

SENATE BILL NO. 8
INTRODUCED BY MAZUREK

IN THE SENATE

DECEMBER 31, 1990	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
JANUARY 7, 1991	FIRST READING.
FEBRUARY 1, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 2, 1991	PRINTING REPORT. SECOND READING, DO PASS.
FEBRUARY 4, 1991	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 49; NOES, 0. TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
FEBRUARY 5, 1991	FIRST READING.
MARCH 7, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1991	SECOND READING, CONCURRED IN.
MARCH 11, 1991	THIRD READING, PASS CONSIDERATION.
MARCH 22, 1991	ON MOTION, TAKEN FROM THIRD READING AND RETURNED TO SECOND READING.
MARCH 23, 1991	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 25, 1991	THIRD READING, CONCURRED IN. AYES, 94; NOES, 2. RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 26, 1991

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 27, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 8
INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE OF REAL ESTATE APPRAISING; ESTABLISHING THE BOARD OF REAL ESTATE APPRAISERS; PROVIDING FOR LICENSURE AND CERTIFICATION OF REAL ESTATE APPRAISERS; PROVIDING PENALTIES; ESTABLISHING FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] grants rulemaking authority to the newly established board of real estate appraisers.

(1) It is the intent of [section 4] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 29], including specific authority to adopt rules regarding:

- (a) license and certificate applications and procedures necessary to receive and process those applications;
- (b) examinations and criteria for grading examinations;
- (c) disciplinary standards for licensees and certificate holders, including definitions of conduct for which discipline may be appropriate;
- (d) continuing education requirements;
- (e) the investigation of complaints received under

- [section 10];
- (f) the setting and modification of appropriate fees;
- (g) a process for renewal of licenses and certificates, including a procedure for late renewal;
- (h) the retention of board records;
- (i) the adoption and modification of standards of professional appraisal practice as set out in [section 13];
- (j) reciprocity conditions applicable to licensure and certification as set out in [section 24]; and
- (k) procedures for granting temporary permits as set out in [section 29].

(2) It is the intent of [section 3] that the governor have the authority to implement staggered terms for board members during the appointment process.

(3) It is intended that the board of real estate appraisers address by rule the implementation of practices mandated for the profession by future federal legislation and notify the department of commerce of statutory changes necessary to effect those practices, to allow consideration by the legislature.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
NEW SECTION. **Section 1.** Short title. [Sections 1, 2, and 4 through 29] may be cited as the "Real Estate Appraiser Licensing and Certification Act".

1 **NEW SECTION. Section 2. Definitions.** As used in
2 [sections 1, 2, and 4 through 29], unless the context
3 requires otherwise, the following definitions apply:

4 (1) "Appraisal" or "real estate appraisal" means an
5 analysis, opinion, or conclusion relating to the nature,
6 quality, value, or utility of a specified interest in or
7 aspects of identified real estate.

8 (2) "Appraisal assignment" means an appraisal
9 classified by the nature of the assignment as:

10 (a) a valuation appraisal, which is an analysis,
11 opinion, or conclusion prepared by a real estate appraiser
12 that estimates the value of an identified parcel of real
13 estate or identified real property at a particular point in
14 time;

15 (b) an analysis assignment, which is an analysis,
16 opinion, or conclusion prepared by a real estate appraiser
17 that relates to the nature, quality, or utility of
18 identified real estate or identified real property; or

19 (c) a review assignment, which is an analysis, opinion,
20 or conclusion prepared by a real estate appraiser that forms
21 an opinion as to the adequacy and appropriateness of a
22 valuation appraisal.

23 (3) "Appraisal foundation" means the appraisal
24 foundation incorporated as an Illinois not-for-profit
25 corporation on November 30, 1987. The purposes of the

1 appraisal foundation are to:

2 (a) establish and improve uniform appraisal standards
3 by defining, issuing, and promoting those standards;

4 (b) establish appropriate criteria for the
5 certification and recertification of qualified appraisers by
6 defining, issuing, and promoting qualification criteria and
7 disseminate the qualification criteria to states and other
8 governmental entities; and

9 (c) develop or assist in the development of appropriate
10 examinations for qualified appraisers.

