

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee February 22, 2022

WILLIAMS: Well, good afternoon, everyone, and welcome to the Banking, Commerce and Insurance Committee hearing. My name is Matt Williams. I'm from Gothenburg and I represent Legislative District 36 and I'm honored to serve as Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your part of the public process and the legislative process. This is your opportunity to express your position on proposed legislation before us today. The committee members may come and go during the hearing. We have to introduce bills in other committees and are sometimes called away. It is not an indication that we are not interested in the bill being heard, it's just part of the committee process. To better facilitate our proceedings today, I ask that you follow the following procedures. Please silence or turn off your cell phones. Please move to the front row when you are ready to testify. The order of testimony will be the introducer followed by proponents, opponents, neutral, and then a closing. When you come up to testify, if you would please hand your pink sheet to the committee clerk and when you begin your testimony, if you would please spell your name for the record, your first and last name. We ask that you be concise with your testimony. It is my request that you limit your testimony to five minutes. We do use a light system. It will be green for the first four minutes of your testimony then it will turn yellow during the last minute. And then when it turns red, that's the end of five minutes and we would ask that you wind up your testimony at that time. If you will not be testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are white tablets at the entrance where you may leave your name and other pertinent information. The sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits while you are giving testimony. We ask that you give us ten copies. If you don't have ten copies, our pages will make those for you. If you have written testimony-- I just said that. I'm not going to repeat that. To my immediate right is committee counsel, Bill Marienau. To my left at the end of the table is committee clerk Natalie Schunk. The committee members that are with us today will introduce themselves starting with Senator Pahls.

PAHLS: Thank You, Chair. Rich Pahls, District 31, southwest Omaha.

McCOLLISTER: John McCollister, District 20, central Omaha.

SLAMA: Julie Slama, District 1: Otoe, Nemaha, Johnson, Pawnee, and Richardson Counties.

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AGUILAR: Ray Aguilar, District 35, Grand Island.

FLOOD: Mike Flood, District 19, Norfolk.

BOSTAR: Eliot Bostar, District 29, south-central Lincoln.

WILLIAMS: And our pages that are helping us today are Logan and Malcolm. Thank you for your help again. And that is all the preliminary stuff so now we will begin our hearings and we will open the public hearing on LB1187 introduced by Senator Flood to change provisions related to the controllable electronic records in the Uniform Commercial Code. Welcome, Senator Flood.

FLOOD: Thank you, Senator Williams-- Chairman Williams. Members of the committee, my name is Mike Flood, F-l-o-o-d, and I'm a state senator for District 19, representing Madison County and southern Pierce County. I'm here to introduce LB1187, which would extend the operative date regarding provisions of the Uniform Commercial Code, Article 12. As you may remember, last year, I introduced LB649, the Nebraska Financial Innovation Act. As part of this bill, the provisions of UCC Article 12 relating to the creation and perfection of security interest in controllable electronic records were also adopted. While working with the Nebraska Banking Association, as well as members of the committee last year, one of the concerns raised was the implementation of these provisions before their formal adoption by the Uniform Law Commission. LB1187 is the most recent effort in working with the Nebraska Banking Association to address this concern, serving simply as a placeholder in the event the ULC finalizes UCC Article 12 prior to the Legislature adjourning sine die. The way LB1187 does this is by extending the operative date of the UCC Article 12 from July 1, 2022 to July 1, 2023. Currently, the ULC does not anticipate adopting the final version of Article 12 before the end of this legislative session. In extending the operative date, this bill would provide the ULC time to adopt the article before next session and have the Legislature include the final language in the 2023 Session. I do not want this bill advanced. This bill is simply a placeholder in the event the language was changed during this legislative session. It will not be changed during this legislative session. I feel confident that our language is sufficient and I would anticipate next year hopefully having an opportunity to see what the ULC does. We can amend our statutes at that time. I do appreciate the opportunity to have this hearing and would be happy to answer any questions you may have.

WILLIAMS: Are there questions for Senator Flood? Seeing none, thank you.

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FLOOD: Thank you.

WILLIAMS: We would invite the first proponent. Welcome, Mr. Hallstrom.

ROBERT HALLSTROM: Chairman Williams, members of the Banking Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB1187. I provided my written testimony for the record, but as Senator Flood noted, we are here today in an unusual position in that we introduced a bill as a placeholder not to take up too much time of the Legislature, obviously, but in hopes that the Uniform Law Commissioners would have acted by this time with the final version of UCC Article 12. In visiting with Senator Flood before the session, we had pledged-- even though we let this committee know last session that it has been our preference to wait until uniform acts are finalized before we adopt them in Nebraska and that would remain our preference, but nonetheless, we had pledged to Senator Flood that this bill would be introduced for the sole purpose of being able to go in and adopt revised language if finalized by the ULC in advance of the July 1, 2022, operative date that was adopted last session. We've been given some pretty clear indications that the Uniform Law Commissioners are not going to have what is expected to be their final meeting on this before final adoption until April and you will hopefully be on your way home before we'd have a chance to come in and make any changes. So with that, I'd be happy to address any questions that the committee may have with regard to LB1187.

WILLIAMS: Are there questions? Seeing none, thank you for your testimony.

ROBERT HALLSTROM: Thank you.

WILLIAMS: Invite the next proponent. Mr. Ruth, welcome.

LARRY RUTH: Thank you very much. My name is Larry Ruth, L-a-r-r-y R-u-t-h. I'm a member of Nebraska's Uniform Law Commission, along with Commissioners Perlman and Wilborn who are former deans of the law school; Judge Alan Beam, who is Eighth Circuit Court of Appeals; Don Swanson of Omaha; James O'Connor of Omaha; and of course, our own Joanne Pepperl, who is now retired from this institution. We appear in support of LB1187. That's our preference is-- what, whatever you want to do with it in terms of holding it or passing it on, that's up to you. But we have supported its introduction earlier because of some things that were taking place in Wyoming on the Uniform Commercial Code side. We think that the existing bill that passed last year represented what the Uniform Law Commission had done within its

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drafting committee up at that point. And like Mr. Hallstrom said, the drafting committee is meeting in April. It will probably have a draft that will then be acted upon in July, but don't expect something in final form until this summer. And how you want to work that out, I guess, is up to you in terms of keeping or moving it on in terms of it-- holding it. All I will say is we've enjoyed working with Senator Flood on this and Mr. Hallstrom and I think that ends my testimony.

WILLIAMS: Any questions? Mr. Ruth, do you expect that they will take action this calendar year, though?

LARRY RUTH: Oh, yes, I think so. I checked just this morning again. There are obviously-- you know, drafting situation, you obviously have different things that people are looking for. We've been working very closely with the American Bar Association and their representatives. We also have people from some of the digital assets companies that are there. There may be some problems that we still have to work out there, but I think that there probably be something advanced as an approved version in July.

WILLIAMS: Thank you. Any additional questions? Seeing none, thank you for your testimony.

LARRY RUTH: Thank you.

WILLIAMS: Any additional proponents? Seeing no one jumping up, is there anyone here to testify in opposition? Anyone here to testify in neutral capacity? Seeing none, Senator Flood. And before, we do have no letters on this one. Senator Flood waives closing. That will conclude our hearing on LB1187 and we will move on to-- we don't have Senator Albrecht. OK, we'll just sit tight for a minute. There we go. All righty, this will open the public hearing on LB1061 introduced by Senator Albrecht to change provisions relating to the board of directors of an insurance corporation. Welcome, Senator Albrecht.

ALBRECHT: Thank you. I had a little road trip out there to get here. So thank you. Good afternoon, Chairman Williams and members of the Banking Committee-- Banking, Commerce and Insurance Committee. For the record, my name is Joni Albrecht, J-o-n-i A-l-b-r-e-c-h-t, and I represent Legislative District 17 in northeast Nebraska, which includes Wayne, Thurston, Dakota, and portions of Dixon Counties. By the way of introduction, I was contacted prior to last year's session by a representative of Great West Casualty Company and their parent company, Old Republic International Corporation, to consider offering legislation which would eliminate the director residency require-- requirement within Section 44-211 of our Nebraska state statutes. For

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the record, Great West Casualty is a property casualty insurance company located within my district in South Sioux City. The company was organized under the Nebraska law in 1956 and has maintained its company headquarters in South Sioux City since that time. The company has a growing footprint in the state and its positive commitment to local area and state are well recognized. As a result of those conversations, I introduced LB280 last year that merely eliminated the requirement that the proposed legislation was opposed as in essence, eliminating the only requirement other than a sufficient capital to domesticate in Nebraska. We have thus offered this legislation to address those concerns by providing significant requirements which met and would permit a waiver of the residency requirement representing corporate continuity and investments in the state. As legislators, we all share the common task of weighing the public interest of regulation versus the interest of creation and maintenance of a healthy and vibrant business environment in our state. It's appropriate balance that we seek in our role as legislators, weighing the ultimate benefit to all Nebraskans. There are testifiers following me who will be happy to answer any questions that you may have.

WILLIAMS: Thank you, Senator Albrecht.

ALBRECHT: Thanks.

WILLIAMS: Are there questions to begin with? Seeing none, thank you.

ALBRECHT: Thanks.

