 months, I have been working on this bill with stakeholders from every area of housing. People who are normally opposed have come together to support it. Coming to a consensus is incredibly difficult, but we have done the tough work. We have listened to everyone and have come up with a bill I feel is the product of honest, open communication and compromise. We are all giving a little and getting a little.

HASSAM JESSOP (Nevada Realtors):

During the Interim, the Assemblywoman met with all the stakeholders numerous times to find a balanced solution to the housing crisis. Nevada Realtors appreciates the opportunity to be part of the solution, and we are here in full support of A.B. 298.

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JONATHAN NORMAN (Nevada Coalition of Legal Service Providers):
We are in strong support of A.B. 298.

The Legal Aid Center in Southern Nevada runs a self-help center, and we see 300 to 500 people a day who are facing eviction. This bill particularly addresses some of the things we see that can sap the funds of our clients. I view this as a transparency bill for tenants.

The bill creates some requirements where the prospective application fee is limited. Nevadans for the Common Good have reports of people in their community being charged an application fee for every person in the household, including minors. This bill addresses that as well as transparency.

ASSEMBLYWOMAN JAUREGUI:
I will walk the Committee through the bill.

Section 1 of the bill deals with returning any fees to applicants who applied for a unit but were never screened. If ten applications come in for one unit and the first applicant is accepted, the fees for the other nine applicants would have to be returned.

Section 2 of the bill adds appendices to the end of the lease. The first appendix outlines all fees that can be charged, and the second appendix adds a know-your-rights section.

Section 4 of the bill creates the rent stabilization program for seniors and those with disabilities.

SENATOR STONE:
Regarding application fees, I am a landlord, and we take one application fee at a time. We check applicants' credit scores and look for criminal records. Under your bill, if we reject any of these applications, we must refund the fees even though we have paid for the background checks. Is that right?

ASSEMBLYWOMAN JAUREGUI:
No, because those are hard costs you actually incurred. When you do screen an applicant, you keep the fees. You only have to return the fees from applicants you do not screen.

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SENATOR STONE:

I appreciate that you are bringing this bill forward. A lot of nefarious landlords have been collecting \$500,000 worth of fees and consider such fees an income generator collected from the population of people that can least afford it.

Regarding the 10 percent maximum on certain populations, I hope I am a compassionate landlord, and I take care of senior citizens. I have never lost a tenant because I evicted them or because I raised the rent to where they could not afford it. When I have raised the rent, it has always been modest raises just to cover costs.

My concern is that you may have landlords who will purposefully not rent to senior citizens because they will not be able to raise the rent. If tenants are in younger age groups, landlords could raise the rent. Some smaller landlords leverage a lot. When property taxes, insurance or homeowners association (HOA) dues go up, so does the rent. I applaud you for trying to protect seniors and people with disabilities, but I worry that this provision may create a challenge for some seniors to get housing in Nevada. Can you address that?

MR. NORMAN:

That provision has a sunset clause.

I certainly hope landlords would not take advantage. This will help those seniors in units right now, and it will help them over the next year and a half. We are also coming out of a period of record rent increases over the last year. They are tailing off a little right now, so this provision may not be triggered. However, if it is, it will help a lot of seniors who are in units right now.

SENATOR STONE:

I am just worrying that this could stifle the ability of seniors to find housing. We know there is an undersupply of housing in Nevada.

What are the legal remedies in this bill if the rules are not followed? Are offenders reported to the Real Estate Division, Nevada Department of Business and Industry, or is it criminal action?

MR. NORMAN:

There is no criminal remedy in this bill. Tenants who suspect their rent included undisclosed fees can always come to one of the Legal Aid offices in Nevada.

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SENATOR STONE:

I applaud the transparency of the fees. The last page of my leases is a list of every possible fee a tenant could potentially be charged.

SENATOR HAMMOND:

How do applicants know that their applications were not reviewed? If ten people apply for one rental property, you do not know if you are the second, third, fourth, fifth or only applicant. Is it disclosed some place?

MR. NORMAN:

I will have to get back to you. I think the bill has a provision that the landlord must tell you why you were rejected if you ask; that could be the first step in trying to figure that out. I will acknowledge, however, that sometimes the enforcement mechanism is hard to develop. The same is true for laws against discrimination. Proving that those things are happening is extremely difficult. It takes a lot of litigation costs and time, and the solution can take years and years. Our office tracks information and keeps a record of landlords who accumulate complaints. The question of how that applies to actual justice is a larger question.

SENATOR STONE:

One provision you might want to add is that the landlord needs to disclose what makes a qualified resident—a credit score over 550 and no felony convictions in the last 3 years, something like that. Another possibility is to stipulate that the landlord only takes one application at a time and stops taking applications when one is qualified.