11 (4) "Appraisal report" means a written or oral
12 communication of a real estate appraisal. An appraisal
13 report may be classified by the nature of the assignment as
14 a "valuation report", an "analysis report", or a "review
15 report". For the purposes of [sections 1, 2, and 4 through
16 29], testimony of a licensed or certified real estate
17 appraiser dealing with the appraiser's analyses, opinions,
18 or conclusions concerning identified real estate or
19 identified real property is considered an oral appraisal
20 report.

21 (5) "Board" means the board of real estate appraisers
22 provided for in [section 3].

23 (6) "Certified appraisal report" means an appraisal or
24 appraisal report given or signed and certified by a
25 certified real estate appraiser. When identifying an

1 appraisal or appraisal report as "certified", the certified
2 real estate appraiser shall indicate the class of
3 certification the appraiser holds.

4 (7) "Certified real estate appraiser" means a person
5 who develops and communicates real estate appraisals and who
6 has a valid real estate appraisal certificate issued under
7 [section 22].

8 (8) "Department" means the department of commerce
9 provided for in 2-15-1801.

10 (9) "Independent appraisal service" means an engagement
11 for which a person is employed or retained to act, or would
12 be perceived by a third party or the public as acting, as a
13 disinterested third party in rendering an unbiased analysis,
14 opinion, or conclusion relating to the nature, quality,
15 value, or utility of identified real estate or identified
16 real property.

17 (10) "Licensed real estate appraiser" means a person who
18 holds a current valid real estate appraiser license issued
19 under [section 5].

20 (11) "Real estate" means an identified parcel or tract
21 of land, including any improvements on the land.

22 (12) "Real property" means one or more defined
23 interests, benefits, and rights inherent in the ownership of
24 real estate.

25 (13) "Specialized appraisal service" means an

1 independent appraisal service that does not fall within the
2 definition of an appraisal assignment. Specialized appraisal
3 services may include a valuation appraisal, an analysis
4 assignment, or a review assignment. Regardless of the intent
5 of the client or employer, if an appraisal is perceived by a
6 third party or the public as the act of a disinterested
7 third party in rendering an unbiased analysis, opinion, or
8 conclusion, the work is considered an independent appraisal
9 service and not a specialized service.

10 NEW SECTION. **Section 3. Board of real estate**
11 **appraisers.** (1) There is a board of real estate appraisers.

12 (2) The board consists of five members appointed by the
13 governor with the consent of the senate.

14 (3) Four members must be licensed or certified real
15 estate appraisers, and one member must be a representative
16 of the public who is not engaged in the occupation of real
17 estate appraisal.

18 (4) Only one member of the board may be primarily
19 affiliated with the same recognized appraisal group defined
20 by the appraisal foundation.

21 (5) (a) Before January 1, 1992, a real estate appraiser
22 board member must be a designated member of a national real
23 estate appraisal organization that requires for membership
24 appraisal experience, certain educational qualifications,
25 successful completion of an examination, and adherence to

1 the standards of professional appraisal practice.

2 (b) On and after January 1, 1992, three real estate
3 appraiser board members must be certified real estate
4 appraisers.

5 (6) Members shall serve staggered 3-year terms. A
6 member may not serve for more than two consecutive terms.

7 (7) The board is allocated to the department for
8 administrative purposes only, as prescribed in 2-15-121.

9 (8) A board member may be removed from the board by the
10 governor for neglect or cause.

11 (9) The board shall meet at least once each calendar
12 quarter to transact its business. Three real estate
13 appraiser members constitute a quorum for transacting
14 business.

15 (10) The board shall elect a chairman from among its
16 members.

17 (11) A board member shall receive compensation and
18 travel expenses as provided in 37-1-133.

