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Child Care Regulations for Oregon Landlords

By: Tia Politi | Jan, 2024



With the passage of **SB 599**, effective January 1, 2024, landlords are now required to allow child care in their rental homes: <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB599/Enrolled>

What I hope you may find reassuring is that your tenant can't just open their door and watch however many children or babies they want under any circumstances. There are strict state requirements they must meet.

The Early Learning Division of the Office of Child care oversees the licensing and statutory requirements for licensed child care in Oregon. The new law allows residents to perform child care as either a Certified or Registered Family Child care Home. There are different rules for each type. Registered child care homes have somewhat less stringent requirements than Certified child care homes, and you'll need to know which type your renter is wanting to provide.

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Events

Advanced Lease Enforcement

Webinar Presented By: Tia Politi
Feb 6th from 4 - 6pm

Pre-Screening & Showings

Webinar Presented By: Christian Bryant
Feb 15th from 4 - 6pm

Homeowners Insurance

Presented By: Abel Insurance
Feb 22nd from 5:30 - 6:30pm
@ 450 Elrod Ave, CB Fire Hall

Fair Housing

Webinar Presented By: Violet Wilson
Feb 28th from 4 - 6pm

* Register online at
www.roa-swo.com/events

Make a Contribution TODAY!

Oregon Rental Housing
KEY PAC



RENTAL OWNERS ASSOCIATION OF SOUTHWESTERN OREGON

Who is the ROA?

Rental Owners Association of Southwestern Oregon is an organization that's been around for over 30 years and consists of landlords who care about practical, legal and profitable land lording practices. Through the association, they share problems, solutions, and ideas with other landlords and find information that comes from similar organizations in Oregon and around the country.



Our Association is currently comprised of over 200 landlords!

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Full Page Ad

7.5" W x 10" H = \$100

(example not shown)

Business Card Ad

3.5" W x 2" H = \$20

Oregon Unsure Where Pandemic Rental Assistance Money Went

By: John Triplett | Jan 8, 2024

www.rentalhousingjournal.com

Oregon auditors say they are unsure where millions of dollars of pandemic rental assistance relief money for landlords and tenants went, according to an audit from the secretary of state.

The Oregon Housing and Community Services (OHCS) agency was supposed to manage an emergency rental assistance program that spent \$426 million during the COVID-19 pandemic, but auditors say they still can't determine how many Oregonians were helped by the money.

"There is no doubt OHCS, like all of Oregon government, was working under unprecedented emergency conditions during the pandemic," said Audits Director Kip Memmott in a statement. "As auditors, it's our job to ensure public monies are being spent in accordance with program guidelines and properly accounted for. It's extremely concerning that OHCS is unable to verify whether millions of dollars went to the Oregonians who needed and deserved this money the most," according to the audit.

"As a result, the agency has no way of knowing how much of the \$426 million went to eligible Oregon recipients and how much was sent to landlords, renters, and non-eligible recipients in error," the audit report said.

The audit also found that the program itself had a rocky rollout, with glitchy new software, poor customer service and delays in application processing for both tenants and landlords.

What auditors found, according to the state report:

1. OHCS distributed \$426 million in emergency rental assistance as of June 2023. However, because of limited oversight and controls, OHCS cannot be certain that spending met federal guidelines, or how much emergency funding went to eligible applicants. Also, the agency has not reliably determined how many total applications were paid, or households helped.



2. Material weaknesses regarding contract oversight and monitoring resulted in an adverse opinion for the program in the Statewide Single Audit — the first adverse opinion issued in more than 25 years by the Oregon Audits Division.
3. Renters and landlords experienced application-processing delays because of rushed implementation of new software. A fragmented customer service system resulted in communication challenges.
4. OHCS was not prepared to respond to disaster-housing emergencies, despite its responsibility to do so under Oregon's emergency management framework.
5. OHCS took an equity-based approach to distributing funds. In the wake of Oregon ERA, OHCS is moving toward outcome-based contracting, tracking outcomes, and has hired an ombudsperson to handle client complaints.

