

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 21, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on March 21, 1985 at 8:00 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present with the exception of Representative Norm Wallin, who was excused by the chairman.

SENATE BILL 450: Hearing commenced on Senate Bill 450. Senator Chris Christiaens, District #17, sponsor of the bill, explained this expands the definition of "regulated lenders" to include consumer loan licenses and exempts those licensees from the usury limits.

Proponent Jerry Loendorf, representing the Montana Consumer Finance Association, stated lenders are subject to and regulated by both federal and state government. Financial institutions currently package loans with numerous fees and consumer loans may do the same. State and federal government have deregulated lenders so they may compete. Bank holding companies are also deregulated. Senate Bill 450 puts consumer loans on an even basis with other lending institutions.

Representative Driscoll asked Jerry Loendorf what the maximum interest is that can be charged in Montana. Mr. Loendorf explained that there is no limit.

There being no further discussion by proponents and no opponents present, all were excused by the chairman and the hearing on Senate Bill 450 was closed.

SENATE BILL 239: Hearing commenced on Senate Bill 239. Senator Ray Lybeck, District #4, sponsor of the bill, stated this revises the law on future advances under a mortgage to allow the total amount secured to decrease or increase but the total secured may never exceed the face amount of the mortgage plus interest.

Proponent Julie Begler, representing the Montana Bankers Association and a loan officer at Norwest Bank in Helena, explained that banks charge for all services and Senate Bill 239 will extend the line of credit for five years.

There being no further discussion by proponents and no

opponents present, both were excused by the chairman and the hearing on Senate Bill 239 was closed.

SENATE BILL 353: Hearing commenced on Senate Bill 353. Senator Ray Lybeck, District #4, sponsor of the bill, explained this gives preference for loans under the Montana In-State Investment Act of 1983 to companies at least 51 percent owned by Montanans who are employed by the company to assist in providing new jobs or in preserving existing jobs. This will assist employee buyouts and provides a more flexible buyout for employees.

Proponent Ralph Yeager, Administrative Assistant, Governor's Council on Economic Development, Department of Commerce, explained that employee ownership equals new jobs. Assistance has recently been given to three firms who employ over 600 individuals. The credit criteria will not change, an employee must still meet the credit guidelines.

Representative Ray Brandewie, District #49, offered his support of the bill.

In closing, Senator Lybeck, stated the Arco plant is facing difficulty in keeping the plant operating. There has been talk of employees buying out the plant, but they do not have the expertise to do so.

Representative Thomas asked Senator Lybeck how this will work. Senator Lybeck explained that a preference will be given these individuals by the department which will make it feasible for them to go through with a plan.

Representative Schultz asked Ralph Yeager where money would be found to buyout Arco. Mr. Yeager stated that through the department and the "Build Montana" fund there may not be sufficient dollars and that the coal tax fund could possibly assist.

Representative Ellerd asked Ralph Yeager where the Montana In-State Investment Act money comes from. Mr. Yeager explained that it comes from the Montana Economic Development Board and the coal tax fund.

Representative Kadas asked Ralph Yeager if this applies to feasibility studies or just investments. Mr. Yeager stated it will apply to investments under the Montana Economic Development Board in addition to current preference criteria.

Representative Jones asked Byron Roberts if a plan can be

worked out for the employees of Arco. Mr. Roberts stated there are outside economic factors involved, but they are doing everything possible to work with the local people.

Senator Lybeck added that tax incentives and the generating of more jobs are factors. Those who own their own business prove to work harder and longer.

There being no further discussion by proponents and no opponents present, all were excused by the chairman and the hearing on Senate Bill 353 was closed.

SENATE BILL 250: Hearing commenced on Senate Bill 250. Senator Joe Mazurek, District #23, sponsor of the bill, by request of the Board of Realty Regulation, explained this allows the board to assess a fee on licenses as required to maintain the real estate recovery account established in the bill at no less than \$100,000. Payments may be made from the account to pay an unsatisfied judgment against a licensee but not more than \$25,000 for any licensee. The account is established by transferring \$100,000 from the state special revenue fund, and the board must assess each license \$35.00 on the 1986 renewal of license. Currently a realtor must purchase a \$10,000 bond annually to pay for any judgment. A claimant may not go after the fund until a diligent effort has been made to collect against the realtor. The Board of Realty Regulation may go back against the realtor to try and collect. This is not putting the state into the insurance profession and no other profession has this requirement imposed upon them, added Senator Mazurek.

Proponent Lon Mitchell, Administrative Assistant, Board of Realty Regulation, Department of Commerce, explained that over 30 states have recovery funds. This will save licensees money and a one time assessment is anticipated. The bill will better protect the public by allowing \$25,000 coverage versus \$10,000. The board would now be aware of any claim that is filed. The state is not going into the insurance business, the legislature has mandated realtors to be insured. Mr. Mitchell distributed to committee members Exhibit 1 which is attached hereto.

Proponent John Dudis a members of the Board of Realty Regulation, stated this bill will enable the public to be more adequately protected.

Proponent George Pierce, Chairman, Billings Board of Realty Regulation, explained this will give the public more coverage at a lower cost.

Proponent Terry Carmody, Executive Vice-President, Montana Association of Realtors, supplied written testimony which is attached hereto as Exhibit 3. Mr. Carmody also distributed to committee members Exhibit 4 which is attached hereto.

Proponent William Spilker, a broker with 11 licensees in this company, stated he is a strong advocate of free enterprise. The legislature has imposed the bonding requirement on the industry and they now have the opportunity to provide for themselves and expand the protection to the public.

Opponent Fritz Gillespie, supplied written testimony which is attached hereto as Exhibit 4. Mr. Gillespie also proposed amendments to the bill and explained the same.

Opponent Glen Drake, representing the American Insurance Association, stated a realtor has unlimited exposure. This is creating a reciprocal insurance company whereby all members are jointly and severally liable for the acts of others. This is not proper legislation and no other profession requires members to pay for the debts of others.

Representative Hansen asked Senator Mazurek who will decide on damages. Senator Mazurek stated the board will.

Representative Brandewie asked Fritz Gillespie what the average payout per year is of a bonding company. Mr. Gillespie explained that he sells about 1/3 to 1/2 of all bonds in the state. In 1984 \$18,400 was paid out in claims and only \$250 has been salvaged.

Representative Brandewie then asked Mr. Gillespie if all surety companies require a financial statement prior to bond issuance. Mr. Gillespie explained that the cost of a bond is \$50 annually or \$100 for three years and the purpose for this bond is to protect the public. When a license is issued by the board, the bonding company does not know if this person is solvent or not.

Representative Schultz asked Terry Carmody if realtors carry only \$15,000 in liability bonding. Mr. Carmody explained that only \$10,000 is required but 75% of the licensees generally carry 1 million dollars of errors and omissions insurance.

