

MINUTES OF THE MEETING  
BUSINESS & INDUSTRY COMMITTEE  
MONTANA STATE SENATE

February 7, 1985

The seventeenth meeting of the Business & Industry Committee met in Room 410 of the Capitol at 10 a.m. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All members were present except for Senator Neuman who was excused.

CONSIDERATION OF HOUSE BILL 195: Rep. Rodney Garcia, House District 93, Billings, introduced this bill at the request of the Department of Administration. It would replace references to mobile homes in the law with factory built buildings.

PROPOSERS: Jim Kembel, Administrator of the Building Codes Division of the Department of Administration, explained it was just a deletion which was overlooked last session. It just replaces the term mobile homes with factory built buildings in the bill. (EXHIBIT 1)

OPPOSERS: There were no opposers to House Bill 195.

Questions were then called for from the committee. Senator Thayer asked if the state was trying to inspect mobile homes and Jim Kembel stated they were not, they were just removing any reference to mobile homes in the statute. In closing, Rep. Garcia urged support of this bill.

CONSIDERATION OF HOUSE BILL 175: Rep. Mike Kadas, House District 55, Missoula, introduced this bill to add two additional people to the board of private security patrolmen and investigators, both of whom would be from private industry. They felt they did not have enough input into the board and would like better representation.

PROPOSERS: Don Valiton, of Ovando, representing the Montana Association of Private Investigators, believes this will provide a better balance on the board and more proportionate representation. He believes it will result in better policing and enforcement of board policies. He left a letter of petition signed by several individuals and private business operators. (EXHIBIT 2)

OPPOSERS: Clayton Bain, Chairman of the Board of Private Security and Private Investigators, stated he is opposed to adding any more members to the board. He does not feel there is much opposition between police officers and private industry.



He feels it may, instead, raise the cost of the board and that they should go on as it is for another two years. Shirley Miller Bureau Chief of Professional Occupations, presented a fact sheet to the committee which showed the number of various boards in the state presently, their various sizes, the range of the number of licensees and the cost of various 9 member boards per year. (EXHIBIT 3) They estimate that adding two additional members would put the board's budget \$1,268 in the red in FY86 and \$1,387 in FY87.

Questions from the committee were then called for. Senator Fuller wanted to know about the deficit that might be incurred and Shirley Miller explained all boards are self-sufficient and this board started out in debt because of the Haines pipeline debts. Senator Goodover wanted to know what major problems had arisen and was told by Clayton Bain there was a conflict between peace officers and private industry competing against each other. He further stated that adding two more people would not resolve the conflict. Senator Fuller wanted to know why a member of the board was from the peace officers advisory board and was told it was because they wanted someone with knowledge and training. Senator Fuller suggested taking off a member of the peace officers advisory council and putting on one more member from private industry. In closing, Rep. Kadas stated the main problem is casual employment and there are some minor problems with insurance. He feels the cost of adding two people is minimal and the board could raise its fees if necessary. He hoped if the committee kept the board at 7 people that it would be industry controlled. The hearing was closed on House Bill 175.

CONSIDERATION OF HOUSE BILL 127: Rep. Kerry Keyser, House District 74 from Ennis, introduced this bill at the request of the Department of Commerce to revise the laws concerning private security patrolmen and investigators. He would like to propose two amendments to his bill. (EXHIBIT 4)

PROPONENTS: Clayton Bain, Chairman of the Board of Private Security and Investigators, explained this bill will allow the board more flexibility to establish training programs for probationary and temporary licensees and employees. (EXHIBIT 5) Don Valiton, representing the Montana Association of Private Investigators, supports this bill and feels the changes are necessary and that the bill as passed by the House has removed the controversial features. He feels private security people provide service for homes, high tech industries, and are a savings to taxpayers on law enforcement protection.

OPPONENTS: There were no opponents to House Bill 127.

Questions were then called for from the committee. Senator Fuller wanted to know why they were removing non-profit societies and was told it was because so many different organizations were attempting to come into the organization and this would limit it. Police reserves can be licensed if there is a long term contract with a private firm. Senator Christiaens wanted to know why



the change in education requirements. Clayton Bain said it was because some people were in law enforcement before and already had some education. Rep. Keyser stated in closing that he felt this was a real compromise between the board and private industry and that it deserves to pass. Senator Halligan asked Clayton Bain to bring a copy of the rules and regulations for private security patrolmen. (EXHIBIT 6)

CONSIDERATION OF SENATE BILL 250: Senator Joe Mazurek, Senate District 23 of Helena, introduced this bill at the request of the Board of Realtors & Regulation, to establish a recovery fund in the State of Montana and eliminate the need for realtors to purchase a \$10,000 bond annually. In the recovery fund there would be a minimum balance of \$100,000 which would provide a base for which claims made against realtors that result in judgements could be taken from. There would be a limit of \$25,000 per realtor. He explained that the limit of the amount which can be claimed against a realtor would be raised from \$15,000 to \$25,000. It formerly required the grounds of fraud, deceit or conversion of funds in the statute and this has now been broadened to apply to conversion of trust funds or any act arising directly out of or transactions for which a licensed realty salesman is required. They also have stricken the right of the board of realty regulation to attack the validity of the judgements. He felt if the bill were closely examined it would just be a matter of whether or not the recovery fund concept is appropriate. He gave the committee a sample of the bond which is currently required. (EXHIBIT 7) He would like to propose some amendments to allow the board to purchase reinsurance.

