

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 12, 2024

**SLAMA:** All right, everyone, welcome to the Banking, Commerce and Insurance Committee hearing. My name is Julie Slama. I'm from Dunbar and I represent the 1st Legislative District. I serve as Chair of this committee. The committee will take up bills in the order posted. Our hearing today is your public part of the legislative process, this is your opportunity to express your position on the proposed legislation before us today. The committee members will come and go during the hearing. As you can see here, we do have a few members out introducing bills right now. It's not an indication that we are not interested in the bill being heard in this committee, it's just part of the process. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please silence or turn off your cell phones. Move to the front row when the bill you are planning to testify on comes up. Order of testimony will be the introducer, proponent, opponent, neutral, and then closing for the introducer. Hand your green sign-in sheet to the committee clerk when you come up to testify, spell your name for the record before you testify. Be concise. It's my request that you limit your testimony to 3 minutes. We do run on a light system here. Green means you're good to go, yellow means you've been through 2 minutes, you've got a minute left, and then red will be we're going to ask that you finish your last thought. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard here today, there are gold sheets at each entrance where you may leave your name and other pertinent information. These 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 only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We'll need 10 copies. If you have written testimony but do not have 10 copies, please raise your hand now so the page can make copies for you. To my immediate right is where our committee counsel should be, and to my left at the end of the table is our esteemed committee clerk Natalie Schunk. Committee members with us today will introduce themselves beginning at my far right.

**KAUTH:** Kathleen Kauth, Legislative District 31, in the Millard area of Omaha.

**JACOBSON:** I'm Senator Mike Jacobson. I represent District 42, which is Lincoln, McPherson, Hooker, Logan, Thomas, and much of Perkins County.

**von GILLERN:** Brad von Gillern, Legislative District 4 in west Omaha.

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**SLAMA:** Fantastic. Our pages today are Mattie and Mia. And the committee will take up bills today in the following order: LB1120, LB873, LB1136, LB1135, LB1409, and LB1405. And with that, we'll kick off our hearing on LB1120. Senator Hardin, welcome to the committee.

**HARDIN:** Thank you, Chairwoman Slama and good afternoon, senators of the Banking, Commerce and Insurance Committee. I'm Senator Brian Hardin. For the record, that is B-r-i-a-n H-a-r-d-i-n, and I represent Banner, Kimball, and Scotts Bluff Counties of the 48th legislative District in western Nebraska. I'm before you today to introduce LB1120, which will require an affidavit stating the purchaser of a property is not affiliated with any foreign government or nongovernment person determined to be a foreign adversary. Before we discuss the contents of LB1120, let me give you some background as to how we got here. In the 1960s and 1970s, the United States Department of Defense built 3 intercontinental ballistic missile fields. One field lies in northeast Colorado, southeast Wyoming, and the southwest corner of the Nebraska Panhandle. There are roughly 150 missile launch facilities and 15 missile alert facilities under the watch of the 90th Missile Wing at Warren Air Force Base in Cheyenne. Nebraska is home to 80 launch facilities and 9 alert facilities. They currently house the Minuteman III missiles with technology that was developed when JFK was President of the United States. The federal government has decided it's time to update these facilities with the latest and greatest in the world of ICBMs. A new system known as the Sentinel Missile will be the largest single project expenditure in military history. The original estimates were at \$86 billion, but that number has grown to now be estimated in the hundreds of billions of dollars at least. A project this size catches people's attention. Eyes from across the world are looking at the Nebraska Panhandle. Our enemies are watching what we do, and they're trying to get an up close look. Out west, we have seen some very interesting and eyebrow raising things that happen. This brings us to LB1120. We've seen purchases of land in very interesting ways by very interesting people. Some such purchases involve farmland in the country being purchased for up to 4 times the assessed value with a briefcase full of cash. Purchases like that are concerning and raise very important questions. Why would some random people with no connection to the area pay so much for land? What are they planning? And, most importantly, where did the cash come from? I brought with me a white copy amendment which you have before you now. This white copy amendment addresses concerns we heard from stakeholders after the introduction of LB1120. First, there were concerns with the 10-mile radius around military installations. I understand that can add a bit of complexity to buying property and

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knowing if a piece of property is in a restricted area or not. Working smarter and not harder, we found 31 C.F.R. 802. This Code of Federal Regulations addresses foreign persons involving real estate in the United States. The Defense Production Act of 1950 authorizes the Committee on Foreign Investment in the United States to review transactions involving real estate that meet specific criteria and to mitigate any risk to the national security of the United States that arises as a result of such transactions. 31 C.F.R. 802.211 from Section 1, paragraph (1) of the amendment explains exactly what real property must be protected which says: any county or other geographic area identified in connection with any military installation described in 802.227(a) as identified in the list as part 3 of Appendix A to this part. 802.227(a) is active Air Force ballistic missile fields. Part 3 of Appendix A explains exactly what land in Nebraska is affected by this. Eight Nebraska counties are identified on this federal list: Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, Scotts Bluff, and Sioux Counties. The regulations identify all of Banner, Cheyenne, Kimball, and Scotts Bluff County as being sensitive land. For the partial counties, the code is very specific. For example, in Deuel County all lands located south of Township 15 north and west of Range 43 west using the Bureau of Land Management's public land survey system. This C.F.R. makes it very clear what land the affidavit must be submitted with. With LB1120, whenever land identified in 31 C.F.R. 802.211 is purchased, the purchaser, purchaser shall submit an affidavit to a Register of Deeds stating that the purchaser is not affiliated with a foreign adversary of the United States. Foreign ownership of land is a very important issue in our country. Foreign adversaries owning land poses a threat to our nation and our interests. Senator DeKay has worked hard on a bill that addresses foreign ownership, but does not cover any sort of possible workarounds our enemies use, such as straw man purchases. This bill ensures that foreign adversaries cannot get into the pockets of an American citizen and get them to purchase the land for the adversary. It eliminates straw man purchases. That's what we have seen 10 of in our district. In Section 2, the Tax Commissioner is directed to design a form for the Register of Deeds to use to help ensure that no one accidentally forgets an, an affidavit is needed. The intent of this is for the Real Estate Transfer Statement Form 521, which was handed out, to be amended to add a small section asking if a foreign adversary affidavit needs to be submitted. This is another safety check to address concerns of property purchasers and the Register of Deeds, knowing if an affidavit must be submitted. The amendment also includes an example of the affidavit to be completed by the purchaser. This ensures that the affidavits will be uniform for all purchases in the

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sensitive areas as identified in the federal code. The military project in the Panhandle has been the issue that I have dealt with the most since taking office last year. Our people in District 48 consider it an honor to have Minuteman III in there now and Sentinel in the future in our midst. Now that the systems will be rebuilt for the 21st century, countries like China, Russia, and North Korea would very much like to move in. Every week, sometimes almost every day, I hear of another interaction near a missile facility that leaves me scratching my head. As an example, this weekend on Friday, I spent 13 hours on the phone about these issues; on Saturday, 8 hours; on Sunday, 6 hours as a sample. Thank you. What questions can I answer?

**SLAMA:** Thank you very much, Senator Hardin. Questions from the committee? Senator Jacobson.

**JACOBSON:** Well, I have several. First of all, thank you for the testimony and thank you for bringing the bill. I'm supportive of what you're trying to accomplish. I'm just trying to make sure I understand all the pieces and how this would all come together. You talked about transactions being done with cash. I'm kind of curious, what does the seller-- what do they do with that cash?

**HARDIN:** I don't know what they do with the cash. But what I do know is the kind of typical way that it's been handled is here's 10 bucks. And so these are transactions for 10 bucks. And then when they go down to get the, the clerk stamp, that's when you see the rest of the money or the amount that is registered. And so you'll see a very expensive piece of property. Say-- well, say a \$60,000 a piece of property, and the transaction that immediately happens is literally a \$10 amount.

**JACOBSON:** And the reason--

**HARDIN:** And then-- and then what you get is a \$250,000 amount--

**JACOBSON:** Right.

**HARDIN:** --that pours in for the \$60,000.

**JACOBSON:** Yeah, I'm just trying to figure out-- obviously, whoever ends up with the \$250,000 cash, whatever that number is,--

**HARDIN:** Yeah.

**JACOBSON:** --good luck trying to deposit that in a bank. So, so that, that becomes--

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**HARDIN:** Trying to deposit it in a bank, so it goes into, evidently, a mattress.

**JACOBSON:** A big mattress. Yeah.

**HARDIN:** A big mattress.

**JACOBSON:** Probably would work. Yeah. Well. Thank you. The other question, I guess, is, OK, we're talking about purchases, but how are you going to-- what about leases? Somebody comes in and says, OK, I want a 99-year lease or I want a 20-year lease, any restrictions there?

**HARDIN:** Good question. And at this point, the interesting thing is that what we're talking about at this point is, is sales, because that's what we've been up against.

**JACOBSON:** Right.

**HARDIN:** Interestingly, Senator Deb Fischer, on a federal basis through Armed Services, introduced a measure for \$3.5 billion to be set aside specifically for leases as well as for land purchases anywhere near sensitive military sites. Part of the challenge there was that that was, as I understand, triggered by hitting the MLS. In our situation, none of these have hit the MLS. It's been a knock at the door.

**JACOBSON:** Grandfathering, what are we going to do with those that are already-- transactions that have already been consummated? Will there be any search of who the ownership is? How-- what will be the next step there?

**HARDIN:** Another fab-- fabulous question. And we're starting to run into the, gee, it sounds easy to say keep the foreigners out. Interestingly, what will happen is 3 bills that have been combined between Senator DeKay, Senator Halloran, and Senator Bostar are dealing with that reactive side of the equation. This was more of the proactive side--

**JACOBSON:** Gotcha.

**HARDIN:** --of the equation. If I can suggest, Senator Jacobson, for anyone who's ever purchased a gun, you go in and they will ask you a question, which is really silly you might think, and it says do you intend to use this firearm in the commission of a felony? Well, who in their right mind would ever say yes? But it's a very important question. And the reason I point it out is because that's essentially

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what this bill is. The reason that firearm question is so important is because if down the road you use that firearm in the commission of a felony, you lied.