Representative Schultz asked Senator Mazurek if this will

preclude an individual from taking a broker to court. Senator Mazurek stated that an individual may still go through the court system.

Representative Kadas asked Lon Mitchell where the interest will go that the fund collects. Mr. Mitchell stated it will remain with the state revenue account and if the board decides to use it for educational purposes they may do so.

Representative Ellerd asked Fritz Gillespie if a bonding request has ever been turned down. Mr. Gillespie did not know.

Representative Ellerd addressed the same question to Terry Carmody. Mr. Carmody stated that those in the industry say they are not aware of anyone being turned down. If you work for a good broker, you will get your bond with little or no investigation.

Representative Simon asked Fritz Gillespie the number of claims per year for the past ten years. Mr. Gillespie stated the claims run between approximately \$15,000 and \$18,000 per year.

Representative Simon asked Terry Carmody if he had any figures on the number of bonds that have been forfeited. Mr. Carmody stated he has never been able to find one.

Representative Simon addressed the same question to Lon Mitchell. Mr. Mitchell explained that he is not aware of any forfeitures.

Representative Simon asked Lon Mitchell if the board is notified when a claim is filed. Mr. Mitchell stated they get no feed-back from the bonding companies. A consumer will call when a claim is not being handled expeditiously.

Representative Hansen asked Senator Mazurek why the money in the fund is not used for continuing education. Senator Mazurek stated that 37-51-204 will authorize the board to do so.

Representative Brandewie asked Lon Mitchell how many licensees Montana has. Mr. Mitchell stated there are 5,391.

Representative Brown asked Senator Mazurek if any of the proposed amendments are acceptable. Senator Mazurek stated he would like to look at them.

In closing, Senator Mazurek, stated by mandate the realtors

must purchase a bond and Senate Bill 250 will still provide for public protection, we should allow the realtors to set up their own system.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on Senate Bill 250 was closed.

SENATE BILL 323: Hearing commenced on Senate Bill 323. Senator Tom Hager, District #48, sponsor of the bill, by request of the Board of Professional Engineers and Land Surveyors, stated this revises the occupational licensing law in regard to engineers and land surveyors.

Proponent Maurice Guay, a member of the board of professional engineers and land surveyors, stated this is a housekeeping bill. Mr. Guay explained and went through the bill with the committee, commenting on the reason for the changes.

Proponent Robert S. Custer, representing the Montana Association of Registered Land Surveyors, offered his support of the bill.

Representative Schultz asked Senator Hager what the difference between a registered and professional engineer is. Senator Hager explained they are one in the same.

Representative Glaser asked Sonny Hanson if the provision in Section 5 means all officers in a corporation must be registered, professional engineers. Mr. Hanson explained that no, this means the plans and drawing signed as an individual must have the corporate stamp.

Representative Glaser asked Mr. Hanson if a mother and father helped a son set up a shop, must they be engineers to do so. Mr. Hanson stated they need not be engineers and the son would be responsible.

There being no further discussion by proponents and no opponents present, all were excused by the chairman and the hearing on Senate Bill 323 was closed.

ACTION ON SENATE BILL 239: Representative Kitselman moved DO PASS on Senate Bill 239. Second was received, Senate Bill 239 will BE CONCURRED IN by unanimous vote.

ACTION ON SENATE BILL 450: Representative Simon moved DO PASS ON Senate Bill 450. Second was received, Senate Bill 450 will BE CONCURRED IN by unanimous vote.

ACTION ON SENATE BILL 325: Representative Schultz stated that nobody in the eastern portion of the state had been contacted concerning this issue. There are 1.64 people per square mile in this area and they have a number of concerns. The 25 cent fee will be collected even though the service will not be provided until July, 1987. Representative Schultz distributed to committee members his proposed amendments which are attached hereto as Exhibit 5. Senator Van Valkenburg stated the amendments do not allow anything to happen until July, 1987, and asked the committee to change the 1987 to 1985 if the amendments are adopted. If the concern is for the rural co-ops, we should exempt them from the bill. Mr. Jay Downen, representing the Montana Telephone Association of Independent Communities, explained they want to see the 9-1-1 system, but a one year period is not sufficient time to implement this. Two years is the minimum amount of time that is needed. Representative Simon asked Senator Van Valkenburg if everyone in Billings will be charged the 25 cent fee even though they currently have 9-1-1 service. Senator Van Valkenburg stated this is correct and state-wide service will be provided and Billings will get a portion of the funds back to enhance their current system. Representative Kadas asked Senator Van Valkenburg if the bill could become effective July, 1987 and the 25 cent charge be optional until then. Senator Van Valkenburg stated the rural telephone people were notified of this bill in October and told the system would be put in place by July, 1985. The senator suggested rural co-ops be exempt until July, 1987. Representative Glaser asked Senator Van Valkenburg what this will provide for Billings. The senator stated when they travel to other portions of the state they will know the number to call and not only Billings but everyone will be spending additional money. The provider will receive the cost incurred for the cost imposed, added Senator Van Valkenburg. Representative Driscoll asked the senator who will get the money in Billings. Senator Van Valkenburg stated the money will first go to telephone equipment changes and then to the entity who provides the service. Representative Kitselman asked Jay Downen if while the co-ops are in the process of updating equipment, if the service could be provided for free and in two years purchase new equipment. Mr. Downen stated the 5-1-1 system is used in instances and they first heard of this legislation in October and looked into changing the software, but need to get fire, police and ambulance services. Representative Schultz asked Mr. Downen if the suggestion of Senator Van Valkenburgs presented a problem. Mr. Downen stated they do not want to be singled out. Representative Brown commented to Senator

Van Valkenburg that this seems to be a very inefficient way of implementing the system. Senator Van Valkenburg stated they need to bring local people together and in Missoula this took 10 years to implement. Representative Kitselman added that in Billings the sheriff is involved and there may be a conflict with the state reimbursing the city. Representative Schultz moved DO PASS and moved the amendments. Representative Kadas asked Representative Schultz why Senator Van Valkenburg's amendment is unacceptable, it may make more sense. Representative Schultz stated this would strip the RTA's from the bill and by doing so they may not continue to show interest. Senator Van Valkenburg stated that if his amendment is adopted and stripped on the floor, he would reject this bill in the senate. Question being called, a roll call vote resulted in 12 members voting yes and 7 members voting no on Representative Schultz' amendments. Representative Brown asked if the bill fails what will happen. Senator Van Valkenburg stated nothing will happen. Representative Kitselman stated it can be brought back in two years. Representative Simon added that the Billings pays for itself and it is unfair to those that currently have a system. Representative Pavlovich asked how Billings and Missoula got their systems, which was answered by themselves. Representative Brandewie stated that for \$3 per year, kids can know the telephone number to call and have safety and many times an operator does not know where to refer the call to. Representative Kitselman stated he is not opposed to the concept, but why doesn't Kalispell do it themselves. Representative Thomas stated there have been massive changes in the telephone system and that a lot of the time you can not get the telephone number. In Billings you wouldn't know if you were getting the city/county or what. Representative Driscoll moved Senator Van Valkenburg's amendment on page 5, line 3. The amendment did pass by unanimous vote. Senate Bill 325 will BE CONCURRED IN AS AMENDED with all but Representatives Glaser, Hart, Howe, Kitselman, Nisbet and Simon voting yes.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 11:20 a.m.