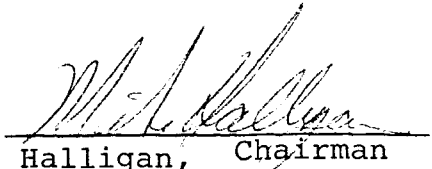
PROPOSERS: Terry Carmody, with the Montana Realtors, supports this bill. Lon Mitchell, Administrative Officer and Attorney for the Board of Realty Regulators, stated there are a minimum of 30 states which currently have recovery funds. He feels this legislation would cut administrative costs. (EXHIBIT 8) Lyle McKenna, with the Board of Realty Regulations, feels this bill will protect the public, save them money and will not harm the bond's people either. (EXHIBIT 9) Marilyn Foss, President of the Association of the Montana Realtors, feels this bill will give them a good public image. Robert Minto, Attorney from Missoula, feels the principle of this type of legislation is good for the industry and for the public. (EXHIBIT 10) Ken Hoovestel, from the Great Falls Board of Realtors, feels strongly about this legislation and likes the idea of the money staying in Montana. Rep. Dorothy Cody, House District 20, favors this legislation because it will counteract some bad feelings in the industry. Chuck Holland, an independent insurance agent from Helena, stated he writes bonds but doesn't solicit to sell them because they lose money on what they do sell. William Spilker, realtor from Helena, feels they are mandated by law to protect the public and this would help the realtors provide that protection in an economical way. Carl Rickman, realtor from Billings, feels it would make it easier for licensed realtors to deal directly with the state if this passes.



OPPONENTS: Rich Gillespie, Western Surety Insurance Agent, from Helena, objects to this bill because it proposes to make a real departure from what the state has always done in the past. The bonds now required guarantee there is \$10,000 of assets to satisfy a judgment. This bill will interfere with a private industry and make the state underwrite the financial stability of the realtors. He also feels there will be no guarantee of the financial responsibility of the licensee to satisfy judgments. He feels it is more restrictive than what we currently have and would be harder for an individual to collect from. (EXHIBIT 11) Glen Drake, representing the American Insurance Association, opposes the legislation because it interferes with a private industry. He feels if this legislation passes there will be a flood of claims. (EXHIBIT 12)

Questions were then called for from the committee. Senator Fuller asked what it costs per year for a bond and was told it was \$100. Rich Gillespie stated they paid out \$18,000 last year for bonds. Senator Christiaens wanted to know about errors and omissions and was told it was not by bond but that it is not handled in the bill either. Senator Mazurek felt however that the bill was broad enough to cover errors and omissions. Senator Thayer wondered about the injured party having to sue the board in order to get recovery and was told the procedure that was selected would simply provide a neutral third party to make the final decision. Senator Goodover wanted to know about the sentence on page 10 dealing with bankruptcy whether or not it was legal and Senator Mazurek was unsure on this point. Senator Gage asked if there might be a possibility of having a collective bond for all licensees. Senator Mazurek responded this was the idea behind reinsurance. Senator Kolstad wanted to know who would be required to pick up the balance if it should fall below \$100,000 and was told the board would have to pick this up. Glen Drake felt that the maximum that could be charged per realtor was \$35 per year. Senator Mazurek stated in closing he felt it was a good bill and would be happy to work with the committee members on any amendments they might propose. The hearing was closed on Senate Bill 250.

The meeting was adjourned at 12 noon.

  
Mike Halligan, Chairman

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ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/7/85

SENATE  
SEAT  
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
SENATOR Boylan	X		
Senator Fuller	X		
SENATOR Gage	X		
SENATOR Goodover	X		
SENATOR Kolstad	X		
SENATOR Neuman			
SENATOR Thayer	X		
SENATOR Williams	X		

Each day attach to minutes.



DATE 2/7/85

## COMMITTEE ON BUSINESS AND INDUSTRY

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
JIM KEMBEL	Building Codes DOA	HB 195	✓	
Nelma Dallas				
LON MITCHELL	BOARD OF REALTY REG	SB 250	✓	
Shirley Miller	Dept of Commerce	HB 175		
Clayton Bain	Board of Private Investors	HB 127	✓	
Ken Hoover	Board of Private Investors	HB 175		✓
Ken Hoover	G. F. H. Bd of Realtors	SB 250	✓	
Frank Pelt	Mont Assoc of Private Inv & Sec	HB 127	✓	
Reg Valiton	" " " " " "	HB 175	✓	
Lytle Emerson	Board of Realty Reg	175	✓	
Debbie Ann Valiton	Mont Ass of Private Inv & Sec	HB 127	✓	
DAVID G. HOTVEDT	" " " " " "	HB 175	✓	
( DON VALITON	INT. ASSN. PRIV. INVESTI- GATORS & PRIV. SEC. OPERATORS	HB 127	X	
Carl Rieckman	myself - Kiber Real Estate	SB 250	X	
Alan Drake	American Insurance	SB 250		✓
Deanne Donnelly	Mont Assoc of Counties	HB 195		
Chuck Holland	SELF	?	?	?
Meubyn Foss	MT Assn of Realtors	SB 250	✓	
Kirt Harding	MT. ASSO. of REALTORS	SB 250	✓	
Mike McKenna	Board of Health Day	SB 250	✓	
Kurt Dicks	Observer			
Richard B. Gillespie	Western Surety	SB 250		✓
ROBERT W. MINTO	SELF	SB 250	✓	
WILLIAM SPILKER	SELF	SB 250	✓	
( Dennis Reberg	HO #88	250	✓	
Don Schutte	Self - Mt Assoc of Real	SB 250	✓	
Terry Armady	Mont REALTOR	SB 250	✓	



DATE \_\_\_\_\_

COMMITTEE ON \_\_\_\_\_

# VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mike Kachar	LD 55	HB 175	✓	
Greg Dupuis	GARD Process Sec	HB 175	✓	
Greg Potter	Montana Ass. of Realtors	HB 124		
Donna Strand	" " "	SB 250	✓	
Ken Jones	Montana Ass. of Realtors	"	✓	
Rep. Darity & Co	# 7 Final Act 20	SB 250	✓	



(This sheet to be used by those testifying on a bill.)

NAME: JIM KEMBEL DATE: 2/7/85

ADDRESS: Building Codes DOA

PHONE: 444-3933

REPRESENTING WHOM? DOA

APPEARING ON WHICH PROPOSAL: HB 195

DO YOU: SUPPORT? ✓ AMEND?        OPPOSE?       

COMMENT: Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 1  
BUSINESS & INDUSTRY  
February 7, 1985



## TESTIMONY

### BUILDING CODES DIVISION DEPARTMENT OF ADMINISTRATION

"An Act To Replace All References To 'Mobile Homes' in Title 50, Chapter 60 to 'Factory-Built Buildings'; Amending Section 50-60-101, 50-60-401, and 50-60-402, MCA."