19 NEW SECTION. **Section 4. Powers and duties of board.**

20 The board shall:

21 (1) adopt rules to implement and administer the
22 provisions of [sections 1, 2, and 4 through 29];

23 (2) establish and collect fees commensurate with the
24 costs of licensure and certification and renewal of a
25 license or certificate;

1 (3) make available application forms for licensure and
2 certification within 15 days of the first meeting of the
3 board;

4 (4) establish minimum requirements for education,
5 experience, and examination for licensure and certification
6 as set out by the appraisal qualification board of the
7 appraisal foundation;

8 (5) receive applications for examination from qualified
9 applicants, prescribe and administer examinations to
10 qualified applicants, and determine the acceptable level of
11 performance on examinations;

12 (6) receive and review applications for licensure and
13 certification and issue licenses and certificates;

14 (7) review periodically the standards for development
15 and communication of appraisals and adopt rules explaining
16 and interpreting the standards;

17 (8) retain all applications and other records submitted
18 to it;

19 (9) maintain a registry of the names and addresses of
20 licensees and certificate holders;

21 (10) establish disciplinary procedures for reprimand,
22 suspension, or revocation of a license and certificate;

23 (11) adopt by rule standards of professional appraisal
24 practice in this state;

25 (12) reprimand, suspend, revoke, or refuse to renew the

1 license or certificate of a person who has violated the
2 standards established for licensed and certified real estate
3 appraisers;

4 (13) establish criteria for courses and seminars
5 consistent with the continuing education requirements set
6 out in [sections 8 and 25]; and

7 (14) perform other duties necessary to implement
8 [sections 1, 2, and 4 through 29].

9 NEW SECTION. Section 5. Real estate appraiser license

10 -- scope and display of license. (1) Upon proof that an
11 applicant meets the qualifications set out in [section 6]
12 and upon payment of license fees adopted under [section 4],
13 the board shall issue to the applicant a real estate
14 appraiser license.

15 (2) Nothing in [sections 1, 2, and 4 through 29]
16 precludes a person who is not a licensed or certified real
17 estate appraiser from appraising real property for
18 compensation, provided the person does not represent himself
19 as a licensed or certified real estate appraiser. A person
20 who refers to himself or his company as being licensed under
21 this section or certified under [sections 19 through 21]
22 without possessing the applicable license or certificate is
23 guilty of a misdemeanor.

24 (3) This section does not:

25 (a) prohibit a person who is licensed to practice in

1 this state under any law from engaging in the practice for
2 which he is licensed;

3 (b) prohibit a licensed real estate appraiser from
4 engaging in real estate appraisal as a professional
5 corporation; or

6 (c) apply to public officials in the conduct of their
7 official duties.

8 (4) A licensed real estate appraiser has restrictions
9 on the scope of practice, depending on the value and
10 complexity of the federally related transaction or
11 transactions pursuant to rules established by the federal
12 financial institutions examination council (FFIEC) agencies,
13 and the restrictions must remain current with any changes in
14 those rules.

15 (5) A licensed real estate appraiser shall
16 conspicuously display the license in his principal place of
17 business.

18 NEW SECTION. Section 6. Qualifications for licensure.

19 To qualify for a real estate appraiser license, an
20 applicant:

21 (1) shall successfully complete at least 75 classroom
22 hours of a course of study described in [section 7] and
23 approved by the board.

24 (a) The course of study must be conducted by:

25 (i) an accredited university, college, or junior

1 college;

2 (ii) an approved real estate appraisal or real
3 estate-related organization; or

4 (iii) another school approved by the board.

5 (b) The classroom hours must include:

6 (i) at least 60 hours relating to the basic principles
7 of land economics and real estate appraisal; and

8 (ii) at least 15 hours relating to the standards of
9 professional appraisal practice set out in [section 13] and
10 the ethical rules, as established by board rule, to be
11 observed by a real estate appraiser.

12 (2) shall pass an examination administered by the board
13 that is based on the study required by [section 7] and
14 subsection (1) of this section and is designed to test the
15 applicant's knowledge of the basic principles of land
16 economics and real estate appraisal, standards of
17 professional appraisal practice, and ethical rules to be
18 observed by a real estate appraiser;

19 (3) must be of good moral character;

20 (4) must have 2 years' experience, consisting of 1,000
21 hours a year with a minimum of 2 calendar years, in real
22 estate appraisal within the 5 years immediately preceding
23 his application. Evidence of experience must include, by
24 affidavit, written reports or file memoranda for each year
25 for which experience is claimed.

