

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
August 25, 1999 - 9:00 a.m. - Room 305 - State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Cochair  
Sen. David Ure, Cochair  
Sen. Mike Dmitrich  
Sen. Eddie "Ed" P. Mayne  
Rep. Judy A. Buffmire  
Rep. James R. Gowans  
Rep. Martin R. Stephens  
Rep. John E. Swallow

**Members Absent:**

Sen. L. Alma "Al" Mansell  
Sen. Howard C. Nielson

**Staff Present:**

Mr. Arthur L. Hunsaker,  
Research Analyst  
Ms. Esther D. Chelsea-McCarty,  
Associate General Counsel  
Ms. Audrey Madsen,  
Legislative Secretary

**Note:** A list of others present and copies of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

**1. Call to Order and Approval of Minutes of Meeting Held August 9, 1999 - Chair**  
Stephenson called the meeting to order at 9:15 a.m.

**MOTION:** Rep. Buffmire moved to approve the minutes of the August 9, 1999 meeting. The motion passed unanimously with Reps. Stephens and Swallow absent for the vote.

Rep. Ure pointed out that the letter to management regarding the process for handling emergencies on the state level, as requested by the committee at the August 9 meeting, has not yet be sent.

**2. Insurance Department Rules Governing Advertising in Trade Association Publications (Rep. Ure) -** R. Peter Stevens, Marketing Title Investigator, Insurance Department, explained the restrictions on title company advertising. He said members of the insurance industry requested the rule and participated in drafting it. Based on the rule, "Parade of Homes," a publication of the Utah Home Builders Association, does not qualify under the rules as a trade publication because of its exclusive advertising nature, and therefore cannot contain advertisements. While there may be exceptions, enforcement of the rule is what industry wants and modifying it would not serve the interests of title businesses.

Taz Biesinger, Executive Vice President, Utah Home Builders Association, distributed the 1999 issue of "Utah Valley Parade of Homes" magazine and pointed out that it is an official trade publication. He pointed out that Section 31A-23-302(8) requires a finding that the practice is "misleading, deceptive, unfairly discriminatory, provide an unfair inducement, or unreasonably restrain competition" before it can be prohibited. No such finding has been made. Throughout his presentation he referred to the magazine's contents, specifically citing the President's Message which highlights its nonexclusive advertising nature.

Sen. Stephenson asked Mr. Stevens what made the "Parade of Homes" advertising an unfair inducement. Mr. Stevens said it was an unfair inducement because it does not benefit everyone in the association equally.

Rep. Stephens said that by writing this rule at the request of industry, it appears that the department is taken over legislative and executive functions. The advertising doesn't appear to create harm, and that just because title companies ask for the rule doesn't make it good public policy.

Jeff Merrill, Vice President and co-owner, Merrill Title Company, and First Vice President, Executive Committee, Utah Land Title Association, said the rule was adopted to protect realtor's as well as producers of title insurance. "Parade of Homes" magazine does not seem to benefit title insurance companies, but he endorses the use of "Parade of Homes" to advertise since it can benefit the home building industry as a whole.

Jim Morris, President, Utah Land Title Association, expressed support for Mr. Biesinger's position and said he could poll the members of his organization to see how they feel about the advertising. He doesn't have a problem with the advertising, but that perhaps ads should be limited to an equal size so that large title organizations have no unfair advantage over smaller ones.

Dave Bate, President, Pro Title and Escro, said it should be clarified who the producers of title insurance are. He said the advertisements are not unfair inducements and feels a clarification in the rules is needed.

Sen. Dmitrich suggested the homebuilders and those who sell title insurance should get together to see if they can redraft this rule to resolve the concerns expressed. A workable definition of trade publication should be included in the rewrite.

Rep. Buffmire asked for clarification of the main issue. Mr. Biesinger said he does not have a problem with the rule, only with the way it is being interpreted and enforced.

**MOTION:** Rep. Mayne moved to allow the department and the industry the opportunity to resolve this on their own, and if unable, to come to the committee to help it get resolved. The motion passed unanimously.

**3. Need for Rule Clarification Regarding Licensing of Foster Care and Child Care (Rep. Buffmire)** - Rep. Buffmire indicated that the rule restricting licensed providers of child care from also providing foster care had not been rewritten since the passage of a new law allowing some child care providers to have a certificate, which is a lower order or regulation. The rule needs to be modified so there is no misunderstanding about whether those with a certificate can provide foster care.

Doug West, Deputy Director, Department of Human Services, said rule does need to be clarified and is currently inconsistent with the statute. Changes will be made and brought back to the committee.

Lainey Gardner and Jeff Gardner, the foster parents who initially raised the issue, explained their foster care situation. They suggested that rather than denying those who are willing to provide both child care and foster care, each case be examined and determined individually. In addition, they said those who obtain a waiver to provide child care shouldn't have to go through the same approval process every time they want to take in foster children.

#### **4. Committee Business**

**a.** Mr. Hunsaker, updated the committee on the Department of Agriculture's role in the efforts to curb the current insect infestation affecting parts of the stat.

**b.** Rep. Stephens asked staff to schedule a discussion of R657-47 at the request of a constituent. Sen. Mayne asked staff to have the Department of Workforce Services appear to discuss their food stamp eligibility rules.

**c.** The committee set the next two meeting dates: September 14<sup>th</sup> and 28<sup>th</sup>.

**5. Adjourn** - Rep. Buffmire moved to adjourn the meeting at 11:37. The motion passed unanimously with Reps. Stephens and Swallow absent for the vote.

