

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on February 1, 1989,
at 8:00 a.m.

ROLL CALL

Members Present: Chairman Brown, Vice Chairman Hager,
Senator Bishop, Senator Crippen, Senator Eck, Senator
Gage, Senator Halligan, Senator Harp, Senator mazurek,
Senator Norman, Senator Severson, Senator Walker

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council Researcher
Jill Royhans, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 4

Presentation and Opening Statement by Sponsor: Marian
Hanson, District 100, sponsor of the bill, said the
bill was introduced at the request of the Coal Tax
Oversight Subcommittee. The bill is essentially an
effort to clean up the language in House Bill 252,
which was extensively amended in the 1987 session. Due
to a drafting error the drop in the tax on lignite coal
from 20% to 10% was overlooked. This bill corrects
that situation. It also addresses the "window of
opportunity" which closed December 31, 1988, by
extending it to 1991 with a retroactive applicability
date.

List of Testifying Proponents and What Group they Represent:

James T. Mockler, Executive Director, Montana Coal
Council
Ken Williams, Entech, Western Energy Co.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

James T. Mockler, Executive Director, Montana Coal Council, spoke in support of the bill (Exhibit 1).

Ken Williams, Entech, Western Energy Co., said the effects of HB 252 were very positive for the coal companies, resulting in a record production year in 1988 of 16.1 million tons and have resulted in at least another million tons of production. The bill will allow coal companies to continue to offer 15% coal to the market place.

Opponents:

None

Questions From Committee Members: There was a brief discussion which confirmed the changes in the bill were due to oversight and/or drafting error which were identified by the Coal Tax Oversight Subcommittee.

Closing by Sponsor: Representative Hanson closed by saying the legislation has enabled the coal companies to more than offset the incentives offered. This bill only cleans up the language and extends the window of opportunity to 1991.

HEARING ON SENATE BILL 220

Presentation and Opening Statement by Sponsor: Senator Tveit, District 11, sponsor of the bill, said he is carrying the bill at the request of the Montana Association of Counties. The bill allows a 5% discount on the second half of property taxes if the whole amount is paid on or before November 30. He pointed out there could be a potential problem with SID's, penalties and delinquent taxes which could be addressed by the attached amendment (Exhibit 2).

List of Testifying Proponents and What Group they Represent:

Bob Mullen, Richland County Commissioner
Dennis Burr, Montana Taxpayers Association

List of Testifying Opponents and What Group They Represent:

Chuck Stearns, Finance Officer/City Clerk
John Lawton, Assistant City Administrator
Alec Hanson, Montana League of Cities and Towns

Dave Bishop, School Administrators of Montana
Cort Harrington, Montana County Treasurers Association
John Campbell, Montana School Business Officials
Ken Nordtvedt, Director, Department of Revenue

Testimony:

Bob Mullen, Richland County Commissioner, said it was his resolution at the MACO convention which resulted in this bill. There are several advantages in the bill, i.e., the obvious advantage to the taxpayer, a positive impact on net investment earnings for county government, and a reduction in administrative costs.

He had originally proposed a 2 1/2% discount for the second half taxes. A 5% discount would require county government to have a return of approximately 10 1/2% in order to recoup the loss. He felt the bill should be amended to reflect a 2 1/2% discount which would only require a return of 5 1/4%. The discount should apply only to property taxes and not to SID's.

Dennis Burr, Montana Taxpayers Association, said he agreed with the intent of the bill. He also favored lowering the discount to 2 1/2% or 3%. Additionally, he felt the bill might alleviate some cash flow problems for the counties.

Opponents:

Chuck Stearns, Finance officer/City Clerk, Missoula, presented his written testimony in opposition to the bill (Exhibit #3).

John Lawton, Assistant City Administrator, Billings, submitted testimony from the Yellowstone County Treasurer, Kevan Bryan, in opposition to the bill (Exhibit 4). Mr. Laughton said he appreciates the intent of the bill, however, he didn't feel it is workable. He cited the problem of having to invest the money at 10% in order to gain back the 5% discount. Some people pay the entire payment early in order to take advantage of federal tax breaks or wish to accelerate their payments.

Alec Hanson, Montana League of Cities and Towns, said he supported the purpose of the bill, but has some trouble with the mechanics. He felt the rate should be reduced to 2 1/2% and SID's should be eliminated from the discount as well as penalties and interest. He felt

not to do that would establish an incentive for people not to pay their taxes.

