

**MINUTES OF THE
BUSINESS, LABOR, AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE**

Wednesday, June 14, 2000 - 2:00 p.m. - Room 403 - State Capitol

Members Present:

Sen. Parley Hellewell, Co-Chair
Rep. John William Hickman, Co-Chair
Sen. John L. Valentine
Rep. Gerry A. Adair
Rep. Patrice M. Arent
Rep. Afton B. Bradshaw
Rep. Katherine M. Bryson
Rep. Don E. Bush
Rep. Carl W. Duckworth
Rep. Ben C. Ferry
Rep. Brad King
Rep. David L. Zolman

Members Absent:

Sen. Gene Davis
Sen. Eddie "Ed" P. Mayne
Sen. Robert M. Muhlestein
Rep. Wayne A. Harper
Rep. Lowell A. Nelson

Staff Present:

Ms. Mary Catherine Perry,
Research Analyst
Ms. Patricia Owen,
Associate General Counsel
Mr. Keith Woodwell,
Associate General Counsel
Ms. Beverlee LeCheminant,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order - Chair Hellewell called the meeting to order at 2:15 p.m.

Because of lack of a quorum, the minutes of the May 17, 2000 meeting were not approved.

2. Residence Lien Restriction and Lien Recovery Fund (Fund) - Ms. Mary Catherine Perry, Research Analyst, indicated that in response to committee questions about the Fund during the April meeting, staff provided research and summary documents in the committee's June mailing packet.

Mr. Ray Walker, Legal Counsel, Division of Occupational and Professional Licensing (DOPL), Department of Commerce, gave an overview of the Fund. He provided committee members with printed copies of his overview.

Mr. Robert Burton, Member, Residence Lien Recovery Fund Advisory Board, told the committee that he served on an industry task force (task force) last year that studied proposed changes to the Fund. The task force met about twelve times and was composed of various industry representatives, DOPL representatives, and other interested parties. Mr. Burton indicated that the task force recommended the following changes to the Fund: 1) reducing the cost of filing claims by extending the 120 day deadline for filing claims against the Fund to one year; 2) eliminating the 30 day notice of commencement requirement; 3) paying out on a first

come first serve basis; 4) raising the single project cap to \$125,000 per residence and replacing the \$500,000 lifetime cap with a renewable annual cap of \$100,000 per year per claimant; 5) eliminating the ambiguity of when compliance by the homeowner is established; 6) eliminating or reducing the cost up front of filing a claim; 7) placing a limitation on the amount of attorney's fees which may be recovered from the Fund; and 8) assessing a modest fee to the homeowner at the time the building permit is issued.

Mr. Robert Bergman, Chair, Utah Subcontractors Council (Council), and Director, Mechanical Contractors Association, stated that the Council has not taken a position for or against the Fund. He said that when the Fund was created, the Council had some concerns about the way the funding was implemented, but the lien protection portion of the Act works and provides protection for homeowners. Mr. Bergman indicated that the Council believes the Fund should continue to be a fund of last resort. Mr. Bergman noted he believes the task force addressed 90 percent of the concerns from the audit, but there are still several issues that need to be studied.

Mr. William Garff, President, Garff Construction Company, and Chair, Legislative Committee of the Associated General Contractors, explained that many contractors, including his own company, must pay into the Fund, but because they do only industrial and commercial work, they cannot access the Fund. He also indicated that his clients, subcontractors, and suppliers cannot access the Fund because they are not involved in residential construction. Mr. Garff said that industrial and commercial contractors would like the opportunity to receive their money back and opt out of the Fund altogether.

Mr. Ken Mitchell, Mitchell Development, and representing the Homebuilders Association of Utah (Association), told the committee that he believes Association members would prefer to opt out of the Fund because it does not benefit them. The Association feels that the Fund is a failed experiment and should be done away with. Mr. Mitchell said that there is an extremely small percentage of licensed contractors who have ever had a lien filed against them or their work. He also stated that the public should be educated on how to choose and deal with reputable people and that they should take the time to research their contractors.

Mr. Al Newman, Metro Title and Utah Land Title Association, spoke in opposition to assessments against homeowners to provide money for the Fund.

Ms. Carmen Sanone, Salt Lake County Aging Services, urged the committee not to do away with the Fund because she believes that it is serving the purpose for which it was created. She further stated that it is not fair that the good contractors pay for the dishonest ones, but there needs to be a better way to address that other than doing away with the Fund.

Mr. Dane Hines, a private attorney, stated that it would be appropriate to provide some funding or other resources for better enforcement against contractors who do not meet their financial obligations.

Sen. Hellewell said that there needs to be further study on the Fund and suggested creating a working group to continue that study. Sen. Hellewell told committee members that if any of them would like to meet with the working group to contact him.

Committee discussion followed.

3. Professional Boxing Regulation Act - Mr. Keith Woodwell, Associate General Counsel, gave an overview of Utah's Professional Boxing Regulation Act as well as a summary of the primary models used by other states to regulate and promote boxing. He provided committee members with printed copies of his overview.

Sen. Pete Suazo said he sponsored a bill last session that would transfer the Utah Boxing Commission (Commission) to the Department of Community and Economic Development and allow the Commission to promote boxing as an economic development tool. He requested that this issue be studied during the interim because it is his desire to have the Commission evolve from its current status of an advisory board to an independent commission that would have the power to regulate the profession, investigate and discipline licensees, and promote boxing in the state. Sen. Suazo raised the issue of fight clubs and indicated that there is a loophole in the statute that may need to be studied.

Mr. Larry Fullmer, Chair, Utah Boxing Commission, told the committee that his main concern with fight clubs is safety. Mr. Fullmer said that another issue the Commission is struggling with is that it is hard for the promoters to promote boxing because there are so many rules and regulations at both the state and federal levels.

Sen. Suazo said that there is a lot of amateur boxing talent in Utah, but the amateurs cannot pursue their talent in the state and he is trying to provide a means for them to do that. He indicated that one of the weaknesses of the Commission is that it does not have a revenue stream to promote boxing. He urged the committee to support him in finding a means to promote boxing as an economic development tool.

Mr. Clyde Ormond, Division of Occupational and Professional Licensing, Department of Commerce, gave an overview of the Act and raised administrative issues related to the Act. He provided committee members with printed copies of his overview.

Committee discussion followed.

Sen. Suazo indicated that he would like to bring a bill back to the committee for its consideration at the November meeting.

4. Adjourn -

MOTION: Rep. Bryson moved to adjourn with Sens. Davis, Mayne, and Muhlestein and Reps. Arent, Bradshaw, Harper, King, and Nelson absent for the vote.

Chair Hellewell adjourned the meeting at 4:30 p.m.