

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

[LB123 LB190 LB386]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 12, 2007, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB123, LB386 and LB190. Senators present: Rich Pahls, Chairperson; Chris Langemeier, Vice Chairperson; Tom Carlson; Mark Christensen; Tim Gay; Tom Hansen; Dave Pankonin; and Pete Pirsch. Senators absent: None. [LB123]

SENATOR PAHLS: Good afternoon. Welcome to the Banking, Commerce and Insurance Committee hearing. It looks like we have a crowd coming in today. Looks like this is going to be a nice heavy agenda. My name is Rich Pahls. I am from Omaha and I represent District 31. The committee will take up bills in the order posted and I will just go over those. They will be LB123, LB386 and LB190. Our hearing today is your part of the public of the legislative process. This is your opportunity to express your opinion. To better facilitate today's proceedings I ask you to abide by the following procedures I have listed on the board over here. It would make things really more efficient if you would do that. Number one, turn off your cell phones if you have them on, please. We have the on-deck chair. We have our testifiers box up here. Typically the senator will be doing the introducing. Following the introducing we will have the proponents, opponents and neutral testifiers. We will try to give equal time to both sides of the issue and we are going to ask you to begin your testimony by spelling your first and last name for the record. If you have material that does need to be distributed to the members of the committee, we would like to see...you should have ten copies. If you do not have ten copies, if you would like to have those for the committee please show your hand and I will make sure our pages run them off for you. Do we have anybody who needs additional copies? Thank you. Everyone is very well prepared today. Appreciate that. And we are asking you today, because it does look like we are going to have a number of people speaking, that you listen to the comments made by the person who spoke previous to you so not to be too repetitive. To introduce my committee counsel, to my right is Bill Marienau, and my committee clerk is Jan Foster and we will start over here. Two of our senators are not with us today so we will start with Senator Langemeier. []

SENATOR LANGEMEIER: Senator Chris Langemeier, District 23, Schuyler. []

SENATOR PANKONIN: Senator Dave Pankonin, District 2, Louisville. []

SENATOR GAY: Tim Gay, District 14, Papillion/LaVista. []

SENATOR CHRISTENSEN: Mark Christensen, District 44, Imperial. [LB123]

SENATOR HANSEN: Tom Hansen, District 42, Lincoln County, home of Union Pacific Railroads and largest icehouse in the world. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: Thank you. This is our salesman for the state of Nebraska so every time he is not committed to making something up at giving us some...(laughter). We are not asking you to make it up but just enliven that part of the... []

SENATOR CHRISTENSEN: We don't know if he is making it up. []

SENATOR PAHLS: It could be. It very easily could be. Our page today is Kristine Kubik from Prague over there and Cora Micek from Hastings, Nebraska, and we have Senator... []

SENATOR PIRSCH: Pete Pirsch. []

SENATOR PAHLS: Pete Pirsch. []

SENATOR PIRSCH: From District 4. []

SENATOR PAHLS: You have no chance to relax when you get up here, Pete. Okay the first bill before us would be LB123 which was introduced by the Banking, Commerce and Insurance Committee on behalf of the Department of Banking and Finance. My opening on this bill will be asking the Director of Banking and Finance to come forward to testify on the provisions of this bill. It is good seeing you, John. [LB123]

JOHN MUNN: (Exhibits 1 and 2) Thank you, Senator Pahls. Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I am Director of the Nebraska Department of Banking and Finance. I am appearing today in support of LB123 which was introduced by the committee at the request of the department. LB123 proposes to adopt the Nebraska Foreclosure Protection Act to protect homeowners in foreclosure from deceptive and unconscionable business practices. LB123 is preventative and proactive legislation. The proposed act is preventative because it is aimed at providing Nebraska homeowners with the information necessary to make informed and intelligent decisions regarding transactions with persons and entities in the business of foreclosure rescue or bailout. This would be accomplished by setting requirements for contracts between homeowners and foreclosure consultants and between homeowners and equity purchasers, by prohibiting certain acts by these consultants and equity purchasers, and by providing for penalties. LB123 is proactive legislation because it will provide the tools for dealing with a form of fraud that we believe the state will be increasingly vulnerable to in the upcoming months. While the department has had few reported instances of foreclosure fraud, it has occurred in the state. We propose this legislation now because we are very concerned that Nebraska, like many other states, is ripe for an onslaught of foreclosure fraud. The statistics speak for themselves. On January 30, 2007, the Lincoln Journal-Star reported data provided by RealtyTrac, a California company that tracks

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

foreclosures. In that article I quote: In Nebraska, 3,304 households were in one of the three stages of foreclosure last year, or one of every 237 households in the state. That ranked Nebraska 28th among all states. End quote. Those disturbing figures are for the year 2006 and represent a 47 percent increase in one year. Nationally, there was a 42 percent overall increase for homeowners in one of those stages of foreclosure, which include notice of default, trustee sale, or repossession. Both RealtyTrac and the National Consumer Law Center indicate that the rapid rise in foreclosures is a result of several years of high levels of sub-prime lending and the making of loans with balloon payments. Typically, sub-prime loans are for persons with blemished or limited credit histories. The loans carry a higher rate of interest than prime loans to compensate for increased risk. Borrowers are simply unable to meet the large payments required for such credit. The downturn in the housing market may also be a factor. It is an unfortunate fact of life that when people are in distress, there are other persons waiting to take advantage of them. Persons subject to foreclosure are facing one of the most difficult times of their lives and are easy prey for unscrupulous operators. Foreclosure fraud ranges from draining equity in return for promised loans that do not materialize, to the charging of exorbitant fees for services never rendered, to signing over the home with a lease or buyback arrangement that is impossible to meet. LB123 is modeled very closely after the Colorado Foreclosure Protection Act which was enacted in 2006. Colorado was ranked first in the RealtyTrac report with 1 of every 33 home loans in foreclosure in 2006. LB123 does not ban the business of foreclosure assistance. It recognizes that there are legitimate foreclosure rescue businesses that provide much needed assistance to these homeowners. More importantly, it recognizes the vulnerabilities and abuses that I have discussed. To this end, the bill targets foreclosure consultants and equity purchasers. A foreclosure consultant is one who promises to assist the homeowner in delaying or stopping a foreclosure. A foreclosure consultant does not take title to, or any interest in, homes in foreclosure. An equity purchaser is one who assumes title to homes in foreclosure. There are a number of exceptions to the definitions of these terms, including financial institutions, insurance companies, and persons who take title following court-ordered or statutorily authorized sales. Sections 13 to 18 cover the foreclosure consultants while sections 19 to 27 address the equity purchasers. Both types of activities require written agreements with language that is set forth in the act, cooling off periods, and consumer rescission and cancellation rights. Both are prohibited from engaging in deceptive, misleading, and unconscionable acts. Foreclosure consultants are prohibited from asking that titles to homes be transferred to the consultant; from receiving any compensation until services have been performed; charging excessive interest rates; taking wage assignments or liens on any type of property; obtaining powers of attorney to do anything other than to inspect documents; and engaging in deceptive, misleading, and unconscionable practices. Equity purchasers are required to strictly adhere to the cancellation period. During this time, they are prohibited from accepting any instrument conveying an interest in the property, recording any documents with the register of deeds, or transferring the property. Equity purchasers are also prohibited from making untrue or misleading statements about the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

value of the property or proceeds. If an equity purchaser enters into a lease back/option to buyback arrangement, requirements are imposed regarding the consumer's ability to pay in the amount of the buyback. The Foreclosure Protection Act will provide that any violation of the act will be a Class IV felony. LB123 would also provide that a violation of the act will be a violation of the Uniform Deceptive Trade Practice Act which is administered by the Nebraska Attorney General's Office. You may have noted a somewhat unusual fact in reviewing the bill and its statement of intent or just from listening to my testimony here today, and that is that the Department of Banking and Finance will have no jurisdiction under the act, except for the very limited circumstance where one of the entities we regulate or their affiliates would be involved in the foreclosure assistance business. Enforcement authority is with the Attorney General and all violations are criminal offenses subject to prosecution. That reflects our belief, based on our regulation of all areas of finance, that foreclosure fraud has such a potential for grave harm to Nebraskans that administrative remedies would be insufficient. The Attorney General's Office reviewed this proposal and advised us that it had no concerns before we brought it to the committee for introduction. Last Friday the department received a proposed amendment to the bill from a member of the industry, which we understand will be more fully discussed by another witness. The department has some concerns with the amendment as presented to us, but we are willing to work with the company and the Attorney General's Office regarding the two issues reflected in that amendment. I want to thank the committee for introducing this bill. I would be happy to answer any questions. [LB123]

SENATOR PAHLS: Senator Langemeier. [LB123]

SENATOR LANGEMEIER: Thank you, Chairman Pahls and thank you, Director Munn. For an example, I am in the real estate business which you are well aware of and we have individuals come in our office almost on a weekly basis that say you know, we are struggling with this, we have got to get rid of this house, will you just buy it as a company and get them out of it and so they can move on. Where would I fall in this? [LB123]

JOHN MUNN: Realty firms are one of the exclusions, are they not? [LB123]

SENATOR LANGEMEIER: Yeah, and then if I were to buy it personally as an agent within that realty firm would I be excluded? [LB123]

JOHN MUNN: Directly from the person that is being foreclosed? [LB123]

SENATOR LANGEMEIER: Correct. As the owner of my company if I don't want the company to actually own it and I want to buy it personally, although they came to my real estate company, would I not then be excluded and then how would I fall in? [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

JOHN MUNN: Personally unless you purported to be able to work on their behalf to get them back into that house, no, you would be excluded. [LB123]

SENATOR LANGEMEIER: So if I am just buying it with no... [LB123]

JOHN MUNN: If it was an arm's length sale taking a deed with no promises made to the seller, you would be excluded. [LB123]

SENATOR LANGEMEIER: Okay. Thank you. [LB123]

SENATOR PAHLS: Senator Carlson. [LB123]

SENATOR CARLSON: Senator Pahls. Director Munn, in your statement here you indicate that any violation of the act would be a Class IV felony. Just to kind of help me along a little bit, any violation is pretty far reaching, but could you give a couple of examples? [LB123]

JOHN MUNN: Probably the example I am most familiar with from the time I was in the banking myself was when people would be asked to sign the home over even though they had equity in the home. I think that is maybe the most grievous situation. Rather than just losing the roof over your head you have also lost, if it was a \$75,000 house and you had a \$60,000 mortgage you may have lost \$15,000 of equity in the transaction. [LB123]

SENATOR PAHLS: Senator Christensen. [LB123]

SENATOR CHRISTENSEN: While debating here this statistic 1 in every 234 households is shocking to me. But a little bit not related to this bill maybe but I hear about on TV, radio, things this way about Quicken Loans which are no principal. Now isn't that what is causing some of the problems that leads into this fraud and distress? [LB123]

JOHN MUNN: That is not unique to Quicken Loans. Interest-only is a product that many of them offer. I want to answer your question, but an advertisement that bugs me is when people are exhorted to put their credit card bills into a home loan. You know, let's turn a three-month obligation into a 30-year obligation. You know, how much good are they doing? Yeah, interest-only loans no doubt are a problem. Payment shock with adjustable rate mortgages, maybe the debtor can handle the initial payment. But especially if it is a buy-down rate or a special introductory rate for a period of time and then the interest rate goes up 300 basis points in a year or two, could be a case of payment shock and they simply can't handle it with the income they have available. [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR CHRISTENSEN: So I am not saying this isn't a good bill and addressing a problem, but are we just putting a Band-Aid on something instead of looking at the real problem? [LB123]

JOHN MUNN: I don't know how you would regulate those, I mean, to say that interest-only loans make them unavailable to the public. Interest-only loans are a big product on the East and West Coasts where they have had the big run up on real estate values. I think it would be tough going after specific products unless they were proven to be deceptive. We have within the last two or three months released some guidelines for nontraditional lending. Some of the types of products you are talking about are nontraditional. One of those guidelines would be as regard to that payment shock. Yes, they qualify now, but if their interest rate went up 200 basis points in a year, would they still qualify for that loan? Looking at it from that angle. [LB123]

SENATOR CHRISTENSEN: You know I think some of these products that work like we are talking about on the East Coast is fine because values are going up so fast they naturally build in equity. But when you get in the Midwest where the equity is stable, maybe decreasing or slightly increasing, them type of loans kill people. [LB123]

JOHN MUNN: Um-hum. [LB123]

SENATOR CHRISTENSEN: Thank you. [LB123]

SENATOR PAHLS: Senator Pirsch. [LB123]

SENATOR PIRSCH: Just a question, this was enacted in Colorado, you said, last year and it took effect in...was there an emergency clause or when did that take effect? [LB123]

JOHN MUNN: I don't know that there was an emergency clause so it probably would have gone into effect last fall. [LB123]

SENATOR PIRSCH: Okay, and how many other states are similar type of acts that have been, do you know? [LB123]

JOHN MUNN: I don't have a number on that. Oh, eight states. Thank you. [LB123]

SENATOR PIRSCH: Eight states. Okay. [LB123]

JOHN MUNN: So apparently we are still a little bit on the leading edge of it. [LB123]

SENATOR PIRSCH: Good. Thank you. [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: I see no more questions, thank you, John. [LB123]

JOHN MUNN: Thank you, Senator Pahls. [LB123]

SENATOR PAHLS: Just for a show of hands how many proponents? One, two. Opponents? Anybody in the neutral? Okay. Proponents, let's do it. [LB123]

ROBERT J. HALLSTROM: Senator Pahls, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB123. I think a lot of times the traditional lenders are painted with a broad brush. This bill does not do so. There is a recognition that our members in the traditional financial institution community are not at the root of this particular problem, and we think that it is important and a positive public policy statement to take a look at some of the problems that have developed in the state of Nebraska with regard to foreclosure consultants and to take action as proposed by LB123 to address those particular types of situations. Director Munn has noted that we have some guidelines, Senator Christensen, with regard to nontraditional mortgage loan products which I think provide a great deal of support for consumers in terms of providing disclosures through the financial institutions community to make sure that the people that are taking out the newer types of loans or the nontraditional types of mortgage products know full well what the benefits and the potential downsides of those loans are and that they enter into those relationships in the full light of day. So with that, we would simply encourage the committee to act favorably upon LB123 and advance it to General File. [LB123]

SENATOR PAHLS: Senator Gay. [LB123]

SENATOR GAY: Bob, are those disclosures, is that a national policy or is it state laws? [LB123]

ROBERT J. HALLSTROM: The federal regulators have issued a joint agency guidance, if you will, that provide a great deal of detail. We have just gone out with a compliance update to our bankers to make sure they are fully aware of all the components of the disclosures. The payment shock, the different issues that Director Munn addressed are all set forth in great detail in that particular guidance for the lenders to follow. [LB123]