Dave Bishop, School Administrators of Montana, said his group favors the concept, but feels it would constitute a heavy loss to school districts.

Cort Harrington, Montana County Treasurers Association, said you would need a 10.3% rate of return in order to recover a 5% discount. He felt the discount should be reduced to 2 1/2%.

John Campbell, Montana School Business Officials, opposed the bill on the grounds there would be less revenue for schools.

Shelly Laine, representing the City of Helena, opposed the bill based on previous testimony. She felt the bill was not revenue neutral.

Ken Nordtvedt, Director, Department of Revenue, felt the bill would be revenue neutral at 3% because a 7% return on funds would be feasible. Because a discount is not considered an interest rate for tax purposes, the 3% discount would be equivalent to a 6% after tax interest, which would be beneficial to the taxpayer. He felt 3% would make everyone happy and still provide an incentive. Mr. Nordtvedt brought up the technical point that treasurers have to balance their books, and sections 15-10-307 and 15-16-302 MCA might need some corrections so the balancing and discount procedures are consistent.

Questions From Committee Members: Senator Walker wondered if you paid your taxes on the 31st day (one day past due date), would you get a 5% discount with a 2% penalty, thereby reducing your taxes by 3%.

Senator Mazurek asked Mr. Mullen if it was his intent to have the discount apply only to property taxes.

Mr. Mullen replied the discount is intended only to apply to the second half property taxes, not SID's, penalties, hail insurance, etc.

Senator Gage said he felt it does not appear there is an incentive not to pay taxes because the first half has to be paid on or before the second half is due. If that goes delinquent, the taxpayer would not qualify until the following year taxes are due, at which point there is 10% interest and 2% penalty.

Mr. Lawton felt the language was not clear regarding the payment of back taxes and whether the discount would apply to them. He felt it should only apply to the current taxes.

Senator Gage said there could be a rationale for applying the discount to back taxes in that it would establish an incentive to get the back taxes paid.

Mr. Lawton said a penalty against back taxes and a discount for paying them would effectively cancel each other out.

Senator Tveit said he would work with the committee researcher to amend the bill to lower the discount to 3% and apply the provisions of the bill to only second half property taxes.

Senator Brown asked what the discount rate is in Idaho.

Mr. Burr said it is a 5% discount on the entire tax bill in Idaho, and in most other states with the discount provision.

Closing by Sponsor:

EXECUTIVE SESSION ON HOUSE BILL 4

Discussion: Senator Crippen moved House Bill 4 BE CONCURRED IN.

Senator Walker said he gathered the bill was introduced to correct an oversight, but he should like to check it out a bit further before voting on it.

Senator Crippen withdrew his motion.

EXECUTIVE ACTION ON HOUSE BILL 92

Discussion: Senator Norman was concerned about defining "good cause".

Senator Mazurek said the Department has several pages of definitions of good cause, but this bill will entail defining good cause any in statute that is passed henceforth.

Senator Eck said there is another bill in the House which deals with elderly tax relief which seems to be the best vehicle for comprehensively addressing the

problem. Senator Eck's bill, Senate Bill 7, and this bill could be worked into it.

Amendments and Votes:

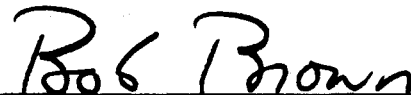
Recommendation and Vote: Senator Eck moved House Bill 92 and Senate Bill 7 BE TABLED. The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 220

Discussion: The committee agreed to have Senator Gage and Jeff Martin, Council Researcher, work out amendments regarding the 3% discount, eliminating penalties, interest and delinquent taxes from the discount, and coordinating the sections.

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR BOB BROWN, Chairman

BB/jdr

min201jr.sr

ROLL CALL

TAXATION

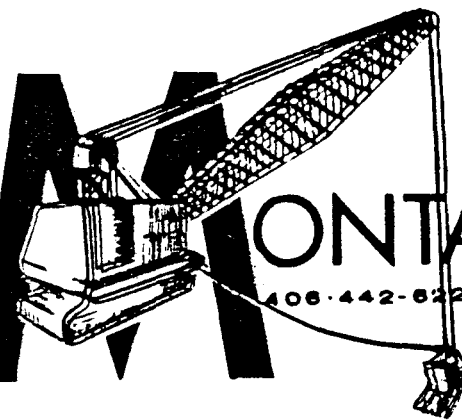
COMMITTEE

50~~st~~ LEGISLATIVE SESSION -- 1989

Date 2/1/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.