**JACOBSON:** Yeah. Right.

**HARDIN:** We have the tripwire here.

**JACOBSON:** I have one last question and this is kind of put my banker hat on. So the affidavit timing of that, obviously, if you're in the middle of financing a transaction or you're, you know, or you happen to be financing a buyer on the other side and you don't have an affidavit filed, it, it does-- and I don't know whether there's any title company that's going to testify on this, but it does get a little interesting because title companies want to go do one last search for the records, they want to file-- put all the paper, you know, file everything, get it date stamped before they're going to release any funds. And that gets a little tricky when you got separate banks involved or, or if there are some financing involved. And so we want to be careful, obviously, to allow the legitimate transactions to occur--

**HARDIN:** Absolutely.

**JACOBSON:** --but at the same time. So I don't know whether that-- there's a timing requirement or whether that affidavit can be provided, say, to the title company a week ahead of time so they've got it so that it's not going to hold up the process. Just a thought for you.

**HARDIN:** Thank you. Our hope is to work with anyone we can to continue to make what we have and even the amendment even stronger, because we certainly have worked back and forth with title companies, real estate offices, and even the Secretary of State's office to try and check the boxes on this. And so it will, it will continue to evolve even this year.

**JACOBSON:** Well, thank you again for your work on this issue.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Senator Dungan.

**DUNGAN:** Thank you, Chair Slama. And thank you, Senator Hardin. I agree this is a really important issue that we should be addressing so I appreciate you having the conversation. A couple of my questions, I guess, are kind of along the lines of more of the logistical side of

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things similar to what Senator Jacobson was just getting at. So any time that we reference a CFR with those kind of lists of foreign adversaries, I guess I get a little bit nervous insofar as we are not ourselves outlining what the parameters of the law are, and it creates this sort of dynamic concern that I have where what if, say, Congress changes C.F.R.-- 15 C.F.R. 7.4 and suddenly there's an additional foreign adversary named on there and maybe the person who is participating doesn't know that? That's my concern, I guess. Is there any worry that you have that this would potentially be, like, an unlawful delegation of authority to the U.S. Congress by virtue of us not outlining who those foreign adversaries are or do you think this would be permissible if we referenced that list as part of the law?

**HARDIN:** Good question. We have wrestled with this one, one side of it, and that we have thought of adding to it. And yet another amendment would be to embrace OFAC or Office of Foreign Asset Control, that once again is listed by the State Department federally. That is something that moves. It's a moving target. One challenge with that, just to speak very plainly, is you really don't find much about China on OFAC, and they're, frankly, our main concern here. And so another interesting thing, and we really have worked with many different states on this. As you may know, the state of Arkansas was the first state in the history of the U.S. back in October of this last year to require China to give up a piece of property. And so, in a nutshell, we did talk with the Attorney General's office from Arkansas about what they developed and how. We also spoke with Wyoming, since they're paddling, you know, water out of the same canoe we are. And they have handled it a little differently there. And we're also open to that idea, which is they allow the Wyoming legislature, is what they're proposing, to determine who the foreign threats are.

**DUNGAN:** No, I appreciate that. That does answer my question. I just--

**HARDIN:** Because you're right, over a period of the coming years, whoever we may think is a hostile threat now, that will migrate.

**DUNGAN:** Um-hum. And I-- yeah, that's my only concern is if we don't have control over what that potential list is, it could just create some tricky predicaments and enforcement. But I, I appreciate that you've clearly gone through the efforts to figure out what other states have done. Thank you.

**SLAMA:** Thank you, Senator Dungan. Additional questions from the committee? Yes, Senator von Gillern.

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**von GILLERN:** Thank you, Senator Slama. And thank you, Senator Hardin. Most of the questions I had have already been addressed. I just wanted to, to tag on a little bit of what Senator Dungan asked and, and just for clarity sake. A lot of the pushback that this has gotten from public or, or just in general has been from the concept that this would preclude foreign ownership of any kind and it does not is my understanding this is foreign adversaries, which is really a very short list. For the record, do you have that list with you? If I remember right, it's 5 or 6 nations.

**HARDIN:** Right. It's-- we're essentially looking at China, Russia, North Korea, Iran. And I can say you're exactly right because, frankly, Canada owns almost, almost 900,000 acres of Nebraska farm and ranchland as it is and we're talking about somebody who's coming here to do bad things--

**von GILLERN:** Right.

**HARDIN:** --to us, potentially. The Canadians so far have been very nice neighbors who maybe we can accuse of bringing bad beer here.

**von GILLERN:** Thank you for clarity on both those points. Thank you.

**SLAMA:** Thank you, Senator von Gillern. Additional questions from the committee? Seeing none, thank you, Senator Hardin. Will you stick around to close?

**HARDIN:** I will.

**SLAMA:** Outstanding. With that, we'll open up proponent testimony on LB1120. Anyone here to testify as a proponent on LB1120? Seeing none, is anyone here to testify in opposition to LB1120? Welcome.

**JON CANNON:** Thank you, Chairwoman Slama, distinguished members of the Banking, Commerce and Insurance Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of NACO, which is the Nebraska Association of County Officials. We represent all 93 county governments in Nebraska, here today in friendly, conditional, limited opposition to this bill, particularly the amendment. We actually took an original position of neutral on the green copy, but with the amendment, I think, we have to go to a little bit of opposition but I, I do want to get into why. First, thanks for, for Senator Hardin for bringing this bill. It's important when we talk about national security concerns. NACO is invested in that process. I can tell you that we have a retired Army colonel that, that used to work in the Pentagon that sits on the NACO Board. He's been a tremendous advocate



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for us on a lot of different things. The National Association of Counties has been way more engaged with the Pentagon on a lot of national security issues and, and how, you know, local communities are interacting with our military installations. That's, that's been something that we take very, very seriously. And for myself, I'm the son of 2 former career Air Force officers. I grew up in Omaha and Colorado Springs, the, the 2 places that are going to get vaporized when the birds start to fly. So I-- you know, I'm, I'm all about the national security aspect of this. But what I do want to talk about is the ministerial nature of recording documents in the Register of Deeds office. Register of Deeds are told explicitly through a variety of literature and guidance they receive from various oversight depart-- agencies, as well as the, the, you know, the status under the law that they are-- their jobs are purely ministerial. Someone presents something for recording, they're there to record it. Period full stop. Now there are certain things, mechanisms that we can put in place to say that, you know, if you don't check this box then you can't accept a Real Estate Transfer Statement Form 521, for instance. And I-- and I think that's something that we would-- we would advocate for. And I think Senator Hardin is, is almost there with his amendment but I, I just want to make sure that we get there. You know, so for that reason, the affidavit also should not include just Register of Deeds signatures. Mostly, mostly because of that, that whole notion of it seems like they're accepting something, they're a recipient. We don't want them to be accused of, of-- in any way, shape, or form of being title abstractors. We don't want them to be accused, potentially, of the unauthorized practice of law. People tend to get a little bent about that sort of thing. And so if we can just remove the ROD signature from the affidavit, that'd be very, very helpful. And we might recommend having the, the box that is on the form prescribed by the Tax Commissioner saying that the affidavit is not required, and so boxes and checked. Then, you know, OK, you're-- please-- would you please check the box for us so we know that you're-- this is legit transaction. So the, the checking of the box should be on the Form 521. This bill contemplates a new form. The Tax Commissioner shall devise a new form for the computation of the tax. We already have that. That's the Real Estate Transfer Statement Form 521 that's referenced in Nebraska Revised Statutes Section 76-214, subsection (1). That's probably the more appropriate place to reference that. And so we would recommend that. We-- I'd also-- actually, my ears perked up when Senator Hardin had his testimony about the purchase price at 4 times the assessed value. For those of you that are on the Revenue Committee, we take that pretty seriously. That's, that's something that, that we think should be looked at. I thought your question,

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Senator Dungan, about the delegation of powers was interesting. We talked about this a little bit in the office. We think that federalism probably makes it OK. It would be kind of weird-- actually, using Senator Hardin's example, it would be kind of weird if the Nebraska Legislature said, oh, by the way, the Canadians are a foreign adversary to the United States. That's probably something that's more appropriately determined by our folks at the U.S. Secretary of State's office. So that's all I have. I'm out of time. Happy to take any questions you may have.

**SLAMA:** Wonderful. Thank you very much, Mr. Cannon. Are there any questions from the committee? Seeing none, thank you very much.

**JON CANNON:** Thank you very much.

**SLAMA:** Additional opponent testimony for LB1120?

**SAM COOPER:** Good afternoon, Senators. My name is Sam Cooper, S-a-m C-o-o-p-e-r. I am the-- I'm here on behalf of the Nebraska Land Title Association, which is a statewide association largely of title companies. I'm the president-elect of that association, as well as the cochair of its legislative committee. We are testifying in opposition of LB1120, but I liked John's term of in, in friendly, logistical opposition, I suppose. I want to make clear we don't have any kind of political or policy objection with what Senator Hardin's trying to achieve here. We just have maybe a few technical concerns, much like the-- much like NACO that we'd like to see addressed before it gets into its final form. I understand that there's been an amendment proposed. I haven't had a chance to review that yet, but I did talk to Senator Hardin last week about it. Wanted to say thanks to Senator Hardin and Michael in his office, who both have been great, they have been receptive and working with us through this. But I did have a couple of things that I wanted to just get on the record. One, we are a little bit concerned, or at least members of my association are concerned about the 10-mile radius around military installations. As currently written, the definition of military installation is pretty broad and 10-mile radius, it'd be difficult for us to determine what parcels this actually applies to. Sounds like there's an amendment that, that maybe clears up some of that, but we'll have to reserve judgment on that until we've had time to review that. The affidavit, I understand there's a form of the affidavit, I don't think-- I haven't seen the final form yet. But we did have some concerns about the final form making it (a) into the statute and being clear enough for us to use reliably. I think, again, the amendment probably addresses that so I'll have to reserve judgment on that until I've had time to review it

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fully. And lastly, the Land Title Association, which is my group, is a little bit concerned about what effect, if any, the failure of an affidavit to be present where it ought to have been present would have on title to the property. So that is to say if a deed got filed that should have had an affidavit but it didn't have an affidavit, does any penalty for that flow straight to the grantee or is there an effect on title, that is to say, would the conveyance being invalidated or would there be any other ramifications on title? Again, I think these are issues that we can work through with Senator Hardin's office. I'm hopeful to be able to do that. But at the time being, we still have just a few of those concerns remaining and I'm happy to take any questions.

