

**MINUTES OF THE SENATE BUSINESS & LABOR STANDING COMMITTEE  
MONDAY, FEBRUARY 28, 2011  
ROOM 215, SENATE BUILDING**

Members Present: Sen. John Valentine, Chair  
Sen. Curt Bramble  
Sen. David Hinkins  
Sen. Dan Liljenquist  
Sen. Steve Urquhart  
Sen. Kevin VanTassell  
Sen. Gene Davis  
Sen. Karen Mayne

Staff Present: Bryant R. Howe, Assistant Director  
Karen Allred, Committee Secretary

Public Speakers Present: Brett Tolman, Attorney  
Michelle Anderson West, Attorney  
Doug Short, Attorney  
Phillip Danielson, Attorney  
Robyn Burkinshaw, Director, Business Development, ULC  
Natalie Fratto, Mortgage Fraud Victim  
Theron Morrison, Attorney, R.C. Willey Home  
Bruce C. Jenkins, Attorney, Community Actions Committee,  
Legislative Action Committee  
J. Brent Godfrey, Insurance Claims Adjuster  
Michael Johnson, Future Community Services Inc., Community  
Management CEO  
Marla Matt-Smith, Community Action Institute, Legislative Action  
Committee  
Glenna Tibbetts, Resident, Condominium Owner  
John Morris, Attorney, Community Action Insititute, Legislative  
Action Committee  
Kristian Jelm, State Manager, Young's Market Co.  
Brad Maurer, North West Regional Manager, Boisset Family Estates  
Earl Dorius, Regulatory Director, Department of Alcoholic Beverage  
Control  
Eric Stucki, Utah State Parks  
Richard Burke, Attorney, Utah Association for Justice  
Carolyn Cox, Legal Counsel, Moreton and Company  
Scott Deru, Legislative Co-Chair, Utah Association of Health  
Underwriters  
Dan Bradshaw, President, Benchmark Insurance Agency

A list of visitors and a copy of handouts are filed with the committee minutes.

Chair Valentine called the meeting to order at 4:21 p.m.

### **Approval of Minutes**

**MOTION:** Sen. Liljenquist moved to approve minutes of the February 25, 2011, meeting.

The motion passed unanimously with Sen. Bramble absent for the vote.

1. **H.B. 93 Mortgage and Real Estate Licensure Exemptions for Attorneys** (*L. Christensen*)

The following amendment was distributed:

1. *Page 4, Lines 94 through 113*  
*House Committee Amendments*  
*2-10-2011:*

- 94 (m) an attorney admitted to practice law in this state {+} : (i) **if the attorney is**  
not  
95 **principally engaged in the business of negotiating residential mortgage loans** when  
considering the attorney's ordinary practice as a whole for all the attorney's  
clients ; and (ii) {+} when  
96 the attorney ~~renders services~~ engages in loan modification assistance in the  
course of  
96a the attorney's practice as an attorney.  
97 (3) An individual who will engage in an activity as a mortgage loan originator is  
98 exempt from this chapter only if the individual is an employee or agent exempt under  
99 Subsection (2)(g).  
100 {+} (4) (a) **Notwithstanding Subsection (2)(m) ~~(4)(a)~~ , an attorney exempt**  
**from this chapter**  
101 **may not engage in conduct described in Section 61-2c-301 when transacting business**  
**of**  
102 **residential mortgage loans.** {+}  
103 {+} (b) **If an attorney exempt from this chapter violates Subsection (4)(a),**  
**the attorney: {+}**  
104 {+} (i) **is not subject to enforcement by the division under Part 4,**  
**Enforcement; and {+}**  
105 {+} (ii) ~~is~~ may be subject to disciplinary action generally