SENATE TAXATION

EXHIBIT NO. 1

DATE 2/1/89

H. BILL NO. 4

MONTANA COAL COUNCIL

406-442-6223

2301 COLONIAL DRIVE · HELENA, MONTANA 59601

FEBRUARY 1, 1989
SENATE TAXATION COMM.

HB 4

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM JAMES D. MOCKLER, EXECUTIVE DIRECTOR OF THE MONTANA COAL COUNCIL, 2301 COLONIAL DRIVE, HELENA.

FIRST, I WOULD LIKE TO THANK THE COAL TAX OVERSIGHT SUBCOMMITTEE FOR ITS WORK IN THE INTERIM THAT RESULTED IN THIS BILL.

THE BILL BASICALLY CONTINUES THE INCENTIVE PROGRAM THAT THE LEGISLATURE ADOPTED LAST SESSION AS THE THEN-HB-252 WOUND THROUGH THE PROCESS AND WAS ULTIMATELY EXTENSIVELY AMENDED BY THE GOVERNOR. THOSE AMENDMENTS LIMITED THE TIME FOR NEW AND EXPANDED PRODUCTION TO JANUARY 1 OF THIS YEAR, AND ALTHOUGH AT THE TIME APPEARED TO INCLUDE CONTRACT RENEWALS, A TECHNICAL POINT APPEARS TO ELIMINATE THEM.

LET US TAKE A MOMENT TO EXAMINE THE RESULTS OF YOUR ACTIONS IN PROVIDING NOT ONLY THE LOWERING OF THE TAX, BUT ALSO IN PROVIDING THAT NEW AND EXPANDED BUSINESS BE TAXED AT AN INCENTIVE RATE OF 15%.

WE HAD FORECAST 1988 PRODUCTION TO BE AT 28 MILLION TONS. BECAUSE OF YOUR ACTIONS, 1988 PRODUCTION WAS SLIGHTLY LESS THAN 39 MILLION TONS. NOT ONLY WAS IT A RECORD BY SOME 5 MILLION TONS

BUT IT EXCEEDED ALL OF OUR WILDEST DREAMS AND HOPES THAT WERE INTENDED IN 1987 WHEN YOU PASSED HB 252.

NOT ONLY DID THAT PUT OUR MINERS BACK TO WORK AND PROVIDE SCORES OF ADDITIONAL JOBS FOR THE RAILROAD AND SUPPLY SECTORS, BUT IT PROVIDED OVER \$10 MILLION IN ADDITIONAL SEVERANCE TAXES, \$3.5 MILLION IN GROSS PROCEEDS, AND OVER \$300,000 IN RITT TAXES.

THE COAL MARKET IS EXTREMELY COMPETITIVE AND VOLATILE, BUT FOR THE FIRST TIME IN THE OVER 12 YEARS THAT I HAVE BEEN REPRESENTING THE INDUSTRY, THE INDICATORS FOR BROADENED NEW MARKETS ARE POSITIVE AND EXCITING. BEFORE ANY MAJOR CUSTOMER WILL NEGOTIATE A LARGE CONTRACT FOR OUR COAL, THEY WILL TEST BURN THE COAL. IN THE PAST YEAR AND A HALF WE HAVE HAD TEST BURNS FROM TAIWAN TO SOUTH DAKOTA AND FROM WASHINGTON TO ONTARIO.

IT IS OUR, AND I BELIEVE YOUR, HOPE THAT THESE TESTS WILL LEAD TO SIGNIFICANT CONTRACTS. PLEASE ALLOW US TO CONTINUE TO DEVELOP THESE MARKETS FOR THE BENEFIT OF US ALL.

ALSO IN THE GOVERNOR'S AMENDMENTS TO HB 252 HE NEGLECTED TO LOWER THE TAX ON LIGNITE FROM 20% TO 10% IN 1991 AS THE LEGISLATURE HAD AGREED. TO MY KNOWLEDGE, THIS WAS A DRAFTING ERROR AND ONE WHICH WE ASK YOU NOW TO CORRECT.