SENATOR GAY: Thank you. [LB123]

SENATOR PAHLS: Seeing no more questions, thank you, Bob. [LB123]

ROBERT J. HALLSTROM: Okay. Thank you, Senator. [LB123]

LESLIE LEVY: Good afternoon, Chairman Pahls, members of the committee. My name

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

is Leslie Levy, L-e-s-l-i-e L-e-v-y. I am an Assistant Attorney General with the Nebraska Department of Justice. I am also chief of consumer protection in the antitrust division and I am testifying today in support of LB123. My office would like to thank the committee and thank the Department of Banking and Finance for bringing LB123 and this issue to the forefront. The state Attorneys General investigate, enforce, and address unfair and deceptive trade practices in the marketplace, and one of the areas of growing concern for the state Attorney's General on a national level is mortgage fraud. Due to the record level of mortgage foreclosures taking place on a national and regional basis, mortgage fraud has become one of our fastest growing white collar crimes in the United States. Scam artists and unscrupulous businesses prey on consumers who are at risk for losing, a lot of times, their only asset which is their home. We believe that the passage of LB123 is good, sound public policy. We need to help protect consumers. LB123 gives us another tool in our toolbox in which we can do that. What I would say is we would like to bring two items before your attention that we would like to have addressed. The first is the fiscal note. We do note that there is not a fiscal note attached to this bill. We would like the opportunity to submit an amended fiscal note, if that is possible, because the enforcement of this act falls squarely within the jurisdiction of our office. We believe that it is reasonable to anticipate the need for a part-time or half-time full-time employee. So a half-time person. My office has already begun fielding questions about mortgage foreclosure frauds as a direct result of an article that ran in the Lincoln Journal-Star about a week ago. I don't know if any of you saw it. The people are already calling. We are already getting complaints. Obviously when a new act passes it always takes a while to figure out just how much activity there is going to be on a bill, but the complaints require us to mediate those, to investigate those and, obviously, prosecute them. If you are unfamiliar with consumer protection actions, they are like mini class action lawsuits. We don't generally act on one unless it is particularly egregious. We usually have 25, 50, 100 complaints. The last consumer protection action we did we had a 2-week trial with 40 consumers testifying. So it becomes very labor intensive. Second of all, and the second issue is merely technical, our state consumer protection laws contain both criminal and civil provisions. The facts of a particular situation determines whether or not we file it criminally or civilly. Both sections 15 and 24 reference the consumer's right to a jury trial and this act makes specific provisions for criminal penalties. We would like to merely qualify that a consumer has a right to a jury trial if we choose to file it criminally. Under the state's consumer protection laws we oftentimes will file it civilly and at that point those civil actions are equitable in nature and they are tried to the bench. So we are happy to work with committee counsel. I briefly visited with Bill about this. We are happy to work with him to come up with some qualifying language that fits the parameters of our office. So are there any questions? [LB123]

SENATOR PAHLS: Leslie, I have a question. When you said the fiscal note, and I did ask Bill about this, they are telling me by the note that there would be not impact on your office. However, you are saying you need additional staff to carry this through.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

[LB123]

LESLIE LEVY: Yes. It is very feasible. [LB123]

SENATOR PAHLS: Okay. Senator Carlson. [LB123]

SENATOR CARLSON: Senator Pahls. Leslie, this is maybe not your question, but I understand the potential need for additional staff. So is it fair to ask you what would be your suggestion for funding? [LB123]

LESLIE LEVY: You are right. It isn't like...you know, that is not my area of expertise in this particular...although I can visit with our business office and can, if you don't mind, I would like to be able to get back with maybe Bill and maybe the Chairman of the committee and make that recommendation. [LB123]

SENATOR CARLSON: Okay. Thank you. [LB123]

LESLIE LEVY: Thank you. [LB123]

SENATOR PAHLS: I see no more questions, thank you, Leslie. [LB123]

LESLIE LEVY: Thank you. [LB123]

SENATOR PAHLS: Any more proponents? Opponents? [LB123]

JARED HOLLINGER: Proponent. [LB123]

SENATOR PAHLS: Proponent. [LB123]

JARED HOLLINGER: (Exhibit 3) Thank you. Senator Pahls, committee, thank you for the opportunity to speak. My name is Jared Hollinger. I am president and co-owner of a company called Homebuyers Incorporated. We operate in Omaha and Lincoln metro areas and approximately ten counties in eastern Nebraska. Our course of business... [LB123]

SENATOR PAHLS: Could I have you spell your name, please? [LB123]

JARED HOLLINGER: Yes. J-a-r-e-d W. H-o-l-l-i-n-g-e-r. I will apologize as a first time testifier if there is any stumblings or anything of the sort. [LB123]

SENATOR PAHLS: Watch us, we stumble ourselves. [LB123]

JARED HOLLINGER: Our business takes part in several areas surrounding real estate

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

purchases, sales, brokers, lending, etcetera. One of them happens to be equity purchases for individuals that are in current foreclosure. The overall bill, LB123, we are a proponent for. We do have some serious concerns about it and I look forward to speaking as a realistic on the ground approach of how these transactions and these individuals generally take place and how this bill could have detrimental effects on them in some regards. I do agree, the level of foreclosure across the state, and more importantly, across the country has increased dramatically in the last three or four years and will continue to do so in the future. And I can firsthand testify that there are unscrupulous folks, unscrupulous companies, dishonest companies, and those that do take advantage of those in foreclosure. Namely on the foreclosure consulting side there is a fair number of out-of-state companies that do offer false promises in exchange for fees paid, and quite frankly that is just wrong and this bill does an excellent job of banning that. I will say having to do with that before I go into my other concerns, the enforcement of the bill while in some regards I do agree that criminal charges should be part of it as in mortgage fraud and other elements of fraud. If I had my druthers I would love to see it require a license to take part in equity purchase contracts, you know, administered by the department of Real Estate Commission, department of banking, one of those departments. However, I am not unrealistic in the approach that that may not happen, but being a licensed real estate broker in the state I would find that an existing department with ethics guidelines for some of this bill would be a more appropriate body to enforce rather than the Attorney General. A couple of issues regarding the bill itself, and I will touch just on the equity purchase portion as we do not partake in foreclosure consulting with the exception of one entity and that is through a licensed mortgage banker, so we are excluded under the current bill as it is written. I will make note, as the director of the department of banking had noted, there are exclusions for some parties under the bill. However, those exclusions do not, as far as I read in the bill and I will apologize if I am incorrect, do not cover the equity purchasing end of the bill. They simply exclude parties from the foreclosure consulting end of the bill. That noted, the couple of issue I have with the bill as written, and I have distributed to you some proposed generic amendments to the bill which are intended not to be final form, but more so just to be an initial thought on how they could be modified to better suit. The first item I have listed there simply goes into section 21 of the bill section 1, and it has to deal with the right to cancel under LB123. Many times in situations when individuals are in foreclosure and are facing a looming sale date human nature has it that they will wait until the last moment to take action. Our company has very set guidelines as far as how we market. We are constantly putting mailers and door hangers in front of people in that position and if they choose to take advantage of our services then they generally call into the office and we take part and assist them in the matter. However, that generally happens on the last hour. Human nature has it that they will wait that long. They will try any other mechanism, means, whether it be family loans, refinancing, whatever the other options may be before they take part in an equity purchase contract with a lease buyback option. Under the current wording in the bill there is a 3-day right to cancel and it does provide that that right to cancel will be the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

lesser of 3 days, or I believe the language is until noon the day prior to the foreclosure sale. From experience these contracts generally happen after noon the day prior to the foreclosure sale in keeping with the last-hour approach of these debtors. No legislation will change how human nature works in this regard, I feel, and my concern is as I interpret the bill that there just simply will not be a right of rescission for such contracts. I have had conversation with the department of banking, with their general counsel, Ms. Herstein, and I don't know that the interpretation is in align. It is a valuable service for people that are in that position and I would hate to see language in the bill forbid last-minute agreements, contracts, sales to take place for people that do actually need that and would be deserving and would be helped by it. That is where section 1 comes into place where I would propose some amended language to allow that. Would you prefer I go one by one or ask questions? [LB123]

SENATOR PAHLS: No, just go on, Jared. [LB123]

JARED HOLLINGER: Okay. Point two is another point of just practicality and real-life experience with these type of contracts. Generally speaking debtors that we find in this position face a couple of different issues. One may be that their current income cannot meet their current expenses. Okay. That is where I find it a good thing in the bill, that income requirements have to be met, I believe it is 60 percent of their gross income cannot go toward the rental payments along with other principal payments out there. That is very similar to obtaining a mortgage loan. That is a good thing. However, many times in the contracts that we take part in we subsidize rent. If an individual cannot afford the market rent or their current mortgage payment at the time, we subsidize it for a period of the contract. If the first year needs to be cut in half, we do that and we simply tack that subsidy on the end of the lease purchase option. Secondly, is a lot of times they are living in a property that needs repairs and if they couldn't make their mortgage payment therefore they couldn't afford to make the repairs. So part of our agreement, more often than not, is to make a substantial amount of repairs, somewhere between \$5,000 and \$20,000 to the property, again, which is added to the end of the contract, added to the rent purchase contract. Section 2 has to deal...bear with me a moment here. I apologize. Section(s) 1 and 2 are combined. I am talking about section 3; (sections) 1 and 2 modify two separate portions of the bill having to do with the expiration period. Section 3 simply is the modification to include repairs, capital improvements, and below market rent discounts in the purchase price, and this comes into play by another part of the bill which limits the markup on the resale of the property. It currently is written that the resale price to the individual in foreclosure cannot be in excess of 25 percent of the initial purchase price. All I am looking to do here is define the initial purchase price, and in my opinion that initial purchase has to include any and all costs incurred, including repairs, capital improvements, and below market rent discounts given to that party during the life of that lease. In conclusion, the services offered by legitimate companies, equity purchase contracts, foreclosure consulting is a valuable service to these people in need. There are a tremendous amount of people, 1

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

in 31, I believe the statistic was in Colorado, that are in this position and having someone, whether it be a licensed real estate broker that has excess knowledge or a licensed mortgage banker that has knowledge in this business, having someone to help those individuals along is a good service. And the only thing I would caution regarding this bill is that it does not overly limit individuals who attempt to offer those services to these people and basically put a wall up in front of those in need unnecessarily. So any questions regarding these three? [LB123]

SENATOR PAHLS: Senator Christensen. [LB123]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Jared, explain to me how we can better someone being allow them, say you take over the residence because they can't make the payments. Now we are going to give them half rate, stick it on the back end, do improvements, stick it on the back end. Are we not just complicating their financial position? [LB123]

JARED HOLLINGER: No. I will give you a couple of case-in-point examples and I will exclude names and addresses, but I will just use real-life clients. There is an individual, a couple here in Lincoln, who are in a situation where they had medical issues. They are currently unemployed, however, they are awaiting a settlement and a SSI claim to get their income back up--both deserving, both have every intention and every likelihood that they will come through. However, in their current case they cannot afford the market rent of \$1,000 or their payment which was around \$950. Therefore we subsidized their rent at \$200 a month for the first year of the contract and add that to the back end. Through their potential income and through their expected future income, they have proven that they should have every means and they should have the wherewithal to repurchase it at the price projected on the front end. I am not proposing that these costs be haphazardly added throughout the contract. I think it is imperative that they all be outlined as intended from day one in the contract so that there are no surprises to the debtor. However, I don't feel that the individual can be harmed by this. It is a case-in-point example. Secondly, would be the individual we have in Omaha. Their property had significant equity in it. However, it had current code violations on it by the city of Omaha. They had the income to pay. They have the income to purchase the property back. They didn't have the cash in hand nor the credit to borrow to make the repairs needed by the city, and the city would have eventually threatened to tear the property down. They elected to sell the property to us; they elected to have us complete the repairs; they elected to have subsidized rent for the period of time of the lease contract, and then a repurchase at the end of the contract. In that case we cured the code violations, no money out of their pocket, and happy customer. So that is where those come in place real life. Hope that helps. [LB123]

SENATOR CHRISTENSEN: Thank you. [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: Senator Langemeier. [LB123]

SENATOR LANGEMEIER: Chairman Pahls, thank you and thank you for your testimony. On number 3 when you talk about actual costs on the example you gave there, when you sold it back to them did you charge them a commission as well as in your cost and fees? [LB123]

JARED HOLLINGER: No. Actual purchase price including acquisition costs, closing costs, and in many of these cases there is back taxes that need to be paid, and deferred maintenance that needs to happen on the property. And as a point of liability I cannot nor can any company purchase a property and have tenants in there with safety and health concerns. It just isn't a liability that we ever are willing to take and quite frankly nobody should take. They shouldn't be in a property that isn't a safe place to be. So it does not include commission, if that is what you are asking. Sorry to elaborate. [LB123]

SENATOR LANGEMEIER: No. That is fine. Great. Thank you. [LB123]

SENATOR PAHLS: I just have a question. How many companies are there like you in the state of Nebraska? [LB123]

JARED HOLLINGER: Like us, one, Senator Pahls. [LB123]

SENATOR PAHLS: Good answer, good marketing, or similar. [LB123]

JARED HOLLINGER: Similar I would have to say maybe in the Omaha and Lincoln metro area there is probably half a dozen. There are a lot of individuals out there that do this as an individual and that is where, in my opinion, it is something that should be licensed. Somebody should not be able to just read a late night infomercial that they ordered and decide to go out into the foreclosure bailout business. You are going to follow through with things, you are representing that you are going to have these folks in your best interest and be able to follow through on a multi-year contract. If the individual is not financially sound enough in the first place, they shouldn't be out there offering the services. So that is where I struggle a little bit on the regulations. [LB123]

SENATOR PAHLS: Okay. Well then the question I have is it sounds like we have a number of people who are running up against the wall. Just by you know the business people you deal with, pretty legit? [LB123]

JARED HOLLINGER: Um-hum. [LB123]

SENATOR PAHLS: So you don't see in the state of Nebraska the... [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

JARED HOLLINGER: No. What I do see out there is that there are a handful of legitimate companies that can offer this service, that can stand behind the service, and that are sound enough companies that the individual who they are working with should not fear that they themselves will lose the property that they have just sold in foreclosure some day. The problem that we run into time and time again is these one-man shows, for lack of a better term, who haphazardly make promises that they cannot deliver them on, either because they can't get the financing, they can't deal with the attorneys' offices, they can't stop the foreclosure that they are claiming, and these individuals that they are dealing with are in such a state mentally that they just want to put their trust in someone. So if somebody comes up and tells them whether they can deliver or not, if they tell them I can stop your foreclosure and save your house they believe it and we see, I would have to say, on a monthly basis a couple of times people that thought their house was saved, thought that someone has stopped the sale because they had represented and they hadn't. They had been duped or, quite frankly, the person who made that commitment found out that they really couldn't. So that is by and large the number of people. But there are a handful of good, solid, legitimate companies that can offer the service. [LB123]