"The urgency with which OHCS acted to distribute rental assistance during a global crisis is laudable," said Oregon Secretary of State LaVonne Griffin-Valade in a statement. "As auditors, it's our job to ensure state agencies properly account for how they spend public money. I encourage OHCS to work speedily to implement the recommendations in this report in preparation for future emergencies."

You can read the full report at

<https://sos.oregon.gov/audits/Pages/audit-2024-01-OHCS.aspx>

Child Care Regulations for Oregon Landlords

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329A.290 Qualifications of applicant for certification. A person applying for a certification for a child care facility shall demonstrate to the satisfaction of the Office of Child care that:

(1) The moral character and habits of the person will not endanger the well-being of children for whom the person is to provide care.

(2) The attitude of the person toward children and understanding of their needs qualify the person to care for children.

(3) The person is physically and mentally capable of caring for children.

(4) The facility and its operation are adequate to protect the health, the safety, and the physical, moral and mental well-being of the children to be cared for in the facility, including but not limited to:

(a) Adequate staffing by suitable persons qualified by education or experience to meet their respective responsibilities in the care of children.

(b) Adequate physical facilities for the care of children, such as building construction, sanitation, plumbing, heating, lighting, ventilation, maintenance, indoor and outdoor activity areas, and fire protection.

(c) A program of activities conforming to recognized practices in the areas of child welfare, education, and physical and mental health to provide opportunity for development and recreation.

(d) Exclusion from the facility of individuals whose presence may be detrimental to the welfare of children, including exclusion of any individual with a criminal record indicating conviction of any crime which would bar the individual from operating or being employed in a child care facility under ORS 329A.260. [Formerly 657A.290]

All child care providers must be checked for criminal history through the FBI's nationwide criminal records check through the Federal Bureau of Investigation and must be continually registered in the Central Background Registry.

The rules for both types cover everything from application, registration, background checks, training, supervision of children, guidance and positive discipline, activity programs, mandatory abuse reporting nutrition, health, safety, sanitation, record keeping, and night care. There are rules for handwashing, nutrition, napping, field trips, playing, checking children in and out, parental notification, supervision, fire safety, providing emergency evacuation routes, reporting death or injuries of children under care and much more. Providers may not consume or be impaired by drugs or alcohol while caring for children. No illegal drugs may be stored on the premises. None of the child care children may be younger than six weeks of age.

Registered Family Child care Home Requirements Guidebook

<https://oregonearlylearning.com/wp-content/uploads/2017/03/OCC-0086-Rules-for-Registered-Family-Child-Care-Homes-EN.pdf>

- One provider per household.
- Must be the provider's principal residence.
- A registered family child care home may care for up to 10 children, not including the provider's own children when establishing capacity or adult to child ratio requirements if the children are between 10 and 12 years of age, unless a child has special needs or disabilities and requires a level of care that is above normal for the child's age.
- Of the 10 children, no more than six may be younger than school age, and no more than two may be 24 months of age or younger.



- The provider may not hold a medical marijuana card, may not grow, or distribute marijuana, but may possess marijuana or derivatives if kept locked away from children.
- A provider may have only two children under 24 months in care. This number includes the provider's own children under 24 months.
- The provider must display license and all serious valid complaint and serious non-compliance letters for 12 calendar months.
- No square footage requirement.
- Federal background checks for all applicable persons over the age of 18.
- 10 hours of training within 2 years for renewal of license.
- Minimum of 1 unannounced visit annually.
- Must possess and maintain current certification in first aid and infant and child cardiopulmonary resuscitation (CPR). The certifications must be current with practical hands-on instruction. CPR courses that involve an on-line component with hands-on instruction may be accepted. Strictly online CPR training is not acceptable.
- Must complete a minimum of two hours of training on child abuse and neglect specific to Oregon law.
- Must possess and maintain current food handler's certification, if preparing or serving food to children.
- Must complete Introduction to Child care Health & Safety Training.
- Must complete OCC-approved safe sleep training.
- Must complete OCC-approved child development training.
- Biennial renewal requires a minimum of eight hours of training related to child care during the most recent registration period.