In 1976 the federal government preempted state and local governments authority to inspect the manufacturing of mobile homes. During an earlier session of legislature Sections 50-60-403 and 50-60-404, MCA, were amended to delete the references to "mobile homes" and replace the reference with the terminology "factory-built buildings". For some reason the remaining references to mobile homes in Sections 50-60-401 and 50-60-402 were not amended. The purpose of this bill is to replace all remaining references to "mobile homes" with references to "factory-built buildings".

In addition, Section 50-60-401, MCA, is further amended to delete references to the USAS (United States of America Standards Institute), which is no longer in existence. Factory-built buildings and recreational vehicles are subject to interstate trade and therefore it is important for Montana to be consistent with other states in order to avoid curtailing our in-state manufacturer's market area.

Finally, the bill adds a definition for "factory-built buildings" and more clearly defines "recreational vehicle".



# Quality Inn



## Coach House East

2101 E. 11th Avenue, Helena, Montana 59601

Phone: (406) 443-2300

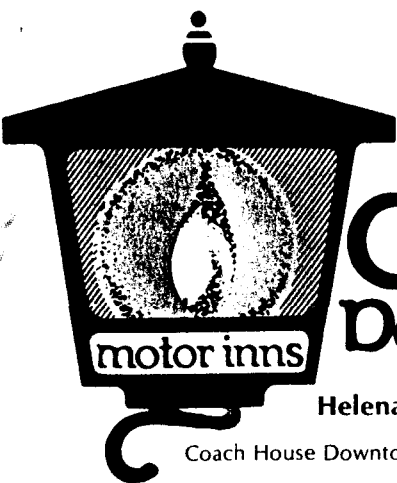
2/2/85

We THE UNDERSIGNED, SUPPORT House Bills #127 & #175,  
BOTH AS INDIVIDUALS AND AS PRIVATE BUSINESS OPERATORS.

NAME	BUSINESS	ADDRESS	PHONE
Joe Gonzales	Western Security	Box 216, Billings, MT	259-7444
Don Barry	Valley Security	Box 106, Carrollton, MT	461-4355
Joseph R. Reif	Sapphire Security	Box 42, HAMILTON MT.	363-4737
Don Bubman	Timberline Trussing, Inc.	1301 Kalispell, MT	257-1636
James P. Jensen	Northwest Security Service	Box 1826, Helena, MT	265-8541
Joseph R. Arquis	G.A.R.D. Process Serv.	Box 900 East Helena MT	442-7244
Dehl Ann Whitton	Security Service Co.	P.O. Box 4236, Helena	442-7100
Robert H. Vachon	Sentry Security Serv	201 So. Sargent St. Helena	365-4344
Martin J. Mangen	Mangen Associates, Inc.	3405 4th St. E. Helena	272-5411
Mike J. Smith	LEGAL INVESTIGATION BUREAU	2612 BELKNAP AVE BLGS	252-7768
Frank J. Walker	Security Service Co	P.O. Box 4236 Helena	442-7100

EXHIBIT 2  
BUSINESS & INDUSTRY  
February 7, 1985





# Coach House Downtown & East

Helena, Montana 59601

Coach House Downtown, 910 N. Last Chance Gulch, 406/442-6080 • Coach House East, 2101 East 11th Avenue, 406/443-2300

To the 49th Legislative Session:

I, being a licensed private investigator by the State of Montana, support the passage of HB-127, HB-175 and SB-222.

Signed this 2nd day of February 1985.

*A. L. Lyles*

Emergency Protection Services

P.O. Box 371

Deer Lodge, MONTANA 59722

EXHIBIT 2  
BUSINESS & INDUSTRY  
February 7, 1985



it's where you belong

200 UNITS • 2 RESTAURANTS • 2 COCKTAIL LOUNGES • MEETING ROOMS • POOLS • SAUNAS



EXHIBIT 3  
BUSINESS & INDUSTRY  
February 7, 1985

<u>NUMBER OF BOARDS</u>	<u>SIZE OF BOARDS</u>	<u>RANGE OF NUMBER OF LICENSEES</u>
3	3	145 to 238
5	4	208 to 4,690
12	5	65 to 5,400
1	6	748
4	7	211 to 1,200
4	9	970 to 12,000

9 member boards:

Professional Engineers	\$110,000
Medical Examiners	124,000
Nursing	194,000
Plumbers	79,000



PROPOSED AMENDMENTS TO HOUSE BILL 127

EXHIBIT 4  
BUSINESS & INDUSTRY  
February 7, 1985

1. Page 7, line 10.  
Following: "at law"  
Insert: ",a paralegal or legal assistant employed  
by an attorney at law,"
2. Page 8, line 2.  
Following: "37-60-101(10)"  
Strike: "."  
Insert: ";
3. Page 8.  
Following: line 2  
Insert: (9)internal investigators and auditors,  
while making an investigation incidental to the  
business of the agency or company for which they  
are singularly employed."



(This sheet to be used by those testifying on a bill.)

NAME: Clayton Bain DATE: 2-7-85

ADDRESS: Helena

PHONE: 444-3604

REPRESENTING WHOM? Board of Private Security and Investigation

APPEARING ON WHICH PROPOSAL: HB 175 and HB 127

DO YOU: SUPPORT? HB 127 AMEND? \_\_\_\_\_ OPPOSE? HB 175

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 5  
BUSINESS & INDUSTRY  
February 7, 1985



DEPARTMENT OF COMMERCE

CHAPTER 50

BOARD OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS

NOTE: Rules 8.50.401 through 8.50.422 under Sub-Chapter 4 have been repealed because of major changes in the statutes. New rules under sub-chapter 4 start at 8.50.423.