MR. NORMAN:

That is a good idea. Thank you.

MENDY ELLIOTT (Nevada Housing Coalition):

We are in support of A.B. 298. We appreciate the thoughtfulness that has gone into crafting it. We appreciate the sunset provisions as we come out of the COVID-19 pandemic and work through the fiscal issues that came with it. We appreciate that Assemblywoman Jauregui has provided a road map for us for a couple of years, after which we can come back and revisit the issue.

DYLAN KEITH (Vegas Chamber):

We ask for your support for this commonsense piece of legislation.

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BILL BREWER (Nevada Rural Housing Authority):

We support A.B. 298 and appreciate this opportunity to meet with you. We are grateful for Assemblywoman Jauregui and her support for housing. We certainly support transparency in the lease and utilization of the housing units we have. We urge your passage of this bill.

PAUL CATHA (Culinary Workers Union Local 226):

The Culinary Workers Union supports A.B. 298.

Assembly Bill. 298 addresses the predatory behavior that has been on the rise in the rental market in the last few years that is damaging Nevada. As recently stated by the team at the Governor's Office of Economic Development, lack of affordable housing is a significant barrier to economic development in Nevada. This bill will protect Nevada's residents and its economy by making Nevada's housing market more affordable and predictable.

In a 2022 survey of Culinary Union members, 21 percent said their rent has gone up \$500, 21 percent said they are charged monthly fees in addition to rent, and 15 percent said they pay more than \$100 in fees each month. Rent increases have outpaced wage growth. From the first quarter of 2019 through the second quarter of 2022, rent in Las Vegas increased 33 percent, while average weekly earnings only increased 21 percent. In 2021, investors bought 18 percent of homes in the Las Vegas metropolitan area. In some areas, investor purchases accounted for as much as 26 percent, over a quarter of homes sold. According to the U.S. Census Bureau's Household Pulse Survey, in January, 49.8 percent of adults in Nevada experienced difficulty paying for the usual household expenses in the last seven days. In the first weeks of 2023, Las Vegas had the most eviction filings among major U.S. cities.

While the Culinary Union supports the stronger measures contained in Senator Doñate's Senate Bill (S.B.) 78, the provisions of this bill pertaining to application fees and tenant transparency for other fines and fees would certainly be a step in the right direction.

SENATE BILL 78: Makes various changes relating to property. (BDR 10-623)

The Culinary Union believes that every Nevadan deserves to be treated with dignity and respect, and Nevadans should not have to choose between having

food on the table or a roof over their head. We urge the Committee to support and pass A.B. 298.

LAURA TOOKER (Nevadans for the Common Good):

I am a member of Green Valley United Methodist Church, which is a member of Nevadans for the Common Good. Nevadans for the Common Good is a broad-based organization of 30-plus dues-paying congregations and nonprofits throughout southern Nevada, representing over 100,000 people, and we support A.B. 298.

Through our member institutions, we have talked to thousands of southern Nevada residents, walked through dozens of neighborhoods and met with many community leaders. We have heard about the high costs and increasing barriers to obtaining affordable and fair lease agreements from across the diversity of residents.

A consistent thread in the stories we have heard is the unprecedented rise in application fees for a house or apartment rental and a lack of understanding in general regarding other fees included in the lease agreement. The up-front expense of high application fees is an ongoing and costly burden for all families, including working professionals, foster parents, seniors and students that limits our community in finding permanent and stable housing.

We heard a story from a clergy member who had been forced to pay hundreds of dollars for each application for a rental unit, with each application fee including costs for each family member, including his minor children. Currently, the application fees are not refunded when the potential tenant does not get the rental for which he applied, quickly depleting money needed for a deposit or paying rent once a unit is obtained. This limits a person's ability to apply for other housing when an application is not accepted. This bill addresses this concern by providing for a refund of application fees when the prospective tenant does not obtain a lease agreement and exempting minors from payment of this fee.

Application fees should not be seen as a revenue source for landlords or property managers. They should merely be a mechanism to cover the direct and actual costs of background checks.

Assembly Bill 298 provides additional tenant protection by requiring appendices to a lease that contain clear and concise explanations of each fee that the tenant may be charged and the tenant's rights per federal, State and local laws.

Nevadans for the Common Good encourages you to support this bill, which reduces barriers and adds key protections for tenants, who make up nearly 50 percent of our community.

CONNIE McMULLEN (President, Senior Coalition of Washoe County):

The Senior Coalition of Washoe County, which has been in existence since 1995, would like to stand in support of A.B. 298, as many of our members have been desperately in search of a resolution like this for the past 34 years. More of our seniors are finding themselves displaced if not homeless. Affordability is much sought after today. Please pass this bill.