DUE TO THE FACT THAT THE INCENTIVE EXPIRED ON DECEMBER 31, 1988, THE BILL HAS A RETROACTIVE EFFECTIVE DATE. WE APPRECIATE THE WILLINGNESS OF THE HOUSE IN EXPEDITING THE BILL AND IN CHAIRMAN BROWN'S WILLINGNESS TO CONTINUE THE PROCESS. THIS IS VERY IMPORTANT BECAUSE, AT THIS POINT IN TIME, WE CANNOT ASSURE OUR NEW CUSTOMERS THAT THE COAL WE ARE ASKING THEM TO BUY NOW WILL BE TAXED AT THE 15% RATE.

NEW SALES OF ONE-HALF MILLION TONS WILL MORE THAN NEGATE THE

Ex. 1 HB 4
2-1-89

FISCAL IMPACT OF HB 4 AND OUR PAST EXPERIENCE HAS PROVEN THAT TO BE MORE PROBABLE THAN NOT.

ON BEHALF OF THOSE WHO OWN THE MINES, THOSE WHO WORK IN THEM, THOSE WHO HAUL THE COAL AND SUPPLY THE INDUSTRY, OUR SINCERE THANKS TO REP. HANSON AND ALL OF YOU FOR YOUR PAST SUPPORT AND WE ASK THAT YOU CONTINUE BY SUPPORTING HB 4.

NAME: Ken Williams DATE: 2/1/89

ADDRESS: 16 F. Green Ln

PHONE: 782-4233

REPRESENTING WHOM? Entech

APPEARING ON WHICH PROPOSAL: HB-4

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

434

2-1-189

NAME: Jim M... .. DATE: _____

ADDRESS: 2301 Colonial Dr

PHONE: 410-623-73

REPRESENTING WHOM? Mt. Airy Council

APPEARING ON WHICH PROPOSAL: A.B. 4

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION
EXHIBIT NO. 2
DATE 2/1/89
BILL NO. SB 220

SENATE BILL 220
PROPOSED AMENDMENT
DISCOUNT PROPERTY TAX

Amend page 2, line 24 as follows:

taxpayer a 5% discount on all taxes, penalties, and interest
for prepayment of the second-half tax payments."



FINANCE/CITY CLERK OFFICE
201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT
TAXATION

EXHIBIT NO. 3
January 31, 1989
Letter 89-025 DATE 2/1/89
BILL NO. SB220

The Honorable Larry J. Tveit
Montana State Senate
Capitol Station
Helena, Montana 59620

Dear Senator Tveit:

This letter is written to support the concept of SB220 which would grant a 5% discount to taxpayers who pay the second half property taxes before the first half taxes due date of November 30th, but we find that we have to oppose th 5% level. At the 5% level, the City of Missoula would lose \$9,100 off the top from people who currently pay the second half taxes with the first half without a discount. In addition, the effective annual interest rate for this five percent discount is 10% because we would pay 5% for use of the money for only an additional six months time. As our investment interest rate is approximately 8% currently, we would lose 2% on an annual basis, or 1% on a six month basis for every taxpayer who uses the discount. If half of the taxpayers used this discount, we would lose an additional \$8,250 or a total loss of approximately \$17,350.

According to my calculations, if the discount were to be set at 3%, the City of Missoula would gain on the interest differential, but it would still take one-third of the taxpayers to use the discount before we would offset the \$9,100 loss we would have from the taxpayers who currently pay the second half before the first half deadline. That is why the concept could be good policy and still work to the benefit of taxing jurisdictions. At a 3% discount, those taxpayers who currently pay both halves in November would receive a benefit and the cost to taxing jurisdictions would be overcome if enough taxpayers used the discount.

As SB220 is currently written, it could cost the City of Missoula between \$10,000 and \$25,000 annually which is too costly. If the intererst rate were to be amended to 3%, we could likely support the bill.

Sincerely,
Chuck Stearns
Chuck Stearns
Finance Officer/City Clerk

cc: Senate Taxation Committee Members

County of Yellowstone



TREASURER

P.O. Box 35010
Billings, Mt. 59107

DATE 2/1/89

January 31, 1989

BILL NO. SB 220

Honorable Senator Brown
Chairman, Senate Taxation
Capitol Station
Helena, Montana 59620

Dear Mr. Chairman:

I am writing to you regarding SB 220, being heard by your committee on February 1, 1989. Although Yellowstone County supports the concept of encouraging timely tax payments, we cannot support this bill as it is currently written. The difficulties faced by smaller counties with less extensive investment programs would be even greater than our own.