Sub-Chapter 1

Organizational Rule

Rule 8.50.101 Organization

Sub-Chapter 2

Procedural Rules

Rule 8.50.201 Procedural Rules

8.50.202 Public Participation

Sub-Chapter 3 reserved

Sub-Chapter 4

Substantive Rules

Rule 8.50.401 Definitions

8.50.402 Powers of Director

8.50.403 Exemptions

8.50.404 Powers of Arrest

8.50.405 Firearms

8.50.406 Additional Categories of Licensure

8.50.407 Probationary and Temporary Licenses

8.50.408 General Requirements

8.50.409 Experience Requirements

8.50.410 Manager of a Licensee - Qualifications

8.50.411 Application

8.50.412 Written Examination



- Rule 8.50.413 Licensee Responsibility
- 8.50.414 Identification Pocket Card
- 8.50.415 Denial of a License Application
- 8.50.416 License Renewal
- 8.50.417 Employees Fingerprint Check
- 8.50.418 Termination of Business
- 8.50.419 Reciprocity
- 8.50.420 Temporary Operation Without Individual License
- 8.50.421 Licensee Advertising
- 8.50.422 Fee Schedule
- 8.50.423 Definitions
- 8.50.424 Temporary Employment Without Registration or Identification Card
- 8.50.425 Resident Managers and Qualifying Agents
- 8.50.426 Rules for Branch Office
- 8.50.427 Required Information for Application
- 8.50.428 Experience Requirements
- 8.50.429 Written Examination
- 8.50.430 Identification/Registration Pocket Card
- 8.50.431 Insurance Requirements
- 8.50.432 Regulations of Uniform
- 8.50.433 License Renewal
- 8.50.434 Rules for Record Keeping
- 8.50.435 Applicant Fingerprint Check
- 8.50.436 Termination of Business



Rule 8.50.437 Fee Schedule

Sub-Chapter 5

Minimum Curriculum and Standards for the Certification  
of a Firearms Training Program and for the Certification of  
Firearms Instructors

- Rule 8.50.501 Firearms Safety and Proficiency Test  
Minimum Requirements
- 8.50.502 Registration Required Annually
- 8.50.503 Criteria for a Certified Shooting Course
- 8.50.504 Requirements for Firearms Instructors'  
Certification
- 8.50.505 Employers' Responsibility
- 8.50.506 Type of Sidearm
- Sub-Chapters 6 and 7

Sub-Chapter 8

Professional Conduct

- Rule 8.50.801 Code of Ethics for a Private Investigator
- 8.50.802 Code of Ethics for Private Security  
Licensees
- 8.50.803 Code of Ethics for Private Security  
Employees
- 8.50.804 Powers of Arrest

Sub-Chapter 9

Complaint Procedures

- Rule 8.50.901 General Purposes
- 8.50.902 Initial Procedures
- 8.50.903 Action by the Board



## Sub-Chapter 1

### Organization Rule

8.50.101 ORGANIZATION (1) The board of private security patrolmen and investigators hereby adopts and incorporates the organizational rules of the department of commerce as listed in Chapter 1 of this title.

## Sub-Chapter 2

### Procedural Rules

8.50.201 PROCEDURAL RULES (1) The board of private security patrolmen and investigators hereby adopts and incorporates the procedural rules of the department of commerce as listed in Chapter 2 of this title.

8.50.202 PUBLIC PARTICIPATION (1) The board of private security patrolmen and investigators hereby adopts and incorporates the public participation rules of the department of commerce as set out in Chapter 2 of this title.

Sub-Chapter 3 reserved.

## Sub-Chapter 4

### Substantive Rules

Rules 8.50.401 through 8.50.422 were repealed when new law was passed and replaced with the remainder of the rules.

8.50.423 DEFINITIONS (1) "Casual employment" means employment which comes about fortuitously and is for no fixed duration of time. An engagement or employment is not "casual" where a person is employed to do a particular service or class of service recurring somewhat regularly, or with a fair expectation of continuance for a more or less extended sequence or period of time, such as every Saturday night, a week, or a month.

This definition does not apply to peace officers or reserve officers performing security guard functions for another governmental agency, or to security of in-custody inmates held elsewhere than at a custodial institution or jail or when private security companies are unwilling or unavailable to provide the service.

All other exceptions under this "casual employment" rule shall be determined by the board based upon the facts presented.

(2) "Dishonorable discharge" means any military discharge which specifically states dishonorable discharge.



(3) "Experience"; the term "year" shall mean 12 average work months (including leaves for vacation with pay) during which the individual was engaged in full time employment. Full time employment is considered to be employment for compensation when the work schedule constitutes at least 1800 hours annually or more. Self employment must be verified by someone that knows of your experience and self employment condition.

(4) For purposes of 37-60-321 (4), MCA, any crime involving moral turpitude means generally anything done contrary to justice, honesty, modesty, or good morals, including acts of baseness, vileness or depravity in the private or social duties which a man owes to his fellow man and to society in general. Such acts include, but are not limited to: assault or evidence of assaultive behavior; assault and battery, larceny or embezzlement, shoplifting, crimes involving fraud or misrepresentation; obscenity; public indecency; any firearm violation; sexual offenses; resisting an officer or legal process; vandalism; aiding in an escape; chronic alcoholism, alcohol addiction, a third conviction of driving under the influence over any five-year period and drug addiction.

(5) For purposes of exemption from licensure under Title 37, Chapter 60, MCA, "insurance adjuster" refers to any person, employed by an insurance company, who is licensed by the state of Montana as an insurance adjuster, who shall be exclusively under the control and supervision of his employer..subject to a master-servant relationship and not as an independent contractor and performs no surveillance activities.

(6) "Unprofessional conduct" means the failure to conform to and abide by all the standards, rules and regulations set forth in Title 37, Chapter 60, Montana Codes Annotated and Title 8, Chapter 50, Administrative Rules of Montana, which regulates the security patrolmen and private investigator professions in the state of Montana.

8.50.424 TEMPORARY EMPLOYMENT WITHOUT REGISTRATION OR IDENTIFICATION CARD The board may authorize a licensee to employ temporarily without first obtaining a registration card or an identification card under the following conditions:

(1) The licensee is employing the person under an apprenticeship or training program.

(2) This provides the licensee an opportunity to evaluate the person's performance to determine if the person can adequately perform the duties assigned.

(3) No one person may be temporarily employed on a fragmented work schedule for more than 90 days total in any one calendar year.

(4) The licensee must notify the board within 5 days of employing a person, for the 90 consecutive calendar day period



and must notify the board on a quarterly basis those persons employed on a fragmented schedule.