WILLIAMS: Invite the first proponent. Welcome, Mr. Posson.

CRAIG POSSON: Good afternoon, Mr.-- Chairperson Williams and the members of the committee. My name is Craig Posson, C-r-a-i-g P-o-s-s-o-n, and I'm appearing on behalf of Great West Casualty Company, a Nebraska-domesticated property and casualty insurer and Old Republic International Company, the holding company of Great West. I'm the general counsel and secretary of, of Great West Casualty Company. As you heard before, Great West was formed under Nebraska law in 1956 and we've maintained our principal office in Nebraska since that date. The organization has been and remains committed to Nebraska. The company headquarters are located in South Sioux City, Nebraska. In 2016, Great West invested over \$10 million in a 25,000-square-foot expansion of our corporate headquarters. The office there employs over 500 people with an additional 350 or so in regional offices throughout the company. Last year, Great West wrote approximately \$1.25 billion in direct written premium almost exclusively for the for-hire long-haul trucking markets. Nebraska direct written premium was

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approximately \$60 million. We're considered among the leaders in the segment of that industry. Great West and its parent, Old Republic International Corporation, support senator Albrecht's proposed legislation in LB1061. In support of our position, we note that there's been extensive development of federal and state regulatory requirements since the original enactment of these provisions requiring a resident director in the early 1900s. This is particularly true of governance for publicly traded entities and their directors, as well as how insurance companies do business in multiple states. For instance, right now-- we used to be financially regulated solely by the state of Nebraska and now there's a combined regulation group that's headed by-- the lead state is the state that has the most premium in the holding company. So, for instance, Old Republic International has the most premium in Pennsylvania and so Pennsylvania is the lead regulator, although Nebraska is still involved and can ask questions. So these things are different and the reason why we emphasize these developments initially for the purpose of providing context for what we feel are compelling reasons to reasonably qualify the current director residency requirement. For the sake of simplicity and generally speaking, an insurer domesticated in one state can reasonably acquire authority to do business in any other state, respective of whether or not they have a director residing within the said state. Each state has established legal parameters, which the state and regulations afford to state agencies' adequate oversight for doing business within their borders. Domestication as contrasted to licensing should require, in our opinion, a greater commitment of meaningful present-- presence within the state of domestication, meaning a material economic presence, premiums within the state, jobs within the state. Essentially, we want somebody to be rooted in Nebraska so they can see the Nebraska way. We do not see the director residency as a critical requirement of substance as it once may have been due to the evolution of the regulatory environment and certainly not carved in stone is the perpetual qualification for a long-term, financially viable and additive corporate citizen of the state. The National Association of Insurance Commissioners would seem to agree, as their model law does not include a director residency in the state of domicile as a regulatory site criteria. Having said that, as further evidence of impact of regulatory evolution, an insurer must have a board of directors individually vetted or qualified by the insurance department of which the state has domesticated. So we're required to send biographical affidavits to almost every state where we're licensed to do business and some states require fingerprints to do a background check. Right now, the domestication requirement does not require a commitment to the Nebraska in a way that's meaningful to have roots in Nebraska. To be fair, though, several states do require

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director residence in their domestication or redomestication qualifications. Even so, some of these states do treat that requirement as one that can be waived or approval process, which makes qualification for domestication more feasible. We all know and appreciate the fact that Nebraska is a great place to live and do business. As such, the requirement as it may-- as it is may not impact all possible applicants for domestication or redomestication the same based upon their attendance circumstances. We believe the criteria required for the waiver as director residency requirement, as set forth in LB1061, establishes a reasonable standard to justify the same and process to implement a waiver simplistic in its application. So therefore, if the insurance department doesn't like it or doesn't think we have roots in Nebraska, does things the Nebraska way, then they have the oversight to review it and revoke said waiver. I thank you for the opportunity to express our position in favor of the proposed legislation. I'm happy to respond to any questions or comments you might have.

WILLIAMS: Questions?

FLOOD: I have a question.

WILLIAMS: Senator Flood.

FLOOD: So as I understand it, this bill would allow a insurance company to not have anybody from Nebraska on, on the board.

CRAIG POSSON: Correct, if they met certain requirements-- the, the requirements in the bill, yes. But they would be required to have a certain-- like the corporate headquarters are required to be in Nebraska. They employ a certain amount of people in Nebraska. The executive committee or the executive, the executives are working in Nebraska, so.

FLOOD: So are you familiar that when this law was originally founded, everybody on the board had, had to be from Nebraska?

CRAIG POSSON: Yes.

FLOOD: And then over time, that's eroded down to one.

CRAIG POSSON: Correct.

FLOOD: Do you think it's too much to ask an insurance company to have one Nebraskan on the board of directors?

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CRAIG POSSON: And we're not saying that's not-- it's not reasonable. What we're saying is we would like to have the flexibility to be able to not have one if, if it worked out. So Mr. Rager can talk about-- who's testifying in proponent next-- about the regulatory scheme of how Old Republic handles their boards of directors and what the requirements are for the SEC and their board and the way they approach regulation with all the SOCs within the, within the state of Nebraska.

FLOOD: Thank you.

WILLIAMS: I've got a couple of questions, just to be sure so that we are on the same page. Under the requirements of LB1061, I'm pretty sure Great West meets all of those, but can you help me that first of all, you're publicly traded?

CRAIG POSSON: Old Republic International is publicly traded, correct.

WILLIAMS: And you've been domiciled in the state, as we've heard, for over 25 years because you started here in 1956?

CRAIG POSSON: Correct.

WILLIAMS: You do have more than 500 employees?

CRAIG POSSON: Correct.

WILLIAMS: And any change of control hasn't happened in the last ten years?

CRAIG POSSON: Right, Old Republic has owned this since approximately 1984.

WILLIAMS: And I think, I think your testimony is that-- and you used the term "rooted" in Nebraska, that those, those qualifications, in your judgment, would eliminate that need to have that board member.

CRAIG POSSON: Correct.

WILLIAMS: OK. Any additional questions? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, sir. So you talked about the commitment to Nebraska and how you'd like the flexibility to not have a board member live here. Would you-- do you think it would be fair then if we were to allow the company to not have a board member be a resident of Nebraska to then require the CEO to be a resident of Nebraska?

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CRAIG POSSON: Potentially. I mean, I'm not sure residency is the biggest thing. To be honest with you, when I, when I deal with the Department of Insurance, if they have a question or an issue regarding our company and the regulation of our company, they will usually call somebody at our office. So whether or not the CEO or the general counsel or any in executive committee actually live in Nebraska or work in Nebraska to me doesn't make a whole lot of difference because, because if you're a good corporate citizen, if you, if you work in the state of Nebraska, you maintain a relationship with the regulatory body, they should be able to call you and, and ask questions of whatever they need. So for instance, if I-- if you had a resident director and you had a director that was living in Maryland, the, the process of which-- what would happen would be if Director Dunning, for instance, had a question, he would either call the resident director or call the director that lives in Chicago or Maryland or California. And they would just call somebody at the company and make sure we got things going and doing things of that nature. So we don't believe whether somebody lives in Nebraska or is domiciled in Nebraska or lives part time in Florida or California makes a whole lot of difference other than as long as they understand how to do business within the state of Nebraska.

BOSTAR: Yeah and I, and I think I understand some of that. It's just a matter of, you know, as we talk about a company choosing to be domiciled here-- and there are advantages for doing that and that's why so many are. That, I believe, comes with a commitment to the state. And so I think for your consideration, see if you'd be of interest to if a company were to not have a domicile-- if a company domiciled in Nebraska, would it not have a resident of Nebraska on the board of directors, if there'd be interest in having then a requirement for the CEO to be a resident Nebraska? Just think about it.

CRAIG POSSON: Yeah, that's something we could certainly talk about.

BOSTAR: Thank you.

WILLIAMS: Additional questions? Seeing none, thank you for your testimony.

CRAIG POSSON: Thank you.

WILLIAMS: Invite the next proponent. Welcome back to Nebraska.

SCOTT RAGER: Yes, indeed. Nice and chilly as I remember it.

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WILLIAMS: Can't be worse than Chicago.