Rep. Bob Pavlovich,
Chairman

DAILY ROLL CALL
 BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 21, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormick	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin			✓

STANDING COMMITTEE REPORT

March 21

19 85

MR. **SPEAKER**

We, your committee on **BUSINESS AND LABOR**

having had under consideration **SENATE**

Bill No. **239**

third reading copy (blue)
color

**FUTURE ADVANCES; MORTGAGE TO SECURE LINE OF CREDIT;
VARYING BALANCES**

Respectfully report as follows: That **SENATE**

Bill No. **239**

~~DO PASS~~
BE CONCURRED IN

STANDING COMMITTEE REPORT

March 21 19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration SENATE Bill No. 450

third reading copy (blue)
color

CONSUMER LOAN LICENSES INCLUDED AS REGULATED LENDERS

Respectfully report as follows: That SENATE Bill No. 450

~~DOPASKX~~
BE CONCURRED IN

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE March 21, 1985 BILL NO. 325 TIME _____

NAME	AYE	NAY
Bob Pavlovich		✓
Les Kitselman	✓	
Bob Bachini	✓	
Ray Brandewie		✓
Jan Brown	✓	
Jerry Driscoll		✓
Robert Ellerd	✓	
William Glaser	✓	
Stella Jean Hansen		✓
Marjorie Hart	✓	
Ramona Howe	✓	
Tom Jones	✓	
Mike Kadas		✓
Vernon Keller	✓	
Lloyd McCormick		
Jerry Nisbet		✓
James Schultz	✓	
Bruce Simon	✓	
Fred Thomas		✓
Norm Wallin	✓	

Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: 12-7

Amendments introduced by Rep. Schultz

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE March 21, 1985 BILL NO. 325 TIME _____

NAME	AYE	NAY
Bob Pavlovich	✓	
Les Kitseiman		✓
Bob Bachini	✓	
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll	✓	
Robert Ellerd	✓	
William Glaser		✓
Stella Jean Hansen	✓	
Marjorie Hart		✓
Ramona Howe		✓
Tom Jones	✓	
Mike Kadas	✓	
Vernon Keller		✓
Lloyd McCormick	✓	
Jerry Nisbet		✓
James Schultz	✓	
Bruce Simon		✓
Fred Thomas	✓	
Norm Wallin	✓	

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: 13-7 Do Pass As Amended

SUMMARY SHEET
REAL ESTATE RECOVERY FUND BILL

Exhibit 1
3/21/85
SB250
Submitted by:
Lon Mitchell

I. Summary of Bill Provisions

- A. A real estate recovery fund with a minimum balance of \$100,000 is established. There is no maximum amount for the fund. Excess monies not necessary to pay claims against the fund may be used, at the discretion of the Board of Realty Regulation, for educational purposes as specified in Section 37-51-204, MCA.
- B. The purpose of the fund will be to provide a source of money whereby members of the public who have been injured through the actions of real estate licensees for the conversion of trust funds (or arising out of any act or transaction for which a license is required) may receive compensation. NOTE, however, that this fund is not intended to serve as a substitute for any errors and omissions insurance which should be carried by the individual licensee.
- C. This fund is strictly a source of last resort. Before seeking compensation from the fund, the injured party must have first obtained a court judgment for damages and must have done everything reasonably possible to collect that judgment from the assets of the licensee involved.
- D. Recovery from the fund will be granted only upon order of the court which granted the original judgment and only after a hearing by that court. Both the judgment debtor and the Board of Realty Regulation have the opportunity to appear at that hearing.
- E. Recovery against any one licensee or involving any single transaction is limited to \$25,000.
- F. Initial funding will be provided by the Board, but will be recovered through assessments levied against the licensees. Beginning with the 1986 renewals, every licensee who pays a renewal fee for the 1986 calendar year (except for those who are placed on "inactive status"), will pay a one-time assessment of \$35. Thereafter, only new licensees will pay the \$35 fee which will be submitted at the time of issuance of their license. The bill is designed to assess every licensed individual only once except in the event that the balance in the fund drops below \$100,000. In that case, all active licensees would be assessed as necessary to restore the minimum balance of the fund.

- G. Section 37-51-304, MCA, which requires that all licensees provide a surety bond in the amount of \$10,000, will be deleted.

II. Financial Projections

- A. Initial one-time assessment for all licensees should generate approximately \$140,000. After reimbursement of the initial \$100,000 to the Board's earmarked revenue fund the balance of the recovery fund will be approximately \$140,000.
- B. Thereafter, assessments of new licensees should generate approximately \$29,750 per year.
- C. Very sketchy information received from companies issuing the present bonds indicates that total claims paid from the recovery fund should average between \$20,000 and \$25,000 per year. This average would mean that no additional assessments would be necessary for future renewals of active licensees.

III. Benefits of Replacing Present Bonds with Recovery Fund

- A. Timesavings for Board staff - The staff for the Board of Realty Regulation presently processes in excess of 600 bonds per year. A significant amount of time is spent each year for administration of the present bonding requirement. This time is spent in the following fashion: 1) Insuring that the bond accompanies all applications for original licensure and handling follow-up correspondence with the licensee when a bond is not properly submitted; 2) Handling follow-up correspondence with the licensee when a bond is cancelled or expires; 3) Reviewing bonds received to insure that they are valid which involves sending all bonds received to the Office of the State Insurance Commissioner.
- B. Time savings for staff of State Insurance Commissioner - Presently all bonds received by the Board must be reviewed for proper format and signatures. Again, a significant amount of time is spent reviewing over 600 bonds per year.
- C. Cost reduction for licensees - The licensees presently pay approximately \$33 per year for the bonds. Under the bill as drafted, they would pay a one-time assessment of \$35. Passage of the recovery fund bill will not put the State into the insurance business competing with private suppliers. It simply provides a means whereby the licensees will, in essence, be self-insured thereby escaping that portion of their bond premium

representing profit and overhead for the insurers. In addition, the licensees will save a considerable amount of time presently spent in complying with the bonding requirement. Specifically, the turn around time in getting the bonds reviewed by the Insurance Commissioner will be eliminated.

- D. Additional protection for the public - Recovery under the present bonds is limited to \$10,000 per licensee. Under the proposed bill, an injured party could recover up to \$25,000 on a single transaction.