- 1) The 5% discount would require an annualized investment return in excess of 10% simply to break even. If all taxpayers took advantage of this program, our county, the city of Billings and our school districts would lose \$400,000 - \$500,000, with more than \$240,000 of the loss being passed through to the schools alone.
- 2) Counties that have few investments yielding higher than standard savings account rates would suffer even larger percentage losses.
- 3) The proposed wording on page 2 is very unclear as to what amounts will be subject to discount.

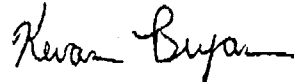
I request that the following amendments be considered by your committee:

-2-
1-31-89

- 1) Reduce the 5% to 3%. This would allow the counties to recover the loss through investments, preventing the average taxpayer from paying to allow others to take advantage of the discount program. It would also give the legislature the opportunity to put a discount program in place, gather information over the next two years from the counties as to participation and possibly adjust the 3% in the next session. I spoke to the former treasurer of Richland county, Gloria Paladichuk on this recommendation and she concurred.
- 2) Clear up the proposed language to state exactly what year's taxes will be eligible for the discount and what line items on the tax statements will be reduced. It is my assumption that the discount is intended to apply only to second-half general taxes only.

Thank you for your time and consideration.

Sincerely,



KEVAN BRYAN, CPA
Treasurer Yellowstone County

KB/jh

cc: Yellowstone County Commissioners

LAW OFFICES OF
PAULY & HOPGOOD, P.C.
833 NORTH LAST CHANCE GULCH
P.O. BOX 176
HELENA, MONTANA 59624

SENATE TAXATION

EXHIBIT NO. 5

DATE 2/1/89

BILL NO. SB190

PETER C. PAULY
TOM K. HOPGOOD

TELEPHONE (406) 442-0070
TELECOPIER (406) 443-3727

January 27, 1989

Senator Dorothy Eck
State Capitol Building
Helena, MT 59620

Re: SB 190 - Confidentiality of Realty Transfer Certificates

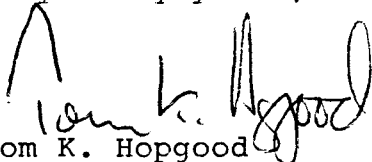
Dear Senator Eck:

Per your request, please find enclosed materials from the Montana Association of Realtors on the confidentiality of multi-list information.

Since most Multiple Listing Services in Montana are owned by local Boards of Realty, they must be in compliance with the enclosed policy in order to be covered by the blanket errors and omissions policy which the realtors offer.

If I can be of further assistance to you in this matter, please do not hesitate to let me know.

Very truly yours,


Tom K. Hopgood

TKH/kb
Enclosure

Demand for Access to the Board's Multiple Listing Service Without Board Membership

Member Policy Division of the National Association, and the recommended procedures will be provided to the Member Board with any other pertinent information or assistance. It is important that the State Association and National Association be advised immediately if such request or demand for access to the Board MLS as described is received.

Section 7.25 Participation in a Board Multiple Listing Service of a Branch Office Manager who is not a Principal of the Real Estate Firm

In the event a REALTOR® has a principal office in one Board and only a branch office in another Board, and the branch office manager is a REALTOR® Member of the second Board but is not a principal of the real estate firm with which he is affiliated, the branch manager shall be considered as "standing in the shoes of the principal," and shall be eligible for participation in the Multiple Listing Service of the Board where the branch office is located.

Section 7.26 Requirements by a Commercial and Investment Division Multiple Listing Service of a Board of REALTORS® for Participation in the CID MLS

Any Multiple Listing Service operated by a Member Board of REALTORS® shall be available for participation by any REALTOR® principal of a real estate firm without further qualification beyond membership in the Board, subject only to the REALTOR®'s written agreement to abide by the Rules and Regulations of the Multiple Listing Service and payment of the required fees and charges.

Section 7.27 No MLS Requirement for Listing Broker to Disclose Total Negotiated Commission

A Board Multiple Listing Service shall not have a rule requiring the listing broker to disclose the total negotiated commission in a listing contract and a Board Multiple Listing Service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant.*

*Refer to NOTE 1, Section 5, Division of Commissions, page 12-5, Section 12, this Handbook.