SENATOR PAHLS: Okay. Senator Pirsch. [LB123]

SENATOR PIRSCH: Just briefly, you said human nature being what it is people put off to the last moment. Approximately can you place a percentage on how many of your customers put that off past the last day that... [LB123]

JARED HOLLINGER: At least 50 percent. [LB123]

SENATOR PIRSCH: How many? [LB123]

JARED HOLLINGER: At least 50 percent. [LB123]

SENATOR PIRSCH: How large of a population are we talking about? How many in terms of hundreds per year or terms of dozens? [LB123]

JARED HOLLINGER: No. We insure a couple of things. We insure that the people have the means to follow through on the contract, that they actually have a business engaging in the contract, so a couple of our protective measures limit the number of people that we can actually do business with on the start. The number in the last two years I would probably range somewhere around 25-30 and they are 2- to 3-year contracts. This year alone we have had, I believe, 4 to 5 come back around and actually follow through. We have had, I believe, 3 that have cancelled and negated, and of those 25-30 that we have taken part in I would have to say at least 50 percent of them have been on the last hour. However, one of the things that we do do, and this was just enacted a little over a year ago, is all of our closings are overseen by a third-party

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

escrow agent. We do not, unless it is a dire circumstance happening an hour prior to a foreclosure sale, we do not perform the closing ourselves. It just is not, in our view, the responsible way to do it. [LB123]

SENATOR PAHLS: Senator Pankonin. [LB123]

SENATOR PANKONIN: Thank you, Senator Pahls. Jared, we appreciate you coming today and learning more about this bill. It is always really helpful to us. Just a question that may help all of us to understand. If you are legitimately doing this business and hopefully helping these folks along the way, I think all of us here know there has got to be a way for you to stay in business so is it fees, commissions, what is your source and how is the income get generated here hopefully while you are trying to help people? How does this work? [LB123]

JARED HOLLINGER: In our business in a contract such as this the income is generated from a couple of sources. The income is generated from we charge a rent that they can afford. Okay, and hopefully there is a margin on that rent that is earned, some way, shape or form. That generally is enough to just simply cover our overhead and our administrative costs. There is a cost to administering this contract over the life of the lease, maintenance calls, receipt of payments, payments of financing out that we have on the property. That is where that is covered is in that general realm. The main profit source from doing this as a business, that is what we are in business to do, is on the resale of the property. Generally speaking the markups fall within the guidelines of the bill, 25 percent on top of the initial purchase price of the property. They range anywhere from \$10,000-20,000 typically on a contract. That is where the income is produced and that can range anywhere from a combination of repairs that were put on the property or just simply the markup that the clients agreed to on day one. Does that help? [LB123]

SENATOR PANKONIN: A follow-up question would be do you think the consumer, especially in these distress situations, fully understand? How do you they know what they are really paying? [LB123]

JARED HOLLINGER: How do they know? It is in writing. [LB123]

SENATOR PANKONIN: It's disclosed. [LB123]

JARED HOLLINGER: It is spelled out clear as day. Their repurchase price is spelled out right on the repurchase contract. The purchase price and all components are spelled out on the purchase contract. The rent amount is spelled out on the purchase contract. It is all clear as day and we feel at least, can tell you that exact date we switched over and started having escrow close all of these, that having a third-party company do that, ensuring everything is being properly witnessed and explained that these individuals do know what they are doing. [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: Senator Gay. [LB123]

SENATOR GAY: That is only clear as day for some people, not just for what you are doing, but not necessarily everybody doing it or we wouldn't have this problem. [LB123]

JARED HOLLINGER: Exactly. [LB123]

SENATOR GAY: So what you meant it is clear as day the way you are doing it... [LB123]

JARED HOLLINGER: The way we do it. [LB123]

SENATOR GAY: ...or whether people... [LB123]

JARED HOLLINGER: Yeah. The way we do it we don't feel it could be any clearer. Although with this bill intact we will probably make it even clearer than it is now. I don't quite know, probably start using the color printer and more bold and make it even better just because I would rather not have us or any of my people end up with a federal charge against them. But it is very clear what these people are committing to. [LB123]

SENATOR PAHLS: Senator Pirsch. [LB123]

SENATOR PIRSCH: Just to be clear then, so the lion's share of your profit comes from a 25 percent markup on the repurchase then and you had mentioned also that built into the rent there is some additional charges to reflect actual costs. Is that right or is there some profit there too over and above? [LB123]

JARED HOLLINGER: It just depends, generally speaking across the board the rental amount is generally an amount that the excess generated off of what we actually have to pay back for holding costs and for tax and insurance is generally enough to just cover our overhead expense, our overhead charge which we have a set amount per property that gets put out there. [LB123]

SENATOR PIRSCH: So you think you are just covering your actual costs not charging any over and above your actual costs? [LB123]

JARED HOLLINGER: Generally speaking. [LB123]

SENATOR PIRSCH: Any other sources of profit other than the 25? [LB123]

JARED HOLLINGER: No. [LB123]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PIRSCH: I mean that the industry...you don't have to comment in particular about yours, but is yours a typical kind of paradigm or is that unusual? [LB123]

JARED HOLLINGER: You know I can't say because I haven't done any study on what other businesses do. [LB123]

SENATOR PIRSCH: Okay. Fair enough. Thanks a lot. I appreciate that. [LB123]

SENATOR PAHLS: Senator Pankonin. [LB123]

SENATOR PANKONIN: Senator Pahls, thank you. Jared, I thought of a follow-up question after some of these issues on the markup or whatever, what percentage of these contracts or maybe put it another way, what is the failure rate of people that have not been able to follow through? Let's say they don't pay the subsidized rent and whatever that have actually lost their home then once you have been involved. [LB123]

JARED HOLLINGER: It does happen. It is a fact of the business. We look at it simply as this product has given them a chance that it is basically a second last chance and there are people that, for whatever reason whether it be addictions or any other vice, fall into that same pattern again. I would have to say since we have been doing this... [LB123]

SENATOR PANKONIN: Which is how long? How long have you been doing this? [LB123]

JARED HOLLINGER: We have been offering these for about three years. [LB123]

SENATOR PANKONIN: Three years. Okay. [LB123]

JARED HOLLINGER: Yeah. I think we have had of the 25-30 that we have done, I think we probably have had half a dozen fail. [LB123]

SENATOR PANKONIN: So about 20 percent approximately. [LB123]

JARED HOLLINGER: Yeah, and understand that by and large the numbers that we have done are still in process. [LB123]

SENATOR PANKONIN: I understand. [LB123]

JARED HOLLINGER: So we have a pretty distinct way that we operate failures, however. We have a mutual lease that the individuals sign off on. Generally speaking, it includes either a waiver of charges owed so that we commit to the people we are not going to collect the back rent, and many times a cash payment where we give them a check as basically an extra kick-start to them because they're forfeiting their contract

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

and we give them a cash payment in return. There are some cases that people just have vanished and, again, that is part of the business. If any of you have ever owned rental property, sometimes you will go to the property and your tenants will be gone. [LB123]

SENATOR PANKONIN: I think Senator Langemeier has that smile of knowing. [LB123]

JARED HOLLINGER: And sometimes they are gone with the thermostat off and it is ten below zero which is even a worse problem. But generally speaking, we handle the defaults on these very systematically, as a mutual lease many times...let me divert a little bit, as part of bill there is a three strikes and you are out policy as part of the bill which basically gives the individuals three opportunities, 30 days to cure any rent defaults. Which in my opinion is a great thing because right now we treat these clients with kid gloves and sometimes let them get three to four months behind on their rents and that, a lot of times, if they default is part of that concession, we will wipe all these charges out which can add up fairly significantly, fairly fast. As part of this bill it enables us to treat them as regular tenants and not treat them with kid gloves and they are per statute given the opportunities to cure their defaults like anyone else. Sorry I elaborated again, but hopefully that helps. [LB123]

SENATOR PANKONIN: No, appreciate it. Thank you. [LB123]

SENATOR PAHLS: Any more questions? I thank you for the information, Jared, very clear. [LB123]

JARED HOLLINGER: Thank you. [LB123]

SENATOR PAHLS: Thank you. Any more proponents? Opponents? People in neutral? That closes the hearing on (LB)123. We will open up on (LB)386 by the infamous Senator. [LB123]

SENATOR LANGEMEIER: (Exhibit 1) Infamous, now you make me nervous. Senator Pahls, members of the committee, good afternoon. My name is Chris Langemeier, it is C-h-r-i-s Langemeier, L-a-n-g-e-m-e-i-e-r, representing District 23. I bring today LB386, which I have a number of individuals behind me that will testify. I am going to go into kind of brief detail and then if you have more detailed questions we may, after the discussion maybe in the closing, get into the nuts and bolts. But LB386 requires that a secured creditor record a certificate of satisfaction in the county that the real property records upon receipt of a full payment of performance of a secured obligation. Did I lose anybody there? About lost myself. If a certificate of satisfaction is not filed within 60 days of receipt of full performance, a closing agent may execute and file a certificate of satisfaction on behalf of the landowner. The bill provides that a closing agent acting on behalf of a landowner or purchase, may sign and file a certificate of satisfaction if the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

secured creditor has not recorded a satisfaction within 60 days after receiving full performance at any time, if the secured creditor authorizes the closing agent to do so. The bill provides that in addition to any other remedy provided by law, the secured creditor who fails to record a satisfaction within 60 days of receipt of full performance is liable to the landowner for actual damages. The bill provides penalties for a closing agent who wrongfully or erroneously records a certificate of satisfaction. That is kind of the technical lead in. What happens here is these closing agents sell their property, and being in the real estate business I have some personal firsthand experience with this. We have a number of lenders across the country. Many, in my experience, have not resided in Nebraska that are very slow to release their mortgages. The lenders request payoffs. In our company we send a copy of the payoff, along with the check and a certified letter and a return receipt so we know they got the check. Just for an example, two years ago we had a property in our office that we sold it, a closing company did it, they did the return receipt, they got it back and the lending institution a year later still had not filed the release, and so that affects those people's ability to buy the next home because it shows up that they are still in debt to the other one. It holds the title company from perfecting their title policy and sending out the final policy because they don't want to send it out until it is completed. And so this bill would allow the title company after 60 days of having a receipt back that it was signed for that they got the judgment paid for, they have collected and sent it in, that they could then offer a certificate and they actually gave me an example of a potential form that they would like to see filled out to be filed, as well as thanks to committee counsel and everyone involved. I will pass these out, an amendment that clarifies a few words in the bill. And so that is what we are asking for today. It does have a penalty provision in it that if the title insurance company offers this certificate wrongly it will be held liable. So they can't just do this at their own whim. And with that, I am going to conclude. Are there any questions so far? [LB386]

SENATOR PAHLS: Senator Gay. [LB386]

SENATOR GAY: Is this mainly larger companies that just don't get around to doing this or why does this happen, I guess, because it seems fairly important that they would tie all the loose ends up? [LB386]

SENATOR LANGEMEIER: My personal experience, it has been larger companies. It is also in our personal experience it has been banks that have been bought out by bigger banks and it gets to be a rollover in ownership, and I don't know if it just gets lost in the paperwork or what and it is committing you to...I guess I look at it if I was in the banking business, it is an expense to do this. It isn't really generating dollars in your banks. You may want to prioritize other things with your staff and labor. [LB386]

SENATOR GAY: What would be the penalty then if they didn't do this? Where is that? [LB386]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR LANGEMEIER: I will look that up for you. [LB386]

SENATOR GAY: It is in here somewhere? [LB386]

SENATOR LANGEMEIER: Yeah, it is in there. [LB386]

SENATOR GAY: It may be covered next. [LB386]

SENATOR LANGEMEIER: Any other questions? [LB386]

SENATOR PAHLS: I see no more questions. Just by a show of hands, how many proponents do we have? Two. Opponents? Three, four opponents. Neutral? Okay. Proponents please. [LB386]

REBECCA A. MCKITTRICK: (Exhibit 2) Good afternoon, Senator Pahls and the Banking, Commerce and Insurance Committee. My name is Rebecca A. McKittrick, R-e-b-e-c-c-a middle initial A. M-c-K-i-t-t-r-i-c-k. I am here today as the co-legislative chairperson for the Nebraska Land Title Association. I do have some handouts. My handout today is rather lengthy so I ask that if you should have some time you read it at your leisure. However, I will be more than happy to go through what I have provided if you do see something in there you do have a question about. I would also like to start by thanking Senator Langemeier for introducing this bill for us. It is very important to our industry. I assume that most of you if not all of you here in this chamber have at one time or another refinanced or purchased a home for yourselves. And I would imagine at one time you were faced with sitting across from a closing agent at a title company as generally title companies are involved with those types of transactions. And for simplicity sake really what I am going to talk to you today is about the two types of policies we, as title insurance agents, are asked to issue. We are asked to issue an owner's policy of title insurance that you, as a purchasing proposed insured, are taking title free and clear subject to any liens or judgments, and we are also asked to insure a lender that they will be in first lien position when they make that loan to the buyer or the refiner. As you well know, our line of title insurance, our line of insurance I should say, is loss prevention not risk assumption. So we are not really able to issue our type of insurance policy until the requirements on a title insurance commitment are cleared up. Generally when we sit down to the closing at that time we have a vesting deed to, a buyer ready, we have got the new loan documents for the mortgagor deed of trust ready to close on, and the closer should have also obtained what is called a payoff from a bank to clear off the seller's existing lien, paying off the principal that is owed and then forthcoming should be a release. Once a title company receives a release, we then record that in the real estate records and we are ready to issue our policy. Generally we don't like to issue our policy because if a release isn't secured that takes one of the tools out of our toolbox, if you will. So it is very imperative that we are able to secure