Certified Family Child care Home Requirements Guidebook <https://oregonearlylearning.com/wp-content/uploads/2017/03/OCC-0085-Rules-for-Certified-Family-Child-Care-Homes-EN.pdf>

Certified providers operate under more stringent requirements.

- One certified child care license per single family home.
- An owner can have multiple sites under the following conditions:
 - If the owner is the provider/operator in one of the homes, the owner can have two certified family child care homes.
 - If the owner does not directly care for any children, the owner can have more than two certified family child care homes.
 - If the owner is the provider/operator in a home certified for more than 12 children, the owner may be the provider for only that certified family child care home. The provider may be the owner of other facilities. See OAR 414-350-0030(5)
- May care for up to 16 children not including the provider's own children when establishing capacity or adult to child ratio requirements if the children are between 10 and 12 years of age, unless a child has special needs or disabilities and requires a level of care that is above normal for the child's age.
- The home itself is subject to more intense requirements for zoning and fire safety and specific square footage requirements.
- The ratio of ages of children allowed is dependent on the number of qualified caregivers.
- Zoning approval is sometimes required.
- Qualifying experience needed.
 - The provider shall be:
 - a) At least 18 years of age if the facility is certified for 12 children; or at least 21 years of age if the facility is certified for more than 12 children; and

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Form of the Month

IN-HOME CHILD CARE AGREEMENT

MO7

Tenant(s): _____
 Tenant(s): _____ et al (and all others)
 Address: _____ Unit: _____
 City: _____, OREGON Zip: _____

This Agreement is for:

- ☐ Certified Family Child Care Home
☐ Registered Family Child Care Home

• “Certified Family Child Care Provider” means an individual who operates a Family Child Care Home that is Certified under **ORS 329A.280**.
 • “Registered Family Child Care Provider” means an individual who operates a Family Child Care Home that is Certified under **ORS 329A.330**.

The Family Child Care Provider using the Premises as a Family Child Care Home shall:

1. Be Certified by the Oregon Office of Child Care to operate as a Certified or Registered Child Care Facility.
2. Remain informed of, and at all times comply with, all capacity and adult-to-child ratio requirements established by The Early Learning Council, as well as all use and other requirements applicable to Family Child Care Home Providers contained in **ORS 329A.010 – 329A.994** and related Oregon Administrative Rules, and to immediately notify Owner/Agent if any registration or certification is suspended or revoked.
3. Check A or B if Applicable:
 - A. ☐ Require parents of any children under the care of the Family Child Care Home to sign a document in which the parents either:
 - (1) Agree for themselves and their children that the Landlord, Owner or Association, as defined in **ORS 94.550 or 100.005**, is not liable for losses from injuries to their children connected with the operation of the Family Child Care Home; and
 - (2) Acknowledge that the Family Child Care Provider does not maintain liability coverage for losses from injuries to their children connected with the operation of the Family Child Care Home; or
 - B. ☐ Carry and maintain a surety bond or liability policy covering injuries to children under the care of the Family Child Care Provider that:
 - (1) Provides coverage of claims for injuries sustained on account of the negligence of the Tenant or their Employees;
 - (2) Names the Landlord, Owner or Association, as defined in **ORS 94.550 or 100.005**, as an additional insured; and,
 - (3) Provides coverage in an amount no less than the amount established by rule by the Early Learning Council in consultation with the Department of Consumer and Business Services.
4. ☐ Pay in advance the amount of \$_____ for the costs of modifications that are necessary or desirable for the Tenant’s use of the Dwelling Unit as a Family Child Care Home (and not otherwise required of the Owner/Agent by **ORS 90.320** or the Rental Agreement), including the cost of complying with any requirements promulgated by the Early Learning Council.
5. All Parties acknowledge and agree that a material violation of this Agreement is also a material violation of Tenant’s Rental Agreement.
6. All Parties acknowledge reading and understanding to the terms of this Agreement.

Tenant _____ Date _____
 Tenant _____ Date _____
 Owner/Agent _____ Date _____

Tenant _____ Date _____
 Tenant _____ Date _____
 Owner/Agent _____ Date _____



MO7—In-Home Child Care Agreement

What this form is for:

With the passage of **Senate Bill 599** in 2023, Landlords may not prohibit the use of the rental property as a certified or registered Family Child Care Home. This form constitutes the agreement between the Landlord and Tenant for such an allowance.