IV. Comparable Statutes (surrounding states).

- A. Currently, in excess of 30 states have recovery funds - all apparently functioning well.
- B. Idaho
 - 1. Established in 1971
 - 2. Minimum balance of recovery fund is \$20,000
 - 3. Recovery limit is \$2,000 per licensee per year
 - 4. Fund also includes education
- C. South Dakota
 - 1. Established in 1977
 - 2. Minimum balance of recovery fund is \$50,000
 - 3. Recovery limit is \$15,000 per claimant and per licensee
- D. North Dakota
 - 1. Established in 1977
 - 2. Minimum balance of recovery fund is \$60,000
 - 3. Recovery limit is \$15,000 per transaction regardless of number of injured parties or licensees involved
 - 4. Fund also includes education and research
- E. Wyoming
 - 1. Date established unknown
 - 2. Minimum balance of recovery fund is \$50,000
 - 3. Recovery limit is \$4,000 per licensee
- F. Colorado
 - 1. Established in 1972
 - 2. No minimum balance of recovery fund
 - 3. Recovery limit is \$50,000 per licensee and per transaction if more than one licensee is involved
- G. Utah
 - 1. Established 1976
 - 2. Minimum balance of recovery fund is \$100,000
 - 3. Recovery limit is \$10,000 per licensee
 - 4. Fund also includes education and research



MONTANA
ASSOCIATION
OF REALTORS®

Exhibit 2
3/21/85 SB250

EXECUTIVE OFFICE
910 HELENA AVENUE
HELENA, MONTANA 59601
TELEPHONE:
(406) 443-4032

TESTIMONY FOR SB 250

by
Terry Carmody

I am Terry Carmody, Executive Vice President of the Montana Association of REALTORS, here to support SB 250.

Present law, section 37-51-304, requires that all licensees have a \$10,000.00 bond to protect the consumer against loss or damage arising from the licensee's practice as a real estate broker or salesman.

It is my understanding that we are the only licensed profession that requires such a bond. Because we do have this requirement, which we do not necessarily oppose, we feel that it is no more than right to allow the industry to bond ourselves.

SB 250 would give us this right. In addition, it will give the consuming public additional protection in that the amount is being raised from \$10,000.00 to \$25,000.00.

Presently, a \$10,000.00 bond will cost \$100.00 for 3 years or \$50.00 for 1 year. There is about 5000 licensees in the state. If you figure the cost of a 3-year bond at \$100.00, that means that we are looking at about \$165,000.00 a year industry. Two-thirds of this goes out-of-state as there is no bonding company located in Montana. Only one-third of it stays in Montana as commissions to salesmen. If this bill is passed, all \$165,000.00 will stay in Montana.

You may be told that the \$100,000.00 fund will not be large enough or that there will be a big run on the fund as soon as the lawyers hear about it. I will not tell you that this won't happen, but in the other 32 states that have similar funds, this has not been the case. I have passed out a report from the National Association of Real Estate License Law Officials that shows the experience of these funds in the other states. I personally talked to the Executive Vice President of the National Association of Real Estate License Law Officials in December and he told me that to his knowledge, all funds were solvent and doing well. So the boogy men that the bonding companies may tell you about did not appear in the 32 states that have similar funds. I see no reason why they should appear here in Montana.

I would hope that you will give this bill a do pass and keep Montana money in Montana.

Thank you.

NATIONAL ASSOCIATION OF REAL ESTATE LICENSE LAW OFFICIALS
1984-85 ANNUAL REPORT

Exhibit 3
3/21/85
SB250
RECOVERY FUNDS

Submitted by:
Terry Carmody

STATE	MINIMUM BALANCE REQUIRED	FREQUENCY OF LICENSEE PAYMENTS	PAID TO PUBLIC FOR LOSSES				PAYMENT FOR OTHER THAN LOSSES BY PUBLIC	CAN SUCH PAYMENTS BE MADE	TOTAL \$ EVER PAID LAST YR.	TOTAL \$ EVER PAID LAST YR	WHO DETERMINES WHAT PAYMENTS ARE MADE	MAXIMUM LIABILITY OF FUND PER LICENSEE	BROKER SALES
			TOTAL \$ EVER PAID	NUMBER RECEIVING PAID PAYMENTS	TOTAL RECEIVING PAID PAYMENTS YR.	NUMBER RECEIVING PAID PAYMENTS							
ALABAMA	\$ 500M	As nec to maint min	\$157,042	17	\$ 60M	13	Yes: Atty fees	\$10,848	\$ 5,987	Court	\$50M	\$ 50M	
ALASKA	\$ 250M	Every 2yrs	\$400M	50	\$100M	120	Yes: Ed programs & hearing costs	\$ 120M	\$ 50M	Commission	\$50M	\$ 50M	
ALBERTA	--	--	--	--	--	--	--	--	--	--	--	--	
ARIZONA	\$ 200M	Once	\$467,159	54	\$ 47,165	5	Yes: Atty fees	--	--	Court	\$30M	\$ 30M	
ARKANSAS	\$ 250M	As nec to maint min	\$ 50,680	31	\$ 21,151	14	Yes (No leg. appropriation)	\$69,500	\$ 0	Commission	\$50M	\$ 50M	
BRITISH COL.	--	--	--	--	--	--	--	--	--	--	--	--	
CALIFORNIA	\$ 200M	As nec to maint min	\$4,010,557	638	\$859,383	62	No	--	--	Court	\$100M	\$100M	
COLORADO	None	Legislative decision	--	--	\$272,017	15	No	--	--	Court	\$ 50M	\$ 50M	
CONNECTICUT	\$275M (max)	Once	\$ 48,167	14	\$ 15,683	2	Yes: Any aggrieved person	\$ 0	\$ 0	Commission	\$ 25M	\$ 25M	
DELAWARE	\$ 50M	Once	\$ 0	0	\$ 0	0	No	N/A	N/A	Commission	\$ 10M	\$ 10M	
D. C.	\$300M	Every 2yrs as nec to min \$1,500,000 max	--	--	--	--	Yes: Educ programs	\$7M	\$7M	Court/Comm.	\$ 50M	\$ 50M	
FLORIDA	\$ 450M	As nec to maint min	\$299,800	36	\$134,075	20	No	--	--	Commission	\$ 50M	\$ 50M	