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

that. Although it is seldom possible to completely address a problem with a single piece of legislation, this particular legislation is our attempt to eliminate the effect of delays and other hardships resulting to landowners and lienholders, resulting from failure to record a mortgage release in a timely fashion. Unfortunately, and I will touch a little bit on what Senator Langemeier said, we are seeing this more broadly with large, national lenders not so much with lenders in the state of Nebraska. Although I have personally had problems with some lenders in Nebraska, I would say it is more on a national level with banks and mortgage companies changing hands. We tend to have to rely on an Internet-based system to secure our payoffs and sometimes these companies change hands so many times or they don't file their assignments showing a record who the last payee is. It is very difficult for us to secure the proper release that we need. So we are kind of stonewalled, if you will, stuck and the backowner or the person in title goes on to sell or refinance thinking their last transaction, everything was clear and they get to the next title company's closing table to find out that is not the case. I can't tell you how many times I have seen consumers sitting in a parking lot with a moving van waiting to close, and they can't close because of a lien that should have been cleared up two years ago or five years ago or even ten years ago. The result has been cluttered land records of liens that we title companies know we have paid off, we have got it in our files, but we still have a lien existing in the register of deeds office that we cannot rectify and this is just compounded over the years. So we really, really need this legislation to go through. I have provided to you a handout which details a letter from me as the president of my company in Omaha, Suburban Title and Escrow. I have also presented a letter from Nebraska Land Title and Abstract and an e-mail from First American Title out of Omaha, each detailing the problems, which are the same problem I experience, in their offices. I have given you a sample of an order summary from my own personal company showing many attempts in this particular one. The genesis of it is the transaction began in 2005 October, we are sitting here today February 12 and I still don't have a release on a transaction that closed 2 years ago to be able to get the policy out that is attached to the title insurance commitment that we agree to insure for \$600,000. Along with that I have attached what is called the register of deeds indexing in Douglas County. It shows two lots which are attached to the title commitment that proves the lien is of record, that proves we filed a deed to transfer title, and it proves that we insured the new loan. However, what it does not show you is the release from the backowner's mortgage that has not been recorded. So therefore we are still unable to issue our policy to our customer, although all the other requirements have been met and although we have been paid our premium. So therefor I conclude and I just ask you to give great consideration to this bill as not only representatives of the Legislature, but as consumers yourselves. Does anybody have any questions for me? [LB386]

SENATOR PAHLS: Senator Pirsch. [LB386]

SENATOR PIRSCH: Just briefly, I am not sure if you know the answer and care to comment that would be great. Do you know if this particular type of law is in place in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

other states? [LB386]

REBECCA A. MCKITTRICK: It isn't in other jurisdictions. Great research has gone on with our association. There is a bill in Minnesota which the president of our association will follow me and he will be addressing the research he has done on the bill. It is also in effect in Louisiana, it is in effect in Illinois and Oregon that I am aware of. [LB386]

SENATOR PIRSCH: Yeah. Well, I will hold off then and maybe readdress that question to director then. [LB386]

REBECCA A. MCKITTRICK: Okay. [LB386]

SENATOR PIRSCH: And now are you an attorney, Ms. McKittrick? [LB386]

REBECCA A. MCKITTRICK: No, sir, I am not. [LB386]

SENATOR PIRSCH: Okay. Great. I will just hold my questions then. [LB386]

REBECCA A. MCKITTRICK: Okay. [LB386]

SENATOR PAHLS: Senator Hansen. [LB386]

SENATOR HANSEN: Thanks, Senator Pahls. Rebecca, can you give me an idea, you have got a lien that is held for two years. Has anyone benefiting from that financially? [LB386]

REBECCA A. MCKITTRICK: Sir, I wouldn't say it is a lien that is held. I would say that it is...pardon? [LB386]

SENATOR HANSEN: The title is held. [LB386]

REBECCA A. MCKITTRICK: We should not be issuing a policy for something that is not cleared of record. [LB386]

SENATOR HANSEN: Is anyone benefiting from that action or lack of action? [LB386]

REBECCA A. MCKITTRICK: No, sir. If anything it is an egregious lack of attention that the lending institutions have just basically been allowed to conduct themselves in a way. I don't know if it is a lack of having personnel in place to handle it. I am not sure, but it is compounded to a point where we have seriously cluttered land records in this state. [LB386]

SENATOR HANSEN: Thank you. [LB386]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: Senator Gay. [LB386]

SENATOR GAY: You are probably in a tough situation having to deal with both parties. So to bring this up, Senator Pirsch asked about how many other states are doing this, but why wouldn't this be a best practices that these people should do this just to do a better job of it? Why should this be legislated instead of just saying hey, we have got a big problem here, you guys need to fix it? [LB386]

REBECCA A. MCKITTRICK: To clarify your question, are you asking me why they being the lenders? [LB386]

SENATOR GAY: Why do we need a law to do this? Why wouldn't more people, such as yourself, I read your letter just briefly it says you called, called, called, I assume you are not the only person calling. [LB386]

REBECCA A. MCKITTRICK: No, sir. [LB386]

SENATOR GAY: Why wouldn't the banks or whoever is doing this do it? And, in your opinion, why aren't they doing this and why should we legislate this? [LB386]

REBECCA A. MCKITTRICK: Well, I can't really speak for the banks and I can't speak for the... [LB386]

SENATOR GAY: Just your opinion. [LB386]

REBECCA A. MCKITTRICK: My opinion, I don't know if it is that they are understaffed. I don't know if, touching on what Senator Langemeier said, if it is not a revenue generating thing to do so if they have got their money they cannot worry about it. For us as title companies it is not revenue generating for us, but it is something that we have a responsibility to the insured to handle and we spend a great amount of time visiting, revisiting files, cabinet drawer full of files, chasing down releases that really we shouldn't have to be spending time on. This is not a bill that we want in place so that we can just very avant-garde release people's mortgages from. This is a bill that we want in place as a last ditch effort so that title companies aren't calling each other for indemnities, employees aren't paid sums of money to chase things that closed three years ago. We would rather see our people spend their time doing revenue building things than this sort of thing. So this is just a means for us to clean up the records. [LB386]

SENATOR GAY: Okay. Thank you. [LB386]

SENATOR PAHLS: I have a question. Let's say you and I are doing business, you are closing on me, on a property that I buy. How much time would it take for you to give me

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

a copy of all of things that I have signed? [LB386]

REBECCA A. MCKITTRICK: You mean the closing documents? [LB386]

SENATOR PAHLS: Right. [LB386]

REBECCA A. MCKITTRICK: Typically when we are going to do a closing, providing the lender gets the docs to us which is supposed to be within 24 hours, we generally have everything copied ahead of time except for what you are going to sign and then following the signing the closer will go into a copy room, copy it right then and there for you and send you away with a folder of what you signed. The recordings then would be, the originals would be sent to the register of deeds to be recorded. Depending upon what county you are in, you could get those back in a couple of days. In Douglas County, sometimes two weeks, and by then everything should be of record. Generally the release though that was paid off now, that is generally not of record yet. Those take a little bit longer at least for local Nebraska banks. We would hope to get the policy out within 30...we have 60 days from the last requirement being met to get the policy to you, but hopefully it would be within 30-40 days. [LB386]

SENATOR PAHLS: Okay. Seeing no more questions, thank you, Rebecca. [LB386]

REBECCA A. MCKITTRICK: Thank you very much. I have this to submit into my testimony. [LB386]

SENATOR PAHLS: Okay. That would be fine. Next proponent. [LB386]

KENT BARNEY: (Exhibit 3) I am a proponent. Senator Pahls and members of the Banking, Commerce and Insurance Committee, my name is Kent Barney, K-e-n-t B-a-r-n-e-y. I am with Barney Abstract and Title Company and Barney Escrow Company in Kearney. I am also the current president of the Nebraska Land Title Association, and I am here today to testify in support of LB386. I would like to thank Senator Langemeier for introducing this bill, as you know the Nebraska Security Instrument Satisfaction Act. I have handed out just a summary of my comments and a proposed certificate of satisfaction that is not crucially necessary to be a part of this bill. The bill does go into exactly what needs to be into this document and we have prepared this so that it could be used and utilized as a standardized form. As you all have heard, there is a problem in our real estate world. It is something that isn't caused by title insurance agents, but with the passage of this bill title insurance agents acting as closing agents will be an integral part of this solution. As you can see, the problem is lenders that get paid off and do not do their job, which is to release their lien in the public records. It is like any other lienholder in any other type of industry whether it be car industry, mobile homes. If you have got a lien on a property and you are paid and you are paid in full, you need to do your job and put that release in the records that need to be searched. Our job as title

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

insurance agents is to find those things and we have a very deep concern about the public records, and this bill will help us keep those public records clean and accurate so that it will not be cluttered up, as Becky said, with paid off loans that are still unreleased. We want you to know that the public will be benefiting by this because the public records will be cleared. The title agents and their customers will benefit because those policies will get issued much quicker than they are right now when we have to wait and continually go after lenders to get those releases. This is a problem that used to be much, much worse. It is better now, but it is still a problem that exists and, again, with the complexity of the real estate transactions and mortgage lending, it does not seem to be one that will be going away because it is very complicated and it is difficult to find the lender that you need to get. It is not so hard to get your payoff statement, but it is more difficult to find the right department in that lender's offices to get the actual release prepared and have it be proper. One thing that I want you to know is that if there is a problem, if the title agent or the closing agent would erroneously file a certificate of satisfaction, which is, again, the document called for, those agents are required to have errors and omissions insurance. And so there the public would be protected, the lenders would be protected if there was something done improperly by that closing agent. I do not foresee that to ever be a problem, but it is something that we have already in the statute. The penalty for lenders not doing their job, and that is within 60 days, there is a \$5,000 penalty, and also this bill does not do anything to take that away as far as penalties against the lenders. It just allows title agents to clear up the public records. So that penalty does still remain. As Becky alluded, this is not new legislation. Your question, Senator, dealt with how many states have similar legislation. All 50 states have some type of legislation that deals with loans that are paid off and not released in the public records. That legislation isn't necessarily exactly the same as this. I would say I know of a dozen states, and there could very well be many more, most of the surrounding states to Nebraska have legislation that is similar to this which actually allows the closing agent to release the lien. But all 50 states have legislation that deals with penalties if lenders don't do their jobs. We have modeled this particular bill after a law in the state of Minnesota. We looked at a number of states's laws that are currently on the books. We looked at a model act that is out there, and what we tried to do is get the best of all worlds and come up with something that would work in the state of Nebraska. I personally talked to over two dozen agents in Minnesota just to verify that in the real world this particular law would work and I was very surprised to get 100 percent of those agents that were very happy with their law, and they told me that this law worked for them and they were happy to utilize it. This particular law will require title agents to prepare a document and file a release, file this certificate of satisfaction and there is no provision really for regaining any costs that are assumed by that title agent. The agents in Minnesota indicated to me that they were more than happy to assume those costs just so they wouldn't have to continually fight to get the releases in the public records. They were happy to do that and they were satisfied. Some people have suggested to us that there be additional notices sent to the lenders that we do pay off, and we feel that is unnecessary based on the protections that are contained in the bill

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

for strict liability if a loan payoff is made incorrectly. Any additional notices that would have to be sent to these lenders that did not do their job in the first 60 days would be just cause for further delays that we think is unnecessary. Again, you have got the certificate of satisfaction in front of you. That is just a standardized form that we would suggest. It is not crucial, but that would make everyone utilize the form that is standardized and would be recognized in all of the counties. And I guess I just want to conclude by saying that we have taken a lot of time to make sure that everyone's affected parties are considered. We think that it will be a very big benefit to the public in getting policies issued timely, keeping the public records clear. I want to thank you and I would be happy to answer any questions. [LB386]

SENATOR PAHLS: Senator Pirsch. [LB386]

SENATOR PIRSCH: Just briefly and I apologize if we are rehashing in old ground here, but correct me if I am wrong, does this bill change the penalty for lenders who do not comply? [LB386]

KENT BARNEY: It does not. Right now the law says that if the lenders do not do their job that they can be held responsible for a penalty up to \$5,000 plus attorney fees and cost. The only problem that we are seeing in our industry, again, this is real world. That is paper. In the real world we are seeing many closing agents, title agents reluctant to utilize that penalty because they are suing their own customers and so it is a difficult thing to do and not very many people utilize it. So this would still allow us to do it. [LB386]

SENATOR PIRSCH: So no change then. I guess the only question, I saw the statement of intent and it said the bill provides an addition to other remedy provided by law that the secured creditor who fails to record a satisfaction within 60 days will receive in full performance is liable to the landowner for actual damages. But that is already the current status. Okay. [LB386]

KENT BARNEY: That is already in the statute. Correct. [LB386]

SENATOR PAHLS: Senator Gay. [LB386]

SENATOR GAY: I have got a question. You said you had checked around in Minnesota and some of those. Did you talk to any register of deeds here in Nebraska? Wouldn't this go to the register of deeds? [LB386]

KENT BARNEY: It would go to the register of deeds. [LB386]

SENATOR GAY: Did you talk to any of them here and make sure we are doing things the same way or is it all done the same way? [LB386]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

KENT BARNEY: In Nebraska it is all done the same way. Registers of deeds are allowed to make their own decisions on what is recordable and what is not recordable. I can speak to the register of deeds in the counties that I work in, particularly the one in Buffalo County where my office is, and she is very, very particular on what documents are allowed to be recorded in her office. If there are any mistakes, if there is anything that isn't exactly correct she normally sends those documents back to whoever sent it to them and a lot of times that is the lender. The lender will send them directly to the register of deeds for filing and we find that to be a problem because, again, they may have tried to file it and maybe tried to do their job, but if they are going to do business in Nebraska, which is normally out-of-state lenders that we have problems with, they don't know the laws in Nebraska because they are different from every other state in the union. And so if they don't get their document in proper form, it gets refused and so the record remains having an unreleased mortgage. [LB386]

SENATOR GAY: Then a follow-up question. Let's say we did this, would this create a log jam that now we are going to have all these things being filed to the register of deeds? Would that be a problem or are we not talking that big? [LB386]

KENT BARNEY: Absolutely no problem whatsoever. [LB386]

SENATOR GAY: They would probably like to see that. [LB386]

KENT BARNEY: These are all documents that should have been filed and all we are talking about are mortgages and deeds of trust that have been paid off and are not released the way they are supposed to be done. All we are going to do is file the one document which will replace the other document that should have been filed in the first place. [LB386]

SENATOR PAHLS: Senator Pirsch. [LB386]

SENATOR PIRSCH: Just a couple of things in terms of quantifying the problem. Do you have any quantifying numbers that you can give so that we have an understanding of how often this is a problem? [LB386]

KENT BARNEY: I don't, that I could hand you a piece of paper and say this is the case? [LB386]

SENATOR PIRSCH: Sure. Just kind of a feels like to you. [LB386]

KENT BARNEY: I would venture to say that every title agent in the state of Nebraska has had this problem. Our office, which is, I would consider, a kind of medium-sized office with 6 employees, we deal with on an annual basis more than 20 loans that we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

paid off through our closings that are unreleased, past the 60-day period and we are required by the Department of Insurance to keep after these people to get those liens released. So we are checking records every two weeks, sending letters, sending faxes, making telephone calls, and there is no money coming in for that. It is all at our own expense and we kind of pass those expenses on. But I would say everyone has them, has these problem, problem loans. [LB386]

SENATOR PIRSCH: And just a follow-up, what steps do you anticipate taking? Say, if this law were to be passed, before you would be comfortable in filling out this certificate of satisfaction? [LB386]