JOHN SANDE IV (Nevada State Apartment Association):

I want to thank Assemblywoman Jauregui for including us in the conversation. While we support many aspects of this bill, we continue to have serious policy concerns with the rent stabilization portions of the bill.

Economists from around the world have rejected rent controls as ineffective in increasing the affordability of housing. I recognize my time is limited, so I would like to highlight the consequences that rent control can have. Rent control means reduced investment in rental properties. This disincentivizes landlords to continue to invest in their properties and reduces the quality of rental housing. Without that investment, housing tends to decrease and the quality of housing tends to decrease. Rent-controlled apartments become scarce while demand for them increases. Reduced mobility tenants become stuck. Rent control creates market distortion and inefficiency of the market overall.

While rent control seems to be a solution to the problem of affordable housing, it can have many unintended consequences that ultimately make the problem worse. Other policies, such as subsidies for low-income renters and incentives for developers to build affordable housing, may be a more effective way of addressing this issue.

BRENDA LOVATO (Institute of Real Estate Management):

We oppose A.B. 298 because of the rent control provisions in the bill. They will cause a greater problem for landlords. They are going to have to start looking at

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age, where before they did not. This is for communities that accept all families and all ages. It is going to cause more than an administrative problem for us. Rent control has never worked in any city. If you check all the cities that do currently have rent control, you will find that it does not work. This bill is just opening the door for rent control in Nevada, and we oppose it.

DEBRA MINTON (Capital Equities, Las Vegas):

I support sections 1 and 2 of A.B. 298 completely, but I am totally opposed to section 4.

I own a senior apartment complex of 240 units in Las Vegas and several single family homes. I do not raise my rent every year. In fact, in some units I have not raised the rent in three years due to the pandemic. However, my expenses continue to rise by a large percentage. If rent control comes to Nevada, landlords will raise the rent every single year to the maximum allowed. We have seen this done over many years, and the effects are always negative. It has been crippling in California, and investors are fleeing to Nevada and other states that respect private property rights.

The bill is unfair because it puts the full burden of homelessness and housing insecurity only on one property class: the residential property owners. The State should offer subsidies to seniors or incentives to landlords so the burden of homelessness and housing falls on the entire State, rather than expecting private property owners alone to solve the problem. Rent control never does work.

I agree with Mr. Sande's testimony.

CHAIR SPEARMAN:

We have heard that there is a shortage of housing. However, I have also heard that it is not a shortage of housing as much as it is a shortage of affordable housing. When you have family members doubled and tripled up in one house because they cannot afford separate housing, we need to address some of the concerns.

As fate would have it, S.B. 426 is currently moving through the Assembly.

[SENATE BILL 426 \(1st Reprint\)](#): Revises provisions governing rent increases.
(BDR 10-15)

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That bill deals with neighborhood stabilization and attempts to address escalating rents as they are tied to inflation.

I will close the hearing on A.B. 298 and open the work session on A.B. 21.

ASSEMBLY BILL 21 (1st Reprint): Revises provisions related to persons engaged in the transmission of money and certain related activities. (BDR 55-273)

CESAR MELGAREJO (Policy Analyst):

I have a work session document ([Exhibit C](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 21.

SENATOR DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 22.

ASSEMBLY BILL 22 (1st Reprint): Revises provisions governing the issuance of cease and desist orders for unlicensed activity by the State Contractors' Board. (BDR 54-267)

MR. MELGAREJO:

I have a work session document ([Exhibit D](#)) that describes the bill and explains its effects. We have received one amendment for this bill.

SENATOR DALY:

I worked with the State Contractors' Board on this, and I am good with the amendment. However, I want to get on the record that I am hoping that if someone is not complying with the cease and desist order, the Board will use the third option and seek an injunction to get the person to stop working. I am hoping that is not the only tool they have. But if someone is ignoring that order, the Board needs to take that action first.

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CHAIR SPEARMAN:

I concur, because as we heard, people are getting duped out of their money.

SENATOR DALY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 22.

SENATOR SCHEIBLE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 23.

ASSEMBLY BILL 23 (1st Reprint): Revises provisions relating to the resolution of certain administrative citations issued by the State Contractors' Board. (BDR 54-266)

MR. MELGAREJO:

I have a work session document ([Exhibit E](#)) that describes the bill and explains its effects. There is one amendment for this bill.

SENATOR DALY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 23.

SENATOR PAZINA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 27.

ASSEMBLY BILL 27 (1st Reprint): Revises provisions relating to contractors who provide management and counseling services on construction projects. (BDR 54-269)

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MR. MELGAREJO:

I have a work session document ([Exhibit F](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR LANGE MOVED TO DO PASS A.B. 27.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 29.

