

**MINUTES OF THE SENATE BUSINESS & LABOR  
STANDING COMMITTEE  
THURSDAY, FEBRUARY 9, 2006, 4:00 P.M.  
ROOM W015, WEST OFFICE BUILDING  
STATE CAPITOL COMPLEX**

Members Present: Sen. Scott K. Jenkins, Chair  
Sen. Gene Davis  
Sen. Thomas V. Hatch  
Sen. Parley G. Hellewell  
Sen. John W. Hickman  
Sen. Sheldon L. Killpack  
Sen. Ed Mayne  
Sen. Michael Waddoups

Members Absent: Sen. L. Alma Mansell

Staff Present: John Cannon, Managing Policy Analyst  
Karen Allred, Committee Secretary

Public Speakers Present: Bruce Olson, Attorney, Nonprofit Community  
Diane Hartz Warsoff, Executive Director, Utah Nonprofits  
Association Jeff Mitchell, President, Telemarketers Anonymous  
Mike Sonntag, Bear River Insurance  
Mickey Braun, Assistant Commissioner, Utah Insurance Department  
Kenneth Robertson, Housing and Transport Specialist  
Paul Smith, Exec. Dir., Utah Apartment Association  
Rob Jeppson, Salt Lake County Mayor's Office  
Heather Tritten, Utah Community Action Partnership  
Tara Rollins, Executive Director, Utah Housing Coalition  
Chris Kyler, CEO, Utah Association of Realtors  
Tim Funk, Housing Director, Crossroads Urban Center  
Steve Erickson, Utah Issues

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

Chair Jenkins called the meeting to order at 4:05 p.m.

**Approval of Minutes**

**MOTION:** Sen. Hickman moved to approve the minutes of the February 8, 2006 meeting.

The motion passed unanimously with Sens. Hatch, Killpack, Davis and Mayne absent for the vote.

**1. S.B. 84 Nonprofit entity Amendments (L. Hillyard)**

Sen. Hillyard explained the bill.

Bruce Olson Attorney, Nonprofit Community, clarified and spoke in support of the bill.

Diand Hartz Warsoff, Exec. Dir., Utah Nonprofits Association, spoke in support of the bill.

**MOTION:** Sen. Hatch moved to pass the bill out favorably.

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

**2. S.B. 90 Homeowners Association Provisions (J. Hickman)**

Sen. Hickman introduced the bill.

**MOTION:** Sen. Waddoups moved to pass the bill out favorably.

The motion passed unanimously.

**3. S.B. 203 Telephone Solicitation Amendments (P. Hellewell)**

**MOTION:** Sen. Hellewell moved to adopt **1stSub. S.B. 203**.

Jeff Mitchell, President, Telemarketers Anonymous, clarified the bill and distributed a handout.

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

The motion passed unanimously.

**4. H.B. 242 Motorboat Liability Insurance Amendments (K. Gibson)**

Rep. Gibson introduced the bill.

Mike Sonntag, Bear River Insurance, answered questions from the committee.

**MOTION:** Sen. Killpack moved to pass the bill out favorably.

The motion passed with Sen. Hickman voting in opposition to the bill and Sens. Hellewell and Mayne absent for the vote.

**5. H.B. 233 Insurance Licensing Amendments (J. Dunnigan)**

Rep. Dunnigan introduced the bill and the following amendments were distributed:

*1. Page 15, Line 461 through Page 16, Line 466:*

461           ~~(7)~~ (8) (a) A person licensed to practice law in Utah is exempt from the  
requirements of  
462 Subsections ~~(1) and~~ (2) and (3) if that person issues 12 or less policies in any 12-month  
463 period.

**(b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.**

464           ~~(8)~~ (9) A person licensed to practice law in Utah, whether exempt under Subsection  
465 ~~(7)~~ (8) or not, shall maintain a trust account separate from a law firm trust account for all  
title  
466 and real estate escrow transactions.

**MOTION:** Sen. Hatch moved to adopt the amendments.

The motion passed unanimously with Sens. Hellewell and Mayne absent for the vote.

Mickey Braun, Assistant Commissioner, Dept .of Insurance, spoke in support of the bill.

**MOTION:** Sen. Hatch moved to pass the bill out favorably as amended.

The motion passed with Sens. Hellewell, Hickman and Mayne absent for the vote.

**6. H.B. 250 Local Governments Restrictions on Limiting Certain Fees (G. Hughes)**

Rep. Hughes introduced the bill.

Sen. Waddoups declared a conflict of interest.

Paul Smith, Landlord, Utah Apartment Association, and Chris Kyler, CEO, Utah Association of Realtors, spoke in support of the bill.

Speaking in opposition to the bill were:

Jill Riddle, Housing Authority of Salt Lake  
Kenneth Robertson, Housing and Transport Specialist  
Rob Jeppson, Salt Lake County Mayor's Office  
Heather Tritten, Utah Community Action Partnership  
Tara Rollins, Executive Director, Utah Housing Coalition  
Tim Funk, Housing Director, Crossroads Urban Center  
Steve Erickson, Utah Issues

**MOTION:** Sen. Davis moved to amend the bill as follows:

**57-20-1. Rent and fee control prohibition.**

- (1) A county [~~or incorporated~~], city or town may not enact an ordinance or resolution that would control rents or fees on private residential property unless it has the express approval of the Legislature.
- (2) This section does not impair the right of a state agency, county, [~~or incorporated~~] city, or town to enforce its zoning, building, and planning authority.
- (3) This section does not impair the right of a county, city or town to enact an ordinance or resolution limiting rental application fees which are charged to prospective tenants, provided:
  - (a) the ordinance permits application fees of less than \$35.00; or
  - (b) the ordinance permits application fee charges which reasonably represent the actual incremental cost of processing the rental application; or
  - (c) the ordinance prohibits charging a rental application fee to prospective tenants who receive government assistance.