(5) Temporary employment will not be for more than 90 consecutive calendar days.

(6) At the end of this period of time the licensee must either terminate the person or have the person make application for either a registration or identification card.

(7) The licensee will notify the board within 5 days of the termination of those persons employed for the 90 consecutive calendar day period.

(8) No attempt shall be made to utilize this rule to circumvent any portion of this act.

#### 8.50.425 RESIDENT MANAGER AND QUALIFYING AGENTS

(1) Every qualifying agent and resident manager shall satisfy all of the appropriate licensing requirements of section 37-60-303, MCA, and the rules promulgated by the board as for those of an individual.

8.50.426 RULES FOR BRANCH OFFICE (1) Branch offices of any licensee, except a proprietary security organization, shall be prohibited except upon application to the board indicating the licensee, location and resident manager/qualifying agent of such branch office.

8.50.427 REQUIRED INFORMATION FOR APPLICATION (1) The board shall conduct or have conducted such investigation on each applicant as it deems necessary to protect the public interest before granting any license. The board shall seek information from law enforcement officials and other interested and informed persons to determine the character, competence and integrity of the applicant before approval for examination.

(2) Each applicant shall provide his or her social security number and answer questions concerning military service if applicable.

(3) Applicant must list 5 references (not related by blood or marriage) and 2 of the 5 shall be former employers or individuals or firms with which he/she had a working contractual agreement if self-employed, or has knowledge of the agreement or working relationship.

(4) No person convicted of a felony in this state or elsewhere shall be eligible for a license while under a federal or state jurisdiction or for 5 years thereafter and then only with specific approval of the board.

(5) An individual who may desire licensure in more than one licensure category must pass an exam in each licensure category when required.

(6) Each person who applies for an original license shall supply with the application in addition to other pertinent information the board may require; 2 full face,



head, and shoulder photographs of a size that may be cut to 1 1/2 inches by 1 1/2 inches and still retain the full face, head, and shoulders in the photo. Name of applicant should be typed or printed on the back side of the photo.

8.50.428 EXPERIENCE REQUIREMENTS (1) Experience requirements for contract security company and proprietary security organization shall be as follows:

- (a) two years full time experience
    - (i) as an employee or employer in the field to be licensed; or
    - (ii) as a sworn member of any federal investigative agency or as a sworn member of the military police or as a sworn member of any state, county, city investigative or law enforcement group or police department; or
    - (iii) as a supervisor or administrator in industrial or governmental security; or
  - (b) professionally related and relevant education or training in the field to be licensed as the board may determine to be equivalent to the foregoing experience requirements. All education and training must be verified and supplied with the application, including transcripts, diplomas, seminar certificates, course completion or other supporting evidence;
  - (c) six months of experience requirement may be met by successful completion of the basic course of the Montana Law Enforcement Academy and proper verification.
- (2) Applicants may use a combination of experience, education and training to meet the experience requirement, but education and training may not exceed 1/2 the experience required.
- (3) Experience as a licensed insurance adjuster may be counted towards the 3-year experience requirements as a private investigator.

8.50.429 WRITTEN EXAMINATION (1) All applicants must successfully pass a written examination in their area of licensure with a score of 70% or more.

- (2) Examination shall consist of questions in the following areas, but shall not be limited to those areas:
- (a) private investigator - legal rights and limitations on powers of private investigators, areas of investigation, private investigator law and rules, sources of information, service of legal papers, report writing, interrogation and investigative procedures, contracts, and recovery and disposal of property.
  - (b) armed private investigator, armed private security guard, contract security company, private investigator, private security guard, proprietary security organization, private investigator law and rules, principles or management and supervision, report writing, legal procedures,



electronics, applicable federal law and rules, and other related material in the licensure area.

(3) Applicants for examination must deposit with the examination proctor, all books, notebooks or other papers before starting to write the examination. No applicant is allowed to take with them any papers from the room in which the examination is administered.

(4) All applicants for examination must have the notice of examination for the department with the exam identification number before they will be admitted to the examination.

(5) An applicant may retake that section of the examination he/she has failed upon payment of another examination fee. In the event an applicant shall fail his/her second examination, he/she shall not be eligible for another examination until such time as he/she has furnished documentation of additional education, training or experience in law enforcement or related activities.

(a) In no instance will he/she be eligible for a third exam for a period of six months.

(6) Examinations will be held in Helena daily. Special examinations may be made available by prior arrangements with the department.

#### 8.50.430 IDENTIFICATION/REGISTRATION POCKET CARD

(1) Only one identification/registration card shall be issued for each licensee.. The holder of an identification/registration card shall be responsible for the maintenance, custody and control of the identification/registration card, and shall neither let, loan, sell nor otherwise permit unauthorized persons or employees use it. If an identification/registration card shall be altered in any way, it shall become invalid.

(2) Each photograph (1 1/2" x 1 1/2") submitted shall fairly and accurately represent the appearance of the applicant. If the department determines that its file copy does not bear substantial resemblance to the applicant, it may request a new photograph.

8.50.431 INSURANCE REQUIREMENTS (1) All licensees regulated by Title 37, Chapter 60, MCA, except private investigators, shall file with the board, a certificate of insurance evidencing a comprehensive general liability coverage for both licensees and employees for bodily injury, and property damage; the broad form comprehensive general liability endorsement which includes the following: personal injury and property damage with endorsement for assault and battery and personal injury, including false arrest, false imprisonment, malicious prosecution, invasion of privacy, wrongful eviction or wrongful entry, mental anguish, defamation and discrimination. The minimum amount of coverage of \$300,000 for bodily or personal injury and \$100,000 for



property damage. Licensees should also file endorsements for the loss, destruction or damage to property in their care, custody and control and for losses from errors, omissions or acts of the licensees or their employees.

(2) All persons who function solely as private investigators must carry coverage for omission and errors, destruction, damage or loss of property entrusted to their custody, care and control, as well as coverage for defamation, malicious prosecution and invasion of privacy.

(3) All licensees must be insured by a carrier licensed in the state in which the insurance has been purchased or in this state.