KENT BARNEY: In order for our office, I think, to be comfortable we would not only make the payoff and send the normal letter that we send to the lender saying where they need to send their release, we would make follow-up telephone calls to make sure because you never get to talk to a human being or rarely do you get to talk to a human being, but we would verify with their computer system that they consider this loan to be paid in full. Those are the main things that we would do before we would feel comfortable in actually executing this. [LB386]

SENATOR PIRSCH: So they do have that on the computer, you can access that information electronically. [LB386]

KENT BARNEY: Typically, yes, not 100 percent but yeah, typically. [LB386]

SENATOR PAHLS: Senator Pankonin. [LB386]

SENATOR PANKONIN: Thank you, Senator Pahls. So, Mr. Barney, appreciate your testimony. If this did pass, would you still pursue releases? I know it is a hassle and whatever, but if this is enacted and you have these certificates of satisfaction, once you file those, would there be any reason for you to still try to stay after the lenders out of state, especially to try to get the releases? [LB386]

KENT BARNEY: I would say we probably would not. The certificate of satisfaction, according to this bill, operates to do the exact same thing that that release or deed of reconveyance would have done if done by the lender. The only thing that I can say that we would do is if we had one particular lender that absolutely was not doing anything, ever, then we might go after the penalty phase and go after those people to get them to do their job. I got the feeling from talking to the agents in Minnesota that they did not see any lenders taking advantage of the law and saying well, gee, title agents can do this or closing agents can do this, we just won't have a staff of people...which there is no money coming in at this point, we are all paid in full. They did not see that happening up there and they felt that the lenders genuinely wanted to release their own loans. But no, we probably would not follow up normally beyond that. [LB386]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PANKONIN: Okay. [LB386]

SENATOR PAHLS: I see no more questions, thank you, Kent. Proponents. [LB386]

BILL MUELLER: Mr. Chairman, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB386. When this proposal was first brought to our attention, I sent the proposal out to members of our real estate, probate, and trust law section and our real estate practice guidelines committee. These are both groups of lawyers who practice in the area of real estate. They represent lenders, they represent borrowers, and to a person the lawyers who I sent this proposal to came back and said that the bar should support this proposal. We support this because, as you have heard, this legislation gives authority to the closing agents as defined in the bill to prepare and file certificates of satisfaction to clear the title of real estate. When we looked at this, we asked ourselves a question, why shouldn't the Legislature do this? Who would be harmed by empowering lawyers doing closings for third parties or title agents? Why would we not want to allow the filing of these certificates? And in looking at it, we don't know why we wouldn't want to have your authority to do that. If one of these closing agents files one of these certificates, they are saying that this loan has been paid off. If the loan has not been paid off, the lender can still bring suit against the borrower, and I think under this, could bring suit against this third party closing agent and collect what is due. So before a Kent Barney or a Ms. McKittrick completes that certificate and files it, they are going to be darn sure that that loan has been paid off because now they are putting themselves in a position where they could be responsible for paying off that loan. This makes sense to us. It is a way to clear up title so that we can remove these liens and we would support this legislation. I would be happy to answer any questions the committee may have. [LB386]

SENATOR PAHLS: Life is easy. [LB386]

BILL MUELLER: You are all out of questions. That is perfect. [LB386]

SENATOR PAHLS: Life is easy, Bill. Thank you, Bill. [LB386]

BILL MUELLER: Thank you. [LB386]

SENATOR PAHLS: Any more proponents? Opponents? [LB386]

ROBERT J. HALLSTROM: Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association to register our opposition to LB386. I do want to state for the record that even though we are appearing in a position

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

of opposition we are guardedly optimistic that we can get something worked out. I would agree, to a certain extent, with Mr. Mueller's comments that why shouldn't we do this. There is no particular reason why we shouldn't do it but we ought to make sure that we do it right in putting it together. You have heard a couple of bills here today, this one in addition to LB123, where we are talking about some fairly significant action in taking steps that put families' homes, lenders' loans at risk in terms of the release thereof or the loss thereof in terms of what LB123 was designed to address. So we simply urge the committee to utilize a good deal of caution in determining exactly how we proceed and how we best address this particular issue. I think I can tell you with a fair degree of confidence that none of the states that have passed this legislation have done so with all due haste and speed. There has been a great deal of research and review done in the individual states and I might suggest that even though we are not necessarily Johnny-come-lately, but we are following a number of states that have done this that it doesn't diminish the need to move cautiously in adopting this legislation, if for no other reason than to make sure that the lenders are perfectly comfortable with a system that is going to allow an unrelated third party to release the lien that secures their loans. I think it is important for the committee to know that this is not an issue that has come to the Legislature overnight in terms of where we started. We have moved fairly quickly in getting to this point in terms of having met with the Land Title Association last summer. I think we have made remarkable progress in getting to where we are today. But historically, interestingly enough, the lenders were the first parties to come forward looking for some satisfaction in this particular arena and initially were met with some push back years ago from the title agents themselves, among others. Over time, I think, because of the very problems that you have heard the title agents express before you today, they have come around to our way of thinking in terms of saying we ought to have a system in place that does address the necessity of getting timely releases of liens. But for many years when this type of similar legislation was proposed, the initial efforts in this area were designed to allow title agents to do the releases. We certainly didn't think there was sufficient backing behind title agents to do so. So with regard to the recognition by the Land Title Association and other proponents of the legislation that we need more meat on the bone, if you will, for purposes of releasing the liens, it has only been since our conversations roughly in the last year that we have had title insurance companies duly licensed and bonded attorneys be the parties that, as I understand and read the legislation, are designated as those that are able to release the liens. We do have a number of technical questions and the committee counsel has addressed some of those. I have not had an opportunity to review the amendments, but I trust those are all in good shape in addressing technical issues that Ms. Robak and myself, I think, have agreed upon. We have a couple of substantive issues though that I think are significant and important to the committee in looking at whether to jettison this legislation from committee. And one of those is a policy decision that I think we may not come to agreement with the Land Title Association and perhaps this committee and the Legislature need to make an ultimate decision on it. I would like to be sure that the committee is aware that there is a NCCUSL, as there are on most issues there is a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

NCCUSL process going forward with regard to the Uniform Satisfaction of Mortgages Act. The policy decision that I think is before you today and the disagreement substantively between the Bankers Association and the Land Title Association has to do with the procedure and the protocol for ultimately getting to the position where we are going to allow that third party to release the lien. Inherent in the process under LB386 is that there must have been the request in the obtaining of a payoff statement so that the closing agent knows what it is they need to do to satisfy full payment or full performance of the lien. That is step number one. Step number two is after you have provided payment or performance in accordance with that payoff statement that you then have provided the adequate notice to let them know that they have 60 days under LB386 to release their lien by filing a deed of reconveyance or a satisfaction of mortgage. What the uniform act does that the Land Title Association and the Bankers Association have disagreed on is it provides what I have referred to as the two-minute warning. It says after you have done that, and again this is the uniform act that is providing the guidance, it says that there ought to be yet another notice that says now that we have obtained the payoff statement, we have made payment, and you have failed to make the release within 60 days we are now telling you conclusively that if you don't act now within 30-60 days that we will give the death penalty to your lien. We are going to release it make no mistake about that. The groups and the entities that have worked on the national level have seen fit to give that two-minute warning, if you will, and we think it is worthy of consideration as well given the gravity of having a third party release the liens. We can talk about the ability to seek damages for wrongful or erroneous filed liens, but after the cat is out of the bag that may not be the best solution or remedy for a lender who has had their lien released erroneously. I think it is interesting to note that both Ms. McKittrick and Mr. Barney testified and I will paraphrase, we don't get the assignments, it is difficult to track down the proper party to release. I think Mr. Barney talked about it is easy to get the payoff statement response, but then to find the proper party in the division of the bank to get the release. I think that inherently shows you that there are practical, reasonable, logical difficulties particularly with some regional or nationwide banks where that extra degree of notice certainly isn't going to harm anyone. Yes, it may be inconvenient. Yes, the Land Title Association people may say we would prefer not to do it. But, again, I would harken back to the gravity of the nature of releasing a lien by a third party when it hasn't been released by the party that has got the security for their loan. A couple of other issues I would like to bring to the attention of the committee. One is we have talked about the consequences of a lender who does not timely respond. We do have that provided with actual damages, attorney fees, and cost. Our question would be and we think probably that the existing statutes under (sections) 76-1014.01 and 76-252 should likely be repealed if we do have this legislation ultimately adopted. So with that, I think one other issue that I just bring to the attention of the committee. We have had some bankers raise questions about bridge loans and to their credit the Land Title Association, I think, is in good faith trying to look at this issue and see if it is addressed properly by the legislation. But the issue on a bridge loan is if a lender is financing house A, they can't get it sold, party moves into

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

town, buys house B. Their deed of trust or their mortgage is going to have two legal descriptions on it; house A, house B. Once house A is paid off and the lender gets a request to file a satisfaction, normal situation would be I only want to release as to description A what we would call a partial deed of reconveyance. Under the bill in terms of if that doesn't happen the certificate of satisfaction that is issued by the closing agent, our question is do we have adequate protection in the bill to ensure that only the description of parcel A and not both parcels, is that going to be what is going to appear on the certificate of satisfaction? So there are some of those technical questions that we think are still out there. I think that we are willing to move forward in good faith, but we would just caution the committee against moving too quickly at this particular junction. Be happy to address any questions. [LB386]

SENATOR PAHLS: Senator Gay. [LB386]

SENATOR GAY: About this two-minute warning you talk about, and I don't understand every nut and bolt in the process, but is that just to say catch their attention one more time because it sounds like it is going, gets lost in the shuffle somewhere to somebody? But this might catch the attention, prevent a future lawsuit or something and if it is caught earlier. [LB386]

ROBERT J. HALLSTROM: I think, Senator, and probably the justification or the rationale behind it is that if someone in the bowels of the bank gets a notice that says you have got 60 days to release it, but nobody has told you yet because you don't know sitting there in the bank what the ramifications are of your failure to do so. Obviously they ought to do it and in 99 percent of the cases I think it is done and we don't have this type of problem. But you haven't brought home to whoever it is in that division of the bank that is receiving that what the consequences are of their failure to do it in a timely fashion. It is going to differ from state to state and what we have now is the death penalty for your lien. It is going to be released by that closing agent. So the issue is, is it reasonable to say at some point, whether it is when they get the 60-day notice or the 2-minute warning that follows that we are suggesting, that at some point the ramifications of that ought to be brought clearly home. Maybe we can double up and combine that so that that notice is there. But I think that issue of a third party releasing that lien is something that ought to clearly be brought home to the lender or someone in the lending division. The other issue, Senator, that your question raises that I probably should have touched on is the issue of what happens, and I was asking a few questions back here while the witnesses were going on to make sure I was clear on this one. We originally talked about this issue, I was led to believe, and I think there is probably differing practices, that when we go to closing on this transaction where we don't have the lease I would rather imagine there are some closings that take place and the title insurance company actually writes over that defect in title. If that is the case then my question would be, what is the urgency of not invoking that two-minute warning notice? Because what most generally is going to happen is we close on that transaction, we go

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

ahead and do our business, we transfer title to the real estate, the title agent is still out there knowing we got to get this released but now we have closed the transaction, we have got time to sit back and breathe and look at the situation. The urgency isn't there until the next time that house is refinanced if the market interest rates change or it is sold. Presumably the urgency of saying I can give this notice, give them 60 days, they didn't get it done now I am going to give them one notice after closing that says now that you haven't done this we are going to take the initiative to release it on your behalf unless you now step forward and do what you should do. [LB386]

SENATOR PAHLS: Senator Christensen. [LB386]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Bob, I visited with you earlier, but I guess I don't understand why somebody can't within 60 days notify the title company why they aren't releasing it in that time and have this done. [LB386]

ROBERT J. HALLSTROM: I think, Senator, that is probably not an unreasonable position to take and in most cases it ought to work that way and, you know, you can point the finger at whether or not it is a large bank that is inefficient or whatever the case is. It may be the situation that I referred to earlier that the witnesses in support testified is they haven't filed the proper assignments, it is hard to track down who the right person is that ultimately is going to be able to give you that release or satisfaction. So there may be issues that aren't necessarily anybody's fault in terms of getting to that point. One of the interesting things that we discovered when we were looking at the uniform act and the discussion that took place, from our perspective sitting here in Nebraska when we first looked at this issue, in general, we were most concerned about the fact that we are not getting the darn releases for our own loan closings. As we looked at it in more detail and saw the national or global scope of things, we realized that other institutions across the nation that have regional and national presence are concerned about having uniformity. Yet what is the time that you have, whether it is 15 days, 45 days, 60 days. They are more concerned about the uniformity from that respect. So from the lending community there is really two different aspects that you look at the issue on. [LB386]

SENATOR CHRISTENSEN: A little further, we know who has got the loan when you say that you have trouble finding the right person to release it. Well, that is an internal problem, isn't it, in the bank? [LB386]

ROBERT J. HALLSTROM: It may or may not be. Anymore, Senator, the loans are transferred, the servicing rights may be retained or they may be transferred to out-of-state interest in many cases, and when you have that situation, you know, you may contact the initial lender. The lender, I would presume, will write back and say we are not responsible for this, we have transferred the servicing rights and so you may be looking at a different party down the road. [LB386]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR CHRISTENSEN: Okay, but they would have had to receive the money if it is a different party down the road. So we got to know who they are by this time. [LB386]

ROBERT J. HALLSTROM: You generally should. You generally should, Senator. [LB386]

SENATOR CHRISTENSEN: So I guess I don't see that being anything but a lack of responding. But you made another comment on the second, two-minute warning I mean, last notice and making sure everything is done in liability, but when they sign that release, if it is not done they are assuming responsibility so they are going to be positive when they release that. So I struggle with anything more than 60-day notice and I would really struggle with another 60-day notice on there. [LB386]

ROBERT J. HALLSTROM: Senator, I think probably the issue becomes what you are looking at is yes, you have got that response now to where you can look back to the closing agent if they wrongfully file it. But it probably harkens back to the same issue that they raised with the problem of the current law is that you end up in litigation getting that accomplished and the issue is that if we took one last stab at providing the notice, whether it is a combined notice or a subsequent notice, that says the consequences of not responding in a timely fashion are that we will release it for you. So that you have at least notified them that that is what Nebraska law allows that closing agent to do. The gravity of that issue should be brought home to the lender. [LB386]

SENATOR CHRISTENSEN: So would you see if there was second notice that a week would be long enough for them to either release it or respond back why not? [LB386]

ROBERT J. HALLSTROM: I certainly don't think it has to be 60 days, Senator, but it is just at some point in the process that the significance of failing to respond means that the third party can release it should be brought home to the lender. [LB386]