**SLAMA:** Fantastic. Thank you very much. Questions from the committee? Seeing none-- oh, Senator Jacobson.

**JACOBSON:** Let me-- if I could just ask one question?

**SLAMA:** Sure.

**JACOBSON:** I, I guess I, I appreciate the concerns that you've raised and also Mr. Cannon and I, I think, though-- I, I believe to it that we need to be taking steps in the right direction, but will you make sure all the fine points get put together? I think, obviously, as a title company and someone who represents-- or a title agent who represents title companies who actually are insuring title, it gets a little dicey. And I think as lenders, we get a little concerned about making sure that when we get a title policy that it's, it's, it's binding and that we, we have-- we do have good titles. And so we want to make sure that, that that process works effectively and that it doesn't have a big impact on timing differences and so on. And I think you've raised good questions as it relates to [INAUDIBLE] trying to understand what's in-- what's included in this-- in this radius, so to speak. But I'm assuming if those can get worked out here, otherwise you're supportive. Is that what I'm hearing?

**SAM COOPER:** Yeah, we, we, we tend not to take positions of support on political--

**JACOBSON:** You're not opposed.

**SAM COOPER:** --but-- yeah, I think we would remove our opposition if we get some technical matters cleaned up.

**JACOBSON:** That's right. It's always a regulator term giving us our nonobjection. OK?

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**SLAMA:** Thank you, Senator Jacobson.

**JACOBSON:** Thank you.

**SLAMA:** Senator Kauth.

**KAUTH:** Thank you, Chair Slama. So if there is a problem with the title now, what happens to-- so you sell something and the paperwork is not right, what happens now if that happens? Do you go back and fix it? Does the property revert to the original owner and they have to undo the transaction? When you mentioned that concern, I want to make sure that I understand what happens currently and how this will change that.

**SAM COOPER:** Well, the, the-- to answer your question, it would-- it would depend on the exact nature of the defect. And I think that's what we're trying to get cleaned up here. Right? So we would want to know if this specific defect occurred, what would be the effect? And I--

**KAUTH:** OK.

**SAM COOPER:** --think that's unclear under the current bill. Again, I think something we can easily get cleaned up is the technical matter.

**KAUTH:** So it just needs to be spelled out. So if, if that's not here, here's what happens.

**SAM COOPER:** Correct.

**SLAMA:** Thank you, Senator Kauth.

**KAUTH:** Thank you.

**SLAMA:** Senator Jacobson.

**JACOBSON:** I hate to do this but I do have one more question. What, what raises a question here. I'm, I'm just thinking through-- it seems to me that the military is going to establish these sites, some of them maybe secret too as to exact locations and so on. But it almost seems like from your standpoint-- you know, your role is to go in and search the record--

**SAM COOPER:** Correct.

**JACOBSON:** --and determine if there are encumbrances out there. And, and the county clerk's responsibility is to accept the documents for

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filing and file them in the order that they're received and, and time stamped. So it seems like the question is, who's the burden on here? And it almost makes you think that there needs to be something put out there on the record that this property is subject to this restriction. Therefore, you're going to find it and you're going to know it, and the lender is going to know it, and all the parties involved are aware of that. So who that falls on is a good question, I think, but it seems to me that may be the best way to clean up what parcels are involved, what legal descriptions are, are under this, this new requirement and which ones are not which would seem to me would clean up your job a little bit.

**SAM COOPER:** Correct. Yeah, I think that's-- I mean, that's the heart of the issue is just to get some real good clarity around what exact parcels this would apply to. And again, it's twofold. One, is we have to search the records to make sure that past transactions have comported. But then we also have to close the current transactions to make sure that as we close our instant transactions that we're comports with any statute so it's not just researching past transactions, it's-- our membership closes the current ones and we got to know exactly how to do that and which parcels we're going to require to sign and which we wouldn't. Obviously, an amendment to the Form 521 would be something that would be a welcome change if that was a, a, a way that we could rely on when it's required or not or a map or, or, or some other ways. But I think-- again, I think those are technical issues that we can continue to work with Senator Hardin on.

**SLAMA:** Thank you, Senator Jacobson.

**JACOBSON:** I'm done.

**SLAMA:** Famous last words. Additional questions from the committee? Seeing none, thank you very much for your time. Additional opponent testimony for LB1120? Seeing none, anyone here to testify in a neutral capacity on LB1120? Seeing none, Senator Hardin, you're welcome to close. And as you come up, we did receive 3 proponent and 1 opponent letters for the record on LB1120.

**HARDIN:** Thank you and deeply appreciate everyone who's given us information. I've, I've, I've written down notes because we really do want to make this bill better to make it as strong for us as we can. The realistic piece that we've looked at out in this process is we've spoken with different people from the military to clandestine, which, by the way, when I'm on the telephone for long periods of time, most of that is people from Department of Homeland Security. It's, it's

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FBI, it's law enforcement, so on and so forth. That's why there's no one here to testify. They can't. So I'm here going take my word for it. And so anyway, we really appreciate, you know, we want to keep the process as smooth as possible. We felt like we needed to have a fiduciary involved. And the fiduciary that is involved in the process already is the title company. And so that's kind of why we went down that road. And the 521 form seemed to be one that would-- could be modified within the arsenal of what they're already using and try to keep it streamlined, so.

**SLAMA:** Great. Fantastic. Thank you very much, Senator Hardin. And am, am I correct in this is your personal priority bill for this session?

**HARDIN:** It is.

**SLAMA:** OK. Perfect. Senator Jacobson.

**JACOBSON:** I do have one question. So I guess the title companies would love it if everybody used a title company when they purchase property. But, but some may choose not to and, and do their own search by just going to the courthouse and look through the public records and figure out what's out there and, and particularly if I'm trying to do something a little nefarious. I probably would cut the title company out and do my own transaction and--

**HARDIN:** Yes.

**JACOBSON:** --and get the documents filed and so that therein, it's just something you might want to think about in terms of how we covered that base. Because I think as you indicated early on in your testimony, there's, there's a lot of creative ways that things are being done. And I would, would expect that if you get a fiduciary involved, like a title company, you then-- the next thing is how do we cut the title company out and still get to that, that transfer of, of title and, and have a, a solid transfer of title? So that's probably something that you maybe-- if you haven't thought about, maybe want to look at as well.

**HARDIN:** We've literally talked with certain states who've said, yeah, we've, we've needed to put some, you know, gold mugs up there for, like, poor Sam and poor Jon back here to keep coming back year after year because it's going to take multiple bills. Because to your point, these people are astonishingly creative. And when you go and zig, they're going to zag. And so now you need another bill to speak to that part of it. I think-- and Michael can remind me, but I think this

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is about the seventh version of it, the Drafters got real weary over the interim as we would work on this and we tried at one point to get a few different title companies on calls and whatnot together and they sort of ended up getting in spats with one another. And so it's not as easy of an issue to solve as we were originally hoping it would be.

**JACOBSON:** Yeah, I, I can appreciate that. And it almost-- I guess my question to you would be, are you thinking that you would like to try to move the bill with-- as-- by cutting out any objections that are legitimate objections and then try to work through those and come back next year with another bill and--

**HARDIN:** Yes.

**JACOBSON:** --make this a multiple? Those are a lot of fun, but--

**HARDIN:** Unfortunately, we may have a, a full deck of those before the Sentinel project is completed in 10 or 12 years.

**JACOBSON:** Gotcha. Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you, Senator Hardin.

**HARDIN:** Thank you.

**SLAMA:** This brings to a close our hearing on LB1120. We will now move into our hearing on LB873. Senator Ballard. All right. Senator Ballard.

**BALLARD:** Thank you, Chair Slama and members of the Banking, Commerce and Insurance Committee. For the record, my name is Beau Ballard. That is B-e-a-u B-a-l-l-a-r-d, and I represent District 21 in northwest Lincoln and northern Lancaster County. I'm here today to introduce LB873 on behalf of the Nebraska Land Tile Association. The bill would add two payment options that would be considered good funds for the purpose of real estate transactions: installed payments through the FedNow Service of the Federal Reserve System or the instant payment through the RTP network of The Clearing House Payments Company. An instant payment system operates like a traditional wire transfer, except the system operates continuously. So unlike traditional wire systems that have cutoff times and delays in transfer payments, adding these two systems will allow transfers to go through instantly. Second, it would increase the amount that one party in the real estate transaction can transfer directly to another party involved in the transaction without being put into a trust account controlled by the

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real estate agent. The amount would increase from \$500 to \$5,000. There is an amendment that I believe was passed out to, to the committee. This would make three basic changes. The title-- the Land Title Association requested that the amount be from \$5,000 be amended down to \$1,500. And then the new section would add a-- relating to the escrow language including the two payment options, an emergency clause would be added. I would be happy to answer any questions, but we do have testifiers following me that would be more technical. Thank you.

**SLAMA:** Thank you, Senator Ballard. Are there any questions from the committee? Seeing none, you're off easy. All right, we'll now open up proponent testimony on LB873.

**SAM COOPER:** Hello again.

**SLAMA:** Welcome back.

**SAM COOPER:** That was a quick turn. Again, Sam Cooper, S-a-m C-o-o-p-e-r, here on behalf of Nebraska Land Title Association. And again, I'm the president-elect of that association as well as its legis-- as well the cochair of the legislative committee of that association here to testify in, in support of LB873. Again, it was our bill. Thanks to Senator Ballard for introducing it. I think he did a pretty good job of giving you the, the quick overview. It's-- the bill proposes to add two options for electronic funds transfers, which would be permissible as use of foreclosing funds in real estate transactions. These methods exist now. They're not widespread in their use, but they exist now. And I think that this is just an effort to make sure that our law stays ahead. And when they come into more widespread use that they're permissible for use in the real estate-- in real estate transactions. And then we did also ask that the amount of nongood funds to be permissible for use and closing a real estate transaction be increased from \$500 to \$1,500. Again, that's just to keep up with the times. I think the \$500 amount was put in back in, I think, 1995. So just keeping up with the times there. And with that, I'll end my testimony unless someone has any questions.