**SUBSTITUTE MOTION:** Sen. Waddoups proposed the following amendment:

**57-20-1. Rent and fee control prohibition.**

- (1) A county [~~or incorporated~~], city or town may not enact an ordinance or resolution that would control rents or fees on private residential property unless it has the express approval of the Legislature.

- (2) This section does not impair the right of a state agency, county, [~~or incorporated~~] city, or town to enforce its zoning, building, and planning authority.
- (3) This section does not impair the right of a county, city or town to enact an ordinance or resolution limiting rental application fees which are charged to prospective tenants, provided:
- (a) the ordinance permits application fees of less than \$35.00; or
  - (b) the ordinance permits application fee charges which reasonably represent the actual incremental cost of processing the rental application.

The substitute motion failed with Sens. Hatch, Davis and Mayne voting in favor of the motion and Sens. Jenkins, Hellewell, Hickman, Killpack and Waddoups voting in opposition.

The original motion failed with Sens. Davis and Mayne voting in favor of the motion and Sens. Jenkins, Hatch, Hellewell, Hickman, Killpack and Waddoups voting in opposition.

**MOTION:** Sen. Hickman moved to pass the bill out favorably.

The motion passed with Sens. Davis and Mayne voting in opposition..

**7. H.B. 315 Real Estate Amendments (G. Snow)**

Rep. Snow introduced the bill.

The following amendments were distributed:

1. *Page 1, Lines 12 through 15:*

- 12 This bill: =
- ▶ **modifies exemptions for persons or transactions;**
- 13 ▶ permits a member of the Real Estate Commission to serve two consecutive terms; =
- ▶ **modifies limit on the amount of a civil penalty;**
- 14 ▶ modifies grounds for disciplinary action; and
- 15 ▶ makes technical changes.

2. *Page 1, Lines 21 through 22:*

21 AMENDS:

**61-2-3, as last amended by Chapter 102, Laws of Utah 1996**

22 61-2-5.5, as last amended by Chapters 199 and 257, Laws of Utah 2005

3. *Page 1, Line 25:*

25 *Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 61-2-3 is amended to read:**

**61-2-3. Exempt persons and transactions.**

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) any person who as owner or lessor performs the acts described in Subsection 61-2-2 (12) with reference to property owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs the acts enumerated in Subsections 61-2-2(12)(a) and (b);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage property for one employer;

(iv) a person who performs property management services for the apartments at which that person resides in exchange for free or reduced rent on that person's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real property subject to the declaration of condominium that established the homeowners' association, except that the employee may only manage property for one condominium homeowners' association; and

(vi) a regular salaried employee of a licensed property management company who performs support services, as prescribed by rule, for the property management company.

(b) Subsection (1)(a) does not exempt from licensing:

(i) employees engaged in the sale of properties regulated under §

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act § and

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) employees engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) any person whose interest as an owner or lessor was obtained by

~~{him}~~ that person or transferred to ~~{him}~~ that person

for the purpose of evading the application of this chapter, and not for any other legitimate business reason.

(2) A license under this chapter is not required for:

(a) isolated transactions by persons holding a duly executed power of attorney from the owner;

(b) services rendered by an attorney at law in performing ~~{his}~~ the attorney at law's duties as an attorney at law;

(c) a receiver, trustee in bankruptcy, administrator, executor, or any person acting under order of any court;

(d) a trustee or its employees under a deed of trust or a will; or

(e) any public utility, its officers, or regular salaried employees, unless performance of any of the acts set out in Subsection 61-2-2 (12) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility.

(3) ~~{(a) Except as provided in Subsection (3)(b), a}~~ A license under this chapter is not required for any person registered to act as a broker-dealer, agent, or investment advisor under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale :

(A) pursuant to the Securities Act of 1933 : or

(B) by Title 61, Chapter 1, Utah Uniform Securities Act ~~{-}~~ ; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

~~{(b) The exemption in Subsection (3)(a) does not apply to exempt or resale transactions.}~~

**Renumber remaining sections accordingly.**

4. *Page 4, Lines 112 through 117:*

112 subpoena is considered as a separate violation of this chapter. The commission, with the  
113 concurrence of the director, may impose a civil penalty in an amount not to exceed  
114 ~~{ \$500 }~~ \$2,500 per  
115 violation, impose educational requirements, and suspend, revoke, place on probation, or  
116 deny  
117 renewal, reinstatement, or reissuance of any license or any certification if at any time the  
118 licensee or certificate holder, whether acting as an agent or on his own account, is found  
119 guilty  
120 of:

**MOTION:** Sen. Hatch moved to adopt the amendments.

The motion passed unanimously.

**MOTION:** Sen. Davis moved to pass the bill out favorably as amended.

The motion passed unanimously.

**MOTION:** Sen. Hickman moved to adjourn.

The motion passed unanimously at 6:00 p.m.

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Sen. Scott K. Jenkins, Committee Chair