Section 7.28 Statistical Report Including "Comparables" Should be a Board Service

The Multiple Listing Policy Committee reaffirms its policy concerning making the statistical information on 'COMPARABLES' ('SOLD' information) a Board service and advises Member Boards that any statistical information available from the MLS or other sources concerning 'COMPARABLES' must be made accessible in nondiscriminatory fashion to all Members of the Board actively engaged in the real estate business as defined in Article III, Constitution, NATIONAL ASSOCIATION OF REALTORS®. Further, it is recommended that such Statistical Report ('Comparable Report,' or other similar reports) be made available with adequate detail and frequency as feasible in view of the Board's resources and abilities. With respect to the 'detail' the report could include the same general information as originally supplied to MLS Participants. It is strongly recommended that any irrelevant information such as the name of former or current owners, or information concerning the sales commission or the compensation offered or paid to sub-agents, be deleted.**

**Refer to Policy Statement 7-3, page 7-1, Section 7, this Handbook.

Section 7.29
**Charges for Providing
"Comparable"
Information to Board
Members Who Are
Not MLS Participants**

If a Board of REALTORS[®] incurs additional expenses in providing "comparable" information or reports of other statistical information to Board Members who are not affiliated with an MLS Participant, such expenses may be included in the price charged for such information.

Section 7.30
**"Comparable"
Information to
Government Agencies**

Member Boards are not required to provide their "comparable" report or other reports of statistical information to government agencies that do not hold Affiliate membership in the Board. Member Boards may provide such information to such agencies not holding such membership at the option of the Member Board.

Section 7.31
**Minimum Security
Measures for Common
Lock Box Systems of
Boards or Board
Multiple Listing
Services**

The following are the "Minimum Security Measures" for Common Lock Box Systems of Boards or Board Multiple Listing Services which must be adopted and implemented by the Board or Board MLS in order to have the protection of the Errors and Omissions Insurance Program of the NATIONAL ASSOCIATION OF REALTORS[®]:

1. Utilize any lock box system defined in this standard. Any common key shall be of a nonduplicative variety and such key or other means of access shall be issued only to persons authorized by the Rules and Regulations of the Board or MLS.
2. Common keys should be purchased from the original manufacturer or from another recognized vendor of lock box systems. If a Board or its Multiple Listing Service purchases used lock boxes, lids, or keys, the original manufacturer should be contacted to determine whether the key "code" or configuration is already in use by surrounding Boards or by other users in the vicinity of the Board. Further, surrounding Boards and Multiple Listing Services should be contacted to ensure that the key "code" or key configuration is not already being utilized by them. (paragraph added 4/85)
3. Have a written agreement between the Board or MLS and each Participant and each individual who is authorized to have a key or other means of access to any lock box system stipulating their respective responsibilities and liabilities provided the Participant shall be a signatory to each such agreement executed by a salesperson affiliated with him.
4. Maintain accurate, current records as to all keys or other means of access in inventory or issued to any authorized person.
5. Require a substantial deposit for each common key in such amount as to establish an awareness of personal liability for such key. The initial deposit shall not be less than \$25.00 nor more than \$100.00. Deposits for replacement keys lost or stolen shall be two (2) times the amount of the initial deposit. Deposits for keys shall be kept in a special account for refund upon return of a key unless forfeited upon loss of a key.
6. Require a notarized statement co-signed by the Participant and salesperson for each key or other means of access lost, stolen, or otherwise unaccounted for, with such report made

broker or his representative. However, the listing broker, at his option, may preclude such direct negotiations by the cooperating broker.

Section 2.1 PRESENTATION OF OFFERS: The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker (subagent) a satisfactory reason for not doing so.

Section 2.2 SUBMISSION OF WRITTEN OFFERS: The listing broker shall submit to the seller all written offers received prior to the time an offer is accepted by the seller.

Section 2.3 RIGHT OF COOPERATING BROKER IN PRESENTATION OF OFFER: The cooperating broker (subagent) or his representative shall have the right to be present when an offer he secures is presented by the listing broker to the seller.

Section 2.4 REPORTING SALES TO THE SERVICE: Sales shall be reported immediately to the Multiple Listing Service by the listing broker unless the negotiations were carried on under Section 2(a) or (b) hereof in which case the cooperating broker (subagent) shall report, sending a copy to the listing broker within 24 hours after acceptance.

(NOTE: The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its Participants.)

Section 2.5 REPORTING RESOLUTIONS OF CONTINGENCIES: The listing broker shall report to the Multiple Listing Service within 24 hours that a contingency on file with the Multiple Listing Service has been fulfilled or renewed, or the agreement cancelled.

Section 2.6 ADVERTISING OF LISTING FILED WITH THE SERVICE: A listing shall not be advertised by any Participant, other than the listing broker, without the prior consent of the listing broker.