(4) Each licensee shall sign a release allowing their insurance carrier to inform the board in the event coverage is cancelled or allowed to lapse.

8.50.432 REGULATIONS OF UNIFORM (1) No individual shall, while performing any of the duties regulated by Title 37, Chapter 60, MCA, have or utilize any uniform, vehicle, or equipment displaying the words, "police", "law enforcement officer", or the 8-1380 6/30/84 ADMINISTRATIVE equivalent thereof, or have any patch, emblem, sign marking, accessory or insignia that may indicate that such uniform, vehicle, or equipment is the property of a public law enforcement agency or of the state of Montana or any of its political subdivisions.

(2) Any person, while performing any of the duties regulated by Title 37, Chapter 60, MCA, who is required to wear a uniform must have the uniform approved by the board. All uniforms shall, on the outermost garment except for rainwear or foul weather clothing, have: clearly identified the company, the individual's name, and the occupational category.

8.50.433 LICENSE RENEWAL (1) Each license expires on December 1st following date of issue and to remain current must be renewed on or before each December 1st.

(2) Each licensee will be notified by mail at his last known address of the current renewal fee and furnished with an application for renewal prior to expiration of license.

(3) Each person who applies for renewal of a license shall submit one recent photograph with the application for renewal which will be used for the current identification card. It must be of a size that can be cut to 1 1/2 inch by 1 1/2 inch and still retain full face, head and shoulders in the photo.

(4) An expired license may be renewed within 90 days of its expiration date with the payment of the renewal fee and late fee. If more than 90 days have passed since any license has expired, a new application must be made, the appropriate



examination taken and passed with appropriate fees paid, before any new license will be issued.

8.50.434 RULES FOR RECORD KEEPING (1) Each licensee shall maintain such employee records as are normally kept in the course of usual business practice.

8.50.435 APPLICANT FINGERPRINT CHECK (1) The licensee will submit the application for each employee to the department and provide 2 classifiable sets of their fingerprints. The department will provide the licensee with information as to the applicants employability. Applications shall contain such information as required to process the application.

8.50.436 TERMINATION OF BUSINESS (1) A licensee who terminates his business shall within 5 days mail or deliver his license and identification/registration card to the department. If the licensee opens another business or goes to work for someone before the license or renewal expires, the department may return the license and identification/registration card if the request is in compliance with the law and rules.

8.50.437 FEE SCHEDULE

(1)	License application fees	
(a)	Contract security company	\$75.00
(b)	Proprietary security organization	75.00
(c)	Private investigator employer	75.00
(d)	Qualifying agents and resident managers	75.00
(e)	License renewals	50.00
(f)	Duplicate licenses	10.00
(2)	Employee registration application fees	
(a)	Armed contract security employee	75.00
(b)	Armed proprietary security employee	75.00
(c)	Armed private investigator employee	75.00
(d)	Renewals	50.00
(3)	Employee Identification Application Fees	
(a)	Unarmed contract security employee	25.00
(b)	Unarmed proprietary security employee	25.00
(c)	Unarmed private investigator employee	50.00
(d)	Renewals for unarmed contract and proprietary security employee	10.00
(e)	Renewals for unarmed private investigator employee	25.00
(4)	Miscellaneous fees	
(a)	Re-exams	15.00
(b)	Late renewals	5.00
(c)	Branch office application	25.00



## Sub-Chapter 5

### Minimum Curriculum and Standards for the Certification of a Firearms Training Program and for the Certification of Firearms Instructors

#### 8.50.501 FIREARMS SAFETY AND PROFICIENCY TEST - MINIMUM REQUIREMENTS (1) The test shall be comprised of two parts:

(a) A written test included, but not limited to, gun safety, weapon handling, mechanical operations, shoot-don't shoot situations, liability, federal and state statutes regarding limitations (total of ten hours minimum instruction)

(b) A combat shooting course using a firearm authorized by the board.

(2) Satisfactory completion of the firearms safety and proficiency test shall be a score of not less than 70 percent on each of the two parts and the demonstration of reasonable competence in firearms skills as determined by a certified instructor.

8.50.502 REGISTRATION REQUIRED ANNUALLY (1) Every private security guard and private investigator must renew their firearm registration each year. Re-registration will be based upon satisfactory completion of a certified combat shooting course at least once during each year.

#### 8.50.503 CRITERIA FOR A CERTIFIED SHOOTING COURSE

(1) The certified course shall be the Tactical Revolver Course:

(a) 25 yard line - time: 1 minute, 15 seconds, (18 rounds) On command, shooter loads 6 rounds and holsters weapon. On whistle, shooter fires 18 rounds in the following sequence: Kneeling strong hand barricade (6 rounds), over top of barricade (6 rounds), kneeling weak hand barricade (6 rounds)

(b) 15 yard line - time 30 seconds - (12 rounds) On command, shooter loads 6 rounds and holsters weapon. Starting at the 25 yard line, on whistle shooter moves rapidly to 15 yard line, draws and fires 12 rounds, point shoulder position.

(c) 10 yard line - time: 25 seconds (10 rounds) At 10 yard line, shooter loads 6 rounds and holsters weapon, on command. On whistle shooter moves rapidly to 10 yard line, draws and fires 6 rounds, reloads and fires 4 additional rounds.

(d) 5 yard line - Time: 20 seconds (10 rounds) At 10 yard line, shooter loads 6 rounds and holsters weapon, on command. On whistle, shooter moves rapidly to 5 yard line, draws and fires 6 rounds, reloads and fires 4 additional rounds.

(e) Firearm to be used for qualification will be the firearm carried most often on duty.



(f) Scoring: The target to be used is the K-5. "K" values are computed (250 points possible) and multiplied by .4 for percentage score. Minimum qualification score is 70%.

(2) Stress will be induced by the use of time and physical activities. If the range facilities available are equipped to provide night time firing and/or low light conditions, the instruction and qualification course should include these conditions.

#### 8.50.504 REQUIREMENTS FOR FIREARMS INSTRUCTORS'

CERTIFICATION (1) To become a certified firearms instructor, an individual must attend and pass a certified firearms instructors course approved by the board.

(2) Firearms instructors must apply for instructor certification every two years by the anniversary date of his original certification.