ASSEMBLY BILL 29 (1st Reprint): Revises the grounds for disciplinary action against a licensed contractor. (BDR 54-268)

MR. MELGAREJO:

I have a work session document ([Exhibit G](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 29.

SENATOR BUCK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 39.

ASSEMBLY BILL 39 (1st Reprint): Revises provisions relating to contracts for work concerning certain residential improvements. (BDR 54-265)

MR. MELGAREJO:

I have a work session document ([Exhibit H](#)) that describes the bill and explains its effects. There are two amendments for this measure.

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SENATOR DALY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 39.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 78.

ASSEMBLY BILL 78: Exempts certain providers of jobs and day training services from licensure as nurses. (BDR 54-12)

MR. MELGAREJO:

I have a work session document ([Exhibit I](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 78.

SENATOR BUCK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 107.

ASSEMBLY BILL 107: Revises provisions governing certain pharmacies located outside this State. (BDR 54-109)

MR. MELGAREJO:

I have a work session document ([Exhibit J](#)) that describes the bill and explains its effects. There are no amendments for this measure.

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SENATOR PAZINA MOVED TO DO PASS A.B. 107.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 146.

ASSEMBLY BILL 146 (2nd Reprint): Revises provisions governing video service.
(BDR 58-669)

MR. MELGAREJO:

I have a work session document ([Exhibit K](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR PAZINA MOVED TO DO PASS A.B. 146.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 163.

ASSEMBLY BILL 163: Revises provisions governing employment. (BDR 53-834)

MR. MELGAREJO:

I have a work session document ([Exhibit L](#)) that describes the bill and explains its effects. There is one amendment for this measure.

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 163.

SENATOR PAZINA SECONDED THE MOTION.

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THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 236.

ASSEMBLY BILL 236: Revises provisions governing the practice of psychology.
(BDR 54-799)

MR. MELGAREJO:

I have a work session document ([Exhibit M](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR DALY MOVED TO DO PASS A.B. 236.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the work session on A.B. 276.

ASSEMBLY BILL 276: Revises provisions governing telehealth. (BDR 54-831)

MR. MELGAREJO:

I have a work session document ([Exhibit N](#)) that describes the bill and explains its effects. There are no amendments for this measure.

SENATOR PAZINA MOVED TO DO PASS A.B. 276.

SENATOR DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I will open the hearing on A.B. 218.

ASSEMBLY BILL 218 (1st Reprint): Revises provisions governing landlords and tenants. (BDR 10-136)

ASSEMBLYWOMAN VENICIA CONSIDINE (Assembly District No. 18):

Assembly Bill 218 brings certainty and transparency to individuals and families seeking a place to rent. Searching for a place to rent can be overwhelming, as I am sure you have heard already. Many of us who are only here in Carson City for the four months of Session have gone through this ourselves. I found going through that process both illuminating and incredibly infuriating.

We have an amendment (Exhibit O), which I will include as I go through the bill.

This bill essentially does five things. Section 2 of the bill requires landlords to provide a free way to pay rent, by which I mean a way to pay your rent without invoking a fee or providing personal banking information. Some people do not have bank accounts, whether because they are underbanked or because they are in the process of changing banks. They may also believe in privacy and do not want to share their banking information. This section ensures that the landlord or property manager is not profiting from the payment of rent.

Section 2 also talks about fees involved when the rent is paid through an Internet portal. There has been an upsurge in the use of portals to connect with your landlord or property manager, whether it be to request maintenance, pay the rent or just communicate. If the landlord requires this portal be used to pay rent, A.B. 218 says any fee charged cannot be more than the actual cost of the portal.

In the place I am renting right now, you can pay your rent through the portal of the property management company. They charge \$9.99 if you use your debit card to pay your rent, but it costs 3.49 percent of your rent if you pay with a credit card. I am not trying to take away options for people to pay their rent. If tenants want to pay their rent with a credit card or a debit card, they need to be aware of how much it is going to cost them.

Section 3 of the bill requires that when the cost of a rental is listed, that amount must include all mandatory fees. What is happening is that when you

ask how much the rent will be, you are told one number, and that is what you budget for. However, when you sign the lease, you are told of additional mandatory fees that effectively increase the rent by as much as \$100 or \$200 a month. I have heard this scenario from a lot of people in my district and elsewhere. They find a place to rent, they pay a nonrefundable application fee and they apply—and only after they accept the offer are they told the actual cost. Trash is extra; water is extra; the "entertainment package" is extra; using the pool is extra; and none of these fees are optional. The rent may be \$1,200 a month, but the actual cost of living there is \$1,450 a month.

When someone is looking for a place to live and balancing their budgets, they need to know upfront what that cost is going to be. Section 3 of the bill requires that a single number be provided that includes all nonoptional fees. This does not include pet rent, which is optional, or parking spaces if parking spaces are optional. This resort fee-style of price listing can be detrimental to a person trying to work out a monthly budget when seeking a place to live. This change will provide transparency and certainty for someone living paycheck to paycheck, which is a large segment of our population.