Section 2.7 REPORTING CANCELLATION OF PENDING SALE: The listing broker shall report immediately to the Multiple Listing Service the cancellation of any pending sale and the listing shall be reinstated immediately.

Refusal to Sell

Section 3. REFUSAL TO SELL: If the seller of any listed property filed with the Multiple Listing Service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the Service and to all Participants.

Prohibitions

Section 4. INFORMATION FOR PARTICIPANTS ONLY: Any listing filed with the Service shall not be made available to any broker or firm not a Member of the MLS without the prior consent of the listing broker.

Section 4.1 "FOR SALE" SIGNS: Unless the listing broker and the seller agree otherwise, only the "For Sale" signs of the listing broker may be placed on the property.

Section 4.2 "SOLD" SIGNS: Only the "Sold" sign of the listing broker shall be placed on a property, except with the prior consent of the listing broker.

Section 4.3 SOLICITATION OF LISTING FILED WITH THE SERVICE: Participants shall not solicit a listing on property filed with the Service unless such solicitation is consistent with Article 21 of the REALTORS® Code of Ethics, its Standards of Practice and its Case Interpretations.

(NOTE 1: This Section is to be construed in a manner consistent with Article 21 of the Code of Ethics and particularly Standard of Practice 21-3. This Section is intended to encourage sellers to permit their properties to be filed with the Service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

until service charges or fees are paid in full.

(b) For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

(NOTE: Generally, warning, censure, and the imposition of a moderate fine is sufficient to constitute a deterrent to violation of the Rules and Regulations of the Multiple Listing Service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the Rules and Regulations of the Service.)

Meetings

Section 8. MEETINGS OF MLS COMMITTEE: The Multiple Listing Service Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairman.

Section 8.1 MEETINGS OF MLS PARTICIPANTS: The Committee may call meetings of the Participants in the Service to be known as meetings of the Multiple Listing Service.

Section 8.2 CONDUCT OF THE MEETINGS: The Chairman, or Vice Chairman, shall preside at all meetings or, in their absence, a temporary Chairman from the membership of the Committee shall be named by the Chairman or, upon his failure to do so, by the Committee.

Enforcement of Rules or Disputes

Section 9. CONSIDERATION OF ALLEGED VIOLATIONS: The Committee shall give consideration to all written complaints from Participants having to do with violations of the Rules and Regulations.

Section 9.1 VIOLATIONS OF RULES AND REGULATIONS: If the alleged offense is a violation of the Rules and Regulations of the Service and does not involve a charge of alleged professional misconduct or request for arbitration, it may be considered and determined by the Multiple Listing Service Committee, and if a violation is determined, the Committee may direct the imposition of sanction, provided the recipient of such sanction may appeal it to the Professional Standards Committee of the Board for a hearing by the Professional Standards Committee in accordance with the Bylaws of the Board of REALTORS®.*

*NOTE: (This NOTE is provided for use by any Board MLS where access to the Board MLS by Non-Board Members is required by law or is granted by the Board pending judicial determination of the Board's right to require Board Membership as a prerequisite to participation in the Board MLS.)

"In any instance where a Non-Board Member who is a Participant in the Board's Multiple Listing Service is charged with a violation of the MLS Rules and Regulations, and after a hearing by the MLS Committee, refuses to accept any sanction or discipline proposed, the circumstances and the discipline proposed shall be referred to the Board of Directors of the Board of REALTORS® which shall, if it deems the findings of violation proper and the sanction appropriate to the offense, delay the effective date of sanction until final entry by a court of competent jurisdiction in a suit filed by the Board for declaratory relief, except in those states where declaratory relief is not available, declaring that the disciplinary action and proposed sanction violates no rights of the Multiple Listing Service Participant."

Section 9.2 COMPLAINTS OF PROFESSIONAL MISCONDUCT: All other complaints of professional misconduct shall be referred by the Committee to the Secretary of the Board of REALTORS® for appropriate action in accordance with the professional standards procedures established in the Board's Bylaws.

Confidentiality of MLS Information

Section 10. CONFIDENTIALITY OF MLS INFORMATION: Any information provided by the Multiple Listing Service to the Participants shall be considered official information of the Service. Such information shall be considered confidential and exclusively for the use of Participants authorized and qualified to act as subagents of the listing broker in the sale of property filed with the Service and real estate licensees affiliated with such Participants.