(3) Each instructor shall be required to conduct at least one certified combat shooting course annually.

(4) Institutions, firms, or persons wishing approval of the board to offer a course in the carrying and usage of firearms must make application to the board and include the following information:

(a) a detailed outline of course to be provided;

(b) the name of the instructor and a documentation of their qualifications, and;

(c) places and dates where the course will be offered, length of the course, and an estimate of the maximum number of persons who can be accommodated and a description of facility to be used.

(2) Such information must be supplied to the board at least 15 days before the course is to be given. No student will be enrolled in a course unless they have made application for registration to the board.

(3) Approval of a course may be withdrawn by the board in writing.

8.50.505 EMPLOYERS' RESPONSIBILITY (1) All employers of private security guards and investigators are responsible for providing or obtaining the necessary training to enable the individual to meet the standards required by these rules and regulations.

8.50.506 TYPE OF SIDEARM (1) Solid frame revolver or pistols capable of single and double-action fire. Caliber .38 357 (only 38 special ammunition will be used), 380 and 9 millimeter automatic with barrel length from two to six inches, revolvers with five or six-round cylinder, all-steel construction, (except model 39 Smith) fixed or adjustable sights will be approved by the board.

Sub-Chapters 6 and 7 reserved.



## Sub-Chapter 8

## Professional Conduct

8.50.801 CODE OF ETHICS FOR A PRIVATE INVESTIGATOR

- (1) It is the responsibility of each private investigator to:
- (a) strive to keep informed of developments and techniques affecting the profession;
  - (b) conduct themselves in a business-like manner befitting a professional;
  - (c) keep informed of laws and ordinances affecting the profession;
  - (d) make no claims to qualifications the licensee does not possess;
  - (e) be loyal to the client and divulge the information obtained only to the client or his representative;
  - (f) will not become involved in investigations on behalf of a client with intent to break the law or to use the information unethically;
  - (g) will not provide clients with advice or counsel of a discipline in which the licensee is not qualified;
  - (h) will not use the position of trust for unethical gains;
  - (i) will not accept investigations which conflict with previous or current investigations;
  - (j) be honest, accurate, factual, and complete in reporting;
  - (k) will not represent themselves as a member of law enforcement;
  - (l) will charge the client according to mutual agreement;
  - (m) honor verbal agreements as if it were written;
  - (n) avoid engaging in the unauthorized practice of law;
  - (o) obey the laws of the United States, the state of Montana or any of its political subdivisions;
  - (p) avoid intermingling client's business funds with the licensee's personal funds;
  - (q) avoid engaging in deceptive double billings.
- (2) Any violation of the above shall constitute unprofessional conduct.

8.50.802 CODE OF ETHICS FOR PRIVATE SECURITY LICENSEES

- (1) It is the responsibility of managers of private security functions and the licensed employees to:
- (a) recognize that the principal responsibilities are, in the service of their organizations and clients, to protect life and property as well as to prevent and reduce crime against their business, industry, or other organizations and institutions; and in the public interest, to uphold the law and to respect the constitutional right of all persons.



(b) be guided by a sense of integrity, honor, justice and morality in the conduct of business; in all personnel matters; in relationships with government agencies, clients, and employers; and in responsibilities to the general public.

(c) strive faithfully to render security services of the highest quality and to work continuously to improve their knowledge and skills and thereby improve the overall effectiveness of private security.

(d) uphold the trust of their employers, clients, and the public by performing their functions within the law, not ordering or condoning violations of law, and ensuring that their security personnel conduct their assigned duties lawfully and with proper regard for the rights of others.

(e) respect the reputation and practice of others in private security but to expose to the proper authorities any conduct that is unethical or unlawful.

(f) cooperate with recognized and responsible law enforcement and other criminal justice agencies; to comply with security licensing and registration laws and other statutory requirements that pertain to their business.

(g) respect and protect the confidential and privileged information of employers and clients beyond the term of their employment, except where their interests are contrary to law.

(2) Any violation of the above shall constitute unprofessional conduct.

#### 8.50.803 CODE OF ETHICS FOR PRIVATE SECURITY EMPLOYEES

(1) Private security employees shall:

(a) accept the responsibilities and fulfill the obligations of their role: protecting life and property; preventing and reducing crimes against their employer's business, or other organizations and institutions to which they are assigned; upholding the law; and respecting the constitutional rights of all persons.

(b) conduct themselves with honesty and integrity and to adhere to the highest moral principles in the performance of their security duties.

(c) be faithful, diligent, and dependable in discharging their duties.

(d) respect and protect the confidential and privileged information of their employer or client beyond the terms of their employment, except where their interests are contrary to law.

(e) cooperate with all recognized and responsible law enforcement and government agencies in matters within their jurisdiction.

(f) accept no compensation, commission, gratuity, or other advantage without the knowledge and consent of their employer.

(2) Any violation of the above ethical code shall constitute unprofessional conduct.



8.50.804 POWERS OF ARREST (1) No licensee or employee shall have greater power of arrest than the average citizen in accordance with section 46-6-502, MCA, which reads as follows: "A private person may arrest another when:

(a) he believes on reasonable grounds that an offense is being committed or attempted in his presence;

(b) a felony has in fact been committed and he believes on reasonable grounds that the person arrested has committed it; or

(c) he is a merchant, as defined in 30-11-301, MCA, and has probable cause to believe the other is shoplifting in the merchant's store."

(2) If a merchant has employed or contracted for the services of a proprietary security guard or a contracted security guard, all arrest authority shall be subject to the restrictions contained in 46-6-503, MCA.

(3) In those cases where arrest power has been granted by proper authorities, this rule shall not be applicable.

(4) Abuse of the powers of arrest will constitute unprofessional conduct.

## Sub-Chapter 9

### Complaint Procedures

8.50.901 GENERAL PURPOSES (1) The purpose in outlining the following complaint procedure is so that any and all complaints received by the board of private security patrolmen and investigators, hereinafter referred to as the board, shall be uniform. Secondly, it is the desire of the board that all complaints be handled in a manner that will assure equitable consideration for both the complainant and the subject of the complaint.

