

SENATE BILL NO. 150

INTRODUCED BY BISHOP

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE SENATE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 21, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 23, 1989	PRINTING REPORT.
	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY.
JANUARY 25, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 26, 1989	PRINTING REPORT.
JANUARY 27, 1989	SECOND READING, DO PASS.
JANUARY 28, 1989	ENGROSSING REPORT.
JANUARY 30, 1989	THIRD READING, PASSED. AYES, 48; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 30, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT.
FEBRUARY 20, 1989	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

MARCH 4, 1989

SECOND READING, CONCURRED IN.

MARCH 6, 1989

THIRD READING, CONCURRED IN.
AYES, 87; NOES, 8.

RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Sen. Bishop* BILL NO. 150
2 INTRODUCED BY *Bishop*
3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE
6 ATTORNEY-IN-FACT EXEMPTION FROM REAL ESTATE BROKER AND
7 SALESMAN LICENSE REQUIREMENTS; AND AMENDING SECTION
8 37-51-103, MCA."
9

10 WHEREAS, the Legislature of the State of Montana finds
11 that there presently is an attorney-in-fact exemption from
12 the requirement that a person be licensed as a real estate
13 broker or salesman;

14 WHEREAS, the Legislature of the State of Montana finds
15 that there is a potential use of the attorney-in-fact
16 exemption by certain persons on a regular or consistent
17 basis, thereby allowing those persons to avoid license
18 requirements and negating adequate safeguards to the public.

19 THEREFORE, the Legislature of the State of Montana
20 finds it appropriate to limit the attorney-in-fact
21 exemption.
22

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 **Section 1.** Section 37-51-103, MCA, is amended to read:

25 "37-51-103. Exemptions. A single act performed for a

1 commission or compensation of any kind in the buying,
2 selling, exchanging, leasing, or renting of real estate or
3 in negotiating therefor for others, except as hereinafter
4 specified, shall constitute the person performing any of
5 such acts a real estate broker or real estate salesman. The
6 provisions of this chapter, however, shall not:

7 (1) apply to any person who, as owner or lessor, shall
8 perform any of the aforesaid acts with reference to property
9 owned or leased by himself or to an auctioneer employed by
10 the owner or lessor to aid and assist in conducting a public
11 sale held by such owner or lessor;

12 (2) apply to any person acting as attorney-in-fact
13 under the duly executed power of attorney from the owner of
14 any real estate authorizing the final consummation of any
15 contract for the purchase, sale, exchange, renting, or
16 leasing of any real estate, unless the person acting as
17 attorney-in-fact does so regularly or consistently for any
18 owner or lessor, for or with the expectation of receiving a
19 fee, commission, or other valuable consideration;

20 (3) be construed to include in any way the services
21 rendered by any attorney at law in the performance of his
22 duty as such attorney at law;

23 (4) apply to any person duly appointed by a court for
24 purpose of evaluation or appraising an estate in a probate
25 matter;

LC 0513/01

1 (5) be held to include, while acting as such, a
2 receiver, a trustee in bankruptcy, an administrator or
3 executor, any person selling real estate under order of any
4 court, a trustee under a trust agreement, deed of trust, or
5 will, or an auctioneer employed by a receiver, trustee in
6 bankruptcy, administrator, executor, or trustee to aid and
7 assist in conducting a public sale held by any such officer;

8 (6) apply to public officials in the conduct of their
9 official duties;

10 (7) apply to any person, partnership, association, or
11 corporation, foreign or domestic, performing any act with
12 respect to prospecting, leasing, drilling, or operating land
13 for hydrocarbons and hard minerals or disposing of any
14 hydrocarbons, hard minerals, or mining rights therein,
15 whether upon a royalty basis or otherwise; or

16 (8) apply to persons acting as managers of housing
17 complexes for low-income persons, which are subsidized,
18 directly or indirectly, by this state or an agency or
19 subdivision thereof or by the government of the United
20 States or an agency thereof."

21 NEW SECTION. **Section 2. Extension of authority.** Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

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A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~LIMIT~~ GENERALLY
REVISE THE ATTORNEY-IN-FACT EXEMPTION FROM REAL ESTATE
BROKER AND SALESMAN LICENSE REQUIREMENTS; AND AMENDING
SECTION 37-51-103, MCA."

WHEREAS, the Legislature of the State of Montana finds
that there presently is an attorney-in-fact exemption from
the requirement that a person be licensed as a real estate
broker or salesman; AND

WHEREAS, the Legislature of the State of Montana finds
that there is a potential use of the attorney-in-fact
exemption by certain persons on a regular or consistent
basis, thereby allowing those persons to avoid license
requirements and negating adequate safeguards to the
public; AND

~~THEREFORE, the legislature of the State of Montana
finds it appropriate to limit the attorney-in-fact
exemption.~~

WHEREAS, THE LEGISLATURE OF THE STATE OF MONTANA FINDS
THE PRESENT ATTORNEY-IN-FACT EXEMPTION IS LIMITED TO ONE
BASED ON A SPECIAL POWER OF ATTORNEY; AND

WHEREAS, THE LEGISLATURE OF THE STATE OF MONTANA FINDS
THAT THE ATTORNEY-IN-FACT EXEMPTION FROM THE REQUIREMENT
THAT A PERSON BE LICENSED AS A REAL ESTATE BROKER OR
SALESMAN SHOULD BE EXPANDED TO INCLUDE A GENERAL POWER OF
ATTORNEY.