Section 3 of the bill also includes a deceptive trade practice option, which is what prompted the amendment in [Exhibit O](#). The intent of this is to be a stick to ensure that the rent listed in advertising is the total amount that will actually be paid. It is a private right of civil action regarding a deceptive trade practice. The amendment made that a little bit clearer because there was a question about whether this is a criminal issue that would require the Attorney General. It is not. The intention is a private civil right of action for a deceptive trade practice.

Section 3.5 allows prospective tenants to review a boilerplate lease so they know what it requires, including any additional costs or requirements, and thus have complete information before paying nonrefundable fees. The boilerplate lease could be on a website, sent via email or provided in any other fashion. This is not a requirement to fill out a complete lease for everyone who comes through the door.

When I brought this bill to the Assembly, there were some questions about water bills. Water bills are variable, so the exact cost per month cannot be estimated. The water bill can be put in a tenant's name, but the common practice is for the property management companies or landlords to pay the bill and then charge the tenants. I spoke with the Southern Nevada Water

Authority, and, at least in Clark County, you can add another name to a water bill. The worry is that a tenant might run up a huge water bill, which would then become a lien on the property. This bill gives an option for the tenant to be added to the water bill. The tenant can choose to pay the water bill directly, as opposed to paying it as part of the rent. If there is a water bill for \$1,500, that typically means there is a leak somewhere, and the landlord should be made aware of it so it can be fixed. In that case, the landlord or property manager can get billed and so can the tenant.

SENATOR STONE:

I like a lot of your bill. The part I am not excited about is the private right of action section. As you know, every billboard in southern Nevada advertises somebody who wants to sue you. I would prefer to see some type of mandatory arbitration mediation. A large lawsuit can put a small landlord out of business.

Regarding water bills, I own units that have fire sprinklers. The way the building was constructed, the water company cannot turn off the water for specific tenants because it will shut off the water for the sprinkler systems. For that reason, I require my tenants to put the water utility in their names. I only get notified by the water company when the bill reaches \$700 or \$800, which has happened on more than one occasion. The water company tells me I have to pay the bill or they will lien the property, and the tenant cannot have the water in their name anymore because they have a history of delinquency. I bring this up because dealing with tenants who are delinquent might pose a problem.

ASSEMBLYWOMAN CONSIDINE:

As to your first point on a large lawsuit, these are private rights of action. These are going to be heard in a small claims court, if they even get there. The idea is that the stick of the private right of action will serve as a deterrent, so we will not see that behavior. I have seen many laws in this State, especially consumer protection laws, where if there is no stick, it is difficult to enforce. Allowing a civil right of action individually that would go to small claims and to justice court creates some impetus to obey the law. Typically, there are mediation options so the parties can bypass the court. This should never be a large-scale lawsuit.

SENATOR STONE:

I do not endorse insubordinate landlords who purposefully try to take advantage of the tenant. However, I would rather see landlords first get a registered letter telling them, "Hey, you quoted someone \$1,500 a month, and you forgot to

add in the \$15 a month for trash pickup." Sometimes you forget things, or you have people who work for you who forget things. It would be nice to get a registered letter first before you use the sledgehammer. The registered letter could include the threat of the sledgehammer; it might say, "Hey, you messed up. You quoted us this much for the rent. If you don't change it within ten days, we reserve the right to file a lawsuit against you." Then if the landlord does not respond within ten days, by all means sue.

ASSEMBLYWOMAN CONSIDINE:

I appreciate the comment and will consider that. Thank you.

With regard to water bills, in southern Nevada, you can put two names on the bill so the property manager or the landlord always gets a copy of that water bill. You mentioned that the water bill is already in the tenant's names in those cases.

SENATOR STONE:

Yes, but the legal owner of the property has to be a legal backup. If the tenant does not pay, the bill goes to the landowner. That is the way it works when it is connected to the sprinkler system. That is a little nuance I wanted to make you aware of.

ASSEMBLYWOMAN CONSIDINE:

I appreciate that. It might be something we need to work on in another session.

SENATOR SCHEIBLE:

This is a comment regarding the idea of sending a registered letter before filing a small claims action. I believe it is required in all 17 counties in Nevada that before you file a lawsuit, you must first send a certified letter with either a demand or an explanation of the remedy you are seeking. That is already part of Nevada law, or at least it is the policy in every county I have practiced in. I do not know if counsel can speak to that or if it is outside of the scope of the bill.

BRYAN FERNLEY (Counsel):

I can look at that for each of the justice courts and get a response to the Committee members.