8.50.902 INITIAL PROCEDURES (1) All complaints shall be signed and in writing, and under no circumstances will the board give consideration to any complaints received from anonymous sources or telephonically from persons who are unwilling to reduce their complaint to writing.

(2) The board will receive complaints made in person against any licensee or registrant if the complaint is made by a person appearing at a regularly scheduled board meeting. The board will hear this person either in open or closed session, at its discretion and as the facts of the case may dictate. Even though a complainant may appear personally and lodge a complaint, the board will urge the complainant to reduce his grievance to writing and sign it. Should the complainant be unwilling to do so, the board will then reduce the complaint to writing and require that the person making the complaint sign it.



STATE OF MONTANA  
**BOND FOR REAL ESTATE BROKER AND/OR REAL ESTATE  
SALESPERSON**

BOARD OF REALTY REGULATION  
DEPARTMENT OF COMMERCE  
1424 9TH AVENUE  
HELENA, MONTANA 59620-0407

KNOW ALL MEN BY THESE PRESENTS:

BOND NO. \_\_\_\_\_

That we \_\_\_\_\_ of \_\_\_\_\_, in the County of

\_\_\_\_\_, State of Montana, as Principal, and

a corporation, duly organized under the laws of the State of \_\_\_\_\_

having its principal place of business in the City of \_\_\_\_\_, State of

\_\_\_\_\_, and licensed to do business under the laws of the State of Montana, as Surety, are held and firmly bound unto the Board of Realty Regulation in the full penal sum of TEN THOUSAND DOLLARS (\$10,000), truly to be made, we bind ourselves and our legal representatives, jointly and severally, by these presents.

Sealed with our Seals and dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

WHEREAS, the above bound principal in compliance with the provisions of Section 37-51-304 MCA 1978, as amended, and the rules and regulations promulgated by the Board of Realty Regulation is about to engage or continue in the business of a real estate broker and/or real estate salesperson.

NOW, THEREFORE, if the said principal, if and when licensed, in accordance with the provisions of the "Real Estate License Act of 1963" of the State of Montana and as amended, shall conduct his business and himself in accordance with the provisions of said act and shall pay to the extent of TEN THOUSAND DOLLARS (\$10,000) all judgments recovered against him for loss or damage to any individual, partnership, association or corporation arising in the course of the principal's practice as a licensed real estate broker or salesperson, then this obligation to be void, otherwise to remain in full force and effect.

The aggregate liability of the surety hereunder, whether to one or more persons, shall in no event exceed the total sum of TEN THOUSAND DOLLARS (\$10,000).

This bond shall be in full force and effect from the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_ and continuously thereafter for each successive, licensed year until cancelled as provided herein.

The surety's liability under this bond shall not be cumulative, regardless of the number of years this bond is continued in force and the surety's aggregate liability during effective period of this bond shall not in any event exceed the penal sum of TEN THOUSAND DOLLARS (\$10,000).

The surety may cancel this bond as to future liability by giving thirty (30) days' written notice by registered mail addressed to the principal at the address in this bond stated, and to the Board of Realty Regulation. If the principal does not execute and have approved a new bond prior to the effective date of such cancellation by the surety, his license will be automatically suspended by operation of law and principal shall immediately return his license and identification card to the Board of Realty Regulation. If at any time during the term hereof the principal furnishes a new bond accepted by the Board this bond shall be cancelled as of the date of said approval. The surety shall remain liable, however, subject to all the terms, conditions and provisions of this bond, for any and all acts covered by this bond up to the date of such cancellation.

IN WITNESS WHEREOF, The said principal has hereunto set his hand and seal, and the said surety has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed the day and year first above written.

COUNTERSIGNED

(Please sign exactly as licensed)

Principal

Resident Agent

Surety

Address

Attorney-in-Fact



(This sheet to be used by those testifying on a bill.)

NAME: Lon Mitchell DATE: 2/7/85

ADDRESS: 1424 9th Ave.

PHONE: 444-4290

REPRESENTING WHOM? BOARD OF REALTY REGULATION

APPEARING ON WHICH PROPOSAL: SB 250

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: would save licensees money, would better protect public,  
because it is legislatively mandated that a bond is required it is legislatively  
necessary to change the law. Happy to answer any questions.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 8  
BUSINESS & INDUSTRY  
February 7, 1985



(This sheet to be used by those testifying on a bill.)

NAME: Lyle E McKenna DATE: 2/7/85

ADDRESS: Box 1503 Louisville, Mo

PHONE: 538-8736

REPRESENTING WHOM? Board of Quality Reg.

APPEARING ON WHICH PROPOSAL: 513 250

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 9  
BUSINESS & INDUSTRY  
February 7, 1985



(This sheet to be used by those testifying on a bill.)

NAME: ROBERT W. MINTO JR. DATE: 2/1/85

ADDRESS: 912 PARKVIEW WAY MISSOULA MT 59803

PHONE: 406 721-3400

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: SB 250

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 10  
BUSINESS & INDUSTRY  
February 7, 1985



(This sheet to be used by those testifying on a bill.)

NAME: Richard E. R. Hepler DATE: 2/7/85

ADDRESS: 38 S. West Chance Gulch, Helena

PHONE: 442-0230

REPRESENTING WHOM? Western Surety

APPEARING ON WHICH PROPOSAL: SB 25

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 11  
BUSINESS & INDUSTRY  
February 7, 1985



NAME: Glenn Drake DATE: 2/7

ADDRESS: Helen

PHONE: 442-0230

REPRESENTING WHOM? American Ins Ass'n

APPEARING ON WHICH PROPOSAL: SB250

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?           ✓          

COMMENT : \_\_\_\_\_

EXHIBIT 12  
BUSINESS & INDUSTRY  
February 7, 1985



(This sheet to be used by those testifying on a bill.)

NAME: Jim KENNEDY DATE: \_\_\_\_\_

ADDRESS: 1106 N. WASH. ST

PHONE: \_\_\_\_\_

REPRESENTING WHOM? ~~ALL~~ PERSONAL

APPEARING ON WHICH PROPOSAL: SB 250

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT:

I Support this Bill  
as an independent  
insurance agent.

Jim Kennedy.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.