SCOTT RAGER: No, it's not, but it's better in every respect, in my opinion, so. Good afternoon, Mr. Chairman and members of the committee. My name is Scott Rager, R-- S-c-o-t-t R-a-g-e-r, and I'm appearing on behalf of Old Republican International Corporations in support of LB1061. As our chairman alluded to, I consider myself a Nebraskan, although I presently reside in Illinois. I was born and raised in Nebraska, educated here, practiced law in Lincoln for number of years and later moved to South Sioux City where I was employed by Great West Casualty Company. Spent over 30 years there, advancing to the role of CEO and chairman of the board. Old Republic International acquired Great West during my tenure in 1985. In 2007, I was asked to take a senior management position with Old Republic. I did so and remained so employed until 2019, when I retired from my position then as president and COO. I appear at their request, the request of Old Republic International, to present their reasoning for support of this legislation. The development of corporate government regulations for the Securities and Exchange Commission in the more recent past has resulted in increased accountabilities for effective insurance organizations and their directors. The qualifications as to experience and expertise have been more accentuated. Old Republic has long had the culture that the directors of its parent holding company, the umbrella that sits over all the insurance companies that it owns, should likewise serve as directors of the principal affiliates that generate the majority of the business, which Great West Casualty would be one of them. So you have Old Republic here and you want-- we want a common board amongst those five. We think that the common board, from a governance standpoint, provides more continuity in the entire organization and increases the accountability and responsibility of those directors. Rather than sitting up above and looking at everything in total, now we require them-- our culture requires them, in Old Republic, to be on those affiliate boards as well of those that amount to about 90 percent of our business. So they get an operational aspect. They know more about the business. We think that's good for us and we think that's good for the regulating-- regulatory bodies that oversee our operations. That, in and of itself, is made more difficult by the state's specific residence requirements. As Craig Posson alluded to earlier, the residential requirement will-- may impact certain entities different than others, depending on how they structure their entire organization and the accountability of the directors. If you have, for example, an organization that has just an insider, shall we say, corporate employees on those affiliate boards and the bigger board up here on the holding company, they wouldn't be as impacted, but others could be impacted very well. So it seems like

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the law-- we'd like the law to make sense for everybody and I would grant you, for the sake of argument, that new domestications, new domestications should perhaps require a resident director. I have no problem with that whatsoever. Companies that utilize those internal boards that I referenced for affiliate operations may not be as impacted as others. And at the end of the extreme, you must consider that a company domesticated elsewhere can write all the business they want in Nebraska, but yet they have no director requirement that says they have to have one of those directors in Nebraska. As a second example, I can give you a company domesticated in the state of Nebraska with, with no offices in Nebraska and no executive offices in Nebraska, no material employment within the state and just a director on the payroll. And yet I find that situation hard to find value to Nebraska. In closing, we've been compliant with the requirements and will remain so. The commitment that Great West and Old Republic have made to the state of Nebraska have been sizable over the years and there are no one-- there can be no doubt that from a corporate perspective, we are very, very familiar with the Nebraska way. LB1061 proposes insurer qualifications which have been discussed, which, if met, could waive the director residency requirement for a period of five years to be reassessed and extended for a like period of time thereafter. The qualifications for the waiver are steep and propose so as to demonstrate and assure you that you have continuity, you have pedigree, and you have responsibility to the state and its citizenry. There's evidence of a long-term commitment. Those requirements are, as have been briefly discussed, you have to be domesticated in Nebraska for a period of 25 years. You have to have your executive offices within the state. You have to be SEC or otherwise federally regulated. There can be no change in ownership in the last ten years and you have to have 5-- 500 employees that are being taxed within the state.

WILLIAMS: Sir, your red light has been on for a while.

SCOTT RAGER: Oh, I apologize for that. Any questions?

WILLIAMS: I'd ask that you make a final comment.

SCOTT RAGER: That's it.

WILLIAMS: OK.

SCOTT RAGER: I thank you for your time.

WILLIAMS: Are there questions? Senator Bostar.

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BOSTAR: Thank you, Chair Williams. Thank you, sir. So currently-- so my understanding is you would like continuity on the boards, the affiliate boards with the Old Republic--

SCOTT RAGER: Yes.

BOSTAR: --Board. So in order to comply with the statutes we have right now, is it that you have a Nebraska resident on the Old Republic Board or do you not have full continuity between the affiliate and the Old Republic Board?

SCOTT RAGER: At the present, we have the entire-- shall we say-- let's call it the ORI Board, the entire board. That is on the Great West Casualty Board in addition to one Nebraska resident-- two Nebraska residents-- one Nebraska resident.

BOSTAR: So you-- essentially, you just have an extra person?

SCOTT RAGER: We do. And I will-- if you-- if I have a moment, I'll explain to you the-- some of the issues that that creates.

BOSTAR: Please.

SCOTT RAGER: Because of all the rules and regulations that we're-- that the SEC has promoted over the years, you have problems with sharing information amongst boards, sharing information, but it really creates a disjointed situation when you're trying to conduct board business with, let's say, 14 people, which is what on-- is on our board now and one extra. So you've got issues with respect to communication of what information can they receive and whether or not that's insider information as to them with respect to something else, it's a-- so all I'm saying is there needs to be a definite segregation of information and knowledge that is passed. And the second thing is that person that never really gets the benefit of the-- the loan director never really gets the benefit of the aggregate of the information and where you're going with your strategies.

BOSTAR: So what would it take for that extra director that you currently have to be placed on the Old Republic Board?

SCOTT RAGER: It would require a vote of the shareholders, OK? And part of the problem that we have with that, it's kind of like the, you know, the devil's in the details on all this stuff. If you have-- the SEC requires that not-- it governs your board and your board makeup as well as the individual board members. You must be qualified to hold certain roles on the board. So there's-- as I, I probably generally

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stated too quickly the requirements. You now have requirements of expertise in a given field. You have to have experience in a certain field. You have to have-- there has to be diversity issues that are met on the board now and you have to be willing to serve and, and it's-- and you, and you need to know timing is another thing. When, when are your board members going to resign? I could go talk to a, you know, a virtual ton of people in Nebraska and say, are you interested in being an Old Republic Board member? How do I know when I'm going to have a vacancy? Do you know what I mean? How do I know that that vacancy is going to meet the diversity, the expertise, or the experience requirements that are met by the board? Those are some of the intricacies now of-- that we're faced with due to the ever-evolving SEC regulation.

BOSTAR: Does the current Nebraska resident on the affiliate board meet the general qualifications of service on the Old Republic Board? Are they, are they, are they consistent qualification requirements or are there different requirements?

SCOTT RAGER: It depends on what you need on your make up of your board.

BOSTAR: OK.

SCOTT RAGER: You know, I mean, you can't have, for example, all underwriters or whatever you need, financial people for different committees. And that, again, is based on the, based on the qualifications that you're looking for in the quote, retiring or resigning board member.

BOSTAR: Thank you very much.

SCOTT RAGER: All right. Is that a little clearer too?

BOSTAR: Yeah, thanks.

WILLIAMS: Additional questions? I have a couple. In your experience, which covered 30-plus years, has Old, Old Republic or Great West ever had trouble filling this Nebraska board position?

SCOTT RAGER: No, and the reason we have not had the problem is because we complied with the regulation over all the years when we had it. We were basically a Nebraska corporation. We've had our home offices here and entity--

WILLIAMS: Right.

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SCOTT RAGER: --so that wasn't a problem. The problem became a problem in '85 when we were acquired by Old Republic International and has existed since that time, but we have-- no, we've had no problem filling it in the sense that we have had a retired COO of Great West Casualty who is a Nebraska resident filling that role at, at this point in time. But the level of information that he has with respect to the entire organization is limited. And again, you have those logistics in terms of sharing information, etcetera, that I've talked about. It's, it is a, it is a, it's a big deal.

WILLIAMS: Another question. With your, with your knowledge of, of the insurance companies and your understanding of LB1061, with the narrowing down from what we saw last year as a wide-open bill to narrowing this down, are there other companies besides Great West that would fit into this category that were narrowed, narrowed down to?

SCOTT RAGER: I have not done any research on that. What we tried to do when-- after last year's-- discussion of last year's bill, what we tried to do was meet with various constituents and we tried to say, OK, what are some of the-- what, what could put some degree of comfort with respect to you as legislators and for us as citizens of Nebraska and the rest of the cities? In order to waive, waive-- and it isn't to waive it is for a period time. You get five years and then if you meet the criteria, you get to apply five more years. It isn't like we're eliminating the requirement. We're just waiving it if you meet other criteria. That's what, that's the way we look at it. And, and to get to your question, it-- if you meet-- we-- when we did that and met with those constituents, we thought, well, what would demonstrate-- what would give the senators in the state of Nebraska a great degree of comfort in eliminating or waiving for a period of time that director residency requirement? And we came up with this. We came up with them because 25 years of being domesticated in the state of Nebraska certainly gives you a history, right? Five-hundred employees certainly shows-- Nebraska employees certainly shows that commitment to the state in terms of employment. Having your executive office here certainly gives the department the-- some degree of comfort in who's calling the shots and where are they at. Being owned by the same entity for over ten years certainly should give you comfort. And the SEC requirement that we proffered in the bill was there because of the level of regulation that is required as an SEC organization from a financial assets and a lot of that. It's, it's very strenuous, more strenuous than perhaps the, you know, Insurance Department common practices would be. But it is very strenuous. And so we thought from all those aspects, this-- we felt this was a very reasonable level of,

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of, of experience and time and longevity. The qualifications hadn't been met for you to consider possibly a waiver in this legislation.

WILLIAMS: Our committee has the, the responsibility and, and, and the liability maybe too of taking care of two of our state's most important industries, insurance and banking, and watching over those and we care deeply about that. My, my question that I would ask to, to get a response from you is it, it would seem that this legislation creates some convenience for Great West. But I want to know if this is good legislation for the insurance industry in, in Nebraska and is this good legislation, in your judgment, for the state of Nebraska?

SCOTT RAGER: I think it is. I think it is and I think it is because it, it shows-- it, it accentuates that if you want to have a waiver from one requirement, you must meet these other requirements that other companies, by the way, have not met that are domesticated here. If they have a resident director, but they have not met the other criteria that we're talking about to ask for a waiver. And yes, I don't-- I think if you have companies that meet these qualifications, I think there's certainly, certainly a benefit to Nebraska being domesticated here, etcetera.