MR. CATHA:

The Culinary Union supports A.B. 218.

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The Culinary Union believes tenants deserve transparency, and landlords should not be in the business of making money off of rent. The Union supports efforts to stop landlords from using other less predictable and transparent methods of collecting money from tenants as profit centers.

MR. SANDE:

The best way to show our support is a comment that was made by one of our members in their legislative committee. They said not only does this bill do what it proposes to do and outlines the best practice, it is also the right thing to do. We support A.B. 218.

ANNETTE MAGNUS (Battle Born Progress):

We are here in proud support of A.B. 218 to prevent landlords from charging fees if people use a website to pay their rent. Many families in Nevada can barely afford rent, let alone additional fees that get tacked on by landlords. Nevadans need to be able to pay their rent in a simple and fair way without fear. This bill goes a long way to help with that. Please support A.B. 218.

MR. NORMAN:

We support this bill that provides transparency and predictability for consumers and puts some teeth in the law to ensure it is followed.

LILITH BARAN (American Civil Liberties Union):

We are in strong support of this measure and thank the sponsor.

CHAIR SPEARMAN:

I will now close the hearing on A.B. 218 and open the hearing on A.B. 223.

ASSEMBLY BILL 223 (1st Reprint): Revises requirements relating to collection agencies. (BDR 54-755)

ASSEMBLYMAN MAX CARTER (Assembly District No. 12):

This is an issue regarding debt collectors and how they behave once a debt has been paid off.

I am aware of the rise in medical debts getting transferred to collection agencies way too fast. I have been experiencing them as a trustee on my union's health trust. Quite often, these medical debts end up in collection before the

explanation of benefits are even put out, leaving people wondering what is going on.

This issue hit me head on right about the time of the election. I own a house, a family legacy, that sits right behind me. A renter went crazy and pretty much destroyed the house. The house was completely paid off, but I had to take out a mortgage to refurbish and rebuild the house. I applied to get a primary mortgage, and all of a sudden six medical debts popped up on my record that I had to clear up in order to get the mortgage approved. They were all medical debts going back five or six years. Some of them involved a family tragedy that came about at a time when I was not thinking straight.

I worked through it and diligently called all of the collection agencies. Some were great; some were horrible. I was shocked to find out that some of these agencies do not even provide a receipt. With one, I paid off several thousand dollars worth of medical debts. When I asked for a letter so I could prove to the mortgage company that I had satisfied the debt, they said it would come off my record in two or three months. I said no, I need it now. Their response was to say I could come into their office and pay them \$10 for each account, and only then would they give me a payoff letter. I asked if they could just email me a receipt, and they said no, they did not communicate via electronic means, and I had to pay if I wanted a payoff letter. It was a slap in the face from a company that probably bought the debt for pennies on the dollar, and now it wanted an additional fee to prove that it got my money.

I would like to say that A.B. 223 is a simple bill, but there is nothing simple in this building. What we are dealing with is a narrow issue of requiring collection agencies to provide debtors with a payoff letter when a debt has been paid off. We worked diligently with all of the stakeholders to get to a reasonable accommodation. The payoff letter can also be delivered in electronic form, a simple email, within ten days. If this is not done, the debtor has a private right of action, which is the same sledgehammer referred to in a previous bill today. That is in the bill because, as we have heard, it is something that requires the bad actors to behave.

There is also a small technical correction that was done on a previous section of this statute. Section 3 of the bill removes the requirement to have a registered or certified letter from a collection agency regarding medical debt. This was done at the request of the University Medical Center in Las Vegas and

Renown Regional Medical Center in Reno. They were spending more than \$250,000 a year sending out certified and registered letters to debtors, and most of the addresses were not good. Many of these debtors were homeless or indigent, and sending undeliverable letters to them was creating a burden on those facilities. Legal Aid of Southern Nevada, the organization that suggested the provision originally, agreed wholeheartedly that it was not necessary.

JAMIE COGBURN (Nevada Justice Association):
I will give you a quick walkthrough of the bill.

Section 1, subsection 1 of the bill lays out what needs to be included in the payoff letter. Subsection 2 specifies what must be in the debtor's request to the collection agency; subsection 3 specifies what must be in the payoff letter. This section also requires that the letter include a way to determine what the final cost will be.

There was some concern from stakeholders that people might request these letters over and over. For that reason, section 1, subsection 4 limits the debtor to three requests for payoff letters per 180-day period.

Subsection 5 requires that collection agencies provide a satisfaction letter showing the debt has been paid within five business days of the debt being satisfied. It also must be on the firm's letterhead. This is so if, for example, you are in the middle of escrow, you can show proof of payment quickly so you can close escrow.

Subsection 6 details the private cause of action clause and includes definitions of terms.

