

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Wednesday, March 22, 2023

TIME: 2:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Cook, Senators Lakey, Guthrie, Ricks, Foreman, Hartgen, Ward-Engelking, and Ruchti

ABSENT/ EXCUSED: Vice Chair Lenney

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Cook** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 2:00 p.m.

H 142AA **SCRAP DEALERS - Amends existing law to provide for catalytic converters and certain valuable metals.** **Melinda Merrill**, United Metals Recycling, noted Mr. Eiguere was not available to present. She stated this legislation added catalytic converters to the Idaho Scrap Dealers Act in order to help combat the rising rate of theft of catalytic converters in the State of Idaho.

She noted there was no fiscal impact to the General Fund or to any other state or local government tax revenue source beyond the regularly occurring costs of providing for law enforcement.

TESTIMONY: **Brody Aston**, Enterprise Car Rentals, testified in support of the bill. He said the bill would help with the issue of theft.

Tom Neill, United Metals Recycling, testified in support of the bill. He stated his business kept detailed records of scrap metal purchases and provided law enforcement the information when requested. He said the bill should pass to protect businesses.

DISCUSSION: **Senator Lakey** noted the theft of catalytic converters was a problem. He queried what did thieves do with stolen catalytic converters. **Mr. Neill** explained the metals were sent to Africa and Russia. Catalytic converters were recycled and during the process, metals were extracted and sent to a refiner. Catalytic converters were used to cut down on emissions.

MOTION: **Senator Ward-Engelking** moved to send **H 142aa** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

SUBSTITUTE MOTION: **Senator Foreman** moved to hold **H 142aa** in Committee subject to the Call of the Chair. The motion failed due to the lack of a second.

VOICE VOTE ON ORIGINAL MOTION: The motion to send **H 142aa** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Foreman** asked to be recorded as voting nay.

H 157

CONDOMINIUMS AND HOMEOWNER'S ASSOCIATIONS - Amends existing law to provide that charging a fee for any statement of a unit owner's or member's account is a violation of specified law. **Senator Ruchti** stated this legislation clarified that a homeowner's association (HOA) may not charge a fee for providing a property owner with the statement of account. He noted there was no impact to the General Fund because this legislation pertained to HOA's, which were not governmental entities. He noted there was opposition to this bill.

DISCUSSION: **Senator Lakey** stated the language that was stricken said that no fees could be charged for providing the statement of account. This was considered a violation of the Consumer Protection Act. He queried what was the difference between the two. **Senator Ruchti** explained by adding new language to the bill, it made it more powerful.

Senator Foreman queried how did this bill measure up to the assertion that there was already contract law. He stated before a person entered into an HOA, were not the CCR's already in place. **Senator Ruchti** stated the challenge was fees were being charged when someone sold a house, which was frustrating. All a homeowner asked for was the statement of account, but the HOA management company charged for that information, which was unnecessary.

TESTIMONY: **Brindee Collins**, Attorney, Community Association Institute, testified in opposition to the bill. She said she had amendments for the bill. She stated the proposed bill was a simple one, but she thought it should be more detailed. She stressed accuracy in providing statements was important.

DISCUSSION: **Senator Ricks** queried why were fees so high since generating a statement was simple. **Ms. Collins** said every community, closing, and transaction was different. Management companies were also different. There were some accounts that were in pending litigation, some had a zero balance, and some had a credit balance. A statement of account was not a common term. Gathering certificates of estoppel, payoffs, and guarantees were the items for which there was a charge. She noted the Community Association Institute wanted to work with legislators.

Senator Ward-Engelking stated she lived in a subdivision with an HOA and the management company was already being paid. **Ms. Collins** remarked that was standard practice, but there were certain actions and obligations in the contract with additional fees laid out. **Senator Ward-Engelking** stated she assumed the HOA board had the ability to negotiate and pass fees on as part of the contract. **Ms. Collins** noted the low end of those fees were \$75 and the high was \$275, but higher statewide.

Senator Lakey referred to what was being stricken in the bill. He queried if the HOA's were charging fees. **Ms. Collins** referred to H 642 that passed in 2018 which said the HOA had to provide a statement of account in five days or less and that no fee could be charged for expediting. Some HOA's were not charging rush fees. **Senator Lakey** commented the language could have been more clear and **Ms. Collins** agreed.

Chairman Cook questioned when someone asked for a statement of account, what was the process. **Ms. Collins** noted it varied from transaction to transaction. Other accounts were subject to a lien and could be in collections and litigation. There was a lot of information that had to be assembled within five days. She noted this was not a simple task.