Section 10.1 MLS NOT RESPONSIBLE FOR ACCURACY OF INFORMATION: The information published and disseminated by the Service is communicated verbatim, without change by the Service, as filed with the Service by the Participant. The Service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the Service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

Section 10.2 ACCESS TO COMPARABLE AND STATISTICAL INFORMATION: Board Members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the MLS, are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the MLS including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Board Members and individuals affiliated with Board Members who are also engaged in the real estate business and may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm except as otherwise provided in these Rules and Regulations.

Ownership of MLS Compilations* and Copyrights

Section 11. By the act of submission of any property listing data to the Board MLS the Participant represents that he has been authorized to grant and also thereby does grant authority for the Board to include the property listing data in its copyrighted MLS compilation and also in any statistical report on "Comparables."

Section 11.1 All right, title, and interest in each copy of every Multiple Listing Compilation created and copyrighted by the _____ Board of REALTORS®, and in the copyrights therein, shall at all times remain vested in the _____ Board of REALTORS®.

Section 11.2 Each Participant shall be entitled to lease from the _____ Board of REALTORS® a number of copies of each MLS Compilation sufficient to provide the Participant and each person affiliated as a licensee with such Participant with one copy of such Compilation. The Participant shall pay, for each such copy, the rental fee set by the Board.**

Participants shall acquire by such lease only the right to use the MLS Compilations in accordance with these rules.

* The term MLS Compilation, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer data base, card file, or any other format whatever.

** This section should not be construed to require the Participant to lease a copy of the MLS Compilation for any licensee affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing and selling real property, and who does not, at any time, have access to nor use of the MLS information or MLS facility of the Board.

Use of Copyrighted MLS Compilations

Section 12. DISTRIBUTION: Participants shall at all times maintain control over and responsibility for each copy of any MLS Compilation leased to them by the Board of REALTORS®, and shall not distribute any such copies to persons other than persons who are affiliated with such Participant as licensees.

Section 12.1 DISPLAY: Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS Compilation.

OPTION #1

Section 12.2 REPRODUCTION: Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable* number of single copies of property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, "sold" information, "comparables", or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Multiple Listing Service has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

* It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term "reasonable," as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchasers' decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent, and thus "reasonable" in number, shall include, but are not limited to, the total number of listings in the MLS Compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

OPTION #2

Section 12.2 REPRODUCTION: Participants or their affiliated licensees shall not reproduce any MLS Compilation or any portion thereof except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the MLS Compilation, and distribute to prospective purchasers, a reasonable* number of single copies of property listing data contained in the MLS Compilation which relate to any properties in which the prospective purchasers are, or may, in the judgment of the Participants or their affiliated licensees, be interested.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted or provided in any manner to any unauthorized individual, office or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, "sold" information, "comparables", or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client.

However, only such information that a Board or Board-owned Multiple Listing Service has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these Rules and Regulations.

- * It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term "reasonable," as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchasers' decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent, and thus "reasonable" in number, shall include, but are not limited to, the total number of listings in the MLS Compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

OPTION #3

Section 12.2 REPRODUCTION: Participants or their affiliated licensees shall under no circumstances reproduce any MLS Compilation or any portion thereof.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

(NOTE: Concerning Rule 12.2, Member Boards are advised to select one rule from the three alternatives that are presented as Options 1, 2, and 3, taking into consideration any policy that may have been established or any recommendations or suggestions from the appropriate State Association as well as the needs and practices of the local Member Board.)

Use of MLS Information

Section 13. LIMITATIONS ON USE OF MLS INFORMATION: Use of information from the MLS compilation of current listing information, from the Board's "Statistical Report," or from any "sold" or "comparable" report of the Board or MLS for public mass media advertising by an MLS Participant or in other public representations purporting to demonstrate the Participant's market share based on the sales reported through the MLS may not be prohibited, provided, however, that neither the Board nor the MLS is cited in such advertising or representations as the source of such information. This shall not preclude the Participant's use of such information for internal management purposes.

Changes in Rules and Regulations

Section 14. CHANGES IN RULES AND REGULATIONS: Amendments to the Rules and Regulations of the Service shall be by a _____ vote of the Members of the Multiple Listing Service Committee, subject to approval by the Board of Directors of the Board of REALTORS®.

(NOTE: Some Boards may prefer to change the Rules and Regulations by a vote of the Participants subject to approval by the Board of Directors of the Board of REALTORS®.)