SENATOR CHRISTENSEN: Thank you. [LB386]

SENATOR PAHLS: Senator Gay. [LB386]

SENATOR GAY: Very quickly, is this a long-term problem or is this something that has happened because it just is extremely busy the last three, five years? Is this a long-term problem or is this just that it has been so busy that they can't keep up? [LB386]

ROBERT J. HALLSTROM: I think, Senator, it has been around for a long time. I can't remember when we first came down this path and started putting the law together, but probably with the refinancing booms. I think one of the witnesses earlier probably put their finger on it, that the servicers don't get any money for releasing liens and they are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

busy putting loans through the front door so maybe it just gets put on the back burner. [LB386]

SENATOR GAY: All right. Thank you. [LB386]

SENATOR PAHLS: Thank you, Bob, appreciate it. Any more opponents? Anybody in the neutral? Senator Langemeier. [LB386]

SENATOR LANGEMEIER: I think you have heard enough. [LB386]

SENATOR PAHLS: Can we put a certificate of satisfaction on you? [LB386]

SENATOR LANGEMEIER: You think anybody would give me a certificate of satisfaction? I like your optimism there, Chairman Pahls. I think you heard great testimony on both sides and I think we will leave it at that and I appreciate your attentiveness on my bill. Thank you. [LB386]

SENATOR PAHLS: Thank you, Senator. That concludes LB386. It appears that LB190 is in front of us. [LB386]

SENATOR MINES: (Exhibit 1) It is, Mr. Chairman. [LB190]

SENATOR PAHLS: Good to see you, Senator. [LB190]

SENATOR MINES: Thank you very much, Chairman Pahls, members of the committee, for the record my name is Mick Mines, M-i-n-e-s. I represent the 18th Legislative District and I am here today to introduce LB190. It provides for consumers to put a security freeze on their credit reports. Annually almost 10 million Americans find themselves victims of identity theft or credit fraud due to security breaches, credit card fraud, debit card checking account fraud, and personal information theft. LB190 would allow Nebraskans to voluntarily place a security freeze, also known as a credit freeze, on their personal data by freezing their credit reports from access for new credit. Now what exactly does voluntary security freeze do? When a consumer freezes their credit, consumer reporting agencies like Experian, Equifax and TransUnion cannot release credit reports, credit scores, or any other information derived from the file to a third party without the prior express authorization by the consumer. Without this information a business won't issue new credit to, let's say a thief. When consumers choose to make their credit information available to certain businesses or for a determined amount of time, they can thaw their account using a pin or personal identification number to unlock access to their credit file. Right now 27 states have similar legislation in place. You have an amendment that was just passed out and I don't want to shock you. It does replace the bill and it looks like a major revision. But mainly here is what it does, it amends the definition of consumer reporting agency and file. File replaces each instance of credit

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

report, now that has been used in the bill, thus we had to amend and replace the entire bill. Covering both credit report and credit score in the language is important because many creditors don't offer a full report to issue credit. They order just a credit score. With language as it stands even if an individual has frozen his or her credit, new credit can still be opened by creditors who only order credit scores which defeats the purpose of the freeze. The amendment also makes a change on page 4 lines 21-26. The bill establishes that credit reporting agencies will process consumers' requests to thaw their credit within 15 minutes. The amendment would also require them to do this by the end of 2009. Here is how credit freezes work, a consumer voluntarily chooses to place a security freeze on his or her file by the first option is by certified mail, second option is by telephone providing certain personal identification information that is required by that consumer reporting agency, and third by e-mail direct to the consumer reporting agency if that consumer reporting agency has the e-mail option available. You will also note that the bill will further require that a secure e-mail connection will be provided by agencies within 180 days after the effective date of this act. Consumer reporting agencies have three days to freeze the consumer information after receiving a bona fide request, and then after September 1, 2008, the agencies will have one day. After an account is frozen, consumer reporting agencies or credit bureaus will send written confirmation to the consumer that the security freeze is active and provide them with their own unique personal identification number to be used as authorization to release credit information to specific party or a specific time period. The bill allows agencies 10 days to process these confirmations and after July 1, 2008, they will have 5 days. To thaw or temporarily lift a freeze on an account, a consumer simply contacts the credit reporting agency and provides the following: their personal identification or proper identification, his or her pin, and then the information regarding the specific party or the specific time period that the freeze will be lifted. The bill would also say that credit reporting agencies have three days to lift a freeze upon a bona fide request to do so. Beginning on July 1, 2010--it seems like forever, doesn't it, but it is just tomorrow. Beginning January 1, 2010, agencies must have developed procedures involving the use of telephone, fax machine, Internet, and other electronic media to receive and process requests from consumers and temporary lift a security freeze on his or her file within 15 minutes. Security freeze would stay in place until a consumer asks that the freeze be lifted and for the first year following the implementation of the act the agency would have three days in which to permanently lift the freeze. After the first year they would have one day in which to lift the freeze. Agencies can charge a fee of \$5 for placing temporary lifting or removing a freeze, but a fee cannot be charged to victims of identity theft. This is a vital tool for all Nebraskans who are concerned with security of their accounts. We have many instances in Nebraska of identity theft and securing one's credit is an option for consumers. You will hear testimony following me from those who have had their identities stolen, and I think you will hear testimony from credit reporting agencies as well. But if you have any questions about the bill and now the amendment, I would be happy to answer those. [LB190]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: Senator Pirsch. [LB190]

SENATOR PIRSCH: Just briefly, how do the credit reporting agencies treat a request for this type of action now on a voluntary basis? [LB190]

SENATOR MINES: I don't know that. I'm sorry, Senator. We do have credit reporting agencies here today. [LB190]

SENATOR PIRSCH: Okay. Great. Thanks a lot. [LB190]

SENATOR MINES: The bill though would establish the time frames and in doing some research the 27 states that have security freeze in place today are all over the board. They all have different time frames, different fees that are paid. But the ones we have offered seem to be the most commonly accepted across the rest of the country. [LB190]

SENATOR PAHLS: Senator Gay. [LB190]

SENATOR GAY: I heard that minors are kind of a new target of identity theft, they take the social security. They would have no credit history per se, but could you protect your kids somehow if you sent this letter in or whatever you need to do to get on the list? [LB190]

SENATOR MINES: I don't know that. That is a great question. I have just been thinking about adults. [LB190]

SENATOR GAY: Because they don't find out about it until they want to take out their own credit and say your numbers have been used. So could you in this bill... [LB190]

SENATOR MINES: It is a great idea, but this doesn't cover that yet. But I think it is worth looking at. [LB190]

SENATOR GAY: Thank you. [LB190]

SENATOR MINES: Good point. [LB190]

SENATOR PAHLS: Senator, do you plan to stick around for closing? [LB190]

SENATOR MINES: I will. [LB190]

SENATOR PAHLS: Okay. [LB190]

SENATOR MINES: Thank you. [LB190]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR PAHLS: Could I just see a hand of how many proponents? I see two. Opponents? One, two. Neutral? Two. Two-two-two. All right. We are ready to start with the proponents. [LB190]

JAIMEE NAPP: (Exhibit 2) Mr. Chairman and members of the committee, thank you for this opportunity to speak on behalf of LB190. My name is Jaimee Napp, J-a-i-m-e-e N-a-p-p, and I am the founder and executive director of the Identity Theft Action Council of Nebraska and I am also a victim of identity theft. I would like to thank Senator Mines for introducing this important bill. Almost two years ago my name, birth date, and social security number was stolen and I was surprised to find out that the criminal wasn't someone lurking on the Internet, digging through my trash, or a faceless stranger. The person accused of this crime was a manager at my former employer and is believed my information was stolen from employer records. Today I am constantly in a state of waiting and worrying about when the next time my information will be used to commit fraud. There is nothing stopping my imposter from using my information again, selling it, or giving it to someone else. Simply, I am powerless at this time. For me and many other Nebraskans who have been victimized by identity theft, a security freeze would give us our lives back. It would stop the cycle of victimization and start a rebuilding process. LB190 will not eliminate identity theft but it does prevent new accounts from being opened and this type of identity theft is the most expensive and time consuming to fix. I simply don't want to see anyone else have to go through what I have. Criminals use consumer information for three types of fraud: opening up new credit, committing crimes in victim's name, and gaining employment. Even though security freeze will help prevent the opening of new credit, here is a story of how it can also help with other types of fraud. On page 5 of your handout is a story that appeared on WOWT Channel 6 News on January 29, 2007. Christina Lewis is an identity theft victim from Omaha. A stranger has been using Christina's name and social security number to work temporary jobs since 2003 and the Internal Revenue Service is holding her responsible for the income earned by the identity thief. So far the identity thief has used Christina's name and social security number to get jobs and not attack her credit. More than likely that is just a matter of time. A security freeze would help protect Christina from further damage. Security freeze gives consumers more protection than the tools currently available. Fraud alerts only last for 90 days without a police report and with a police report it lasts only for 7 years. It only requires a creditor to take reasonable steps in verifying the person applying for credit. And also new credit can still be opened with a fraud alert. Credit monitoring is expensive. It can cost up to \$200 a year and new credit can still be opened. Security freeze puts consumers in control and lets them decide who gets to see their credit files when it comes to applying for credit. It is also been compared to other preventative measures many of us use everyday such as seat belts, deadbolts, and alarm systems. It has become increasingly clear that consumers have little control over how entities handle their information. Privacy Rights Clearinghouse, a national advocacy group, says over 100 million Americans' data records were exposed in data security breaches since 2005, that is one in every three people. On page 4 of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

your handout is an article that appeared in the Omaha World-Herald on February 7, 2007, that showcases this point. The University of Nebraska-Lincoln employee accidentally posted the social security numbers of 72 students, professors, and staff members on the university's public web site where they remained for more than 2 years before UNL officials caught it. That is two years. It will take some time to see how these people were affected, but security freeze would give them peace of mind for the future. In recent years many states have come forward to help its victims prevent identity theft. Currently 26 states have passed security freeze legislation and 16 states, including Nebraska, have introduced security freeze legislation so far in 2007. On page 3 of your handout has a listing of the states that currently have this law. I see this as a step in the right direction. It is true security freeze will not be right for all consumers, but it is important that consumers have this option. For me the choice is easy. There is nothing I will want or need that I cannot wait to thaw my credit. I think Suze Orman, who is a personal finance expert, sums it up best in her article published on the Detroit Free Press on January 7, 2007. A copy is on page 8 of your handout. Ms. Orman says, "Lenders want you to believe it is a disservice to you if you don't have immediate access to new credit or loans. One of the most common antifreeze arguments you hear is that someone who has a freeze on his or her accounts and walks into a car dealership on Sunday is not going to be able to get approved for a loan or lease because the car financing folks can't run an immediate check on you. This is ridiculous reasoning. Those who freeze accounts also can unfreeze their accounts when they need to let a lender take a look. This can happen in a matter of minutes once you contact the credit bureau though the rules state it can take up to a few days. Even if it does take a couple of days, anyone who needs to buy a car on a whim or wakes up one morning and must have a new credit card approved that moment is financially screwed up. There is no reason rational people can't unfreeze their accounts the week before they plan to buy a car, mortgage, or credit card shopping." Security freeze makes sense for consumers who wish to take an active role in reducing the chances they will become a victim of identity theft or reducing the chances they will be victimized again. I urge you to take Nebraskans one step closer to having this tool that consumers in other states already have by advancing this bill today. Thank you. Are there any questions for me? [LB190]

SENATOR PAHLS: Any questions? Senator Hansen. [LB190]

SENATOR HANSEN: Senator Pahls. Jaimee, I did a little math there while I was listening to you and you said that 21 times the number of people who died from cigarette smoking every year. Anyway your numbers compiled to 8,400,000 people have their identity stolen every year. Don't you think we are going to have to do something a little more drastic than having some of our numbers frozen? This looks like this might take a whole new rewrite of the Social Security Act or some type of a little more drastic action. What is your opinion of that? [LB190]

JAIMEE NAPP: Congress is currently debating several things, debating is there a way

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

that we can create a new number instead of your social security number. Of course these things are a very long ways off. But right now this is the best thing that we have. [LB190]

SENATOR HANSEN: In Omaha it wasn't too long ago there was like 4,000-5,000 names stolen from the railroad employees. I mean the whole list of all their information, their credit history and everything. How long will that be effective? The person who stole that can have those numbers for years before he activates the first one. What do you suggest those people do? [LB190]

JAIMEE NAPP: If we are allowed to have the security freeze, depending on if they decide that this would be a good option for them, I would suggest that they all do that because it is like a deadbolt to put on your front door. It is a lock that will stop those new accounts from being open and really the new accounts is what is so damaging to the consumer. It takes a tremendous amount of time to clean that up. [LB190]

SENATOR HANSEN: One final question, whenever we see Senator Mines come in I always turn to the fiscal note and there was no fiscal note with this. Do you really think we can do this for no cost to the state government? [LB190]

JAIMEE NAPP: Yes. I do. [LB190]

SENATOR HANSEN: Okay. [LB190]

SENATOR PAHLS: Any more questions? Okay. Thank you, Jaimee. [LB190]

JAIMEE NAPP: Thank you. [LB190]

SENATOR PAHLS: Proponents. [LB190]