**SLAMA:** Thank you very much, Mr. Cooper. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Well, just to clarify, and, and I think maybe for the benefit of committee members, too, when we talk about good funds, if I'm going to offer a, a personal check, that would not be considered good funds. Not that it won't clear but, you know, just telling you. But-- and, and you're, you're-- essentially, at your closing, you're--



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depending on whether a realtor is involved and depending on how the title company works with a realtor, somebody's got a trust account that's-- that, that money is deposited into. And then these-- when you close the transaction, you get good funds. And right now, I believe cashier's checks are still listed as good funds, which is kind of a question mark at times, but most everything's done by wire transfer or, as you indicated, now FedNow or the RTP network, which is pretty thinly traded network today.

**SAM COOPER:** Correct.

**JACOBSON:** Those funds would come in-- into your trust account, which would be good funds, then you close the transaction and you're sending those funds right back out then to whoever the beneficiary or you're going to basically disperse out from there. Is that pretty much the process?

**SAM COOPER:** Yep, you nailed it, Senator. So we take the money from the buyer and we just have to have-- we just have to be very confident that those funds, you know, do exist, are reliable, that they can be settled quickly so that we can disperse them immediately after the seller, because we don't want to sit on them for very long.

**JACOBSON:** Right.

**SAM COOPER:** You know, the buyer comes in to close at, say, 8 a.m., the seller wants their money by, say, 10 a.m. so we got to make sure that we can turn that money that the money that's coming to us is, is good funds under the law so that we can rely on it and disburse it, well, very quickly. You're correct, yes, we don't take personal checks for that purpose because, obviously, they're drawn on the individual and they're-- they take a while to clear. The cashier's checks, certified checks, things of that nature are good funds. Under law, we do accept those for real estate closings, mostly done by wire transfers, as you suggest, which is the fed wire system. As Senator Ballard said, that system does have a few limitations in that it, it has cutoff times. The processing time can be a few hours, sometimes up to a day. So these new systems, though, they're not widely traded yet, to borrow your term, but though they're not widely traded yet, they are available 24/7 and the funds transfers are much closer to instantaneous than the wire system.

**JACOBSON:** Yeah, and, and particularly with FedNow, I think is probably more utilized. And you're right, there are banks are all going to have cutoff times on their-- on their wire transfers times. And, of course,

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you don't want to forget deducting for the title insurance premium and the realtors' commissions.

**SAM COOPER:** Right. You got to have those as well.

**JACOBSON:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Senator Kauth.

**KAUTH:** Thank you, Chair Slama. I just have a real-- sorry.

**SAM COOPER:** Yeah. No, go ahead.

**KAUTH:** Cryptocurrency, is that something that will ever-- and this-- we have other bills about this, too, so I'm just kind of gathering information. Is that something that would become a good fund at some point? Is that something you guys use or is that still way far out there?

**SAM COOPER:** We do not close in cryptocurrency. We would not accept cryptocurrency. It-- I, I have seen headlines in kind of national news that will say, oh, real estate transaction closed in cryptocurrency. In all the ones that I've seen and, I guess, I'm not fully brushed up on all my most current crypto news, but in all the ones I've seen they actually convert them to U.S. dollars right before the closing and then close and--

**KAUTH:** Got it. So they convert it and then it's [INAUDIBLE]. OK.

**SAM COOPER:** Right.

**KAUTH:** That's what I wanted to know. Thank you.

**SLAMA:** Thank you, Senator Kauth. Additional questions from the committee? Seeing none, thank you, Mr. Cooper. Welcome, Mr. Bell.

**ROBERT M. BELL:** Good afternoon, Chairwoman Slama 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 the executive director and a registered lobbyist for the Nebraska Insurance Federation and I am appearing today in support of LB873. As you know, the Nebraska Insurance Federation is a state trade association of Nebraska insurance companies. Nebraska is a domiciliary home of one of the nation's largest title insurers, First American, title insurance company. LB873, as you've already heard, makes a couple of changes. Namely, it adds to the definition of good funds and expands the

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definition to include certain specific types of electronic payments. Also, it increases the amount that's available to the closing agents at the time of closing. Certainly, appreciate the amendment that was passed around, which adds a needed cross reference to the Title Insurers Act and certainly would support that and lowers the amount of flexibility originally contemplated in LB873. Obviously, those are kind of ongoing discussions on what is the best amount. For those reasons, the Nebraska Insurance Federation supports the passage of LB873 and appreciate the opportunity to testify.

**SLAMA:** Thank you. Are there any questions from the committee? Seeing none, thank you, Mr. Bell.

**ROBERT M. BELL:** You're welcome.

**SLAMA:** Additional proponent testimony on LB873? Welcome, Mr. McIntosh.

**RYAN McINTOSH:** Good afternoon, Chair Slama, and members of the committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, appearing before you today on behalf of the Nebraska Bankers Association in support of LB873. I won't add too much to the conversation. Good fund statutes exist to deter fraud and provide certainty in real estate transactions for consumers. We appreciate that the Nebraska Land Title Association reached out to us over the interim to work on this bill and we fully support its implementation. So with that, we'd ask the committee to advance LB873.

**SLAMA:** Great. Thank you very much. Are there any questions from the committee? Seeing none, thank you, Mr. McIntosh.

**RYAN McINTOSH:** Thank you.

**SLAMA:** Welcome, Mr. Schrodt.

**DEXTER SCHRODT:** Chairwoman Slama, members of the committee, my name is Dexter Schrodt, D-e-x-t-e-r S-c-h-r-o-d-t, president and CEO of the Nebraska Independent Community Bankers Association. I'd like to thank Senator Ballard and the Land Title Association for bringing the bill and also, as Mr. McIntosh alluded to, for coming to us early during the interim and discussing the issue. And we were able to, to really hone down onto FedNow and to the RTP clearing system. As you heard, it's not much-- in much use right now. But it is good to get those statutes in place because FedNow just went live last year so banks will be progressing eventually and be using them. It's always a good idea to update the, the statute so I'll, I'll stop there.

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**SLAMA:** Thank you, Mr. Schrodt. Are there any questions from the committee? Seeing none, thank you very much.

**DEXTER SCHRODT:** Thank you.

**SLAMA:** Additional proponent testimony for LB873? Seeing none, is anyone here to testify in opposition to LB873? Seeing none, is anyone here to testify in a neutral capacity on LB873? And before Senator Ballard comes up with what I'm sure will be a 20-minute closing, we received no letters for the record on LB873. Senator Ballard waives closing. That brings to an end or hearing on LB873. We'll now kick off our hearing on LB1136. Senator Dover. Welcome to the BCI Committee.

**DOVER:** Thank you, Chairwoman Slama and good afternoon, committee members. For the record, my name is Robert Dover, R-o-b-e-r-t D-o-v-e-r. I represent District 19, which consists of Madison County and the southern half of Pierce County. I've introduced LB1136 on behalf of the Nebraska Real Estate Commission. LB1136 has 2 goals. First, it aligns real estate license renewal and error and omissions insurance. Currently, someone with a real estate license has to renew insurance yearly and the license every 2 years. Aligning these 2 renewals makes the process less confusing and more efficient. My bill does not mandate the 2-year E&O renewal. It simply provides the option for those who want it. Secondly, this bill increases the Real Estate Commission's fining authority. The current fine is \$2,500 that was set in 2009 when I was on the Real Estate Commission. Since that time, the home prices and subsequent commissions have doubled. The new fine amount would be \$5,000. The goal behind this change would-- is to make the penalty for violations more significant and to give an alternative to revocation and suspension of a license. Greg Lemon, director of Nebraska Real Estate Commission, and others will follow me with their testimony. After they have spoken, will be happy to answer any questions. Thank you for your time.

**SLAMA:** Thank you, Senator Dover. Are there any questions from the committee? Seeing none, thank you very much. We'll now open it up for proponent testimony on LB1136. Welcome.

**GREG LEMON:** Thank you. Good afternoon, Chairperson Slama and members of the Banking, Commerce and Insurance Committee. For the record, my name is Greg Lemon, G-r-e-g L-e-m-o-n, and I am the director of the Nebraska Real Estate Commission, appearing in support of LB1136. As-- and I also want to thank Senator Dover for bringing that bill on our behalf. As Senator Dover stated, a pretty simple bill. The first thing it does is it allows us to go to a 2-year policy on our errors and

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omissions insurance, which is mandatory for all real estate licensees. We're on a 2-year renewal cycle for those real estate licensees, and we try to put that on the same cycle because if they don't have errors and omissions, it's mandatory that they have the insurance, if they don't have it, we have to put on it inactive status. In January, we sent out about 600 letters to people who did not have to renew their license, but had to renew their E&O by certified mail. We're changing that bill that's going through this year. But nevertheless, we're trying to make it easier for everybody, reduce the paperwork on that. The second one on the fines, it does increase the fining authority from \$2,500 to \$5,000. As noted by Senator Dover, that was passed in 2009. The average price of a transaction has pretty much doubled since then. But the intent isn't just to collect more money or be more punitive. When we negotiate settlements, when we have cases in front of us, one of the things we do is negotiate settlements. And the alternative to fining is revocation or suspension of a license. We consider a fine to be a little lighter thing so it actually gives us more flexibility in negotiating a settlement which might be more appropriate for the violation. With that, I would be glad to answer any questions the committee might have.

**SLAMA:** Thank you very much, Director Lemon. Are there any questions from the committee? Seeing none, thank you very much for being here today.

**GREG LEMON:** Thank you.

**SLAMA:** Additional proponent testimony on LB1136? Welcome.

**JUSTIN BRADY:** Chairwoman Slama and members of the committee, my name is Justin Brady. I appear before you today as the registered lobbyist for the Nebraska Realtors Association in support of LB1136. I also want to thank Senator Dover for bringing the bill. Members of the association promote professionalism and hold themselves out to be high standard. And I know it's kind of unusual for, you know, a regulated-- be the person being regulated come and say, yes, please increase the fines or penalties that could be assessed against the industry. But the association looks at it as again holding themselves up to that higher standard, that the fines should no longer be just a cost of doing business. As the cost of real estate has gone up-- I mean, take an example, you can have real estate fees that enter \$40,000, \$50,000 on homes, let alone on businesses. It shouldn't just be, hey, a \$2,500 fine is cost of doing business. I'll violate the law, take my \$38,000 and go home. So as Mr. Lemon talked about, it gives discretion. It's not a mandatory fine, but it gives the Commission more discretion. And

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we also appreciate the 2-year cycle on the errors and omissions. So with that, I'll try to answer any questions.

