

## A WORD FROM THE ISSUE EDITOR:

BY ANNE WELLBORN, ESQ.

Across the country, renewable energy has become a hot topic. The last measure approved by Nevada lawmakers in this legislative session encourages renewable energy development, reduces greenhouse gas emissions and requires state buildings to adopt energy and water efficiency standards. This month, *Nevada Lawyer* looks at a few of the renewable energy issues facing residents in our state.

First, Michael Saunders provides an overview of Nevada's Renewable Energy Portfolio Standard and discusses the sources of renewable energy in Nevada. He identifies some of the impediments to the development of these sources and offers suggestions as to how we can support the development of renewable energy in Nevada. Next, Debbie Leonard and Denise Pasquale present a discussion on the issues of protecting access to solar and wind resources. They provide a review of the common law limitations and discuss the provisions currently in place under Nevada law. Finally, Sylvia Harrison and Matthew A. Gray offer an excellent discussion on the issue of the ownership of geothermal resources in Nevada. Their article provides an overview of the status of controlling law in Nevada and how the title issues that arise can be resolved to help ensure the development of this viable energy resource.

The staff and editorial board of *Nevada Lawyer* would like to extend its thanks to Bruce Beesley for his services over the past year. At the same time we are excited to welcome Kathleen Jane England as his successor and our newest president of the State Bar of Nevada. England was sworn in at the State Bar of Nevada's 2009 Annual Meeting. This issue contains an article about that meeting, along with some lovely photographs taken by editorial board member Beau Sterling.

You will also find an article and photos on the 9th Annual Law Scholarship Golf Tournament, held by the Gaming Law Section of the bar. Additionally we are pleased to bring you an opportunity to earn a little CLE credit in this issue – just check out the article on page 34 to find out how.

I hope this issue is helpful to you and your clients and I wish us all a cool summer! **NL**

---

**ANNE WELLBORN** is a solo practitioner who works with small and emerging businesses in Nevada.

## LETTER TO THE EDITOR

Editor:

When I opened my copy of the *Nevada Lawyer* on May 8, I noticed some erroneous claims in Zach Larson's piece. First of all, S.61 was pending in the U.S. Senate, not the Nevada Senate. Second, the bill had already failed in a vote of 51-45 on April 30, 2009. Third, the bill would have allowed the bankruptcy judge to modify the rights of an undersecured lender with a lien against a principal residence, by bifurcating its claims into secured and unsecured portions, thus reducing the amount of the lien on the residence. Clearly, S.61 would have reduced the principal amount of the lien to the fair market value on the date of filing. This is called "cramdown." See 11 USC § 1129(b)(2)(A).

Fourth, Mr. Larson intimates that lien stripping and cramdown are not available on commercial or investment property. In fact, such modifications of lenders' rights can be accomplished only with regard to real property other than a principal residence. The language inserted into 11 USC § 1322(b)(2) (in 1984) and 11 USC § 1123(b)(5) (in 1994) is the exception to the general rule that modification of the rights of holders of secured claims is permissible.

A final flaw in Mr. Larson's article is his statement that liens may only be stripped under Chapter 13. He seems to have forgotten about Chapter 11. Mr. Larson's erroneous claims call for a correction, to prevent a giant cloud of confusion from enveloping less-informed minds.

Sincerely,  
Thomas E. Crowe, Esq.

CONTINUED ON PAGE 13 ►