WILLIAMS: Thank you. Any additional questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr.--

SCOTT RAGER: Yes, sir.

McCOLLISTER: --Chairman. If I heard your testimony correctly-- and thank you for being here on this cold day--your resident director is on the board of Great West?

SCOTT RAGER: Yes.

McCOLLISTER: OK, but not on the Old Republic?

SCOTT RAGER: That's correct.

McCOLLISTER: OK, so there's no connection between those two directorships.

SCOTT RAGER: No. As to-- I'm trying to get to the point.

McCOLLISTER: Well--

SCOTT RAGER: There-- no, we have, no, we have-- and maybe, yes. I want to understand it. We have 14 directors at Old Republic, the holding

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company. They are members of the Great West Casualty Board. And then we have one extra that is the resident.

McCOLLISTER: And that's the resident.

SCOTT RAGER: That's the resident.

McCOLLISTER: But he does not have information from the Great-- Old Republic information at all. He simply gets the Great Western [SIC] information.

SCOTT RAGER: That's correct.

McCOLLISTER: Hmm. That seems a bit unusual to me.

SCOTT RAGER: Yes and it-- and like I said, you could put yourself in situations where you just don't want to share information back and forth. You know, to the larger board, you can as to what the affiliates are doing, but you certainly count us too.

McCOLLISTER: How many satellite companies does Old Republic have?

SCOTT RAGER: I'm thinking-- I want to say 14. Is that about right, Craig? About 14 insurers.

McCOLLISTER: OK, thank you.

SCOTT RAGER: I could name them for you, but I don't--

McCOLLISTER: That's OK.

SCOTT RAGER: -- I haven't counted them since I retired because I don't have them.

McCOLLISTER: I understand. Thank you.

WILLIAMS: Any additional questions?

SCOTT RAGER: Thank you very much for your time and attention. Appreciate the questions.

WILLIAMS: Seeing none, thank you. Invite the next proponent. Welcome, Mr. Brady.

JUSTIN BRADY: Chairman Williams and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the American Property Casualty Insurance Association in support of LB1061. Without going over the testimony

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you've already heard, we would say from the association's standpoint that this waiver does provide some flexibility to companies if they find themselves in a situation where it makes sense for them to ask for that waiver and thinks it's-- we think it's an acceptable trade-off from just eliminating that requirement altogether. So with that, I'll try to answer any questions.

WILLIAMS: Questions for Mr. Brady? Senator Pahls.

PAHLS: Thank you, Chair. So you're telling me all the requirements that are in the bill, you're OK with that?

JUSTIN BRADY: Yes, that-- we see that as they trade-off to be able--

PAHLS: Trade-off.

JUSTIN BRADY: --then say there shouldn't-- there does not have to be a Nebraska resident on the board.

PAHLS: Thank you.

WILLIAMS: Seeing no other questions, thank you for your testimony.

JUSTIN BRADY: Thank you.

WILLIAMS: Invite the next proponent. Anyone else to testify in support? Seeing none, is there anyone here to testify in opposition? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, as Senator Albrecht comes up, we do have one letter in support and one letter in opposition. Senator Albrecht.

ALBRECHT: OK. First of all, I'd like to thank you all for listening to the conversation both last year and this year. And I think with a lot of-- we find that here in the building when we try to get people to sit on boards, it can be difficult. With companies that have a situation like this that a gentleman has served for a certain length of time, but now is retiring and no longer wanting to have to worry about that commitment, I think it's nice to, to allow those in our state that have proven themselves with the, with the investments that they've made in that particular district, with the investment they've made in their employees. I mean, we-- I think they celebrated one gal and I can't even tell you the number of years. I think it was-- I can't say as long as the building's been standing, but she's been there a really, really long time. They have plaques all over their walls of how many people have stayed in the same business, in the same building and it just really speaks volumes to that company. So if you

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can find it a necessary thing to, to change for others to follow if, if they meet the criteria, I think that would be well-intended, so. Any other questions?

WILLIAMS: Questions for Senator Albrecht? Seeing none, thank you.

ALBRECHT: Thank you very much.

WILLIAMS: And that will close the public hearing on LB1061 and we'll move on to opening the public hearing on LB948 introduced by Senator Wayne to require insurers to reveal certain liability coverage limits for injured parties. Welcome, Senator Wayne.

WAYNE: Thank you, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Today, I'm here to introduce LB948, which is a very simple bill. It's three sentences. Simply put, LB948 will require insurance companies to disclose policy limits to an insured who has have-- who has a claim against them. This bill also requires limits to be provided within 21 days. When an injured person or someone has a claim against an insurance company, the request-- they request that coverage limits to be disclosed is not too much to ask. Likewise, three weeks is not too hard to qual-- to provide that information. This bill will impose a \$500 fee on insurance companies that do not provide the requested amounts within the timeframe allowed and also put attorney fees generally obtaining the limits on the company as well. The fiscal note makes it clear there is no fiscal impact. The reason why this is important is we tend to claim that we should have, when making a health decision, informed information. Oftentimes in my own practice and other people's practices that I've talked to family members who if they get in a car wreck or they get-- somehow slip, trip, and fall and they are debating whether or not to have a surgery, whether or not to have a procedure done and they don't know what's covered and what's not covered. And by at least knowing where the insurance limits are, they can make an informed decision rather than if they know that it's outside of the policy limits, that if they go to trial, they may or may not win or lose or they may not win. Then rather than doing a back surgery, they might simply get an injection and see how that goes. But without having all the financial information that is required to make an informed decision, I think it puts the person at a disadvantage. Furthermore, if I file a lawsuit, I get this information. This is the first thing you request in discovery for a reduction, reduction-- a request for production of documents is their policies. So why, why does a person have to go through filing a lawsuit just to get some basic information? And now what people are

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doing, including myself, is we are now just filing a lawsuit to get this information so my clients can have information that they need to make informed decisions. So with that, I'll answer any questions.

WILLIAMS: Questions for Senator Wayne? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, Senator Wayne. So if you were to just ask them now for the information, they just-- they're not interested in providing it?

WAYNE: No, they are not. There are multiple states like Maryland and other ones who require this that they have to usually send a claim of at least \$12,000 or more because their minimum is \$25,000. So if you got a claim like that-- but no, if you ask them right now, they say no, Nebraska is a non-disclosure state. We don't have to disclose it so we won't so file a lawsuit.

BOSTAR: And then if you sue, they basically have to turn it over?

WAYNE: They have to.

BOSTAR: Thank you.

WILLIAMS: Additional questions? Seeing none, thank you. Will you be staying to close?

WAYNE: Yes.

WILLIAMS: All righty. We would invite the first proponent. Anyone here to testify in support? Seeing none, we'll invite the first opponent. Welcome, Mr. Bell.

ROBERT BELL: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell. Last name is spelled B-e-l-l. I'm executive director and registered lobbyist for the Nebraska Insurance Federation, the state trade association of Nebraska insurance companies. I appear today in opposition to LB948. LB948 would require insurers to reveal to an injured party or the attorney of an injured party the amount of limits of such insured's liability coverage upon receiving a written request for such information. The reply is required to be in writing within 21 days and if the insurer fails to comply, it would be subject to a \$500 fine plus attorney fees. Insurance companies are opposed to being forced by outside parties who reveal the limits of coverage they have agreed to with their policyholders. The insurance contract is a private contract between the insurer and the policyholder and contains

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nonpublic personal financial information, which is subject to a myriad of privacy laws. Policyholders may have good reasons to keep their limits of coverage private, even to injured parties who may have a claim against the policyholder. Others may have good reasons to release the information, but the decision whether or not to release the information before the filing of lawsuit should not be required by statute. And to be clear, the only purpose to seek the coverage limits is to solely-- is primarily to price a potential lawsuit or settlement. The release of the information prematurely can inflate in settlement, settlement agreements. Also, the coverage amount is irrelevant to both the determination of liability and the amount of potential damages. Both the federal Rules of Evidence and Nebraska law codified in Nebraska Revised Statutes Section 27-411 state that, state that whether a person has liability insurance is not admissible unless relevant to prove another purpose, such as proof of ownership or the prejudice of a witness. And two ways do currently exist to find the limits. First, the injured party or the attorney can inquire even before a lawsuit and depending on the situation, the insurer could reveal after discussions with the policyholder. One insurer shared with me that this process is their typical operating procedure and that most policyholders do decide to reveal that information. Second, of course, as Senator Wayne mentioned, once a lawsuit is filed, cover-- coverage limits can be revealed in discovery. One final point, the creation of a private remedy and penalty is unneeded. If this requirement did pass, if an insurance company did not reveal their coverage limits, discipline via the Department of Insurance will be more than sufficient to get insurers to comply. The addition of a set penalty and attorney fees will only add cost to the system and create a system where potential claimants may try to catch the insurer missing the deadline. The current robust consumer protections under the Nebraska Insurance Code with the fair regulation of the Department of Insurance is a better solution than a private right of action. For these reasons, the Nebraska Insurance Federation opposes the passage of LB948 and I appreciate the opportunity to testify. Thank you.