**SLAMA:** Thank you, Mr. Brady. Are there any questions from the committee? Seeing none, thank you very much.

**JUSTIN BRADY:** Thank you.

**SLAMA:** Additional proponent testimony on LB1136? Seeing none, is anyone here to testify in opposition to LB1136? Seeing none, is anyone here to testify in a neutral capacity on LB1136? Seeing none, Senator Dover, you're welcome to close. Before you waive, just for the record, there were no letters for the record on LB1136. This brings to a close our hearing on LB1136. We'll now kick off our hearing on LB1135. Senator Dover, welcome back.

**DOVER:** Thank you. Thank you, Chairman Slama good afternoon again, committee members. For the record, my name is Robert Dover, R-o-b-e-r-t D-o-v-e-r. I represent District 19, which consists of Madison County and the southern half of Pierce County. I've introduced LB1135 on behalf of the Nebraska Real Estate Commission. This bill is about consumer protection. I have been made aware of a practice in other states where a realty company will sign an agreement with a homeowner in exchange for cash ranging from hundreds to thousands of dollars. This agreement gives the realty company exclusive rights to sell that home for up to 40 years. This agreement-- these agreements are used to place a lien on the properties that prevents homeowners or the successors from transferring the property without paying a commission to the realty company or paying 3% of the home's value. These liens are written to hold future owners liable and obligated under these contracts as well. Lawsuits have been filed in other states over this predatory practice, and I believe we need to be proactive to prevent it here in Nebraska and protect our homeowners. To that end, LB1135 has 4 goals. The bill defines the right to list a home for sale agreements so that it does not include property management, farm management, or commercial agreements. The bill specifically states that engaging in such activity is an unfair trade practice under the Nebraska Real Estate License Act. The bill prohibits the filing of a record of any such listing agreement with the Register of Deeds or filing a lien against the property related to the agreement. The bill makes engaging in such activities a violation of Nebraska Deceptive Trade Practices Act, allowing parties adversely affected to file civil lawsuits for relief, and the Attorney General to take action against companies or persons engaged in such activities. You also have in front of you an amendment that would

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strengthen and clarify the bill as well as add an emergency clause. There's also one more small change that we'll be making to have the bill be retroactive. As I wrap up, I want to be clear I'm not aware of this practice taking place in Nebraska yet. However, because of the adverse impact it had in other states, I believe it's necessary to be proactive in preventing this practice here in Nebraska. Greg Lemon, director of the Nebraska Real Estate Commission, and others will follow me for their testimony. After they have spoken, will be happy to answer any questions. Thank you for your time.

**SLAMA:** Thank you, Senator Dover. Are there any questions from the committee? Senator von Gillern.

**von GILLERN:** Thank you, Senator Slama. Senator Dover, would this prevent or are there workarounds? I know that there are instances where someone will do a "prelisting" or a soft listing or a letter of intent that may-- and probably would have a-- an end date or a short-term agreement to it. Would that-- would those-- would those options be precluded by this or--

**DOVER:** Not-- I don't believe so.

**von GILLERN:** OK. I mean, if I-- if I knew that I was planning on selling my home within a certain period of time, I could enter into a-- to an, an agreement-- letter of intent or an agreement to agree or--

**DOVER:** I don't know that-- I mean, I don't know the letter intent would have any, any strength here. I mean either, either you're-- have the listing agreement that gives the right to sell-- the exclusive right to sell, you don't.

**von GILLERN:** OK. OK. All right. Thank you.

**SLAMA:** Thank you, Senator von Gillern. Senator Jacobson.

**JACOBSON:** Maybe just a follow-up to Senator von Gillern's question. I guess my understanding of what's in the bill is that, that if I'm the current owner, I could enter into exactly what Senator von Gillern noted, but it would not be binding on any future owners of the property and that it would be extinguished under this bill. So it doesn't follow with the property in, in, in terms of a-- an innocent buyer comes in and buys it, and all of a sudden there's a cloud out there and, and, particularly, for the lender that might be involved in it. They could end up in a foreclosure. Now, are they required to list

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the property with someone that's out there? So I think that's what you're trying to eliminate. If I'm not-- if I'm reading it right.

**DOVER:** We're trying to make sure that people come in-- coming in don't have a, a letter they can have the title with that can last, I mean, actually into perpetuity, I mean, forever. And when that property every finally gets transferred, there's a lien on-- lien on the title. So basically-- I know that-- I'll let, actually, Greg Lemon address that I guess.

**JACOBSON:** I'm anxious for him to come up and testify and we'll just [INAUDIBLE]. [LAUGHTER]

**DOVER:** I know-- I know, he gets a little passionate sometimes, so.

**SLAMA:** Thank you, Senator Jacobson. Thank you, Senator Dover. We'll now open it up for proponent testimony on LB1135.

**GREG LEMON:** Sort of feel like I've been summoned, so. [LAUGHTER] I hope I can still pass out paper letters in hearings. Is that still OK?

**SLAMA:** Of course. Yes.

**GREG LEMON:** OK. Thank you, Chairperson Slama and members of the Banking, Commerce and Insurance Committee. For the record, I'm still Greg Lemon, G-r-e-g L-e-m-o-n, director of the Nebraska Real Estate Commission testifying in support of LB1135. Our Commission and, and I came-- became aware of this practice through our membership in the national association of, of real, real estate regulators that regulate the licensees. What this, this company does is basically-- you know, it says I'm going to give you some money in return for the right to list your property. But there's a lot more emphasis on the I'm going to give you some money part than that the-- and then when you sell your property, either I'm going to-- I'm going to list it or I'm going to take 3% on that sale. And those listings purport to be effective for 40 years. You know, you could say, well, you know, on the-- on the original owner, well, what's the harm there, they agreed to it. But once again, there are lawsuits in about 15 states where they say that the companies engaged in deceptive trade practices, as I said, emphasizing the I'm going to give you money part not that I'm going to take money away from you later part. My Commission said draft a bill, even though there's nobody here and, you know, there's a lot of wrongs we could probably write about people that aren't doing things here. They have been active in 33 states. There are records of over 30,000 of these types of contracts being entered into in these other states.



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So we would just as soon it not happen here so that's the reason for this legislation. The other thing we wanted to do was draft the bill so that it prohibited the conduct that we want to prohibit while making sure it doesn't prohibit, you know, current commercial and real estate activities such as property management issues, construction liens, things like that. And I will add that I have had a chance to look at the amendments, which Senator Dover presented, and those are in conformance with what we want to do with the bill, and we are in support of those as well. I would be glad to-- I could ramble on about this a lot, but I would be glad to answer any questions you might have.

**SLAMA:** Thank you, Director Lemon. Senator Jacobson.

**JACOBSON:** Well, I, I think I'm back to Senator von Gillern's question now. I, I probably made a mistake of, of trying to clarify your question because I think your question was a good one. And I guess I'm still a little uncertain as to what the answer to that would be. And that was, what if you're an owner and you're doing more of a soft listing? So you'd be the current owner, I'm going to work with you and let you do some kind of a soft listing or do, do some kind of an agreement. Are there any prohibitions on that or how would that work or can you even legally do that?

**GREG LEMON:** It, it doesn't prohibit that. One of the ways that that could be done, and it could still be done under the bill, is you, you would basically enter into a contract with a delayed, specific effective date of that listing going active versus this, where it's just a future, you know, it's going to go active when you try to sell the house.

**JACOBSON:** And you're comfortable that the bill has enough-- that specificity in it that--

**GREG LEMON:** Yes.

**JACOBSON:** --that won't be a problem?

**GREG LEMON:** Yes. And we'll certainly work with the Realtors Association on, you know, make sure everybody understands and we structured contracts accordingly.

**SLAMA:** Thank you, Senator Jacobson.

**JACOBSON:** Specificity.

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**SLAMA:** Gotcha. Additional committee questions? Seeing none, thank you very much, Director Lemon.

**GREG LEMON:** Thank you very much.

**JACOBSON:** It's not really easy to say.

**SLAMA:** Is that the word of the day?

**JACOBSON:** Specificity. Yeah.

**SLAMA:** Can you say it 5 times fast?

**JACOBSON:** It's a hard word.

**SLAMA:** It's got lots of syllables. Welcome back, Mr. McIntosh.

**RYAN McINTOSH:** Good afternoon, Chair Slama, members of the committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, appearing before you today on behalf of the Nebraska Bankers Association in support of this bill. The, the primary reason that the Nebraska Bankers Association is interested in this legislation is we have heard from our counterparts in other states about this right of practice over-- happy that the Real Estate Commission is taking a proactive approach to this. These sort of agreements create clouds on titles and they purport to be a lien on properties and can certainly cause issues and have caused issues in many other states following the purchase of purchase agreements and really just looking to slow down the process until they're undone. So with that, we would ask the committee to advance the bill.

**SLAMA:** Thank you, Mr. McIntosh. Are there any questions from the committee? Seeing none, thank you very much.

**RYAN McINTOSH:** And if I-- if I might add to--

**SLAMA:** Of course.

**RYAN McINTOSH:** --Senator Jacobson's question. If you look at the definition of these right-to-list agreements, they purport to bind future owners. So I, I-- we're satisfied with the language as is, that it's not going to prohibit any sort of real estate contracts that are in use in Nebraska today.

**JACOBSON:** Thank you.

**SLAMA:** Thanks for that clarification.

**RYAN McINTOSH:** Thank you.

**SLAMA:** Welcome back, Mr. Brady.

**JUSTIN BRADY:** Senator Slama and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y, here before you today as the registered lobbyist for the Nebraska Realtors Association in support of LB1135. As you've already heard, you know, we're trying to get ahead of a problem that's showing up in other states. And we thank Senator Dover and the Commission for looking at this and bringing it to the association's attention that this is happening. And, again, just like Mr. McIntosh said, you know, both Senator von Gillern and Senator Jacobson that page 5, where it talks about on line 26, that the, the agreement has to state that the agreement runs with the land or binds future owner. So I think to your question, no, I don't think it would affect currently what's happening because what currently what's happening is because a contract between the current owner and a--

**von GILLERN:** Thank you.

**JUSTIN BRADY:** --representative where this actually would say it runs with the land. So with that, I'll try to answer any other questions.