TESTIMONY: **Wendy Chapman**, Northern Star HOA Management, testified in opposition to the bill. She said she managed 40 HOA's. She explained her company charged a management fee, but tried to keep fees low. When there was a statement of account, a service fee was charged for an estoppel certificate to the title company at the time of closing. She had to cover the cost when there was an error in reporting estoppels. She said putting a cap or limiting fees was an overreach by the government.

DISCUSSION: **Chairman Cook** queried if there were realtors demanding an estoppel certificate. **Ms. Chapman** explained the request came from the title company. Her company provided the information to the title company.

Senator Ward-Engelking queried if Ms. Chapman could elaborate on the fee. **Ms. Chapman** stated she charged \$275 for providing an estoppel certificate.

TESTIMONY: **Mike Madson**, MGM Association Management, testified in opposition. He said he agreed with Ms. Chapman. He said this bill was devastating. The cost of doing this work was not going to change. The bill was legislating into the private sector and did not protect the consumer. The terminology of a statement of account was readily available for a person for free. All of the information asked by the title company would cost a company with devastating consequences. He paid for title insurance when he closed escrow. The title company was providing a service. He asked that the bill not pass.

DISCUSSION: **Senator Ward-Engelking** noted that what she was reading in the bill said a statement of the unit owner's account was required. She queried if that was what happened during closing of an escrow or was the title company asking for a statement of the owner's account. **Mr. Madson** remarked the statement of account was what the bill was asking, but the terminology did not match what was being paid. He said an estoppel certificate was needed to close escrow.

Senator Lakey remarked there seemed to be conflicting perspectives. The statement of account included the amount of charges and the date when it was due. **Mr. Madson** answered that was correct, that a statement was provided for free.

Senator Ward-Engelking commented she knew property management companies received a fee and she expected that it would be accurate since they were being paid to make it accurate.

TESTIMONY: **Bob Rice**, Legislative Committee Chairman, Idaho Land Titles Association, testified in support of the bill. An assessment request was typical of what a title company would send to an HOA to request dues paid off at closing. On the payoff request, there were no words about an estoppel or guarantee, as it was not normal to ask for this from a title company. HOA members owed dues because of the Covenants, Conditions, and Restrictions (CCR)'s within the governing documents specifying that HOA's could charge fees.

DISCUSSION: **Senator Ruchti** queried if the title companies were asking for estoppels. He said they ask for statement of accounts and the HOA's or management companies provided an estoppel. What the management company was saying that if someone wanted to know what they really owed, they had to be charged \$275 to find out.

Senator Foreman stated there was confusion surrounding this bill.

MOTION: **Senator Foreman** moved to hold **H 157** in Committee, subject to the Call of the Chair. The motion failed due to the lack of a second.

SUBSTITUTE MOTION: **Senator Ward-Engelking** moved to send **H 157** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. **Senator Foreman** asked to be recorded as voting nay.

H 166 **ACCESSORY DWELLING UNITS (ADU)'s - Adds to existing law to prohibit certain kinds of restrictions on accessory dwelling units.** **Representative Nash** noted the purpose of this bill was to give private property owners the right to have ADU's on owner-occupied residential property. ADU's could be basement apartments or mother-in-law suites, attached or detached, but subordinate to a primary dwelling. **Representative Nash** stated there was no anticipated impact to the General Fund or to other State or local funds. He said this was a good solution to deal with the serious housing crisis. He pointed out an amendment that was included in the meeting folders, noting this bill should be sent to the 14th Order of Business for possible amendment.

MOTION: **Senator Ward-Engelking** moved to send **H 166** to the 14th Order for possible amendment. **Senator Hartgen** seconded the motion.

TESTIMONY: **Senator Schroeder** remarked he represented 16 cities as a city attorney. He said he thought the internal part of the bill was good, but his preference was that Section 3 be eliminated. The internal part of the bill had some issues, but he thought with all working together, an amendment could be crafted.

DISCUSSION: **Representative Nash** remarked he was happy to work on an amendment.

Senator Lakey said he was supportive of the motion. Some cities had a limitation on the number of persons per dwelling unit. He did not want this bill to double the amount of people living in a house.

VOICE VOTE ON MOTION: The motion to send **H 166** to the 14th Order for possible amendment, carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Cook** adjourned the meeting at 3:02 p.m.

Senator Cook
Chair

Linda Kambeitz
Secretary