When this form is used:

This form is used when a Tenant requests to run a Family Child Care Home. Most Landlords are not happy about this use of their property, but if the Tenant and the property meet the requirements for such a use, it can't be denied. It may be reassuring to know, however, that a Tenant may not just open their door and watch however many children or babies they want under any circumstances. There are strict state requirements they must meet.

The Early Learning Division of the Office of Child care oversees the licensing and statutory requirements for licensed child care in Oregon. The new law allows residents to perform child care as either a Certified or Registered Family Child Care Home. There are different rules for each type. Registered Child Care Homes have somewhat less stringent requirements than Certified Child Care Homes, and you'll need to know which type your Tenant is wanting to provide.

For more information about the requirements, visit the website for the Oregon Office of Child Care Early Learning Division at: <https://www.oregon.gov/delo/providers/Pages/child-care-rules.aspx>.

Tenants must notify the Landlord of the intended use. A Tenant who wishes to use the rental property as a Family Child Care Home, must pay in advance for costs of any modifications necessary or desirable for the Tenant's use, certification, or registration of the dwelling as a Family Child Care Home that are not required of the landlord under **ORS 90.320** or the rental agreement.

The Tenant must also provide at the election of Owner/Agent one of the following:

1. Require parents or guardians of children under the care of the Family Child Care Home sign a document in which they agree for themselves and their children that the Landlord, Owner or Association, as defined in **ORS 94.550** or **100.005**, is not liable for losses from injuries to their children or their guests connected with the operation of the Family Child Care Facility; and acknowledge that the Family Home Care Provider does not maintain liability coverage for losses from injuries to their children or their guests connected with the operation of the Family Child Care Facility; or,
2. Require Tenant(s) to carry and maintain a surety bond or liability policy covering injuries to their children and guests that provides coverage of claims for injuries sustained on account of the negligence of the Tenant or their Employees. Names the Landlord, Owner, or Association, as defined in **ORS 94.550** or **100.005** as an additional insured and provides coverage in an amount no less than the amount established by rule by the Early Learning Division in consultation with the Department of Consumer and Business services.

Child Care Regulations for Oregon Landlords

Continued from page 5

- b) Responsible for the operation of the certified family child care home, including those duties ordinarily considered to be administrative. These include, but are not limited to, financial management, maintaining records, maintenance of the building and grounds, meal planning and preparation, compliance with certification requirements, communication with OCC, and correcting deficiencies.
 - The provider shall have:
 - a) At least one year of qualifying teaching experience, as specified in **OAR 414-350-0010(28)** in the care of a group of children in an ongoing group setting such as a kindergarten, preschool, child care center, certified family child care home, registered family child care home, or Head Start program; or prior to applying to be certified for up to 16 children, completed one year of successful operation as a certified family child care facility for 12 children if the qualifying teaching experience is based on registered family child care; or
 - b) Completion of 20 credits (semester system) or 30 credits (quarter system) of training in a college or university in early childhood education or child development; or
 - c) Documentation of attaining at least step eight in the Oregon Registry.
 - The provider shall provide evidence of the following training prior to being certified:
 - a) A current certification in first aid and infant and child cardiopulmonary resuscitation. CPR training must have practical hands-on instruction; therefore, strictly online training is not acceptable. CPR courses that involve an on-line component with hands-on instruction may be acceptable.
 - b) A current food handler certification.
 - c) Have completed a minimum of two hours of training on child abuse and neglect that is specific to Oregon law.
 - Prior to a facility providing care to more than two children under 24 months of age, the provider shall have at least 30 clock hours of training specific to infant and toddler care.
 - a) The provider of facilities certified on or after October 15, 2002, who are providing care for more than two children under 24 months of age must have documentation of 30 hours of prior training in infant and toddler care or a plan, approved by OCC, that shows how the training will be attained.
 - The provider/operator shall be on-site at least half of the hours of operation that are reflected on the certificate. If the facility is certified for more than 12 children, the provider shall be on site at least 2/3 of the hours of operation that are reflected on the certificate. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences.
 - The provider shall have no other employment, either in or out of the home, during the hours the provider is directly caring for children.
 - The provider, or a substitute caregiver, shall be present during all the hours the certified family child care business is conducted and substitute caregiver qualifications are also strictly regulated.
 - Annual training requirements vary based on position.
 - The provider must display license and all serious valid complaint and serious non-compliance letters for 12 calendar months.
 - Minimum of 1 unannounced visit annually.
 - Annual environmental health inspection.
 - Annual renewal.
- ### Other requirements
- A tenant who wishes to use the rental property as a family child care home, must pay in advance for costs of any modifications necessary or desirable for the tenant's use, certification, or registration of the dwelling as a family child care home that are not required of the landlord under **ORS 90.320** or the rental agreement.