WILLIAMS: Questions? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, Mr. Bell.

ROBERT BELL: You're welcome.

BOSTAR: So is there a time when this information is not released following the filing of a lawsuit?

ROBERT BELL: I mean, if-- I believe if they go into a lawsuit and there's a discovery request, that information will be provided.

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BOSTAR: So the-- and I mean, essentially anyone can file a lawsuit--

ROBERT BELL: Sure.

BOSTAR: --basically against anyone else.

ROBERT BELL: Right, I mean, there's consequences if you file a lawsuit if it's frivolous, but yeah-- or there can be.

BOSTAR: So the other thing that-- if I understand some of what your, your testimony was, if this requirement existed, but the compliance provisions rested within the department and you didn't have a fee structure attached to it, then would that be acceptable to--

ROBERT BELL: No, it would be acceptable. It would be less objectionable, but we would still object to the premise that we need to provide that private information of the policyholder to a possibly aggrieved party, right? You know, there's, there's no guarantee that, that the, the injured party, you know, may even have a claim, right?

BOSTAR: Of course.

ROBERT BELL: And so we could have fishing expeditions going on. If it's a-- let's say it's a slip and fall and it's a, you know, a \$20,000 claim and you find out there's a \$1 million limit, is that going to affect your decision related to a settlement, as an example, or whether or not to pursue litigation? I mean, there's a little bit of a parade of horrors there, but yeah.

BOSTAR: So you, so you talked a little bit about how the information could influence settlement amounts.

ROBERT BELL: Sure.

BOSTAR: How often are-- how often do parties agree to a settlement before filing suit--

ROBERT BELL: All the time.

BOSTAR: --and not requesting any information?

ROBERT BELL: I mean, I think that happens more than you might expect. I mean, think about any automobile accident you ever been in. Did you have to file a lawsuit to get the insurer to pay? I think it probably happens more frequently than you might think. Although I know, I know I have a company testifying after me that certainly is involved in a lot more litigation than, than I am, so.

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BOSTAR: Thank you very much.

ROBERT BELL: You're welcome.

WILLIAMS: Additional questions? Seeing none, thank you for your testimony.

ROBERT BELL: You're welcome.

WILLIAMS: Invite the next opponent. Welcome back.

CRAIG POSSON: Chairperson Williams, members of the committee, my name is Craig Posson, C-r-a-i-g P-o-s-s-o-n, and I'm appearing on behalf of Great West Casualty Company in opposition to this bill. We, we do business in 50 states. We've seen this type of legislation in other states. Colorado recently enacted this, this sort of legislation. It actually goes through the department. And what we've seen is it became a burden upon the department because there was multiple requests for the same information. It's used as a sort of a bad-faith setup to try and trap the insurance company when the limits are insufficient. It becomes very burdensome for us if we have to comply. Like there's Florida, Georgia, Colorado, and other states that require this. And essentially, it's, it turns into sort of a gotcha statute where they try to set you up in order to promote a bad-faith case. And what I'll testify to today is that much like Mr. Bell, the limits, the limits are not required to justify a claim, OK? These are liability limits. So if I sue you for something you did to me, that doesn't mean I'm going to collect it, OK? So whether or not I have a surgery or whether or not I have an injection really shouldn't matter. I mean, if you need the surgery, you need the injection, you need to do what your doctor says. Limits should not play a part in this. And I can tell you that when limits are disclosed, some of our rates are inflated, most times from, from my perspective, what we see in our company. The biggest thing is the privacy between the insurer and the insured. So our insureds do not like to reveal their, their insurance limits for a number of reasons and they are very protective of that. And so, so when, when a claim is presented to Great West Casualty Company, we ask our insurers whether or not to disclose the limits. Sometimes they're, they're OK with it. Sometimes they're not depending on the claim. And so they're very protective of this. And other states like California require that you do not disclose the limits except for in litigation, so. And this information can be obtained in litigation. That doesn't mean we, we always turn it over in litigation. So for instance, I think Mr. Bell testified previously that if there's a \$20,000 claim and we have a \$1 million policy limit, we will-- we tend to object to providing the limits because it has no bearing on the claim. Now, if

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we get a claim above our policy limits, we generally inform the claimant or their attorney that the claim is in excess of policy limits and then we're required to do a number of things, including send a letter to our insurer that there is a claim in excess of the policy limits and for them to notify other insurance limits above us. So the other part of this is it doesn't talk about whether or not I'm disclosing the limits of Great West Casualty or the in-- or the insurer completely up to \$5 million or \$10 million. So we have insurers that have a tower of insurance. We provide the primary-- we generally provide the first \$1 million, but we have insurers that have towers up to \$20 million and \$30 million and so this really doesn't address whether or not we can provide those limits or if we even know those limits. So if-- I'd be happy to entertain questions surrounding the testimony today.

WILLIAMS: Questions for Mr. Posson? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. Thanks for your testimony. In those states where you're obligated to disclose those limits, do you find that the settlements are typically higher?

CRAIG POSSON: Yeah, I think so. In Georgia, because-- there's a number of judicial hellholes in, in Georgia and Florida. There's the two main ones that I can think of. It's probably too early to tell in Colorado because they just enacted the statute and then they reevaluated it because of the amount of requests that were coming through the, the department of insurance.

McCOLLISTER: So by changing that law, you ended up paying additional claims?

CRAIG POSSON: Well, I wouldn't say additional, but I think they're inflated from what they should have been settled at more than likely just because if somebody-- and that's-- let me get at your question. So we were talking about writing \$2 million limits versus \$1 million limit and we're concerned that if you write a \$2 million limit, does our \$900,000 settlements turn into \$1.3 million settlement? So we're, we're very concerned about that because that obviously increases the amount-- I'm sure it does, the price and all those things, so.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? Seeing none, thank you for your testimony.

CRAIG POSSON: Thank you.

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WILLIAMS: Invite the next opponent. Welcome, Ms. Nielsen.

COLEEN NIELSEN: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen. That's spelled C-o-l-e-e-n N-i-e-l-s-e-n and I'm the registered lobbyist for the Nebraska Insurance Information Service. The Nebraska Insurance Information Service is a local trade association of property casualty insurers doing business in the state of Nebraska and I'm testifying in opposition to LB948. Nebraska Revised Statute 44-910 governs the disclosure of financial information to nonaffiliated third parties. It states that except as otherwise authorized in the Privacy of Insurance Consumer Information Act, a licensee, meaning insurance company, may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless notice is provided to that consumer and the insurer is given the consumer a reasonable opportunity to opt out of the disclosure and the consumer does not opt out. It's our position that information regarding limits is personal to the consumer and this statute applies. As we've heard and know, policy limits are discoverable in a lawsuit. The difference between the process contemplated in LB948 and discovery once a lawsuit has been filed is that the filing of a lawsuit demonstrates a serious claim. It shows, to some degree, that the claimant or the attorney for the claimant is not simply on a fishing expedition. It protects the privacy of the insured against nuisance claims. For these reasons, we respectfully ask the committee not advance LB948 and I'd be happy to ask-- answer any questions.

WILLIAMS: Questions? Seeing none, thank you for your testimony. Invite the next opponent. Welcome back, Mr. Brady.

JUSTIN BRADY: Chairman Williams and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for American Property Casualty Insurance Association in opposition to LB948 for the reasons you've heard before. Just a few other statistics and stuff: right now, based on the numbers I was given, at least 32 states now reject this disclosure requirement so a majority of states follow what Nebraska does. It's-- you know, this is not limited to certain types of claims. As was discussed before, it doesn't require a lawsuit to be filed. And just point out in some of the states that do have this, where you have to disclose prior to a lawsuit, there are requirements placed on the plaintiff, if you will, prior to that of at least providing medical bills or lost wages, something to prove that they may have a claim

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prior to gaining that information. So with that, I'll try to answer any questions.

WILLIAMS: Questions? Seeing none, thank you for your testimony.

JUSTIN BRADY: Thank you.

WILLIAMS: Invite the next opponent. Anyone else to testify in opposition? Is there anyone here to testify in a neutral capacity? We did have one letter in support and Senator Wayne waived closing so that will close the public hearing on LB948. And we are going to take a very short ten-minute break. We will convene at just a little past--

[BREAK]

WILLIAMS: All righty, everyone. We're going to come back into session and we will open the public hearing on LB1258, introduced by Senator Bostar, to adopt the Peer-to-Peer Vehicle Sharing Program Act. Welcome, Senator Bostar.