**SLAMA:** Thank you, Mr. Brady. Are there any additional questions? Seeing none, thank you very much. Additional proponents for LB1135? Welcome.

**SUZAN DeCAMP:** Good afternoon, Chair Slama and members of the committee. My name is Suzan DeCamp, S-u-z-a-n D-e-C-a-m-p, here today testifying on behalf of AARP Nebraska as the state president in support of LB1135. I will add that I'm also a registered abstractor and title insurance agent in the state of Nebraska and own a small title company. For many senior citizens in Nebraska, their home is their most important asset and the cornerstone of their financial stability. They rely upon policymakers to safeguard them against fraud, deception, and unfair practices. Several real estate companies have been using a predatory practice to target seniors and financially insecure homeowners. These companies contact homeowners or place advertisements offering an upfront cash payment in exchange for the homeowner's signature on an agreement to use that company exclusively as the listing agent on future services when they sell their home with a term of up to 40 years. The cash payments are typically less than \$1,000, with some as low as \$300. The terms of the agreement run with the land. You've heard this today already, meaning that they are

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binding not only upon the current property owner, but their heirs and future owners as well. These agreements are then recorded in the county where the property is located, putting a cloud on the title to the property and affecting the homeowner's ability to refinance their home to access home equity or to transfer or sell their property. To make the practice even more egregious, the agreement stipulates that the property owner must pay a penalty equal to 3% of the market value of the property if they terminate the agreement or use a different company to list the property for sale prior to the termination date. This penalty assessment is then filed as a lien on the property in the county records. In one instance, a homeowner in Nevada caught in this trap was forced to shell out \$26,000 to get the lien released and close on the sale of their home. Older homeowners are more deeply affected by economic downturns, as many of them are living on a fixed income. They are particularly vulnerable to marketing techniques such as offers for quick cash, and they need extra safeguards in order to protect their assets. Any unsuspecting homeowner who is in the need of extra cash can easily fall into this trap. A perfect example would be my own mother, who is 89 years old and still lives alone in her own home but survives solely on her Social Security income. She is always in need of extra cash just for necessities, and she would easily think that this is a great deal not understanding the fine print and realizing what the effect would be on her home ownership. Although the Real Estate Commission is not aware of any of these agreements being recorded here in Nebraska, there could be some that exist or could reach our state in the future. The American Land Title Association has reported over 25,000 cases in 32 states nationwide since 2018. At least 21 states have introduced legislation to ban or severely limit this type of deceptive marketing and allow them to preserve-- oops, sorry, including-- oh, I'm sorry, and, and 16 states have actually passed such legislation, including the neighboring states of Iowa and Colorado. So the agreements are in neighboring states. We urge you to pass LB1135 to protect homeowners against this type of deceptive marketing and allow them to preserve their investments in their own homes. And I would just add, I'm also here on behalf of AARP because the AARP national office has actually worked with the American Land Title Association in designing sample legislation for these states to use for this very problem, so. Thank you for the opportunity to comment and thank you to Senator Dover for introducing the bill.

**SLAMA:** Thank you, Ms. DeCamp. Are there any questions from the committee? Seeing none, thank you very much for being here today. Additional proponents for LB1135? Seeing none, is anyone here to testify as an opponent to LB1135? Seeing none, is anyone here to

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testify in a neutral capacity to LB1135? Seeing none, Senator Dover, you're welcome to close. Before you waive, we did receive one proponent letter for the record on LB1135. And with that, we'll close out the hearing on LB1135 and kick things off on LB1409. Senator Bostar. Thank you, Senator Dover. Welcome.

**BOSTAR:** Good afternoon, Chair Slama, fellow members of the Banking, Commerce and Insurance Committee. For the record, my name is Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I'm here today to present LB1409. LB1409 would amend existing portions of the Nebraska Condominium Act to streamline the approval process for amendments to declarations, while ensuring that the rights and interests of mortgagees and beneficiaries are adequately protected. Condominium declaration is a legal document that proposes the governing rules for the condominium, including statements about an owner's association, the legal description of the condominium, and the nature and scope of the condominium. LB1409 provides a mechanism whereby existing condominium declarations could be amended when a properly notified lender receives notice but does not respond to a requested amendment. The legislation outlines requirements for the approval process, identification of the mortgage holders, and a time frame for approval or objection to a proposed amendment. 60 days after receiving the request, the mortgage holder's failure to respond shall be deemed approval of the amendment. My office has prepared a white copy amendment for LB1409 that makes some technical changes to the bill, as agreed to by the Nebraska Bar Association and representatives of the Nebraska Bankers Association. Following me, will be testifiers who will explain the aim of the bill and the proposed amendment. With that, I thank you for your time and attention this afternoon. I would urge the committee to advance legislation. Be happy to answer any questions you might have.

**SLAMA:** Thank you, Senator Bostar. Are there any questions from the committee? Seeing none, thank you.

**BOSTAR:** Thank you.

**SLAMA:** We'll now open it up for proponent testimony on LB1409. Welcome, Mr. Hruza.

**TIM HRUZA:** Afternoon, Chair Slama, members of the Banking, Commerce and Insurance Committee. My name is Tim Hruza. Last name is spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association. I want to start off by thanking Senator Bostar for introducing LB1409 at our request. I am not a real estate lawyer, but

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I'm playing one this afternoon. So let me start by giving you just an overview of how we got here and what I'm looking at. The statute in front of you provides an optional provision in the Condominium Act that allows the creator of a condominium structure who sets that up to provide that lenders who have an interest in the condominium development can get notice of potential amendments to the declarations, right, the declarations are the governing documents, kind of like a homeowners association. That's, that's how I think about this because I'm familiar with it. I've never done a condo but, ultimately, you have the declarations that tell owners within a condominium what their rights and duties are and obligations, comments, bases, those sorts of things. When you need to amend those, you can set it up however you want to. And we have an optional provision in our statutes that can provide requirement that a lender sign off on those. So if, if you're lending against a property or a portion of a condo, right, within a unit or a development, you could require that that person's mortgage holder gets signed off on those things. That's all fine and good. That's been the, the statute under the law for, for many years. I will tell you that I understand most lawyers don't put those provisions in their declarations when they develop a condominium anymore. Not unless they're working out a structure with a bank in a very specific way or for whatever reason. What-- the problem that you run into, and particularly with older condominiums, is if we've got a change or a redevelopment, right, you need to subdivide a condo so that you can rebuild a portion of the complex or different things for those-- for various reasons. You send notice to a bank, the lender of-- that owns or has a mortgage against a unit might not always be responsive, and it can cause some problems for the ability to get responsiveness to sign off on those amendments. We proposed a simple shot clock for 60 days. It's modeled after, I think, the deed of reconveyance statutes the lawyers brought to me. After discussions with Mr. Hallstrom on behalf of the Bankers Association and Mr. McIntosh, we were able to come up with a provision that models what Florida, a state that is very well versed in condominium structures, uses to provide protection for bankers, the ability in case something goes wrong to come in and, and go to court and say, look, they should not have done this, but also ensures that they get proper notice and have an opportunity to either object to that or work something out with the condominium association as they move forward. So with that, the white copy amendment replaces the bill. It takes all of the best parts of that Florida law and throws out the not best parts. But I think it's good for, for everybody involved and will give us a pathway forward for some of these older agreements that require lender approval as folks want to-- want to

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move forward with it in the future. So with that, I thank Senator Bostar. I am happy to answer any questions that you might have.

**SLAMA:** Thank you, Mr. Hruza. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** I don't know whether you've got any from the banking lobbyists that are going to testify, but I don't see them in here. So if they aren't, I guess I have a couple of questions in terms of you've indicated they've kind of signed off on this. I'm curious as to how the notices would be, who they'd be sent to and how they would be sent, what method of, of notification would that be?

**TIM HRUZA:** The process remains largely unchanged from the current structure and how it is done today. You'll see there in the new added language, it requires certified mail with a return receipt requested. The 60 days runs from the date of receipt. So once the lawyer that sends it out would get a response from the certified mailing that says the bank has received this, you'd have 60 days from that time frame to get back with an approval or not.

**JACOBSON:** And it would go to the headquarters of the bank or--

**TIM HRUZA:** It goes to the, the-- I think it refers to the deed of trust, the address that's listed on the deed of trust on record with the property.

**JACOBSON:** Gotcha. All right. Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you, Mr. Hruza.

**TIM HRUZA:** Thank you.

**SLAMA:** Additional proponent testimony on LB1409? Seeing none, is anyone here to testify in opposition to LB1409? Seeing none, is anyone here to testify in a neutral capacity on LB1409? Senator Bostar, you're recognized to close. As you come up, we did receive one proponent letter for the record on LB1409.

**BOSTAR:** Thank you, Chair Slama, members of the committee. I appreciate your attention on this matter. It's important and, of course, it is my top passion. With that, I'd be happy to answer any final questions.

**SLAMA:** Thank you, Senator Bostar. Are there any questions from the committee? Seeing none, thank you very much.

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**BOSTAR:** Well, that's a shame.