THEREFORE, THE LEGISLATURE OF THE STATE OF MONTANA
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EXEMPTION TO INCLUDE ONE BASED ON A GENERAL POWER OF
ATTORNEY AND TO LIMIT ALL ATTORNEY-IN-FACT EXEMPTIONS TO
OCCASIONAL USE UNDER CIRCUMSTANCES IN WHICH IT IS REASONABLY
CERTAIN THAT ADEQUATE SAFEGUARDS TO THE PUBLIC ARE
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such acts a real estate broker or real estate salesman. The
provisions of this chapter, however, shall not:

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perform any of the aforesaid acts with reference to property
owned or leased by himself or to an auctioneer employed by

1 the owner or lessor to aid and assist in conducting a public
2 sale held by such owner or lessor;

3 (2) apply to any person acting as attorney-in-fact
4 under the A duly executed SPECIAL OR GENERAL power of
5 attorney from the owner of any real estate authorizing the
6 final consummation of any contract for the purchase, sale,
7 exchange, renting, or leasing of any real estate, unless the
8 person acting as attorney-in-fact does so regularly or
9 consistently for any-owner-or-lessor A PERSON OR PERSONS,
10 for or with the expectation of receiving a fee, commission,
11 or other valuable consideration IN CONJUNCTION WITH A
12 BUSINESS OR FOR THE PURPOSE OF AVOIDING LICENSE
13 REQUIREMENTS;

14 (3) be construed to include in any way the services
15 rendered by any attorney at law in the performance of his
16 duty as such attorney at law;

17 (4) apply to any person duly appointed by a court for
18 purpose of evaluation or appraising an estate in a probate
19 matter;

20 (5) be held to include, while acting as such, a
21 receiver, a trustee in bankruptcy, an administrator or
22 executor, any person selling real estate under order of any
23 court, a trustee under a trust agreement, deed of trust, or
24 will, or an auctioneer employed by a receiver, trustee in
25 bankruptcy, administrator, executor, or trustee to aid and

1 assist in conducting a public sale held by any such officer;

2 (6) apply to public officials in the conduct of their
3 official duties;

4 (7) apply to any person, partnership, association, or
5 corporation, foreign or domestic, performing any act with
6 respect to prospecting, leasing, drilling, or operating land
7 for hydrocarbons and hard minerals or disposing of any
8 hydrocarbons, hard minerals, or mining rights therein,
9 whether upon a royalty basis or otherwise; or

10 (8) apply to persons acting as managers of housing
11 complexes for low-income persons, which are subsidized,
12 directly or indirectly, by this state or an agency or
13 subdivision thereof or by the government of the United
14 States or an agency thereof."

15 NEW SECTION. Section 2. Extension of authority. Any
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1 the owner or lessor to aid and assist in conducting a public
2 sale held by such owner or lessor;

3 (2) apply to any person acting as attorney-in-fact
4 under the A duly executed SPECIAL OR GENERAL power of
5 attorney from the owner of any real estate authorizing the
6 ~~final consummation of any contract for the~~ purchase, sale,
7 exchange, renting, or leasing of any real estate, unless the
8 person acting as attorney-in-fact does so regularly or
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18 purpose of evaluation or appraising an estate in a probate
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21 receiver, a trustee in bankruptcy, an administrator or
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24 will, or an auctioneer employed by a receiver, trustee in
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6 respect to prospecting, leasing, drilling, or operating land
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8 hydrocarbons, hard minerals, or mining rights therein,
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17 provisions of [this act] is extended to the provisions of
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SENATE COMMITTEE OF THE WHOLE AMENDMENT

February 10, 1989 4:08 pm

Mr. President: I move to amend^{the} Senate Committee on Business and Industry amendments to HB 150 (third reading copy -- blue) dated February 6, 1989, as follows:

1. Page 1.

Strike: section 2 in its entirety

2. Page 2, NEW SECTION.

Following: "Section"

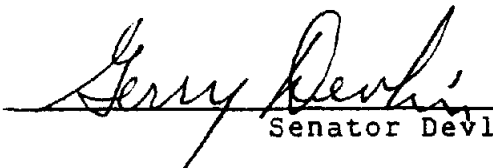
Strike: "3"

Insert: "2"

ADOPT

REJECT

Signed: _____


Senator Devlin

SENATE

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