BOSTAR: Thank you, and good afternoon, Chairman Williams and fellow members of the Banking, Commerce and Insurance Committee. I'm Eliot Bostar; that's E-l-i-o-t B-o-s-t-a-r, representing Legislative District 29, here today to present LB1258, which adopts the Peer-to-Peer Vehicle Sharing Program Act and creates a regulatory framework for the emerging vehicle-sharing economy. For those unfamiliar with peer-to-peer vehicle sharing, the concept is similar to VRBO, except for vehicles. A technology platform creates a car-sharing community through an online application. Vehicle owners can connect with travelers, who can book cars and use them for a defined period of time. The platform does not own, share, rent, or resell any vehicles. To date, Turo is the only peer-to-peer provider operating in Nebraska. LB1258 closely follows the National Council of Insurance Legislators, NCOIL, car-sharing program model act developed at the national level. A similar bill was considered by the Legislature in 2020, but was not advanced due to some concerns by a number of interests. Since that time, stakeholders have worked together to address many of those concerns. While the Association of Trial Attorneys has some remaining objections, I believe all other interested parties are comfortable with the language reflected in this bill. LB1258 provides the initial regulatory framework for this industry in order to provide clarity and consumer protection for those participating in this activity. The most important provisions include insurance requirements during a sharing period and who has primary liability to ensure that a vehicle is always covered. This ensures the vehicle owner, the lien holder, and anyone that may be involved in an

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accident during a sharing period will be protected. In addition, the bill provides for record-keeping requirements by the program, disclosure requirements by the program to vehicle owners and authorized drivers, responsibility for program-installed equipment, and treatment of vehicles subject to a safety recall and licensing requirements for programming drivers. The peer-to-peer vehicle-sharing industry is relatively new in its development. I believe LB1258 represents a good first step in ensuring that we allow this industry to operate in a safe and effective manner while ensuring participants are protected. There will be several representatives from the insurance and peer-to-peer industries testifying after me to answer detailed questions. But with that, I would also be happy to answer any questions you may have. Thank you.

WILLIAMS: Thank you, Senator Bostar. Are there questions? Seeing none, thank you. We would invite the first proponent. Good afternoon and welcome.

KYNDELL GAGLIO: Good afternoon, Mr. Chair and honorable committee members. My name is Kyndell Gaglio, G-a-g-l-i-o. I'm here on behalf of Turo. We're a peer-to-peer car-sharing marketplace. First and foremost, we want to thank Senator Bostar for his leadership on this bill and to urge your support of it. So peer-to-peer car-sharing, most of you just heard, it's when your local constituents use their individual personal vehicles and earn extra money using them. On average, it's a couple of hundred extra dollars a month, and the vast majority use them for their day-to-day household expenses. They share with locals and visitors alike. We've actually seen some shifting trends during the pandemic that usage is a lot more localized, so you probably have a Nebraskan on both sides of that equation. It differs from traditional car rental in a variety of ways. The most important to highlight are the cost of car ownership for the two different models. So when your constituents buy their personal vehicles, it's at a retail market rate, they pay tax to the state right off the bat, which looks a little different than traditional car-rental company practices that you might be familiar with where they're buying cars at a wholesale rate. There is a sales tax exemption, if you will, that's passed through-- according to a 2020 NetChoice study, they calculate that it comes to about a \$21 million subsidy from the state and so, of course, your constituents don't get to avail themselves of that. So two different models, but both helping with transit. So how Turo comes into play, we are a peer-to-peer car-sharing marketplace. We own zero vehicles. We have no employees in the state. We're strictly an online marketplace that help with connecting people. You have a vehicle, you need a vehicle, you can more readily find yourself, so we're a

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marketing tool for these small business owners that are engaging in peer-to-peer car sharing. This bill closely models almost exactly the framework that has been approved by the National Council of Insurance legislators, who went through a lengthy process and pulled all the stakeholders together of this industry. It's supported by both advocacy orgs for the insurance industry, the American Property Casualty Insurance Association and the National Association of Mutual Insurance Companies. And in addition to both of those industry orgs, you also have various insurance companies that have weighed in, in support of this regulatory model, as well as all of the peer-to-peer car-sharing platforms. So right now, we are the only that's currently operating, but we believe competition is a good thing and, hopefully, with the security of a framework like this in place in the state, that more will be encouraged to come on board, and some of which are-- are specialty, you know, for different types of vehicles. So with that being said, we-- we urge your support of this bill and hope that you will keep it in its current state as drafted, which does mirror that NCOIL model that you've heard about, and we just want to thank you for your consideration.

WILLIAMS: Senator McCollister.

McCOLLISTER: Yeah. Thank you for your testimony and thanks for being here.

KYNDELL GAGLIO: Happy to.

McCOLLISTER: If a customer wants to engage with a peer-to-peer relationship as you described, you-- are you under any obligation to notify the insurance company that you're offering your car for a peer-to-peer relationship?

KYNDELL GAGLIO: That's a great question. And when folks hear what I do for a living, the first thing they have are insurance questions, so it's very appropriate that this committee here today is engaging in this conversation, and those are exactly the types of questions that this framework is set to-- to remedy. So, yes, they should have to, you know, check a box saying that I'm allowed to do this by my insurance company. We don't want any "gotcha" tactics. Our goal is to get as many cars as possible on the platform and make it as marketable as possible. And so we want to make sure that everyone has coverage, that if any incident arises, that vehicles are quickly remedied, that everyone, you know, walks away happy and healthy. And so we're very much in support of things like that, and that's exactly what this regulatory model will-- will solidify.

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McCOLLISTER: So you-- you do have to notify the insurance company that you're offering your car and then they will, what, write up an amendment to the policy? Is that what typically happens?

KYNDELL GAGLIO: I mean, I-- assuming that would be on a case-by-case basis. Do you mean specifically on our platform or just in general or--

McCOLLISTER: I'm-- just in general.

KYNDELL GAGLIO: So what the regulatory model would state is that anyone that wants to list their vehicle would have to verify that they are in fact covered and can do that with their insurance company.

McCOLLISTER: But does the insurance company know?

KYNDELL GAGLIO: They would have to verify that, yes, that their insurance-- that it's in their statement and that their insurance company is aware of that.

McCOLLISTER: OK, thank you.

KYNDELL GAGLIO: Yeah.

WILLIAMS: Do I understand from the legislation that if there is a problem with that insurance, that the platform itself, in your case Turo, carries insurance?

KYNDELL GAGLIO: We do. We make sure that everyone is covered. We partner actually with Travelers, a well-known insurance company, with that and there's a variety of plans, both that the host and the guest, so both sides of the equation, can cover. It might look different for other car-sharing platforms, so I can't speak to all of them, which is another reason we're such an advocate of having a framework like this in place that folks in the insurance industry and their two advocacy orgs have said that they're good with the language and support the framework and why we point people to this NCOIL model.

WILLIAMS: Switch to the banking side for a second. If-- if the-- if the vehicle that is being shared has a lien against it, what is the situation there under the legislation?

KYNDELL GAGLIO: I'm glad that you asked. We actually had a few different meetings with the banking association. I believe that they are also at this point in support of the language, so perhaps they can better address the question and the specifics of it. But we definitely

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wanted to do our due diligence and, seeing as they are stakeholders, make sure that we-- we spoke with them, so--

WILLIAMS: I think there's some type of notice requirement in the legislation.

KYNDELL GAGLIO: I believe so.

WILLIAMS: Any additional questions? Seeing none, thank you for your testimony.

KYNDELL GAGLIO: Thank you, sir.

WILLIAMS: Invite the next proponent. Welcome back, Ms. Nielson.

COLEEN NIELSEN: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen; that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for the Nebraska Insurance Information Service. I'm testifying in support of LB1258. This bill is based, as you heard, on NCOIL peer-to-peer car-sharing model legislation, and it involved numerous entities, insurance companies as well as associations. And they worked on it diligently and-- and came actually to an agreement as to what the model should look like. As the car-sharing platform continues to rise, it is important that certain protections are available to consumers, and this bill offers that protection with-- that the persons using these platforms would expect. And so we ask that this committee advance the bill to General File. Thank you.

WILLIAMS: Questions? I have one.

COLEEN NIELSEN: Yes.

WILLIAMS: And maybe you're not the one to answer this, but somebody else, if they're coming up. At one point we had some discussion about sales tax and how that works in this circumstance. Can you let the committee know, is sales tax collected, is it required to be collected and paid on peer-to-peer?

COLEEN NIELSEN: I do-- I do not know that.

WILLIAMS: OK. We'll find out from somebody else.

COLEEN NIELSEN: All right.

WILLIAMS: Thank you.

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COLEEN NIELSEN: Thank you.

WILLIAMS: Thank you. Invite the next proponent. Welcome back, Mr. Brady.

JUSTIN BRADY: Chairman Williams and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the American Property Casualty Insurance Association in support of LB1258. As you've heard, this being a model act, the idea would be to try to get it as close to consistent across the country. Well, I always say every time anybody talks about a model act, there's always the except for when we change it for Nebraska or Iowa or-- so there are some-- I can't say it's the exact same language as everywhere because there always are some nuances in every state that you address. But it does deal with, you know, covering through the physical damage protection and financial protection or policies. It also deals with notification and safety recalls. Senator Williams, to your specific question, there is a notice requirement that if a vehicle is entered into the platform, that that-- the platform then must notify the bank if there's a lien on the vehicle, so there is those notices. And with that, I'll try to answer any questions.

WILLIAMS: Questions? Seeing none, thank you--

JUSTIN BRADY: Thank you.

WILLIAMS: --for your testimony. Invite the next proponent. Anyone else to testify in support? Seeing none, we'll invite any opponents. Good afternoon.