**SLAMA:** This brings to a close our hearing on LB1409. Have we notified Senator Wayne's office that he's up? So as we await Senator Wayne, we will stand at ease for 5 minutes to give anybody who would like a break--

[BREAK]

**SLAMA:** It is 2:50, so we will move forward and open up the hearing on LB1405. Welcome, Senator Wayne.

**WAYNE:** Good afternoon, Chairwoman Slama and members of the Banking 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. LB1405 is something different and is not something that I've introduced before that I've seen introduced down here. The aim of this is to preserve Nebraska's limited existing, existing housing stock for Nebraskans. This bill is not retroactive or punitive to Nebraskans in any way, and it does not stop Nebraska or mom-and-pop landlords from establishing themselves in attaining the American dream. If we did, this will be the first state in the country to take this issue seriously and address the problem. It's a growing number of problem across the country. And what kind of inspired is not only what happened in Omaha, but the Governor's idea of banning or limiting foreign investment. So I was like, let's just take it a step further and see if we can save some homes. Last year, some sources suggested that 1 out of 5 homes sold in the country were bought by investors. Mostly those under \$200,000. In Omaha, it went from not being a problem to all of a sudden being a huge problem. Two years ago, an Ohio-based company called VineBrook Homes went on and started buying tons of homes of up to 153 homes and all of them in north Omaha. They are now one of the biggest landlords in the state. This is a company that owns 27,000 homes and homes are now in perpetual renterships. Now imagine, for instance, the effect of the communities and think of how in St. Louis metro, Brook Valley-- Brook-- Valley Brook owns over 200-- 2,400 homes. Much of our way of, of building wealth in this country is based off of home ownership, and that can't happen when these out-of-state companies come in and block homes or buy them over-- so overpriced. Nebraska own, Nebraska led, as Governor Pillen said at a state of speech while referring to Chinese companies buying Nebraska land. When it comes to future home ownership in Nebraska and preserving the generational wealth opportunities in our poorest communities, Wall Street should not be treated any differently. Just this session, you've heard the term East Coast money on-- used on the



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floor in an old-fashioned evoke of fear when something like this was being brought up in Omaha. This is-- this is a means of preserving homeownership in Omaha, Lincoln, and other places in Nebraska. This bill will allow Nebraskans to continue to buy property and shouldn't have any effect on anyone living here except for those out-of-town corporations and investment funds. Happy to answer any questions.

**SLAMA:** Thank you, Senator Wayne. Are there any questions from the committee? Senator Kauth.

**KAUTH:** Thank you, Chair Slama. Senator Wayne, it says in your, your statement, it talks about foreign ownership. Is it just foreign ownership or is it foreign to Nebraska like--

**WAYNE:** Foreign to Nebraska.

**KAUTH:** OK.

**WAYNE:** So out, out of town, so the Secretary of State calls domestic or Nebraska companies and foreign companies or anything out of--

**KAUTH:** [INAUDIBLE]. Thank you.

**SLAMA:** Thank you, Senator Kauth. Senator von Gillern.

**von GILLERN:** Yeah, thanks, Senator Wayne. I, I-- being a fellow resident of Omaha, I followed the story. I understand the problem that you're trying to work around. I'm not sure this is the answer. I think there's-- like, I'm, I'm sitting here thinking of 100 work-arounds to what this very-- what-- I don't know, 8-line bills is. You know, you, you set up shell companies, you set up different layers of ownership. You, you move your, your domicile base and there's just-- there's just a ton of work-arounds here. Have you-- have you been approached with anybody about how you-- and, again, I understand what you're trying to do. I, I also just as a pure capitalist fundamentally opposed the idea. But, but, again, preserving the, the ability of, of particularly moderate income-- low- to moderate-income individuals to have the opportunity to own their homes. I, I understand the motivation, but I think there's some pretty serious work-around issues here.

**WAYNE:** Agree.

**von GILLERN:** Any thoughts to that?

**WAYNE:** Yeah, so--

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**von GILLERN:** You're an attorney, you know more of them than I do.

**WAYNE:** Right. I do think there's issues, you can just form an LLC here in Nebraska, like you said, shell company. We have yet to see the-- at the federal level, there was a Corporate Transparency Act that was just passed and went into effect this year. Law firms are trying to grapple with what that looks like and what that means to be compliant. And so I think figuring out what that looks like will also impact any type of bill like this. This is a concept and it's going to take a couple of years to probably get it tuned out. But I think the, the Corporate Transparency Act at the federal level, which is trying to deal with these issues of real estate purchases by foreign countries and making sure that it's tied to American companies and all the LLC shell games will have to be corrected. But I agree with you, this isn't perfect and it isn't ready for prime time, but it's a concept that we need to start talking about.

**von GILLERN:** Thank you.

**SLAMA:** Thank you, Senator von Gillern. Additional questions from the committee? Seeing none--

**WAYNE:** I do have another hearing in another room so I will waive closing.

**SLAMA:** Sounds great.

**WAYNE:** But I appreciate it. Thank you.

**SLAMA:** Have a great day. All right. We'll now open proponent testimony on LB1405. Welcome.

**ABIGAIL HASZARD:** Good afternoon.

**SLAMA:** Good afternoon.

**ABIGAIL HASZARD:** Is it OK if I go ahead?

**SLAMA:** Would you mind speaking just a little bit louder so the transcriber can catch you?

**ABIGAIL HASZARD:** Can I go ahead?

**SLAMA:** Yes, go right ahead.

**ABIGAIL HASZARD:** Good afternoon, my name is Abigail Haszard, H-a-s-z-a-r-d. I'm a Lincoln resident. I live with the zip code 68503.

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Studying single-family homes being purchased by entities has been a long research project for my sister and me. Then, I learned of LB1405 February 2. I will share some statistics I have prepared from that data I found. 68508 surrounds downtown, Haymarket, and around the Capitol. There are 880 remaining single-family homes. 68.3% are rental. Of these rentals, 64.7 are owned by corporate entities, 26.5 are owned under an individual. I've included a bar graph including a 10-year history of homeowner versus rentals. Red equals rental. Blue equals homeowner. As you can see, rentals are becoming more prevalent in recent years. I've broken down the rentals further to show domestic versus out-of-state owners for this zip code. 51.5% are domestic individuals, 34.4 are domestic LLCs, 9% are gray, meaning they're nontransparent entities, 5.1 are clearly foreign/out-of-state individuals. 68503, west and south of UNL Ag Campus, north and west of Wyuka Cemetery, there are 3,341 remaining single-family homes. 55.1% are homeowner and 40.8% are rental, that's 1,364 homes that are rental. Again, I included a bar graph of a 10-year history. In 68-- in 68508, I broke down rentals by domestic or foreign, and I haven't gotten that completed for other zip codes. I've also included some additional charts and maps for a couple other zip codes for you to review. An important note: my research does not include the numerous houses already destroyed and leveled by businesses to build up multi-family structures where single-family homes existed. Without expanding this bill, it puts domestic LLCs and sole proprietors in a better position to do more aggressive predatory buy ups of existing affordable single-family homes. It removes foreign competition. So I propose this bill also prohibit domestic entities.

**SLAMA:** Great. Thank you very much, Ms. Haszard. I-- so I, I don't always ask questions, but this is really just impressive research and I'm really grateful you brought it to the committee. What inspired you to research this issue?

**ABIGAIL HASZARD:** I started seeing a lot of suspicious behavior of houses around me being bought up for millions of dollars when they weren't worth that.

**SLAMA:** Well, thank you. And I think we certainly admire your passion on this issue as well. I mean, this is very thorough research. Senator Kauth.

**KAUTH:** Thank you, Chair Slama. I ditto that, this is absolutely fantastic, and I hope you provided it to Senator Wayne as he goes through. I'm not as familiar with the Lincoln area. Can you tell me which parts-- and I'm trying to see on the map, I see a couple of

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things that are the university. So around a university, there's generally more rentals. You notice it throughout Lancaster County or is it really focused around the university?

**ABIGAIL HASZARD:** Currently, 68503, that one seems to be the biggest target, but it's a citywide issue. But specifically, areas with houses under \$300,000.

**KAUTH:** Thank you very much.

**SLAMA:** Thank you, Senator Kauth. Additional questions from the committee? Seeing none, thank you very much, Ms. Haszard. Additional proponent testimony for LB1405? Welcome.

**KELLIE HASZARD:** And if you can keep your packet handy, I have some photos in the back part of that, that will refer with my testimony. My name is Kellie, K-e-l-l-i-e, Haszard, H-a-s-z-a-r-d. I am a proponent of LB1405. However, I would like to see it expand to prohibit domestic entities from purchasing single-family homes. My neighborhood close to UNL Ag Campus is a prime target currently. Hasn't been always in the past for such entities. LLCs obscure their operation and intentions. Our homes are under siege by businesses engaging in predatory practices, aggressively pursuing homeowners with unsolicited lowball offers, and exploiting our most vulnerable citizens by texts, postcards, calls, letters, repeatedly. They do not stop. LLCs also outbid homebuyers waiting on their closing. First-time homebuyers have longer closings. They have special financing, usually. They cannot compete with LLCs swooping in and outbidding with cash and quick closings. Now, if you refer back to some of those photos, in 2018, my friends sold their home on 24th Street to a young family in western Nebraska. The family personalized it and built a brand new wood privacy fence. Their dreams were shattered. Aaron Burd announced plans to build a 12-plex around Y Street. Despite community concern, Aaron Burd announced plans-- or Aaron Burd expanded his project, pushing out families along 24th Street, including this family who had just settled in. He completed 2 buildings totaling 36 units right there at Y Street without consideration for green space or community. He demolished existing single-family homes in pursuit of personal profits. Aaron Burd is marketing these buildings for UNL students. Keep in mind, students have had housing for decades upon decades. This shows the broader issue of single-family homes being demolished for profit, and no regard for community needs or values. I am not against earning a living from having a couple rental properties as a citizen. My great aunt was wheelchair bound. She earned her entire living from 2 rental properties. A living can be earned without being gluttonous and

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preventing others from owning their dream home. LLC buying frenzy really began in our area in 2015. But since 2018, overbidding and excessive LLC property turnover has unjustifiably bloated our property tax assessments and thereby increased our property taxes. These companies are getting tax increment financing while struggling homeowners are paying unwarranted higher taxes because of their behavior. This increased evaluations-- these increased evaluations are artificial. Affordable single-family homes still exist, but they're being held for ransom, basically, without any release. No ransom. If-- even if the Appropriations Committee approved money to build new single-family homes to replace those lost, keep in mind that LLCs will be in line to continue their abusive buy ups. It's already being done in Lincoln. They're buying the newer build ups but-- until the Legislature halts this abuse. In closing, please consider the detrimental impact that corporate buying has on our communities. Support the expansion of LB1405 and what it will protect, the American Dream and the heart of our neighborhoods and ensure that homes remain in the hands of individuals and families and not faceless entities.

**SLAMA:** Thank you very much, Ms. Haszard. Are there any questions from the committee? Just thanks again for this really thorough research. We, we certainly appreciate your passion on this issue.