The tenant must also provide at the election of Owner/Agent one of the following:

- Require parents or guardians of children under the care of the family child care home sign a document in which they agree for themselves and their children that the landlord, owner or association, as defined in **ORS 94.550** or **100.005**, is not liable for losses from injuries to their children or their guests connected with the operation of the family child care facility; and acknowledge that the family home care provider does not maintain liability coverage for losses from injuries to their children or their guests connected with the operation of the family child care facility; or,
- Require Tenant(s) to carry and maintain a surety bond or liability policy covering injuries to their children and guests that provides coverage of claims for injuries sustained on account of the negligence of the tenant or its employees. Names the landlord, owner, or association, as defined in **ORS 94.550** or **100.005** as an additional insured and provides coverage in an amount no less than the amount established by rule by the Early Learning Division in consultation with the Department of Consumer and Business services.

All the attorneys I've spoken with about which option is best lean toward the insurance. Then the question is, how much insurance? So far, the Early Learning Division (ELD) has declined to provide any limits on the amount of insurance a landlord can require, or "reasonable requirements for landlords" but I did have a conversation with my insurance guy who says that most companies limit the number of children to six or it goes to a commercial policy. What's enough coverage? \$500,000? \$1,000,000? \$5,000,000? There's no guidance available and he wasn't even aware of the bill. He said a bond doesn't make sense because those are not for injury, only financial issues. How much would a Liability Waiver protect you? I don't know. But interestingly, he did say that any insurance company he knows of would still want waivers signed! Guess the legislators didn't consult with the insurance industry when they were crafting the bill.

I hope that landlords around the state are somewhat reassured by the regulatory burden and oversight of child care homes. Only the most dedicated and responsible renters will be able to meet the

requirements. And remember, you may revoke permission and terminate the agreement with cause if the tenant falls out of compliance that is not remedied within the timeframes imposed by the Office of Child Care. It falls on you to be aware of the requirements.

We have a new form available ***Child Care Agreement – ORHA form MO6*** developed by Eugene attorney **Brian Cox** that clarifies the allowance and provides you with the ability to select which type of liability protection you feel is best for you.

If you have any questions about the requirements of either registered or certified child care homes in Oregon, reach out to:

Department of Early Learning and Care

700 Summer Street NE #350

Salem, Oregon 97301

1 (800) 556-6616

early.learning@delc.oregon.gov

<https://www.oregon.gov/delc/>



ROA Helpline
(541) 435-1492

- Need help?

- Questions about landlord/tenant law?

- Advice on how to deal with a tenant?

Call the Helpline! Speak to a Property Manager who knows the law inside and out and who can speak from personal experience. FREE to all ROA members of the Southwestern Oregon Chapter.



Calls are returned within one business day between the hours of 7am and 8pm. Helpline is closed weekends and Holidays.

Welcome New and Returning ROA Members!

Margaret Tassia

Your ROA Board of Directors

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coltercindy@gmail.com (541) 404-8609

Vice President: Rebecca Jennings
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Secretary: Jessica Webber
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Position #2: Regina Gabbard
regina@eledwardsrealty.com (541) 756-0347

Position #3: Joan Mahaffy
mahaffyje12@yahoo.com (541) 269-6562

Position #4: Danielle Eastwood-Swanner
danielleswanner94@gmail.com

Position #5: Michelle Cantrell
michelle@orbpm.com (541) 808-9040

Position #6: Joanne Hansen
jhrealty@frontier.com

Ever wonder what goes on at ROA Board meetings? Have any suggestions to share? Interested in joining the board? Bring your thoughts and/or ideas. Or just listen in and see what we're all about.