RECOVERY FUNDS	MINIMUM BALANCE REQUIRED	FREQUENCY OF LICENSE PAYMENTS	PAID TO PUBLIC FOR LOSSES TOTAL \$ EVER PAID	NUMBER RECEIVING PAYMENTS	TOTAL PAID LAST YR.	NUMBER RECEIVING PAYMENTS	PAYMENT FOR OTHER THAN LOSSES BY PUBLIC CAN SUCH PAYMENTS BE MADE	TOTAL \$ EVER PAID	TOTAL \$ PAID LAST YR	WHO DETERMINES WHAT PAYMENTS ARE MADE	MAXIMUM LIABILITY OF FUND PER LICENSEE BROKER SALES	
GEORGIA	\$ 500M	As nec to maint min	\$305,458	79	\$ 92,960	12	Yes: Ed programs	274,197	105,454	Court/Comm	\$20M	\$20M
GUAM	--	--	--	--	--	--	--	--	--	--	--	--
HAWAII	\$ 350M	As nec to maint min	\$548,600	--	\$ 43,600	27	No	--	--	Court/Comm	\$50M	\$50M
IDAH0	\$ 20M	Every 2 yrs	\$ 6M	2	\$ 4M	1	No	--	--	Court/Comm	\$ 2M	\$ 2M
ILLINOIS	\$1,250M	As nec	\$986,849	156	\$170,472	18	Yes: Office of RE Research	--	--	Court	\$50M	\$50M
INDIANA	--	--	--	--	--	--	--	--	--	--	--	--
IOWA	--	--	--	--	--	--	--	--	--	--	--	--
KANSAS	\$ 100M	As nec to maint bal	\$ 91,127	12	\$30M	3	No	--	--	Court	\$50M	\$50M
KENTUCKY	\$ 400M	Annually	\$ 71,259	39	\$550	1	Yes: Educ & office expenses	\$3242M	\$ 457M	Commission	\$20M	\$20M
LOUISIANA	\$ 400M	As nec	\$ 63,974	18	\$ 319	1	No	--	--	Comm & Atty General	\$30M	\$30M
MAINE	--	--	--	--	--	--	--	--	--	--	--	--
MARYLAND	\$ 250M	As nec to maint bal	\$2,220,600	296	\$189,700	27	No	--	--	Court/Comm	\$25M	\$25M

RECOVERY FUNDS	MINIMUM BALANCE REQUIRED	FREQUENCY OF LICENSEE PAYMENTS	TOTAL \$ EVER PAID	NUMBER RECEIVING PAYMENTS	TOTAL \$ PAID LAST YR.	NUMBER RECEIVING PAYMENTS	PAYMENT FOR OTHER THAN LOSSES BY PUBLIC CAN SUCH PAYMENTS BE MADE	TOTAL \$ EVER PAID	TOTAL \$ PAID LAST YR	WHO DETERMINES WHAT PAYMENTS ARE MADE	MAXIMUM LIABILITY OF FUND PER LICENSEE	BROKER SALES
MASSACHUSETTS	--	--	--	--	--	--	--	--	--	--	--	--
MICHIGAN	--	--	--	--	--	--	--	--	--	--	--	--
MINNESOTA	\$600M	Infl + \$5 per yr to main bal	\$546,602	89	\$ 35M	8	Yes: Education & research	--	--	Court/Comm	\$25M	\$25M
MISSISSIPPI	--	--	--	--	--	--	--	--	--	--	--	--
MISSOURI	--	--	--	--	--	--	--	--	--	--	--	--
MONTANA	--	--	--	--	--	--	--	--	--	--	--	--
NEBRASKA	--	--	--	--	--	--	--	--	--	--	--	--
NEVADA	\$ 50M	Every 2yrs	\$258,580	46	\$69,955 (current yr)	17	No	--	--	Court	\$20M	\$20M
N BRUNSWICK	--	--	--	--	--	--	--	--	--	--	--	--
N HAMPSHIRE	--	--	--	--	--	--	--	--	--	--	--	--
N JERSEY	NONE	When depleted	\$360,847 (paid)	82	--	36	Yes	--	--	Court	None (\$10M limit per claim)	None
NEW MEXICO	\$.250M	As nec.	--	--	--	--	Yes	--	--	Court	\$10M	\$10M

RECOVERY FUNDS	MINIMUM BALANCE REQUIRED	FREQUENCY OF LICENSEE PAYMENTS	PAID TO PUBLIC FOR LOSSES				PAYMENT FOR OTHER THAN LOSSES BY PUBLIC			UNO DETERMINES WHAT PAYMENTS ARE MADE	MAXIMUM LIABILITY OF FUND PER LICENSEE BROKER SALES	
			TOTAL \$ EVER PAID	NUMBER RECEIVING PAYMENTS	TOTAL PAID LAST YR.	NUMBER RECEIVING PAYMENTS	TOTAL \$ EVER PAID	TOTAL \$ PAID LAST YR	TOTAL \$ EVER PAID			
NEW YORK	--	--	--	--	--	--	--	--	--	--	--	
N CAROLINA	\$ 50M	As nec to maint bal	\$78,844	20	\$37,372	10	YES: Acty. fees	\$2,540	\$240	Court	\$20M	\$20M
N DAKOTA	\$ 60M	As nec to maint bal	\$ 24,356	4	\$0	0	Yes: Education	\$4,648	\$0	Court (claim) Comm - Ed.	\$15M	\$15M
OHIO	\$1000M	None	\$698,409	113	\$216,276	24	No	--	--	Court	\$40M	\$40M
OKLAHOMA	\$ 250M	Every 3yrs	\$ 27M	3	\$0	0	Yes: Ed. Programs (\$100M per yr)	\$515M	\$ 90M	Court	\$50M	\$50M
ONTARIO	--	--	--	--	--	--	--	--	--	--	--	--
OREGON	--	--	--	--	--	--	--	--	--	--	--	--
PENN	\$ 300M	Initial lic & as nec to maint bal	\$68,745	8	\$19,630	4	No	--	--	Court	\$100M	\$100M
QUEBEC	--	--	--	--	--	--	--	--	--	--	--	--
RHODE ISLAND	\$100M	--	--	--	--	--	No	--	--	Court	\$20M	\$20M
SASKATCHEWAN	--	--	--	--	--	--	--	--	--	--	--	--
S CAROLINA	--	--	--	--	--	--	--	--	--	--	--	--

RECOVERY FUNDS	MINIMUM BALANCE REQUIRED	FREQUENCY OF LICENSEE PAYMENTS	PAID TO PUBLIC FOR LOSSES	TOTAL \$ EVER PAID RECEIVING PAYMENTS LAST YR.	NUMBER RECEIVING PAYMENTS	NUMBER RECEIVING PAYMENTS	PAYMENT FOR OTHER THAN LOSSES BY PUBLIC CAN SUCH PAYMENTS BE MADE	TOTAL \$ EVER PAID LAST YR	TOTAL \$ PAID LAST YR	WHO DETERMINES WHAT PAYMENTS ARE MADE	MAXIMUM LIABILITY OF FUND PER LICENSEE	BROKER SALES
S DAKOTA	\$ 50M	As nec to maint bal	\$0	\$0	0	0	No	--	--	Court	\$15M	\$15M
TENN	\$ 500M (1/1/85)	As nec to maint bal	--	--	--	--	--	--	--	Court	\$30M	\$30M
TEXAS	\$ 300M	As nec to maint bal	\$983,028	\$288,816 (1981)	25	30	No	--	--	Court	\$50M	\$50M
UTAH	\$ 100M	Every 2yrs	\$67M	\$34M (1983)	10	5	--	--	--	Court	\$10M	\$10M (limit per claim)
VERMONT	--	--	--	--	--	--	--	--	--	--	--	--
VIRGINIA	\$400M	As nec to maint bal (not to exceed \$20/2yrs)	\$358,226	\$ 5,100	86	2	No	--	--	Court	\$100M	\$100M (mult. claimants/trans)
VIRGIN IS	--	--	--	--	--	--	--	--	--	--	--	--
WASHINGTON	--	--	--	--	--	--	--	--	--	--	--	--
W VIRGINIA	--	--	--	--	--	--	--	--	--	--	--	--
WISCONSIN	--	--	--	--	--	--	--	--	--	--	--	--
WYOMING	\$ 50M	As nec to maint bal.	--	--	--	--	--	--	--	Court	\$4M	\$4M