**KELLIE HASZARD:** Thank you.

**SLAMA:** Thank you. All right. Additional proponents for LB1405? Welcome.

**WAYNE MORTENSEN:** Chair Slama and members of the Banking, Commerce and Insurance Committee. My name is Wayne Mortensen, M-o-r-t-e-n-s-e-n. I'm the executive director of NeighborWorks Lincoln, a 38-year-old not-for-profit affordable housing developer here in the Capital city. To Senator von Gillern's earlier assertion, we work in the free market. We are capitalists. We work within the markets that allow us. But we are here testifying in support of LB1405 because it starts a very important conversation about to what extent we allow outside investors to distort and deflect our local markets. You'll see here on the last 2 pages, the maps of what Lincoln is currently facing as a community. Around 2008 and 2020, 2020, during those recessions, single-family housing emerged nationally as a safer investment than the bond markets. When that became the case, housing was commoditized and became just like trading any stock. No-- nobody that buys a stock ever really gets to go check in on the companies that they're buying the stock of and such is the case here in Lincoln. Those outside investors, those equity investors, are solely interested in how much

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value they can extract from the Lincoln housing market. They have no pro forma, that feature reinvestment or maintenance of these properties to this scale that's necessary. And as a result, we're seeing incredible dilapidation and housing decline in many of our neighborhoods because of these absentee landlords that have no accountability to the local communities or jurisdictions in which they operate. Beyond that, Lincoln is so much the emerging trend here in the state of Nebraska that 13% of our single-family housing stock can now be classified as foreign owned per Senator Wayne's definition. What this also does is increases housing prices artificially because they're not spending money on maintenance or reinvestment, they can provide more money upfront in the purchase of these properties. And so they outbid otherwise responsible landlords locally or organizations like mine that buy homes to fix them up and sell them to lower-, middle-income homeowners for their first starter home. They frequently neglect-- because these are investment properties, they frequently neglect them. They leave them vacant more often than local landlords would and poorly maintain them, which has snowball effects on the surrounding neighborhoods. If you live next to one of these units, you're not likely to put a lot more money into your facility while the home next door is slowly growing into decline. And then finally, economic instability. As more-- as fewer and fewer companies own more and more of our housing stock here in Lincoln, we will start to see things like runs on housing. You know, during the next recession we might have an owner from Atlanta or a, a landlord from Wisconsin that puts hundreds of units on the market for either the fastest seller or the, the highest bidder with no concern for what that's doing to our local housing market. So I appreciate the moment to share these stats with you. I will also say that 13% for single family, it's 21% of our mobile homes, and 41% of our multifamily here in Lincoln that this would affect. We appreciate your time and I'm happy to answer any questions that you have.

**SLAMA:** Thank you very much, Mr. Mortensen. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Well, I have to ask the question, I, I guess. I, I look at the research and, and I think that although I, I agree, this is very in-depth research, but I, I guess I'm kind of back to you've indicated that you've come up with some numbers of those that actually would be affected by the bill that Senator Wayne has brought. You know, I-- having owned farmland, obviously Bill Gates has come to Nebraska and has bought farmland. We've got all kinds of other investors. Farmland has been impacted by this for some time. But there was an initiative called Initiative 300 back in the '80s that was going to prevent

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corporate ownership of farmland and that was ultimately ruled to be unconstitutional. How is that any different here?

**WAYNE MORTENSEN:** Home rule has always been a situation that legislatures can address. For instance, you can't buy a property in Nebraska without having a local owner or a local owner's rep or a management company. You have to designate them to the state attorney in order to own a multifamily or rental property. To-- Senator, your concern, Senator Jacobson and Senator von Gillern's concern earlier, even establishing an LLC, although, super, super easy to do, establishes a little bit more accountability, a little bit more trust because the Attorney General then has the ability to declare whether that LLC is in compliance with the laws of the state of Nebraska. So I think that these requirements are an important testament from the Unicameral to say that we believe in free market capitalism, we believe in the ability to create opportunity in Nebraska, but we do not want nefarious actors from outside our state deflecting our markets.

**JACOBSON:** I guess the follow-up to that would be they are bringing new capital to the market. I-- I've heard that we're buying them-- they're buying them under market. And I'm hearing that they're bidding up the, the market. And then I'm hearing that they're not maintaining them. But if you don't maintain them, then don't you lose value? So why would a capitalist want to come in and buy if they weren't going to maintain them and allow the property value to decline?

**WAYNE MORTENSEN:** Sure. Just based on the example that I've tried to present here, for instance, a 50 single-family unit rental portfolio goes on the market. We would typically pay anywhere between \$65,000 and \$75,000 a unit to acquire those, because we're setting aside 10% of the income earned in every one of those projects every year to reinvest in those structures so that they are not as-- not just a, a 1- or 5-year play, but they're a 20- or 25-year play. An outside investor, somebody from Kansas or South Dakota or wherever, what we've seen in this market is that they don't set aside the 10%, they use these units and they extract all the value they can. There's no reinvestment and maintenance only to ensure that they have renters from year to year, but there's no reinvestment. The larger reinvestment has to happen, the structural shoring, the replacing of the roof, swapping out windows, those kinds of things that are required to keep a, a home in a safe and sound condition for 15, 20, 25 years. When you're not-- when your business model is to not reinvest in those properties, you can fund the purchase at a much higher level. And when that investment is done, when you're not

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getting the rents that are worth your time anymore, you simply abandon the property or let it be condemned by the city or sell it to whatever mom-and-pop thinks that they can make a go of it at a far reduced rate not knowing the headache they're about to inherit.

**JACOBSON:** But, but doesn't that happen with the individuals today? And you don't have to be coming in from out of state to do that very thing. I mean, isn't that really kind of what capitalism is, that people are allowed to make investments. They have to work within the zoning requirements. They have to work within ordinance that are local ordinance that are set up by the city to maintain property. But I'm just-- I'm just-- it's, it's hard for me to fathom that we would come in and restrict owners of property as to who they can sell their property to and how much they can sell it for. That just-- that, that seems hard for me to comprehend.

**WAYNE MORTENSEN:** Sure. And I would-- I would argue it is hard to comprehend until you consider housing as critical to the economic well-being of our state. If we don't have safe, quality, affordable housing for the people of Nebraska, we don't have the amount of people that we need to, to drive the economy and fill the jobs that we'd like to recruit to the state. And the minute that we allow companies out of St. Louis, as Senator Wayne introduced, there's a huge conglomerate out of Arizona or Canada that each owned more than 25,000, 30,000 single-family homes across the country. The minute that we allow another market to control a natural resource that is housing in Nebraska, we have surrendered the ability for our market to thrive, because now we're dependent on out-of-state interests to keep housing affordable. It's just not going to work that way. And we're going to, ultimately, see a lot of diminishing returns when it comes to our own economic development because we have surrendered the ability to house our own residents, our own tenants, our own citizens to out-of-state interests that are only here to make money off of the state of Nebraska, money that which is spent in, in any place but the state of Nebraska because it's going out of state.

**JACOBSON:** I have just one last question. I, I would just say, if you insert-- if you take out housing and insert farmland, I would argue that farmers and ranchers across the state would be making that same argument that they're trying to provide food which we think would be essential to our national interest.

**WAYNE MORTENSEN:** Sure.



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**JACOBSON:** But we're seeing huge prices paid for farmland. It is an investment vehicle today, farm and ranchland has been for some time a huge part of the problem we got with property taxes in rural Nebraska because you can't farm out, if you will, or ranch out the values as an operator. And so smaller operators are being squeezed out because they can't keep up with those numbers and their taxes. Property taxes are going up because of these higher values in the valuation.

**WAYNE MORTENSEN:** Yeah. And I would-- yeah.

**JACOBSON:** But at the end of the day, where do we-- where do we say that capitalism ceases and we're going to take over from a socialistic standpoint and put controls on who can own what inside the state of Nebraska?

**WAYNE MORTENSEN:** Yeah, I don't think there's anything socialist about it. I think what we're seeing now in the, the agricultural sector is the result of 40, 50, 60 years of agricultural land being a commodity. And so what we're, we're trying to tell, tell you all as housing developers and affordable housing advocates, is that the same will happen with housing. If we don't get ahead of the commoditization of housing today, then we as a state will be a victim to the Bill Gates's of the world. I'm struggling to remember the name of the CNN founder who owns a large chunk of western Nebraska. We will fall victim to the same thing, but with housing which affects in far greater number, the ability of the individuals in the state that are affected. We would love nothing more than to see a continuation of our small and regional rural farm system. But in this case, what we've got the analogy is that you've got a corporate farming conglomerate in, in Idaho that would come up and buy all of the small farms around North Platte and turn that into fallow land, right, and just sit on it until a higher price comes along. I don't think you would be too excited about that in your district. We're not excited about outside speculators so badly distorting our housing market.

**JACOBSON:** But with that-- I think that last point, though, is the fact is, it isn't fallow land. They're paying extraordinarily high prices and they're renting it out at market rates for rental rates. Same thing with housing. They're buying up the housing and they're renting it out. People aren't, aren't-- the housing available, it's not being emptied out. The housing units are still there, the housing units are growing. It's just a matter of who owns them. Same thing with farmland, it's a matter of who owns it. Yeah, I think most farmers say they'd like to own the farmland because it goes up in value over years. Over the years, I think, same thing with homeowners. They want

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to own their own home and it'll go up in value over time. That's been the American dream. I'm just-- I'm just kind of baffled as how we're going to come in and, and tell people they can't sell their home to the highest bidder, and that the highest bidder can't be the highest bidder because we've got to somehow control who can buy. That-- that's what I'm struggling with.

**WAYNE MORTENSEN:** Within the state of Nebraska.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much, Mr. Mortensen. Additional proponent testimony for LB1405? Anyone else here to testify in support of LB1405? Seeing none, is anyone here to testify in opposition to LB1405? Seeing none, we'll now open it up for neutral testimony. Is anyone here to testify in a neutral position on LB1405? Seeing none, we did receive 10 proponent letters for the record and 1 opponent letter for the record on LB1405. Senator Wayne had previously waived his closing so this brings to an end our hearing on LB1405 and our hearings for today. Thank you all very much.