The ROA Board of Directors meets every month. Meetings are always open to members. Contact us for more information.



roa-swo.com

Contact us at:

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In Case You Missed It: Dinner with Patrick Terry

Jan 18, 2024



On Thursday, January 18th, members of the Rental Owners Association of Southwestern Oregon had a wonderful and informative dinner with Patrick Terry, the associations Attorney on retainer, at Puerto Vallarta. During the meeting Patrick was able to present information regarding new laws to be aware of and some common pitfalls to avoid. He highlighted some trends that he's been seeing and provided some guidance on how to navigate them. Remember, current members get a FREE 1-hr consultation with Patrick annually and discounted rates on representation. A great deal!

Code of Ethics

Excerpt from the Bylaws of the Rental Owners Association of Southwestern Oregon

The objectives of this Association shall be:

- A. To unite, for their mutual good, rental housing owners, managers and/or their agents in the Southwestern Oregon area.
- B. To strive to maintain those standards of the residential rental industry which are of a high ethical and up-to-date business level.
- C. To stimulate cooperation among rental owners to the end that the best possible service will be rendered to the owners and renters.
- D. To provide appropriate information and educational opportunities on state/federal laws, rules/regulations, policies/procedures and rental housing management.
- E. To cooperate with other organizations having similar goals.

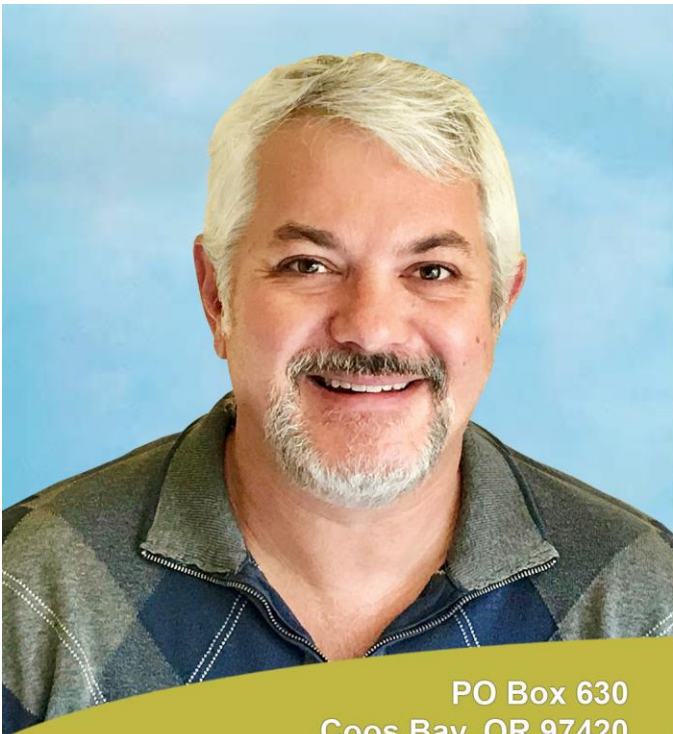




**RENTAL OWNERS
ASSOCIATION OF
SOUTHWESTERN
OREGON**

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Coos Bay OR 97420



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Phone: (541)756-2056
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Patrick M. Terry Attorney at Law

**Representing Landlords on the
Southern Oregon Coast since 2002**

As a landlord of 11 rental units, Patrick understands the needs of his clients and is eager to help.

He specializes in:

- Landlord/Tenant Law
- Real Estate
- Collections
- Estate Planning
- Business
- Probate

*Free 1-hr consultation only covers landlord/tenant matters. All other matters are subject to hourly charge. Inquire for details.



ROA SWO's attorney on retainer.
Current members receive a FREE
1-hour consultation annually, plus
discounted rates for representation.