Section 3 of the bill removes the language requiring medical debt letters to be sent by registered or certified mail.

MR. NORMAN:
We are in support of A.B. 223.

The requirement for registered or certified mail came about in a bill from the Eighty-First Session. I think it was Senator James Settelmeyer who suggested that certified mail would be better, so we put that in. In practice, it has turned out to be a huge cost for those who provide health care to indigent people.

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So we appreciate the bill, and we appreciate the amendment to the 2021 legislation.

ADAM ZARRIN (Leukemia & Lymphoma Society):

Our mission is to cure blood cancers and improve the quality of life of patients and their families. We are in support of A.B. 223.

A blood cancer diagnosis often brings extraordinary financial pressure during and after treatment, and that sometimes includes medical debt. Patients rack up insurance premiums, co-pays, travel expenses and other out-of-pocket costs, and those costs never return to prediagnosis levels. That means the burden of medical debt continues beyond diagnosis and treatment.

Half of cancer patients incur medical debt, and half of those debt holders face collection actions. Many are forced to delay or avoid care for serious issues because of medical debt. Medical debt disproportionately impacts those from historically marginalized communities. For example, African American patients are more likely to have their medical debts sent to a collection agency. These pressures harm cancer patients and their families, and A.B. 223 takes the first steps towards addressing that harm.

We think it is a great start, and we hope the Legislature will consider other actions in the future, such as limiting liens and wage garnishment. Arizona recently passed such a measure by a vote margin of 72 percent to 28 percent. We think this is a pragmatic and popular solution to tackle medical debt and protect individuals.

MIKE RANDOLPH (HOA Collections LLC):

I am opposed to A.B. 223.

I have been a Nevada-licensed collection agency manager for 30 years, and I have specialized in recovery for HOAs, also known as common-interest communities, for the last 23 years.

There are a few pieces of this bill that I find untenable. One is the requirement in section 1, subsection 3, paragraph (a), subparagraph (1), that the letter include the total amount due on the date the letter is sent. If you are working a retail collection where it is a fixed debt that just has an interest charge on it, that would be easier to do. But in common-interest communities, we have late

charges that accrue; we have ongoing assessments. The balance due continues to change with time. The last thing I want to do is send somebody a payoff letter that is incorrect by the time they come to the office to pay it. This bill requires the amount due to be based on the date the letter is sent, as opposed to the total due on a date 10 or 15 days away. Most often in common-interest communities, it would be through the end of the month.

Regarding the debtor calculating interest, *Nevada Revised Statutes* (NRS) 116 does not allow us to charge interest on any assessment for 60 days after it is delinquent. Even accountants do not get that one right. In my office, we typically send out a payoff letter within ten days because NRS 116.3116, subsection 13, already requires us to do that with regard to assessments. I would like to be able to give debtors a time frame rather than giving them the amount today. When we send out a payoff letter, we tell them what it will be 10 or 15 days from now when they actually come in to pay it.

Section 1, subsection 5 requires us to send a satisfaction letter within five business days after the date on which the debtor satisfies the claim. But is that the day they mailed the check, the day we received the check, the day the check got deposited or the day the check cleared? I hold the accounts for five days when I am dealing with cashier's checks, title checks, bank priority lien checks, bankruptcy trustee checks or money orders. I hold personal checks and out-of-state checks or foreign checks for ten days. Sending a satisfaction letter at five days before the check has cleared would definitely cause issues. It would open me to vexatious litigation on every single account I work.

I have no problem sending payoff letters or satisfaction letters. The timeframe is my biggest concern because I cannot send a payoff letter when the check has not yet cleared.

CHAIR SPEARMAN:

I have a couple of questions I want to get cleared up while everyone is listening.

Mr. Cogburn, in the last two sessions, we have had several bills regarding HOAs. Each time I have been told there are not that many instances where homeowners get entangled with collection agencies. But what I just heard Mr. Randolph say discounts that. Are you telling me that there are a lot of homeowners who incur one fee or fine that continues to grow? If that is the

case, how long do they grow? Is a percentage of the amount added to the debt daily? Please clear that up for me.

I have a question for you. How do people who accept checks and other monetary instruments do it? I work with international monetary systems, and right now I am confused about HOAs. Perhaps this is something that needs to be taken up in the next Session. Maybe there should be some amendments to NRS 116. What I just heard is that people can lose their homes while they are still making mortgage payments. What I just heard you say is that all of that can happen because you do not have the time or the system set up to address these sorts of requests in a timely manner. Mr. Cogburn, please address that.

MR. COGBURN:

Regarding the satisfaction of the debt, that provision clearly starts when the debt is satisfied. Many collection agencies do not even accept personal checks. It has to be a money order or a cashier's check. But if somebody wrote a personal check, the check is deposited, and the five days starts to run once that check clears.