applicable to an attorney admitted to  
106 practice law in this state. {+}  
107 ~~H~~→ [f] [←] {~~4~~} (c) If the division receives a complaint  
107a {f} alleging {+} {~~regarding~~} an attorney exempt from this chapter  
108 {+} is in violation of Subsection (4)(a) {+} or that an attorney subject to  
this chapter has violated this chapter, the division shall forward the complaint to the  
108a Utah State  
109 Bar for disciplinary action. [f]  
(d) For an attorney who the division finds is not to be exempt under Subsection  
(2)(m), the division may independently take enforcement action against the attorney  
under Part 4, Enforcement.  
110 [f] (5) [f] [~~4~~] ←~~H~~ (a) An individual who is exempt under Subsection (2)  
110a or (3) may voluntarily  
111 obtain a license under this chapter by complying with Part 2, Licensure.  
112 (b) An individual who voluntarily obtains a license pursuant to this  
112a Subsection ~~H~~→ [f] (5) [f] [~~4~~] ←~~H~~  
113 shall comply with all the provisions of this chapter.

**MOTION:** Sen. Urquhart moved to adopt the amendment.

The motion passed unanimously with Sen. Bramble absent for the vote.

Brett Tolman, Attorney; Michelle Anderson West, Attorney; Doug Short, Attorney; Phillip Danielson, Attorney; Robyn Burkinshaw, Director, Business Development, ULC; Natalie Fratto, Mortgage Fraud Victim and Theron Morrison, Attorney, R. C. Willey Home spoke to the bill.

Sen. Urquhart assumed the Committee Chair.

**MOTION:** Sen. Van Tassell moved to transmit H.B. 93 with a favorable recommendation.

The motion passed unanimously with Sens. Valentine and Bramble absent for the vote.

2. **S.B. 167 Condominium and Community Association Revisions** (*W. Niederhauser*)

Sen. Niederhauser explained the bill.

Bruce C. Jenkins, Attorney, Community Actions Committee, Legislative Action Committee

further clarified the bill and answered questions from the committee and spoke in support of the bill.

J. Brent Godfrey, Insurance Claims Adjuster; Michael Johnson, Future Community Services Inc., Community Management CEO; Marla Matt-Smith, Community Action Institute, Legislative Action Committee; Glenna Tibbetts, Resident, Condominium Owner and John Morris, Attorney, Community Action Institute, Legislative Action Committee spoke in support of the bill.

**MOTION:** Sen Van Tassell moved to transmit S.B. 167 with a favorable recommendation.

The motion passed unanimously.

3. **S.B. 81 Alcoholic Beverage Control Act Sampling Sampling Amendments** (*R. Romero*)

Sen. Romero explained the bill and answered questions from the committee.

Kristian Jelm, State Manager, Young's Market Company; Brad Mauer, North West Regional Manager, Boisset Family Estates and Earl Dorius, Regulatory Director, Department of Alcoholic Beverage Control spoke in support of the bill.

**MOTION:** Sen. Davis moved to go to the next item on the agenda.

**SUBSTITUTE MOTION:** Sen. Van Tassell moved to hold the bill and to recommended that it be refer it to Interim Study.

The motion substitute passed unanimously with Sen. Valentine absent for the vote.

4. **H.C.R. 7 Concurrent Resolution Supporting Public Policies That Promote Outdoor Activities for Children** (*J. Draxler*)

Rep. Draxler presented the bill and the following amendment was proposed:

1. *Page 2, Lines 30 through 35:*

30 WHEREAS, there are also concerns that many of our younger generation are  
becoming

31 disconnected from nature;

32 WHEREAS, youth are shunning the great outdoors in favor of sedentary activities  
{~~such~~

33 ~~as video games, television, the Internet, and movies~~} ;

34           WHEREAS, numerous studies have shown that there are many health, physical,  
35   emotional, and educational benefits to playing in and experiencing Utah's outdoors;  
30

**MOTION:** Sen. Van Tassell moved to adopt the amendment.

The motion passed unanimously with Sen. Valentine absent for the vote.

Sen. Bramble assumed the Committee Chair.

Eric Stucki, Utah State Parks, spoke in support of the bill.

**MOTION:** Sen. Mayne moved to transmit H.C.R. 7 with a favorable recommendation.

The motion passed unanimously with Sens. Valentine, Liljenquist and Urquhart absent for the vote.

