

**MINUTES OF THE SENATE BUSINESS & LABOR
STANDING COMMITTEE
THURSDAY, FEBRUARY 1, 2007, 8:10 A.M.
ROOM W015, WEST OFFICE BUILDING
STATE CAPITOL COMPLEX**

Members Present: Sen. Kevin VanTassell, Chair
Sen. Wayne Niederhauser
Sen. Carlene Walker
Sen. Gene Davis
Sen. Ed Mayne

Members Excused: Sen. Dan Eastman
Sen. Bill Hickman

Staff Present: Allison Nicholson, Policy Analyst
Karen Allred, Committee Secretary

Public Speakers Present: Candace Daly, State Director, National Federation of Independent
Business
Derek Miller, Director, Division of Real Estate
Glen Ogden, President, Utah Mortgage Lenders Association
Chris Kyler, CEO, Utah Association of Realtors
Cory Martin, Executive Director, Utah Assoc. of Mortgage Brokers
Steve White, American Federation of Teachers
Geoff Leonard, General Counsel, Utah School Employees Association
Susan Kuziak, Executive Director, Utah Education Association
Ken Hansen, Chairman, Pete Suazo Utah Athletic Commission
Rene Deluca, Commissioner, Pete Suazo Utah Athletic Commission
Francine Giani, Executive Director, Department of Commerce

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

Chair VanTassell called the meeting to order at 8:24 a.m.

Approval of Minutes

MOTION: Sen. Walker moved to approve the minutes of January 30, 2007.

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

1. H.B. 64 Impact of Administrative Rules on Small Businesses (S. Clark)

Rep. S. Clark introduced the bill

Candace Daly, State Director, National Federation of Independent Business, spoke in support of the bill.

MOTION: Sen. Walker moved to pass the bill out favorably.

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

MOTION: Sen. Walker moved to place the bill on the Consent Calendar.

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

2. S.B. 199 Division of Real Estate and Related Amendments (S. Killpack)

Sen. Killpack introduced the bill and the following amendments were distributed for the consideration of the committee:

1. Page 1, Lines 13 through 14:

13 ▶ addresses when the Real Estate Commission may hold administrative hearings
14 related to violations of the real estate chapter;

▶ provides an exemption from licensure for certain Department of Transportation employees;

2. Page 2, Lines 52 through 53:

52 57-11-17, as enacted by Chapter 158, Laws of Utah 1973

61-2-3, as last amended by Chapter 198, Laws of Utah 2006

53 61-2-5.5, as last amended by Chapter 198, Laws of Utah 2006

3. Page 3, Lines 81 through 82:

81 61-2c-510, as enacted by Chapter 297, Laws of Utah 2004

ENACTS:

72-5-116, Utah Code Annotated 1953

82 REPEALS:

4. Page 5, Lines 131 through 132:

131 lands to waive compliance with this [act] chapter or any rule or order under it is void.

Section 2. 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}~~ an employee 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}~~ an employee 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}~~ is obtained by that person or transferred to 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) an isolated ~~{transactions}~~ transaction by ~~{persons}~~ a person holding a duly executed power of attorney from the owner;
 - (b) services rendered by an attorney ~~{at law}~~ in performing the ~~{attorney at law's}~~ attorney'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}~~ employee of a trustee under a deed of trust or a will; ~~{or}~~

(e) any public utility, ~~{its officers}~~ officer of a public utility, or regular salaried ~~{employees}~~ employee of a public utility, 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 ; or

(f) a regular salaried employee of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real property pursuant to Section 72-5-103;

(ii) the disposal of real property pursuant to Section 72-5-111; or

(iii) services that constitute property management.

(3) 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.

132 Section 2. Section **61-2-5.5** is amended to read:

5. *Page 57, Lines 1750 through 1751:*

1750 ~~(b)~~ (ii) applicants for licensure.

= Section 31. Section 72-5-116 is enacted to read:

= 72-5-116. Exemption from state licensure.

An employee of the department when engaging in an act on behalf of the department related to one or more of the following is exempt from licensure under Title 61, Chapter 2, Division of Real Estate:

(1) acquiring real property pursuant to Section 72-5-103;

(2) disposing of real property pursuant to Section 72-5-111; or

(3) providing services that constitute property management, as defined in Section 61-2-2.

1751 Section 31. Repealer.

Renumber remaining sections accordingly.

MOTION: Sen. Mayne moved to adopt the amendments.

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

Derek Miller, Director, Division of Real Estate, further explained the bill and answered questions from the committee.

Glen Ogden, President, Utah Mortgage Lenders Association; Chris Kyler, CEO, Utah Association of Realtors; and Cory Martin, Executive Director, Utah Association of Mortgage Brokers; spoke in support of the bill.

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

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

MOTION: Sen. Niederhauser moved to place the bill on the Consent Calendar.

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

3. S.B. 159 Labor Organizations Amendments (H. Stephenson)

Sen. Stephenson introduced the bill.

Steve White, American Federation of Teachers, spoke in support of the bill.

Geoff Leonard, General Counsel, Utah School Employees Association, and Susan Kuziak, Executive Director, Utah Education Association, expressed concerns with the bill.

Sen. Mayne proposed the following amendment:

1. Page 2, Lines 50 through 51:

50 (i) the amount deducted **for union dues** per month does not exceed 3% of the
employee's monthly

51 wages;

MOTION: Sen. Mayne moved to adopt the amendment.

The motion passed unanimously.

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

The motion passed unanimously.

4. S.B. 162 Pete Suazo Utah Athletic Commission (E. Mayne)

Sen Mayne introduced the bill and passed out 1st Sub. S.B. 162.

MOTION: Sen. Mayne moved to adopt 1st Sub. S.B. 162.

The motion passed unanimously.

Ken Hansen, Chairman, Pete Suazo Utah Athletic Commission, and Rene Deluca, Commissioner, Pete Suazo Utah Athletic Commission, spoke in support of the bill.

Francine Giani, Executive Director, Department of Commerce, answered questions from the committee.

MOTION: Sen. Davis moved to pass out 1st Sub. 162 favorably.

The motion passed unanimously.

MOTION: Sen. Davis moved to place the bill on the Consent Calender.

The motion passed unanimously.

MOTION: Sen. Walker moved to adjourn.

The motion passed unanimously at 9:23 a.m.