CHAIR SPEARMAN:

People who deal with this on a professional and large scale can figure that out, yes?

MR. COGBURN:

In my experience, I have not seen that issue ever be a problem. When you are dealing with a collection agency, sometimes you get into the arena of the Fair Debt Collection Practice Act.

CHAIR SPEARMAN:

Thank you. As I said before, you are talking about someone who is trying to get a letter indicating that the debt has been satisfied. What I heard from someone who has the power to take someone's home that they cannot do that in a timely manner because of all the stipulations that are in section 3. I am just trying to be clear.

ROBERTA OHLINGER-JOHNSON (Creditors Rights Attorney Association of Nevada):

We remain in opposition to A.B. 223 as amended for the following reasons, which have been provided to the sponsors. We do not believe the bill is unreasonable, but we do have a few issues.

In section 1, subsection 1 of the bill, we believe that ten business days after the request for a payoff letter is commercially unreasonable and can be unfair. For one thing, there can be mail delays. I myself have experienced a 35-day mail delay in rural Nevada, which resulted in a consumer's attorney coming after me with a lawsuit for failure to comply with deadlines. It turned pretty ugly, but it does happen. Since this bill would cover rural Nevada as well, we believe it would be more fair for it to be from the date the collection agency receives the letter.

Regarding section 1, subsection 5, Mr. Cogburn said this provision starts from the date the check clears, and that is an issue. We would like to see some clarification of the language in this section. When I receive a title check or an Interest on Lawyer Trust Account check, I am willing to issue satisfaction letters or lift liens. However, we accept many forms of payments to facilitate payment for consumers and debtors. We believe that any other kind of payment, based on the language as drafted, would invite fraud. We accept personal checks and money orders, but there is certified mail fraud. We have had payments stopped. If the language is clarified, we can lift our concern on that.

We remain conceptually opposed to section 1, subsection 6. We do not believe that the mechanism of a lawsuit serves consumer protection effectively. It is an expensive process and is also a long way to get what you want. If you are talking about a consumer who is at the beginning of the process requesting a payoff letter, this does not seem logical to us. If they are having trouble getting that letter, a regulatory complaint is far more efficient and cheaper. The consumer will get the desired results quickly, whereas a lawsuit could take years.

SANDY O'LAUGHLIN (Commissioner, Division of Financial Institutions, Nevada
Department of Business and Industry)

We are neutral on this bill. I am available for questions.

CHAIR SPEARMAN:

I do not know if you are the right person to ask, but last Session we passed a bill requiring HOAs to submit information regarding homes that were repossessed for lack of payment of HOA fees or fines. Did that information go to you or to the Real Estate Division?

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MS. O'LAUGHLIN:

I believe that information goes to the Real Estate Division.

CHAIR SPEARMAN:

We will check and make sure you are getting that information as well.

I find this topic more than a little irritating. The craziest thing I have ever heard was when a veteran told me he lost his home because of an HOA fine he could not pay. With earnings in excess of \$1.2 billion, I would think the HOA industry could find a way to make this work better. If you are repossessing someone's home that is worth \$500,000, all because they owe the HOA \$300, you can surely take the time to send one letter. And please, I do not want anybody from the HOAs to tell me that that does not happen, because yes, it does. I know not all HOAs are predatory, but this does happen.

ASSEMBLYMAN CARTER:

Thank you for the comments. I am learning very rapidly that when you open up one little piece, all of a sudden you find more pieces that need work. I promise you that I will be working on this in the Interim. We worked diligently with the stakeholders on this bill, and there were only a few who wanted to keep operating the way they have been. We all know that there are bad actors in every industry. I want to assure you that we worked with everybody who came to us with reasonable requests.

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CHAIR SPEARMAN:

I will close the hearing on A.B. 223. Is there any public comment? Hearing none, we are adjourned at 9:40 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. 21	C	10	Cesar Melgarejo	Work session document
A.B. 22	D	10	Cesar Melgarejo	Work session document
A.B. 23	E	11	Cesar Melgarejo	Work session document
A.B. 27	F	11	Cesar Melgarejo	Work session document
A.B. 29	G	12	Cesar Melgarejo	Work session document
A.B. 39	H	12	Cesar Melgarejo	Work session document
A.B. 78	I	13	Cesar Melgarejo	Work session document
A.B. 107	J	13	Cesar Melgarejo	Work session document
A.B. 146	K	14	Cesar Melgarejo	Work session document
A.B. 163	L	14	Cesar Melgarejo	Work session document
A.B. 236	M	15	Cesar Melgarejo	Work session document
A.B. 276	N	15	Cesar Melgarejo	Work session document
A.B. 218	O	16	Assemblywoman Venicia Considine	Proposed amendment