AMENDMENTS TO SB 250

SB 250 establishes a real estate recovery account to replace the bond now required of realtors by M.C.A. 37-51-304.

Proponents of SB 250 say its provision will allow those who suffer losses from acts or omissions of realtors to recover from the account in virtually the same way they now recover on the bond. However, this is not entirely correct. M.C.A. 37-51-304 (attached) sets forth only 2 prerequisites to recover on the \$10,000.00 bond. They are (1) obtaining a judgment, and (2) the loss or damage expressed by the judgment arose out of the realtor's practice. These prerequisites are contained in SB 250, §5(1)(p.6), but, in addition, SB 250 contains several procedural hurdles and substantive restrictions which a bonding company could not impose against recovery on a bond. Proponents of SB 250 cannot cite any law like these hurdles and restrictions which would similarly preclude recovery on a bond. These hurdles and restriction should be removed from SB 250 to protect the public by making recovery from the account virtually the same as recovery on a bond.

Some amendments proposed are necessary to remove internal inconsistencies in SB 250.

AMENDMENTS

1. Page 4
Following: line 17
Strike: subsection 3 in its
entirety.

Section 2(2)(p.4, line 14) and §16(2)(p. 12, line 16) refers to the money assessed from the realtors to fund the account as a "fee". Section 4(2)(p.5) says the realtors may assess a fee in any amount at any time, which may be more than once a year in different amounts. M.C.A. 37-51-311(3) (§2(3)) prohibits what §4(2) allows. This inconsistency must be removed.

2. Page 6, line 8
Following: "arising"
Strike: "directly"
3. Page 6, line 10
Following: "may"
Strike: "after"
4. Page 6
Following: line 10
Strike: "executing on such
final judgment"
5. Page 6, line 14
Following: "any"
Strike: "actual"
6. Page 6
Following: line 14
Strike: "and direct"
7. Page 6, line 15
Following: "loss"
Insert: "or damage"
8. Page 6, line 22
Following: "transactions;"
Insert: "or"
9. Page 6
Following: line 22
Strike: subsection (c) in its
entirety"
Renumber: subsection "(d)" as
"(c)"

Amendments 2-7. are necessary to make the account available to the public for recovery for any loss or damage caused by the realtor in the course of his practice just like recovery on a bond. Neither M.C.A. 37-51-304, nor any other provision of law, limits recovery on a realtor's bond to only so much of the judgment as is "actual and direct" loss arising "directly" out of the realtor's practice. For example, if a person has a \$10,000.00 judgment against a realtor, \$2,500.00 of which was actual loss arising directly out of the transaction, \$5,000.00 of which was a loss to a business caused by the \$2,500.00 actual loss although the business was not a part of the transaction, and \$2,500.00 was for emotional distress, the person could recover \$10,000.00 on the bond, but only \$2,500.00 from the account. Attached are other examples of how a person might recover less from the account than on a bond even though the limit on the account is \$25,000.00. Moreover, neither M.C.A. 37-51-304, nor any other provision of law, requires execution on the judgment before there can be recovery on a bond.

Realty listing agreements commonly provide for recovery of attorney fees to the prevailing party in the event of litigation. If a judgment against a realtor contains an award of attorney fees, recovery can be made on the bond. Under present case law, a person can recover

punitive damages on a bond if the judgment contains such an award. This amendment is necessary to make the account available to the public for recovery from the account for the same loss or damage which can now be recovered on a bond. Attached are examples of how a person could recover less from the account than on a bond.

10. Page 6, line 25
Following: "any"
Insert: "final"
Following: "judgment"
Strike: "rendered"
Insert: "entered"

Section 5(1)(p.6) says a person can file an application to recover from the account only after he has obtained and executed on a final judgment. A judgment might not become final until many months after it is rendered if there is an appeal. Yet §5(2)(d)(p.6, line 25) seems to start the 2 years running before a judgment might become final.

11. Page 7, line 4
Following: "board"
Insert: "and"
Following: "licensee"
Strike: "and any other party"

Why should a person have to serve every person who had anything to do with the transaction, whether he has a judgment against them or not, when this is a bill to allow recovery against the account for what the realtor did? If a person had to bring suit to recover on a bond he would only have to name and serve the realtor and bonding company.

12. Page 7, line 6
Following: "the"
Strike: "court"
Insert: "board"

Before SB 250 was amended the proceedings were before the courts. There is no need to file with the court when the proceeding will be before the board.

13. Page 7, line 12
Following: "spouse;"
Insert: "and"

Amendments 13-15 are necessary to make the account available to the public for recovery just as recovery can be made on a bond. While a person might first try to execute on a judgment against all of whom it runs, neither

14. Page 7, line 16
Following: "application"
Strike: ";"
Insert: "."

15. Page 7
Following: Line 16
Strike: subsections (3), (4)
and (5) in their entirety

M.C.A. 37-51-304, nor any other provision of law, requires the judgment creditor to exhaust these onerous remedies before recovery can be made on a bond. The bond is a source of recovery available at the same time the assets of the realtor and other judgment debtors are. The bond is not a fund of last resort, but the account truly is the way SB 250 is now written. Attached are examples of ways in which people can be denied recovery from the account if §§6(3), (4) and (5) are not stricken from SB 250.

16. Page 8
Following: line 12
Strike: "board"
Insert: "licensee"

Before SB 250 was amended the board a party to the proceedings as well as the realtor. As SB 250 is amended, the realtor is the party who moves to have the board dismiss the application. The board is substituted for the courts as the impartial authority which decides the applications. The licensee (realtor) should give the notice of his intention to have an application dismissed.

17. Page 9
Following: line 6
Strike: subsection (2) in its entirety

Because the board has been substituted for the courts, §9(1)(p.9) requires the board to order payment from the account for a valid claim whereas §9(2) gives the board discretionary authority to pay all or only some part of a valid claim. Moreover, the second sentence of §9(2) allows the board to attack the judgment "collaterally". A bonding company cannot do so. If the concern is that the realtor might say the loss arose in the course of his practice when it did not, there are adequate protections in §5(1)(p.6) and §6(2)(p.7) to prevent this.