ANNETTE HARMON: (Exhibit 3) Good afternoon, Senator Pahls and members of the Banking, Commerce and Insurance Committee. My name is Annette Harmon, A-n-n-e-t-t-e Harmon, H-a-r-m-o-n, and I am here to testify in support of LB190 as an individual and a lifelong resident of Nebraska. I am also a victim of identity theft as well as my two minor children. In July 2003, I received a form letter from Chase Bankcard thanking me for applying for a credit card with them, but if I hadn't applied for it they requested I call them on an 800 number. I immediately did so and found out that someone had applied for the credit card and had put an address down other than the one that was on my credit report. It was a red flag for the company and all they had to do was not issue the card. They told me the address was South 44th Street in Lincoln and asked if I knew anybody that would have access to my social security number and my birth date. I said, yes, it sounds just like my ex-husband and I reported the incident to the credit agencies and a 90-day security alert was placed on my file. In the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

meantime I continued to study my credit report on a regular basis. In June 2004, I happened to read a newspaper article about a parent that had stolen his child's identity. I immediately tried to order credit reports for both my minor children, ages 16 and 15. When they finally came in the mail, my daughter's report at age 16 was clean. That was good. My son's, however, at age 15 showed two negative items. One was a past due account for natural gas. The second was a civil judgment entered in Lancaster Civil Court in the amount of \$1,525. His report also showed a birth date of 1958, employment at the Sports Tavern, and 5 addresses, none of which were my son's, all of which were his father's. Our nightmare was just beginning. We reported the theft immediately to the Nebraska State Patrol who took the information and assigned an investigator to the case. The civil judgment was actually failure to pay rent on a rental property here in Lincoln and was entered in March of 2001 when my son was just 13 years old. Over the course of 9 months, the investigator gathered information and reported it in March of 2005 to the Lancaster County Attorney's office. Their response was that the statute of limitations had run and they were not going to file anything. In the meantime the utility account was deleted from my son's credit report but the civil judgment could not be and still remains on his report. In March of 2006 my daughter was age 18 and a freshman in college. She applied for a credit card and was denied because of her credit report. We immediately ordered her credit reports and found four accounts had been opened in her name, her date of birth had been changed to show her two years older, and her father's address had been added. We reported it to the State Patrol investigator and the Lincoln Police Department. The Lincoln Police Department report shows that an incident occurred on a certain date, but doesn't say what it is. The State Patrol investigator immediately issued subpoenas for the accounts and received information from the companies showing her father's e-mail address, residence addresses, his bank accounts for payment, etcetera. Upon showing the report to the Lancaster County Attorney's office in October 2006, the investigator was told that it couldn't be confirmed as to who was using the cards and all the amounts were so small it would only be a misdemeanor and were we sure that my daughter wasn't trying to steal from her father? In November 2006 we ordered another credit report and discovered that yet another account had been opened. In January of 2007 the County Attorney's office insisted that we would have to get a confession from her father and then they would pursue some type of a plea arrangement. So on February 5 my daughter met with the investigator and scripted a conversation for her to have with her father over the speaker phone. My children have been repeatedly abused by their father and now the victim must get a confession from the thief. We can protect ourselves in Nebraska with a concealed weapon. We can protect our health from secondhand smoke by eating in Lincoln restaurants. We don't need just a tool. We need a weapon to be able to protect ourselves financially and I think this is a good step. I think it is something that needs to be looked at. They tell you to protect your credit. What do you do when it has been stolen and you become a victim? I am sorry. I have testified before legislative committees before on a personal matter and I have never cried. As you can tell, it is a very personal issue. Both of my children are still minors. My daughter is 19 and my son

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

has just turned 18 and he is already concerned about what does he do when he gets married and goes to try to get a house with his wife. So it will be something that will follow them the rest of their life. If they have the opportunity through LB190 to put a security freeze so that their financial information isn't trafficked to anyone without their approval, it is a good first step. Thank you for listening. [LB190]

SENATOR PAHLS: Thank you for coming in front of us, Annette. Do we have any questions? Senator Hansen. [LB190]

SENATOR HANSEN: Thank you, Annette, for coming today. Did the State Patrol give you any advice for how to stop it in the first place? I don't know the circumstances, what you do. Can you apply for a new social security number and keep that? I don't know if that is possible. [LB190]

ANNETTE HARMON: When this first happened to me in 2003, I scoured the web site. I did everything that they said. I filed a complaint with the FTC, even though the FTC doesn't do anything as far as I know. They have never done an investigation. The only thing that you can do is report it to a law enforcement agency and then you can talk to the credit agencies and ask them to first put a security alert, which is what they did on mine and after 90 days it expired. My son's actually now has a security alert on it that says because we asked that the creditors have to contact us before they issue any credit and I have been trying for the last month to get a copy of his credit reports since he just turned 18 and I can't get it online. I have to write for it in paper so I don't know whether it is still on there or it has been done again. Did that answer your question in terms of, you know... [LB190]

SENATOR HANSEN: Thank you. No, but that is a huge, huge issue. [LB190]

ANNETTE HARMON: That is really all that is out there. That is all they can tell you to do. [LB190]

SENATOR HANSEN: Thank you. [LB190]

SENATOR PAHLS: Do I see any other questions? Again, I want to thank you for coming and telling us your story. Any additional? [LB190]

MURRAY JOHNSTON: (Exhibit 4) Good afternoon, Chairman Pahls and members of the Banking, Commerce and Insurance Committee. Thank you. My name is Murray Johnston, M-u-r-r-a-y J-o-h-n-s-t-o-n, and I am with Experian and I am here to testify at this time opposed to LB190, but only in its current form. I have talked with Senator Mines and with certain amendments we can change our position on the bill. Clearly identity theft is a serious issue and an emotional issue. At the credit reporting agencies we deal with the victims. Identity theft pollutes our records and it is something that we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

have worked to try to prevent and minimize. As your previous witnesses has talked about, there are extended alerts, particularly the one where they have to be contacted before credit can be extended. So that is one protection that we have done that already exists to Nebraska consumers. However, as I said, we do not oppose a file freezing concept if it is done carefully. The main issue is that we need consistency and that is both so that our systems will work as we have developed them and tried them, and also so that it minimizes problems for both consumers and our customers, the creditors. Also I would like to add, I think it was explained by the previous witnesses is that a file freeze is a very secure, but it is also a fairly extreme step, and it needs to be a last resort for a consumer, not a first resort because it does at that point require them to have to plan out their interactions when they go apply for credit and it is not just a mortgage and an auto loan, but it is also cell phones and utilities as well. So it is something that, as I said we don't oppose in concept, but it needs to be done in a thoughtful manner. Specifically with LB190 the issues that I see with the bill is that the placement of the freeze needs to be secure and almost every single state requires that to be by certified letter. That is the initial contact which, once we receive that contact, then we send the letter with the pin to give the person control for the credit account. That transaction needs to be secure. When they want to lift, once they have that pin, we have other processes that are much faster set up to do that. But for the initial placement for the security of it, we think it is good public policy to have that done by certified letter. Also in terms of a couple of other issues with the bill is there are some timing issues with the bill as currently drafted with the placement of a freeze and the removal of a freeze. This bill goes down to one business day and that is an unreasonable standard in that there are other protections and we need to keep focused on the security of the system and it is not a standard. One business day does not exist in any state. I do have some amendments to the bill. I should have passed those out before I started speaking. But these amendments address the issues that I am going through right now. I mentioned there is the placement needs to be by certified letter. That on the timing issues, the first one is the timing for the removal and for the placement, suggested amendments that are consistent with what other states have done. Also there is in the amendment a proposal for 15-minute lifts. We oppose that being in statute. We, at Experian, actually have real time thaws currently available for temporary lifts on our systems in states where there is file freezing. However, we do not think that a law should mandate that because then it puts us on the horns of a dilemma. We have a law saying we are supposed to keep a frozen file secure and not release it, and in that same law it also says we have to release it in 15 minutes. So we like the way the current, similar to the Fair Credit Reporting Act, it sets obligations on us to maintain the information securely and then once we have those standards we work within the market to meet the demands of consumers and our customers to do it quickly. There is no time line in the Fair Credit Reporting Act for when we have to provide a consumer disclosure. But we do that, we provide it online and provide electronic provision of that because that is what our customers and consumers expect and demand. And then on the fees we would recommend the fee that most states have is around \$10 rather than \$5 that is proposed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

in this bill. We do not charge victims of identity theft. So that is not the question, but in terms of the fees a frozen file does not mean there are no costs. We continue to have the existing costs, in fact, we have additional cost and burdens because of the freeze, there are new notices and obligations that go with it. And so we would recommend that the committee allow us to charge a reasonable fee up to \$10 to those consumers who are actually using the system, who elect to use the system. One issue for our customers that is not in our amendments, but this bill allows for the consumer to choose either a specific party or a period of time and we have found that the specific party request can be confusing. Someone may not realize that when they go to a store, it is not the store that is going to pull that credit. They may have sold their credit portfolio to a lender like Citibank or GE Money or others or you could have mortgage situation where you go to your neighborhood bank and you say lift for this bank, but it is actually their mortgage branch. And so there is confusion as to which party should be doing the freeze. We think it is simpler...we can do it either way, but confusion is avoided if it is just for a period of time. So those are the amendments that I would suggest to this bill. If there are any questions, I would be glad to answer them. [LB190]

SENATOR PAHLS: Senator Pankonin. [LB190]

SENATOR PANKONIN: Thanks, Senator Pahls. Sure appreciate your testimony and just a few questions here. Were you able to get with Senator Mines on these amendments in advance? [LB190]

MURRAY JOHNSTON: Yes. Let me also add one other thing. I have with me here is a representative of our trade association. So it is not just me, but it is also all of the credit reporting agencies. The trade association is called the Consumer Data Industry Association and Jennifer Flynn back there is with me and rather than make everyone listen to this speech twice. [LB190]

SENATOR PANKONIN: Which was going to be my follow-up question. Is there two or three major credit reporting agencies? [LB190]

MURRAY JOHNSTON: There are three. It is Experian, Equifax and TransUnion. [LB190]

SENATOR PANKONIN: Okay. So if you were in the situation you would have to send a certified letter to all three? [LB190]

MURRAY JOHNSTON: That is correct. [LB190]

SENATOR PANKONIN: There is no governing one association that you could... [LB190]

MURRAY JOHNSTON: We may be members of the trade association, but the individual

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

files with each credit reporting agency. [LB190]

SENATOR PANKONIN: For a consumer to try to do this the best way would be to all three? [LB190]

MURRAY JOHNSTON: Yes, sir. [LB190]

SENATOR PANKONIN: Okay. And I am just curious, where do you live at then? [LB190]

MURRAY JOHNSTON: I live in Virginia. [LB190]

SENATOR PANKONIN: Okay. So you came in for this? [LB190]

MURRAY JOHNSTON: Yes, sir. [LB190]

SENATOR PANKONIN: You are seeing this in quite a few states. In your opinion has it been helpful then for consumers, obviously, from that perspective? [LB190]

MURRAY JOHNSTON: It is something that we have built the system and we do it, and for consumers it can provide a good level of protection. It is a very high level and it requires an understanding of their involvement with the credit reporting system and so that's why, as I stated, it should be a last resort for a consumer, not a first. But we don't oppose it, if it is done right. [LB190]

SENATOR PANKONIN: Okay. Thank you. [LB190]

MURRAY JOHNSTON: Certainly. Thank you, Senator. [LB190]

SENATOR PAHLS: Senator Pirsch. [LB190]

SENATOR PIRSCH: I just wanted to check a quick fact. You said that no other state now uses...let me phrase it differently, every state uses a certified letter mechanism? [LB190]

MURRAY JOHNSTON: A certified letter. I think a couple of states allow for by overnight mail and there is one state that does allow by phone, but that is not terribly secure and if there has been any movement then it creates...I think trying to place by phone is a challenge both for the security of the system and for consumer expectations because they may need to provide documents which they would not be able to do over the phone. So they are still going then back to the mail. [LB190]

SENATOR PAHLS: Senator Carlson. [LB190]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR CARLSON: Senator Pahls. Murray, we all understand that identity theft can be a terrible problem and I have had to sit here for several minutes. I got so upset listening to this testimony that, well, I just better not say what I would like to do. But what kind of suggestions might you have to solve the problem? Here we are dealing with, we are asking victims to freeze a credit report and this is what we do so much in our society. We have the wrongdoer gets kind of shoved off to the side and we don't even pay any attention to them and it is the people, the victims that have to figure out a way to deal with this. What other suggestions would you have? [LB190]

MURRAY JOHNSTON: I think one of the tools that we developed voluntarily and then is now required by federal law are the fraud alerts, both the temporary but then the extended fraud alert give strong protection because you can say do not...and the federal law now requires this. If a lender pulls up a credit report and there is an extended alert on there and it says do not extend credit until you contact me at this number, that creditor has to honor that obligation. So that is effectively a freeze on that credit report unless someone calls you. In a sense, I am not going to belittle the experience of victims, but identity theft also pollutes our records. We don't like it. It is bad for our business. So it is something we work really hard on with our customers to prevent as well. There is a notice if a credit application comes in and the address is different than what we have on file we send a red flag back to the lender to say these addresses don't match. And so that lender under law now has to take additional steps to reconcile those addresses. It is a serious problem, but we are working on it. Those numbers, they are high but surprisingly they have actually been going down over the past couple of years. I am not saying we have whipped it by any measure, but I am saying that there are tools out there and the industry is working and we are seeing some progress on this. [LB190]

SENATOR PAHLS: Senator Langemeier. [LB190]

SENATOR LANGEMEIER: Chairman Pahls, thank you. And thank you for your testimony and thanks for coming from Virginia. There was testimony earlier that said that if you have got a full credit report that credit alert that you just talked about would show up, but it would not show up if they just got the number. [LB190]

MURRAY JOHNSTON: Are you talking about like a score? [LB190]

SENATOR LANGEMEIER: Yeah. If I just report and get a score I don't get that alert. Would that be... [LB190]

MURRAY JOHNSTON: You would because a score is a credit report. If you attach identifying information in anything that speaks to the character, that is a credit report, a consumer report. If there is an alert on there, we have to send that with the score. We would have to say there is an alert on this file. Yes, Senator. [LB190]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR LANGEMEIER: Okay. Thank you. [LB190]

SENATOR PAHLS: Senator Gay. [LB190]

SENATOR GAY: You heard Annette, Ms. Harmon's testimony and it is pretty despicable. We all agree. [LB190]

MURRAY JOHNSTON: Yes. [LB190]

SENATOR GAY: I guess back to what I asked Senator Mines initially, do other states have it where as a parent... [LB190]

MURRAY JOHNSTON: Oh, yeah. [LB190]

SENATOR GAY: ...and I understand divorces and things like that, custody battle, all that going on. Are other states doing anything where I could put my kid's social securities down and say, hey, do not give any credit information on these social securities? [LB190]

MURRAY JOHNSTON: The laws that have been passed state that if a consumer contacts us and requests to place a freeze on their credit file with us we have to do it and so we do that, minor, adult, whichever. Now if it is a minor, the parent would need to provide documentation. [LB190]

SENATOR GAY: Okay. A follow-up question to that. Let's say a divorce happened. Can any parent do that? Because in the case I can see I bet that probably wasn't the first time, unfortunately, this kind of thing has happened. Somebody gets into desperate financial situation and they are doing bad things. But let's say the couple is divorced and I want to prevent my spouse from doing this because I think there could be potential of somebody doing that. So can either or do it in different states, or how could we make our bill better? [LB190]

MURRAY JOHNSTON: I think the law as it currently sits in other states gives the parent the right now. You are right if the noncustodial parent were to try to do that we might honor that request. But then the other parent would once learn of it would then say, no, I am the custodian... [LB190]

SENATOR GAY: Well, you would have the record saying... [LB190]

MURRAY JOHNSTON: ...would send us that information and we would say...but once a parent is telling us they want the freeze for their minor child we would honor that freeze. [LB190]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

SENATOR GAY: Okay. Thank you. [LB190]

SENATOR PAHLS: Senator Pirsch. [LB190]