MARK RICHARDSON: Good afternoon, committee members. My name is Mark Richardson, M-a-r-k R-i-c-h-a-r-d-s-o-n. I'm here on behalf of the Nebraska Association of Trial Attorneys to speak in opposition to basically the way the insurance is currently drafted in this bill. To be clear, NATA doesn't have any issue with the actual concept of the peer-to-peer ride program. It seems like a perfectly permissible and-- and something we would encourage in terms of a commercial endeavor, but I-- our position here is that this is a commercial endeavor. This is using these vehicles in a commercial capacity. That should come with it a higher level of responsibility when it comes to what's in-- what's required under the insurance laws of the state of Nebraska. When Uber came in here, we had the same issue; when Lyft came in, we had the same issue with ridesharing. You're going to be doing this on a commercial basis. Are we still going to allow just the minimum levels of insurance, which currently are \$25,000 per person, \$50,000 per individual, for liability coverage in this context? In that

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context, the Legislature wisely decided that, no, if it's going to be a commercial endeavor, we're going to have a higher standard for you in terms of commercial financial responsibility. There's been talk about protecting the participants in this, the people that are actually driving those cars, but there should also be the consideration of the protection of the other people on the roadway. And that's where the liability insurance co-- coverage really comes into play. I think I can speak for myself in my younger days when I rented a car-- I'm sorry, when I rented an apartment, I did not take as good of care of that apartment as when I own my own home. I think you're going to see the same types of things occur with a peer-to-peer ridesharing, where if it's not your car, you might be a little bit looser with it. You might not be-- you might simply not be as familiar with the capabilities of that car. You may be at an in-- you may be increasing the risk of other-- to other people on the roadway simply because you're in-- you're increasing the number of people on the roadway through a commercial endeavor like this. When it comes to the individual, in the end, why-- the reason behind the \$25,000-- \$5-- \$50,000 in limits, I've been here to testify in support of increasing those limits, but I've always understood the-- the other side, which is we need to be able to keep private citizens of-- Nebraska citizens able to afford their insurance coverage so the insurance coverage isn't cost-prohibitive to them having a vehicle so that they can get from point A to point B, which is oftentimes from home to work and back. This isn't that. This is, this is using your personal vehicle and putting it into a commercial context so that you can profit from it and so that these companies can profit from it. And in that context, it makes a lot of sense that we increase that financial responsibility aspect of this, in-- in-- increase the commercial responsibility aspect of this. I mean, I think there's been some questions about what would happen with your personal liability or with your personal-- your-- your own insurance coverage. If I'm the one that's enrolling my car in the program, is my vehicle going to allow coverage for that? Well, I-- I have some experience with the ridesharing side. I actually was part of the senior transportation program in Lincoln and Lancaster County, where we volunteered to give rides to senior citizens. And in that situation, we did have to call up our insurance company. Well, I guess there was nothing that was required. They told us to do it. You should-- good practice is you should call up your insurance company, make sure there's coverage. I'm not sure what the insuring mechanism is here to make sure that there's some sort of-- you know, are they requiring that a copy of an insurance card be submitted? Even that isn't necessarily good enough because I've seen enough insurance policies in my practice and in my own personal life to know that there's almost always a commercial

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exclusion in your personal policy. So if the vehicle is being used for a commercial purpose, if you haven't notified your company, your insurance company, it's going to get excluded on that. And the way I read this bill as currently constituted, if that happens, then, yes, the insurance-- the-- the ride- the peer-to-peer company is going to step in and insure basically minimal limits at that point. So if I've got a policy that's got a million dollars of coverage on it here, but I haven't done my due diligence and I didn't actually go to make sure that I had that coverage in the commercial context, then my million dollars gets substituted out and here comes the \$250-- or \$25-- \$5-- \$50,000 policy replacing it, and, again, that's going to be at the-- the expense of the general public that are on the roadway, you know, I mean, I can go through the whole list of rising healthcare costs and what happens if you have even a two-night hospital stay as a result of this. The fact of the matter is, \$25,000 for an individual that's involved in an accident just doesn't go, barely covers any of the claims that are on the roadway today in terms of somebody that actually sustains a significant injury, and they're going to be left holding the bag when it comes to, you know, this commercial endeavor. And we just would like to see that-- that side of this legislation beefed up and that would address the large part of our concern.

WILLIAMS: Thank you, Mr. Richardson. Questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. In your practice, have you seen instances where an insured doesn't notify the insurance company and then an accident occurs and-- and they're-- with great damage to the car or even personal injury to the driver? Have you seen instances of legal disputes of that kind?

MARK RICHARDSON: I'm not sure if I've seen them exactly in the context that you've said. I've certainly seen situations where we have somebody that's injured through somebody else's negligence, they thought they have the coverage-- well, actually, I take that back. No, if-- I've certainly had situations where-- again, it's a different context, but they go-- we've had clients that have gone out and gotten umbrella policies and they say, OK, I want an umbrella policy to make sure that I've got this coverage. And what they don't know or don't know to ask the right question is that that umbrella coverage only applied to the liability, it didn't apply to the underinsured motorist coverage or uninsured motorist coverage, so if they get in an accident, it's somebody else's fault, that person doesn't have any insurance, and they're like, OK-- it's OK, I've got this umbrella policy and, lo and behold, actually, it was only liability, it didn't include the UM-- UIN, it would-- ended up being-- well, ended up being

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basically a miscommunication between themselves and their insurance company. They didn't have the coverage they thought they had. So again, it's not an apples-to-apples comparison, but I've certainly seen situations where, hey, we thought we had this type of coverage and it turns out we didn't, I didn't understand that I didn't have that.

McCOLLISTER: But in some cases have the-- the peer-to-peer company, the person or the company that owns the app, have they provided reinsurance--

MARK RICHARDSON: I--

McCOLLISTER: --to resolve these differences?

MARK RICHARDSON: I've never encountered a peer-to-peer collision before. This is such an a fresh concept, I think. I have not had a case that involved somebody that was par-- actively participate in a peer-to-peer, so I couldn't speak to that, whether or not that specifically happened.

McCOLLISTER: Thank you.

WILLIAMS: So, Mr. Richardson, your-- your-- your objection centers on the limits of the liability coverage. So if there were some changes that increase the amount that the platform itself, if that was Turo or whatever, the backstop there, if those limits were higher or the underlying policy or both, that would take care of those--

MARK RICHARDSON: Absolutely.

WILLIAMS: --and that would take care of your objections?

MARK RICHARDSON: Absolutely. And I would take it back to what I talked about before, that that transportation program I was a part of, the way they did that is I still had my personal insurance. I was required-- I was supposed to, I was required to talk-- contact my insurance company, make sure that I had at least the minimum limits available, and then the-- the-- the company, it wasn't a company, it was a nonprofit, but the nonprofit that was running that transportation program carried a \$1 million umbrella policy that laid on top of anybody that was participating in that program, and that solved-- solved the issue and it would certainly go a long ways here.

WILLIAMS: I guess one last question. I would have-- I made the assumption that you would come up here and object to the exclusion of

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the vicarious liability issue under the legislation. Is that a problem?

MARK RICHARDSON: I am not the last person to testify here on behalf of NATA.

WILLIAMS: Oh.

MARK RICHARDSON: That was not in my area that I was going to cover today. I-- so I don't want to-- I didn't look at that as closely as I probably should have, in all--

WILLIAMS: OK.

MARK RICHARDSON: --in full disclosure. So there's-- there's--

WILLIAMS: We'll hear from somebody--

MARK RICHARDSON: --there's some additional concerns to come.

WILLIAMS: --else on that issue.

MARK RICHARDSON: Yes.

WILLIAMS: OK. Any further questions? Seeing none, thank you for your testimony.

MARK RICHARDSON: Thank you.

WILLIAMS: Invite the next opponent. Good afternoon and welcome.

ROBERT LARSEN: Good afternoon, Senator Williams. Robert Larsen. I'm a former page and now doing an easier job as an attorney, also here on behalf of NATA. So a few other concerns that Mr. Richardson didn't talk about, we kind of split up--

WILLIAMS: And, Mr. Larsen--

ROBERT LARSEN: Yes.

WILLIAMS: --being a page, you know that you need to spell your name.