18. Page 9, line 14
Following: "licensee"
Insert: "until that licensee
has repaid the account"

Before SB 250 was amended the liability of the account could not exceed \$25,000.00 for any one realtor until he had repaid the account as provided in §11. But, if the account was so repaid and the realtor was reinstated, the account could again be liable for that realtor. The reference to §11 in §10 had to be stricken when §11 was stricken. But too much of §10 was stricken. The way §10 is now written the account is liable to the extent of \$25,000.00 even if the realtor repays the account. If there is recovery on a bond and the realtor is rebonded, a person can recover on the subsequent bond. This amendment is needed to protect the public.

19. Page 9, line 21
Following: "paid"
Strike: "or in such other
manner as the board considers
equitable"

The preceding clause sets out the manner for apportioning the \$25,000.00 and this clause takes it away. If left as is, these inconsistent clauses will foster prolonged controversies before the board, and into the courts, about how the account should be apportioned.

20. Page 11, line 21
Following: "account."
Insert: "To the extent of any
amounts remaining unpaid on
the judgment, the rights,
title and interests of the
judgment creditor are
superior to those acquired by
the board."

The reason for this amendment is to make certain the rights, title, and interests of the judgment creditor and the board are put in the correct priority.

The foregoing amendments are necessary to provide the public the same protection as is now available.

EXAMPLES OF HOW SB 250, AS NOW DRAFTED, AMY PREVENT A PERSON
FROM RECOVERING LESS FROM THE ACCOUNT THAN ON A BOND

M.C.A. 37-51-304 guarantees the realtor will pay at least \$10,000.00 of judgments rendered for any loss or damage which arose in the course of the realtor's practice.

SB 250, §5(1)(p.6) allows recovery up to \$25,000.00 from the account only for "actual and direct" loss arising "directly" out of the realtor's act or the realty transaction, and only after the judgment creditor has executed on the judgment.

SB 250, §5(2)(c)(p.6) prohibits the recovery of attorney's fees and exemplary or punitive damages from the account.

SB 250, §6(3)(4) and (5)(p.7), as amended, requires a person with an unsatisfied judgment to affirmatively say in his application for recovery from the account that he has diligently pursued his remedies of execution [M.C.A. title 25, chapter 13] and proceedings in aide of execution [M.C.A. title 25, chapter 14] against the realtor AND any other person against whom he has a judgment as a result of the transaction.

SB 250, §9(p.2)(p.9), as amended, says the board may pay all or any part of a claim under [§§5 and 6].

(1) What happens if the person has an actual loss of \$5,000.00 directly from the transaction, but that loss unquestionably causes a loss of \$10,000.00 in the person's business separate from the transaction? Under M.C.A. 37-51-304 the person can recover at least \$10,000.00 of the \$15,000.00 loss. According to SB 250, §5(1) the person recovers only \$5,000.00 from the account.

(2) What happens if the person has an actual loss of \$7,500.00 and a jury awards \$2,500.00 for emotional distress and mental anguish caused by the loss in the transaction? Under M.C.A. 37-51-304 the person recovers \$10,000.00. Under SB 250, §5(1) the person recovers \$7,500.00.

(3) Realty listing agreements commonly provide for the recovery of attorney fees to the prevailing party in the event of litigation. What happens if the person has an actual loss of \$9,000.00 and is awarded \$1,000.00 in attorney fees? Under M.C.A. 37-51-304 the person recovers \$10,000.00. Under SB 250, §5(2)(c) the person recovers \$9,000.00.

(4) What happens if the person has an actual loss of \$7,500.00 and a jury awards \$2,500.00 in punitive damages against the realtor? Under present case law on punitive damages, the person would recover \$10,000.00 under M.C.A. 37-51-304. Under SB 250, §5(2)(c) the person recovers \$7,500.00.

(5) What happens if a jury returns a general verdict of \$25,000.00? Under M.C.A. 37-51-304 the person recovers \$10,000.00 without the necessity of having to prove again how much of that general verdict was actual and direct loss. Keeping in mind the requirements of SB 250, §5(1) about recovery from the account only for "actual and direct" loss, does the person have to again prove to the realty board how much of the \$25,000.00 judgment was actual and direct loss? It appears so. If so, and the actual damages are \$5,000.00, the person recovers only \$5,000.00 from the account instead of \$10,000.00 under M.C.A. 37-51-304.

(6) What happens if the person presented a claim of \$10,000.00 for actual loss along with a claim for emotional distress and mental anguish to the jury, the realtor contends the actual loss was only \$5,000.00, and the jury returns a general verdict of \$25,000.00? Again, under M.C.A. 37-51-304 the person would recover at least \$10,000.00. Is the board bound by the person's claims for \$10,000.00 of actual loss, the realtor's contention of \$5,000.00, or can the board arrive at

some other amount? In other words, does the person with the judgment again have to prove the amount of his actual and direct loss? It appears so.

(7) What happens if a jury returns a general verdict \$25,000.00, only \$5,000.00 of which was actual and direct loss, and through execution has satisfied \$15,000.00 of his \$25,000.00 judgment? Under M.C.A. 37-51-304 the person can recover \$10,000.00 and be made whole. Under SB 250 can the board find and conclude that the person has recovered his actual and direct loss of \$5,000.00 through his partial satisfaction of judgment of \$15,000.00 and deny the person any recovery from the account. It appears so.

(8) What happens if the person has an unsatisfied judgment against the realtor in the amount of \$10,000.00 before he has pursued his remedies of execution and proceedings in aide of execution? Under M.C.A. 37-51-304 the person can recover \$10,00.00 on the bond. Under SB 250, §6, he cannot recover from the account.

(9) What happens if the person has executed on his judgment and has an unsatisfied balance of \$10,000.00? Under M.C.A. 37-51-304 the person can recover \$10,000.00 on the bond. Under SB 250, §6, the person cannot recover because he has not exhausted the proceedings in aide of execution.

(10) What happens if the person has a judgment against a realtor and non-realtors as a result of the transaction, has pursued his remedies of execution and proceedings in aide of execution against the realtor but not against the non-realtors and the unsatisfied amount of the judgment is \$10,000.00? Under M.C.A. 37-51-304 the person can recover \$10,000.00. Under SB 250, §6 the person cannot recover from the account because he has not executed or pursued the proceedings in aide of execution against the non-realtors.