SENATOR PIRSCH: Just kind of some background information if you know, with respect to your typical kind of case does the victim of this type of crime typically have some sort of relationship? In the two examples we had here today a former boss and an ex-husband. Is that typically the case that there is some sort of a relationship, or is that atypical and usually there is no relationship? [LB190]

MURRAY JOHNSTON: That is a very good question. The best research right now on that comes from Javelin Strategy and Research and they have done surveys of people to emulate a similar study that the FTC did several years ago and it has allowed for some of the trend analysis. But one of the things that also comes back consistently in their studies is that almost half of the cases it is someone they know, who the perpetrator of the fraud is. So that is actually the most common example we hear of. [LB190]

SENATOR PIRSCH: You said about half the cases... [LB190]

MURRAY JOHNSTON: Yes. [LB190]

SENATOR PIRSCH: ...and half the cases it is strangers. So it is kind of mixed then. [LB190]

MURRAY JOHNSTON: Or they don't know. [LB190]

SENATOR PIRSCH: You do not know. Okay. And I guess the reason I am getting at that is because of the question of we are looking at timing, right? What is reasonable. Now if I am out at a restaurant and my wallet disappears, information, whatnot, and obviously you are not thinking that that is some sort of a familial or other type of close relation, right? Then probably the person who does have the information understands that it is a race, correct? And you want to get to the phone and get as many things opened and as much credit as soon as possible. And so I guess that is where for me having an understanding of what we are dealing with here is that kind of a situation, or is it somebody who just over the course, it feels more hidden and can over the course of time, and therefore time isn't as essential of an element as it would be in the first course? [LB190]

MURRAY JOHNSTON: I would recommend the study and I will give that to you because they really look at the different types because you are right. There are different types of ways that this crime is committed and in some cases it is a timing thing that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

they take the credit cards and use those before the banks catch it. But the consumers are usually out no money in those. For Visa and MasterCard I know for sure. Their policies are that consumers are liable for none of that as long as it is reported within 60 days. In terms for the timing that is where the initial fraud alert comes. That is something you get on the phone, you call one bureau and that fraud alert is put on that bureau's file and then that bureau contacts the other two, and then they all three bureaus then contact the consumer by mailing forms and explaining all the rights that the consumer has, including giving them access to a credit report at no charge. And so that happens fairly quickly and then after examining the credit report and seeing all their rights under law, then the consumer can take the appropriate steps for that, and then the lender, obviously, pulling that credit report would also have to take additional steps to verify the identity of the consumer. [LB190]

SENATOR PAHLS: Senator Pankonin. [LB190]

SENATOR PANKONIN: Thanks, Senator Pahls. And I want to thank you again as has been expressed you coming from Virginia and have all this information has been, I think, very helpful for us. What do you see for the trend lines in this crime? We have been talking about the last few years, is it getting worse? Do you think some of the things we have done and some of those tools we already have have made any difference? Or what is your sense or what research have you seen? [LB190]

MURRAY JOHNSTON: I think the tools we have are making a difference now. The "fraudsters" also keep changing too. So it is not we have got this licked now. It will continue to, you know, they are out there to defraud people. These are pretty much people without much of a conscience. And so I think we will have more and more success in dealing with identity fraud, but then I think "fraudsters" where they will find a weak link they will strike fairly quickly and then we will have to respond and the industry needs to respond to that. [LB190]

SENATOR PANKONIN: But you think then as a public policy with some suggested amendments or changes that this is good public policy in your opinion? [LB190]

MURRAY JOHNSTON: I guess I am not going to say we support it, but if it is done right we don't object. So if it is done in a thoughtful way, yeah, we don't see a problem with it. We think it is another tool that consumers can use. It is a fairly extreme tool but for some consumers it is what they want. [LB190]

SENATOR PANKONIN: Okay. Thank you. [LB190]

SENATOR PAHLS: Senator Hansen. [LB190]

SENATOR HANSEN: Thank you, Senator Pahls. One quick question, a repeat of a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

testifier earlier. Railroad employees in Omaha had a group of people, 4,000 or 5,000 people had their identity...they call it identity theft, class action, a whole group of people. What would you suggest they do as a whole group of people? [LB190]

MURRAY JOHNSTON: I guess I don't understand the crime. [LB190]

SENATOR HANSEN: It was another employee took all the records that they had, all their financial records and has access to them, downloaded to disk...I don't know the particulars of it. [LB190]

MURRAY JOHNSTON: Okay. So he stole the information. [LB190]

SENATOR HANSEN: Of a large group of people and that is the only question I had. What would you do for a large group of people that had their identity stolen? [LB190]

MURRAY JOHNSTON: That is a breach situation. We would certainly recommend placing a initial fraud alert on the files for those people because they are... [LB190]

SENATOR HANSEN: For 90 days? [LB190]

MURRAY JOHNSTON: That starts off for 90 days and then after they have examined their report and they can see all their rights that also come with that report they could choose to either do an extended alert because, obviously, a crime has been committed with that information that has been taken from the company. Or some lenders also offer credit monitoring services, best practice or whenever they have discovered a breach of information. And so they will pay for that for a consumer for one to two years. [LB190]

SENATOR HANSEN: Okay. Thank you. [LB190]

MURRAY JOHNSTON: Certainly. [LB190]

SENATOR PAHLS: Thank you for your testimony. [LB190]

MURRAY JOHNSTON: Thank you, Senator. [LB190]

SENATOR PAHLS: Next opponent. [LB190]

JIM OTTO: Senator Pahls, members of the committee, my name is Jim Otto, O-t-t-o. I am appearing today as a registered lobbyist for the Nebraska Retail Federation in opposition to LB190. Always in a situation like this you can choose to maybe be neutral and then either negative neutral or positive neutral. We probably could have testified negative neutral, but in order to make it clear that we do have some concerns about the bill. But most of those concerns have already been expressed by Mr. Johnston. It is not

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

that we are against the freeze. We just want to make sure that it is done in a way that you can easily work with the economic world, the retail world when people do need credit. Just a couple of things that I would point out. First of all, when he mentioned the certified letter, this is a significant step. We wanted to make sure that it is important, I think, to retailers if somebody is going to come in buy a refrigerator, buy some kind of a new plasma big screen TV and all of a sudden they want their credit access so that they can get that financed quickly and easily. In other words if you can just do it online quickly or you can just call up quickly, maybe that doesn't emphasize to the person who did it how significant a step it is. It is a significant step to freeze your credit. And so we would support the fact that it should be done by letter, preferably certified letter. And also that is much more secure than telephone or the Internet. I mean the Internet and telephone are some of the favorite places that people who commit these kinds of fraud like to go. I don't know if you have been subject to any of the phishing on the Internet, but I mess around a little bit on eBay and as a result of doing it on eBay you have a PayPal account. I can't tell you have many messages I have gotten that look like they are really from PayPal that want me to go in and change my credit card information and I didn't do it. But I actually called PayPal and they said no way, we are not sending you that, that is somebody that is phishing for all of your credit card information. Once they get your pin number, then they could actually do anything. We would suggest that certified letter or at least a letter is the way to freeze your credit because that is the significant thing that you need to do. There is also a paper trail. Someone needs to sign it, etcetera. And Senator Pirsch, a little bit of a response to your question about timing. As I understand it, and also I think, Senator Pankonin, you asked the question of if you had to go to all three agencies and if it were \$5 it would be \$15 and \$10 it would be \$30. But the way I understand it if you have a fraud alert on your account that that automatically goes to all three and I don't believe they charge for it and that would answer the timing thing because it would already be there. Except for the fact that if you already have a credit card and it has the \$3,000 limit and you have only got \$50 on it, I mean the quicker you report that the better, you get a hold of your credit card company. But the other thing to remember is if you didn't sign that charge and you didn't make that charge you are not liable for that charge to that credit card company. So although it is important to get there as quickly as you can, there are some protections out there. Also the specific party, specific period of time that Mr. Johnston brought up is an important thing to retailers because if you were to go into JCPenney and you would think that you were giving JCPenney the right to look at your account. Well, it is probably not JCPenney. It is probably GE Money or something like that that is actually extending you the credit. Years ago I actually worked for the National Bank of Commerce in installment loans and we bought paper from music dealers that were selling instruments or from car dealers, etcetera, and someone going into that store probably thought they were getting that credit from the store. Well, they are not. They are actually getting it from someone else. So that would confuse it. It would be better to do a specific period of time. With that, just want to make sure that whatever happens is workable within the retail industry and good for the consumer and works well for the consumer. We are not against the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

concept but want to make sure that we work out some of those things. [LB190]

SENATOR PAHLS: Any questions for Jim? Thank you, Jim, appreciate it. [LB190]

JIM OTTO: Thank you. [LB190]

SENATOR PAHLS: Any more opponents? People in the neutral? [LB190]

LOY TODD: Senator Pahls, members of the committee, my name is Loy Todd. I am the president and general counsel for the Nebraska New Car and Truck Dealers Association and we really are neutral. We are not negative neutral or positive neutral. I am here neutral because we are. And I will say that our biggest concern simply is that the system work, whatever it is. We adapt to the systems that we are faced with and we learn nationally about these things. And I have checked with a lot other states. Does it work, and Senator Mines has worked with us on it. The whole idea of the freeze is a good one we think. Notwithstanding whatever articles criticize the car dealers in this regard, it really doesn't do us much good to sell a car to a thief. We end up getting it back and then usually it is not nearly as new as we sold it. So from that standpoint we really do want a consumer to be able to control their credit. I think the advice given to the committee by the experts ought to be taken into account simply because it does need to work. And we do, as you can understand, we don't offer the credit ourselves and so someone coming to ABC Motors, if they did release that credit to ABC Motors the inquiry or the actual credit is going to be issued by one of several different types of lenders, and those names sometimes don't match and we can get confusion there and not defer to the experts in that regard. What works and what doesn't work and I really appreciate the parts of the bill that accelerate that time table. Technology as wonderful as it is I can't imagine. You can find out anything instantly anymore. But we understand the necessity for some delays in the process. We just ask you to work with everybody and we certainly have no problem at all with advancing this legislation. [LB190]

SENATOR PAHLS: Any questions for Loy? Thank you. [LB190]

LOY TODD: Thank you. [LB190]

ROBERT J. HALLSTROM: (Exhibit 5) Chairman Pahls, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in a neutral capacity on LB190. This is probably positive neutral testimony. Banks do a lot with their customers in terms of trying to address the problem of identity theft in advance by providing educational materials to our customers. Many banks also have free services for their customers to address the rehabilitation of their credit and the regaining of their identity after a theft has occurred. So we are very positive in terms of addressing identity theft. Plus I would add, as has been alluded to, credit card liability and unauthorized account activities ultimately rest in the lap of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

bank so there are significant losses associated with banks and the scourge of identity theft along with what our customers experience as you heard from some of the witnesses today in support to the bill. I would just limit my testimony to addressing the amendments that are attached to the back. Some of these issues have been addressed. I have one issue that Senator Mines and I have talked about at length. For purposes of consistency I will suggest this again. I don't know that Senator Mines is apt to come over to our side on this issue anytime soon. But it simply is in many states they have looked at limiting the application of placing freezes on the account only to those consumers who have been the victims of identity theft that has been reported to law enforcement. Senator Mines has taken kind of a middle ground in saying that will allow identity theft victims to file without charge. Anyone else can still file but with a fee. Some of the other issues have been addressed. The certified mail issue, we think there should be total security or better security with regard to the placement, not with regard to the thawing but with regard to the placement by only allowing it to be placed via certified mail. The other issue in my amendments has to do with the issue that currently if you want to place a thaw or a release of your security freeze you can do it either for a specific period of time or to a specific party. You have heard the witnesses this afternoon suggest that the language to a specific party may cause hardship to the consumer because they don't know exactly who to identify as that specific party and they may get rejected as a result due to the lack of knowledge due to no fault of their own. Final issue that I would ask on page 8, line 2, there is currently a provision in there that talks about the ability to utilize the credit report or an exception from getting the credit report for purposes of prescreening. We would ask the committee to extend that to postscreening. My understanding on this issue is that when you get preapproved for a credit application the bank or the retailer will look at prescreening activities. Once you have been preapproved, they will then for their customer identification programs look at postscreening to verify the identity of the person that they are dealing with. And so we think that would be an important change for both the consumers and the lenders and the retailers alike. With that, I would be happy to address any questions. I do also want to thank Senator Mines publicly. He came to us and asked if we had any suggestions to improve the legislation before it was even introduced in the drafting process and has adopted a number of provisions that are fairly uniform and standardized throughout the country and we appreciate his efforts in that regard. [LB190]

SENATOR PAHLS: Any questions? Seeing none, thank you. [LB190]

ROBERT J. HALLSTROM: Thank you. [LB190]

SENATOR PAHLS: Any more testifiers? Senator Mines. [LB190]

SENATOR MINES: Thank you, Chairman Pahls, members of the committee. Great debate, interesting topic, emotional. You have heard both from Jaimee and Annette this personal real life instances of identity theft. These are examples. They are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

heartbreaking examples. You have also heard about security breaches and we have nationally you see this happen all the time. I think the Veterans Administration is one of those that lost a lot of data. My data was in there, by the way. And I think freezing one's credit information is something that many people would take advantage of if it were available. I know there are hurdles and some of it might be clumsy. Certainly some of the testimony you heard here today is absolutely valid. The certified letter I think is a great idea. I might mention that we modeled this bill after statute from Minnesota as well as information from the Consumers Union and input from others. Some of the stuff we didn't get exactly right and I think the certified letter is exactly right. We are absolutely willing to work with the committee, committee counsel on solidifying the time frames that are acceptable to the industry as well as to consumers. I think we are off a little bit and we need to tighten these up. I think that is about it. You heard about the placing of fraud alerts and I have to plead ignorance. I have never done it in my life, never thought I needed to. But I understand that a fraud alert is one where the credit bureau calls you or they call whoever is identified to call back and those people that are calling they are part-time, probably low-paid people that are going to abide by the fraud alert and don't really make important decisions. Now I don't want a part-time person on the other end of the phone that is paid just to be there to work with me on maintaining my credit. I think the freezing of your credit is an effective way for those of us that are interested in protecting our credit information to do that. We can take that step as opposed to having others respond and help us with it. So in closing I would simply say that we have some things to get right, not many. I would look forward to working with the committee, with the industry, and with committee counsel to get that right. And with that I will close, Mr. Chairman. [LB190]

SENATOR PAHLS: Any questions? Thank you, Senator Mines. Thank you very much. [LB190]

SENATOR MINES: Thank you. [LB190]

SENATOR PAHLS: That closes LB190. [LB190]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 12, 2007

Disposition of Bills:

LB123 - Advanced to General File, as amended.
LB190 - Advanced to General File, as amended.
LB386 - Advanced to General File.

Chairperson

Committee Clerk