**MOTION:** Sen. Davis moved to place H.C.R. 7 on the Consent Calendar.

The motion passed unanimously with Sens. Valentine, Liljenquist and Urquhart absent for the vote.

5. **1st Sub. H.B. 61 Home Business Workers' Compensation Amendments** (*R. Barrus*)

Rep. Barrus explained the bill and the following amendment was distributed

1. *Page 1, Lines 14 through 18:*

- 14           ▶ defines terms;
- 15           ▶ provides that a home business is not considered an employer of an owner's
- 16    { ~~immediate family member~~ } spouse for purposes of workers' compensation if
- certain
- 17    conditions are met; and
- 18           ▶ makes technical and conforming amendments.

2. *Page 4, Line 112 through Page 5, Line 126:*

112           (6) (a) As used in this Subsection (6):

113 (i) "Hazardous work" means a hazardous occupation as defined in Section  
114 34-23-103.

114 (ii) "Home business" means a business that is primarily conducted at the primary  
115 residence of an owner of the business.

116 ~~{(iii) "Immediate family member" means an individual's:~~  
117 ~~—(A) spouse; or~~  
118 ~~—(B) child who lives in the individual's primary residence and who is claimed by~~  
119 ~~the~~  
119 ~~individual as a dependent under Section 151, Internal Revenue Code.}~~

120 ~~{(iv)}~~ (iii) "Primary residence" means:

121 (A) a dwelling used by an individual as the home at which the individual regularly  
122 resides, regardless of whether the dwelling is owned or rented, or is a single-family  
123 dwelling or

123 part of a multi-family dwelling;

124 (B) so much of the land surrounding the dwelling described in Subsection

124 (6)(a) ~~{(iv)}~~ (iii) (A)

125 as is reasonably necessary for use of the dwelling; and

126 (C) any improvement on the land described in Subsection

126 (6)(a) ~~{(iv)}~~ (iii) (B).

3. *Page 5, Lines 127 through 131:*

127 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, a  
128 home

128 business is not considered an employer of an individual who is:

129 (i) ~~{an immediate family member}~~ the spouse of an owner of the home  
129 business; and

130 (ii) employed by the home business to engage in business activities that:

131 (A) do not constitute hazardous work; and

4. *Page 5, Lines 133 through 137:*

133 (6)(b)(i).

134 ~~{(6)}~~ (7) An employer of [agricultural laborers or domestic servants] an agricultural

135 laborer, domestic servant, or home business owner's {immediate family  
135 member} spouse, who is not

136 considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act,

may

137 come under this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

**MOTION:** Sen. Davis moved to adopt the amendment.

The motion passed unanimously.

Committee Chair Valentine resumed the Committee Chair.

Richard Burke, Attorney, Utah Association for Justice expressed concerns with the bill.

**MOTION:** Sen. Liljenquist moved to transmit 1st Sub. H.B. 61 with a favorable recommendation.

**SUBSTITUTE MOTION:** Sen. Bramble moved to proceed to the next item on the agenda.

The substitute motion passed with Sens. Valentine, Bramble, Hinkins, Van Tassell, Davis and Mayne voting in favor of the motion, Sen. Liljenquist voting in opposition and Sen. Urquhart absent for the vote.

6. **1st Sub. H.B. 333 Unfair Inducements Related to Insurance Products** (*J. Dunnigan*)

Rep. Dunnigan explained the bill.

Carolyn Cox, Legal Counsel, Moreton and Company; Scott Deru, Legislative Co-Chair, Utah Association of Health Underwriters and Dan Bradshaw, President, Benchmark Insurance Company spoke in support of the bill.

**MOTION:** Sen. Van Tassell moved to transmit 1st Sub. H.B. 333 with a favorable recommendation.

The motion passed unanimously.

Chair Valentine declared a Conflict of Interest.

**MOTION:** Sen. Van Tassell moved to adjourn.

The motion passed unanimously with Sens. Bramble, Liljenquist and Urquhart absent for the vote.

Chair Valentine adjourned the meeting at 6:13 p.m.

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Sen. John Valentine, Committee Chair