(11) What happens if the person has a \$20,000.00 judgment against a realtor and non-realtors, \$5,000.00 of which was for actual and direct loss, he has pursued his remedies of execution

and proceedings in aid of execution against the realtor and non-realtors, no part of his judgment was satisfied from assets of the realtor, but \$10,000.00 of the judgment remains unsatisfied? Under M.C.A. 37-51-304 the person can recover \$10,000.00. Keeping in mind the provisions of SB 250 §5(1) that recovery from the account can be only for actual and direct loss, can the board determine that the \$5,000.00 of actual and direct loss was satisfied by execution on the non-realtors and thereby deny recover from the account? At best the person could recover only \$5,000.00 from the account for his actual and direct loss.

The bond requirement of M.C.A. 37-51-304 was enacted by prior legislatures to protect the public. Proponents of SB 250 say the recovery account, like the bond, is a fund of last resort for the protection of the public. However, by reasons of these examples given, it is clear that if SB 250 is enacted as it is now written:

(1) A bond is not a fund of last resort like the account is;

(2) The public may not recover as much from the account as it can on the bonds; and

(3) The procedural hurdles and substantive restrictions in SB 250 make recovery from the account more difficult and restrictive than recovery on a bond.

The legislature will be taking protection away from the public if it enacts SB 250 as it is now written.

Submitted by Fritz Gillespie (Tel. No. 442-0230)
on behalf of Western Surety Company

given at least once each 6 months and at places within the state the board prescribes.

(2) (a) The examination for a salesman's license shall include:

(i) business ethics, writing, composition, arithmetic, elementary principles of land economics and appraisal;

(ii) a general knowledge of the statutes of this state relating to deeds, mortgages, contracts of sale, agency, brokerage, and of this chapter.

(b) If the applicant passes one subject portion of the examination, (2)(a)(i) or (2)(a)(ii), he shall not be required to repeat that portion of the examination if he passes the remaining portion within 12 months.

(3) The examination for a broker's license shall be of a more exacting nature and scope and more stringent than the examination for a salesman's license.

History: En. Sec. 7, Ch. 250, L. 1963; amd. Sec. 181, Ch. 350, L. 1974; R.C.M. 1947, 66-1930; amd. Sec. 1, Ch. 595, L. 1981.

Compiler's Comments

1981 Amendment: Deleted former subsection (4) requiring an applicant, following two failures, to wait 6 months before another reexamination.

Cross-References

Duty of Department to administer and grade examinations, 37-1-101.

37-51-304. Bond required for licensure of broker or salesman.

No license may be issued or renewed until the applicant for a broker's license or salesman's license has filed a bond with the department in the sum of \$10,000 executed by a surety company authorized to do business in this state in a form approved by the board and conditioned that the applicant, if and when licensed, shall conduct his business and himself in accordance with this chapter and shall pay, to the extent of \$10,000, judgments recovered against him for loss or damage to a person arising in the course of the applicant's practice as a real estate broker or salesman. Bonds given by licensees under this chapter, after approval, shall be filed and held in the office of the department. If, for any reason, the bond of a broker or salesman is canceled or voided, the license of the broker or salesman is automatically suspended until the broker or salesman is again fully bonded and the bond has been approved by the board. If the suspension is not terminated by rebonding and approval within 30 days from the date of suspension, the license of the broker or salesman is automatically revoked.

History: En. Sec. 10, Ch. 250, L. 1963; amd. Sec. 4, Ch. 261, L. 1969; amd. Sec. 184, Ch. 350, L. 1974; amd. Sec. 15, Ch. 101, L. 1977; R.C.M. 1947, 66-1933.

Cross-References

Suretyship, Title 33, ch. 26.

37-51-305. License — form — delivery — display — pocket card. (1) The board shall prescribe the form of license. A license shall bear the seal of the board.

(2) The license of a real estate salesman shall be delivered or mailed to the real estate broker with whom the real estate salesman is associated and shall be kept in the custody and control of the broker.

(3) A broker shall display his own license conspicuously in his place of business.

AMENDMENT TO SENATE BILL NO. 325, THIRD READING BILL

- 1) Title, line 11.
Strike: "AN"
- 2) Title, line 12.
Strike: "DATE"
Insert: "DATES"
- 3) Page 16, line 37.
Following: "Effective"
Strike: "date"
Insert: "dates"
Following: "."
Strike: "This act is"
Insert: "(1) [Sections 9 through 20], to the extent that they allow a provider who voluntarily complies with the provisions for emergency telephone system in [section 2] to impose, collect, and use the proceeds of a charge of 25 cents a month per access line on each service subscriber, and this section are"
- 4) Page 16, following line 8.
Insert: "(2) [Sections 1 through 8] are effective July 1, 1987."



3 RIVERS TELEPHONE CO-OP. INC.

Fairfield, Montana 59436

Area Code 406 467-2535

Mr. Rex Manuel

March 20, 1985

Dear Mr. Manuel:

Please review the enclosed motion passed at the 3 Rivers Telephone Cooperative's 32nd Annual Meeting held March 18, 1985. We had approximately 600 people that attended our Annual meeting. We discussed the proposed "911" Bill and the twenty-five cents (\$0.25) charge the bill would impose on the subscriber.

I can assure you there wasn't one person that was in favor of the "911" Bill as it is written. I am also sure that all of the Rural Montana subscribers would vote against this "911" bill.

I would appreciate your passing this information on to your colleagues and also any support you can give us.

You must be aware that Senate Bill No. 325, will impose a mandatory surcharge of twenty-five cents (\$0.25) on everyone's bill to support a Statewide emergency telephone number "911". This surcharge is to go into effect beginning July 1, 1985, whether emergency services are available or not. The 3 Rivers Telephone Cooperative will be able in the next two years to provide this service to our members, at considerably less cost than required by Senate Bill No. 325.

We also feel that its appropriate to let the Telephone Cooperatives, the consumers and the entities that are providing emergency services now make their own decision and not have charges forced on them.

Sincerely,

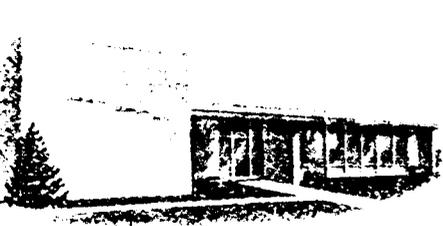
3 Rivers Telephone Cooperative, Inc.

Eugene L. Andrus

Eugene L. Andrus
Manager

ELA/1a





3 RIVERS TELEPHONE CO-OP, INC.

Fairfield, Montana 59436

Area Code 406 467-2535

A motion was made by Rod Hanson, seconded by Ralph J. Parker, and unanimously carried, instructing the Manager to inform the State Legislative Representatives that the Membership of 3 Rivers Telephone Cooperative, Inc., is in favor of the principal of the "911" Emergency Service, but that they are against the specific language of the proposed Senate Bill No. 325, and that the legislators should allow the Cooperatives to establish "911" Service in their own areas on a timely basis, and under their own rates.

3 RIVERS TELEPHONE COOPERATIVE, INC.


Eugene L. Andrus - Manager