ROBERT LARSEN: I know, and I forgot, and they reminded me beforehand and I forgot it. R-o-b-e-r-t, and Larsen is L-a-r-s-e-n. So a few of the other specific concerns that NATA had-- and I'm appearing on behalf of NATA as well. A few other concerns we have, there is that language in Section 11 of the bill that talks about vicarious liability, it incorporates the federal Graves Amendment. We have some

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concerns with that. The way it's written right now, it's sort of a hybrid of self-interest. These peer-to-peer companies say that they are not rental car companies, except, you know, in situations where it kind of suits them. So this Graves Amendment language, we don't believe should extend the peer-to-peer car-sharing companies because it does virtually eliminate vicarious liability claims against rental car companies. And this Graves Amendment was enacted in 2005 before peer-to-peer was a concept, so we believe that extending it, codifying it here, is a misrepresentation of that statute. And I know a number of other states that have adopted similar legislation have not included that Graves Amendment in their legislation. Further, though, we believe that including this language is unnecessary because if someone really did want to make a claim under the Graves Amendment, they could do so through the federal supremacy clause, so there's still a route where if someone really wanted to try to make that argument, they would have a route to, so we don't believe that the peer-to-peer companies should have an issue striking this language from the bill. Also, and Mr Richardson touched on some of this, but there are states that do require that a driver carry a certain amount in coverage. West Virginia, for instance, requires that drivers carry at least \$750,000 in coverage. And again, we just believe that peer-to-peer companies should assume liability of the owner and ensure that insurance coverage is available for negligent operation of the vehicle, and, again, other states have enacted that. And then also in Section 3 of the bill, as written, there's an exception for when the owner makes a material misrepresentation or omission. And in those cases, the peer-to-peer company is protected by the right to go after the owner, but the victim is not especially protected here, and we think the peer-to-peer companies should have the incentive to root out fraud before a victim is injured in the crash because if the peer-to-peer company stands to profit off the transaction absent a claim, they should pay for the harms caused if there is one. Possibly, there could be an exception if there is some kind of rare collusion between the driver of the vehicle and the owner, but we don't want to have a blanket exemption, like there currently is in Section 3, for any misrepresentation or omission that happens before the car-sharing period begins. And again, some other states have solutions to this in their own legislation. For instance, Arizona requires that these peer-to-peer companies provide state minimum coverage, even in cases of fraud or material misrepresentation, just to ensure that there is some coverage available to an injured third party. And those-- those are all the points I wanted to touch on, so if there's any questions, I'd be glad to--

WILLIAMS: Questions for Mr. Larsen?

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ROBERT LARSEN: --try my best.

WILLIAMS: Seeing none, thank you for your testimony.

ROBERT LARSEN: Thank you, Senator Williams.

WILLIAMS: Invite the next opponent. Anyone else to testify in opposition? Seeing none, is there anyone to testify in a neutral capacity? Good afternoon and welcome.

BRIAN ROTHERY: Good afternoon, Chairman Williams. My name is Brian Rothery. That's Brian, with an "i," Rothery spelled R-o-t-h-e-r-y. I'm here on behalf of Enterprise Holdings. We operate the Enterprise Alamo and National Car Rental brands. And I have some comments on the bill and a suggestion for several amendments, I think, that would improve the legislation. Bit of background: This is now the-- I think this is-- if I have my math correct, this is the eighth Legislature I've testified before on this issue since 2019. In addition to that, I personally testified at two different hearings at the NCOIL process that led into the formation of the NCOIL model, so I do have some deep familiarity, I would say, with the NCOIL model and its creation and the way it works. So it's with that that I offer a bit of a critique to the way this one is drafted, and I-- it's really in three categories. So the first category is probably the milder one, which would be in Section 4. The term "financial responsibility" is in-- is used in place of the word "insurance." Whereas, of the event NCOIL model uses the word "insurance," this legislation uses the word "financial responsibility," which creates a potential for a policy of insurance-- well, it should be-- it creates the potential for a bond or a self insurance certificate to stand in the shoes of insurance, and I don't think that is what was intended in the NCOIL model. I think we had anticipated that this would be a regulated insurance product, and so I think the word "insurance" would be a better choice than "financial responsibility." I think the biggest issue is-- is in the second category, which is Section 5. I think Section 5 should be eliminated entirely. It-- it seems to sort of purport to address situations involving a lien, but those are already addressed in Sections 6 and 10, and that's the way it was done in the model. The problem with Section 5 is it-- it seems like it tries to parallel the collision damage waiver product that companies like mine sell to customers, which is essentially an agreement with our car to say, Chairman Williams, if you damage this vehicle, I will choose not to hold you responsible. And in that scenario, if I do a poor job of my bookkeeping and I underfund that, you know, account that's supposed to be there to offset that loss, who's out? Me. It's my-- it's-- it's our own risk, it's our own loss to our own property. In a three-party

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transaction, that is not the case. It's the-- in-- in the instance of a person taking money from a vehicle renter, holding it to pay for the damage to a vehicle owner, if the person in the middle that's engaged in the giving and the taking of the money underfunds that-- that-- that pool of resources to address that, it's the vehicle owner that could be held out, which is why it's a better choice for that to be a regulated insurance product, which is what we discussed at NCOIL. This bill would completely under do that-- underline that and allow essentially a peer-to-peer company to act like a rental car company and sort of have the ability to have a product that is not a regulated product, and the risk is to the general public. So I think Section 5 should not be there for the reasons I just suggested, but also, more importantly, it's not contained in the NCOIL model, and I think it-- it's not an improvement to the-- to the overall bill. Lastly, during the NCOIL process leading up to the adoption of it in 2019, in December, we insisted that we be very clear so that legislatures don't misunderstand the reasoning for the bill. The "I" for NCOIL stands for "Insurance" and it doesn't have anything to do with tax, and so if the NCOIL model contained Section 2, which was a scope clause which suggested that this should not in any way deal with the issues of taxation. And when you read the definitions of this bill, you know, you-- I started to get concerned about the existing tax law that's out there; particularly, there are three local taxes in your three largest cities here in Nebraska which apply a tax to car rental transactions. We believe those taxes apply to these transactions. We believe they should be collecting, remitting. This bill does not address that, and that's fine. I don't think this bill should address the collection of that tax-- of those taxes, but I think a scoping clause here, and I can make this available to you in the-- in my list of suggested amendments, a scoping clause that would suggest that nothing in this act limits the applicability of-- or limits the ability for cities to tax or, you know, sort of let the-- let the local governments do what they-- what they-- what they do, but to be clear that the definition in defining these as not car rental companies, that it doesn't have a spillover effect to the local laws which are attempting to address taxes in those three cities. So I think those three edits would greatly improve the bill and I'd be very happy to answer your questions.

WILLIAMS: Questions? Senator McCollister.

McCOLLISTER: Thank you for coming. Thank you, Chairman Williams. When I rent a car from one of your agencies and the person renting me the car gives me the option to buy the insurance, I've sometimes purchased it, sometimes not. Doesn't my typical-- the two cars that I currently

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own, don't-- don't they cover any possible accident I might have with your rental car?

BRIAN ROTHERY: So in many instances, they do, not always, but certainly most are-- the policy I have does cover my rental car when I'm driving it, so I don't know about your policy.

McCOLLISTER: Yeah, your personally owned--

BRIAN ROTHERY: Correct.

McCOLLISTER: --owned vehicles.

BRIAN ROTHERY: Correct.

McCOLLISTER: Some credit card companies al-- also offer that service.

BRIAN ROTHERY: Correct.

McCOLLISTER: Is that correct?

BRIAN ROTHERY: Yep.

McCOLLISTER: OK, thank you very much.

WILLIAMS: Any additional questions? Senator Pahls.

PAHLS: Thank you, Chair. It seems like you hang your hat on the NCOIL model. Is that what I'm to assume?

BRIAN ROTHERY: It was a stakeholder process that took input from all the major car rental companies, many of the auto manufacturers, all the peer-to-peer companies, the property casualty industry, so, yes, I think it's--

PAHLS: OK. And you're saying-- I'm just trying to follow along. You're saying there are parts of this bill is not in agreement with the model.

BRIAN ROTHERY: Section 5 specifically and a slight-- slight tweak in Section 4 to replacing the word "insurance" with-- or replacing the phrase "financial responsibility" with the word "insurance," yes.

PAHLS: Thank you.

WILLIAMS: Any additional questions? Seeing none, thank you for your testimony.

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BRIAN ROTHERY: Thank you, Mr. Chairman.

WILLIAMS: Any additional neutral testimony? Seeing none, we do have one letter for the record, supporting, and we'll welcome Senator Bostar back to close.

BOSTAR: Thank you, Chair Williams and members of the committee. I think, for the benefit of our committee clerk, we should take our time with this. So, and I--- I'm happy to answer a number of questions that people might have, but to respond to a few of the things that were-- were mentioned, it struck me as a little odd that NATA had two different people come opposed, instead of just rolling both of their points of opposition together into one testimony. And I think actually it makes a lot of sense because fundamentally part of the opposition is this is a commercial endeavor, therefore, they should have commercial-level minimum liability coverage. OK. On the other hand, it's this bill would treat them too much like a rental car company, too commercial. So fundamentally, I think that's why you saw two different people, because I think, to some extent, they're trying to have it both ways. You can call it commercial; you can say it's not commercial. It's hard to say that it's both. I think that Senator McCollister is-- is really kind of going after, I think, a really important part of why this matters. Talking about insurance coverage, talking about gaps, talking about where exposure and liability are and what needs to happen, that's what this is. You know, nothing right now prevents a company, a platform from coming in and-- and operating in this space, doing this business. Nothing stops that. It's just that there is no regulatory framework; there is no protection; there is nothing to ensure that consumers are protected and covered. If something goes wrong, if an accident happens, there is nothing to ensure that, you know, if it's your vehicle that you are providing into this ecosystem of-- of sharing, nothing ensures that something happens to your vehicle that you (1) won't be held responsible; or (2) that if there's damage, that you'll be-- you'll be made whole. Now Turo's practices currently would provide for a lot of those things, but I don't think that we should rely on a company to unilaterally make the decision to ensure that folks are protected because the next company may not, so that's why this matters. With that, be happy to answer any questions.

WILLIAMS: Any questions? Seeing none, thank you.

BOSTAR: Thank you.

WILLIAMS: And that will close our public hearing on LB1258.