1 (5) shall comply with any other requirements related to
2 the practice of real estate appraisal as prescribed by the
3 board by rule.

4 **NEW SECTION. Section 7. Course of study.** A course of
5 study acceptable under [section 6] must include the
6 following subjects:

7 (1) technical terms commonly used in or related to;

8 (a) real estate appraisal;

9 (b) appraisal report writing; and

10 (c) economic concepts applicable to real estate;

11 (2) basic principles of land economics and real estate
12 appraisal;

13 (3) problems likely to be encountered in gathering,
14 interpreting, and processing data required in the real
15 estate appraisal process;

16 (4) standards for the development and communication of
17 real estate appraisals as provided in [sections 1, 2, and 4
18 through 29];

19 (5) ethical rules that a real estate appraiser is
20 required to observe;

21 (6) (a) theories of depreciation and cost estimating;

22 (b) methods of capitalization; and

23 (c) the mathematics of real estate appraisal;

24 (7) basic real estate law; and

25 (8) types of misconduct for which disciplinary

1 proceedings may be initiated against a licensed real estate
2 appraiser, as set forth in [sections 1, 2, and 4 through
3 29].

4 NEW SECTION. Section 8. License renewal -- continuing
5 education requirements. (1) A real estate appraiser's
6 license expires 3 years from the date of issuance.

7 (2) A licensee may renew his license, other than a
8 temporary permit issued under [section 29], by filing an
9 application with the board on a form approved by the board,
10 paying a renewal fee prescribed by the board, and meeting
11 all requirements of this section.

12 (3) In renewing a license, the board shall assure that
13 the licensee has a working knowledge of:

14 (a) current real estate appraisal theories; and

15 (b) practices and techniques that will enable the
16 licensee to provide competent independent appraisal service
17 under the authority of his license.

18 (4) An application for renewal must include evidence
19 satisfactory to the board that within the 3-year period
20 immediately preceding the application for renewal, the
21 licensee has completed at least 45 classroom hours of
22 instruction in courses or seminars approved by the board, at
23 least 15 hours of which must be related to standards of
24 professional appraisal practice.

25 NEW SECTION. Section 9. Late renewal of license. (1) A

1 licensee who does not renew a license within 3 years from
2 the date of issuance may renew it, within 2 years from the
3 date the license expires, by:

4 (a) filing with the board an application for late
5 renewal on a form approved by the board;

6 (b) satisfying the continuing education requirements of
7 [section 8]; and

8 (c) paying a late renewal fee prescribed by the board.

9 (2) The board may refuse to renew a license if the
10 licensee has continued to perform independent appraisal
11 services as a licensed real estate appraiser following
12 expiration of the license.

13 NEW SECTION. Section 10. Complaints and investigations
14 -- penalties. (1) The board may, upon its own motion, and
15 shall, upon the written complaint of an aggrieved person,
16 investigate an alleged violation of [sections 1, 2, and 4
17 through 29] by a licensee or applicant for licensure in this
18 state. If the investigation discloses a probable violation
19 of [sections 1, 2, and 4 through 29], the board shall file a
20 formal complaint against the licensee or applicant.

21 (2) If after a contested case hearing held pursuant to
22 Title 2, chapter 4, part 6, the board determines that a
23 licensee or applicant has violated a provision of [sections
24 1, 2, and 4 through 29], the board shall:

25 (a) deny an application or suspend or revoke a license;

1 (b) issue a formal reprimand to the licensee or
2 applicant;

3 (c) impose upon the licensee or applicant a fine not to
4 exceed \$500; or

5 (d) impose any combination of penalties set out in
6 subsections (2)(a) through (2)(c).

7 (3) The penalties provided in subsection (2) do not
8 apply to a person convicted under [section 5(2)].

9 NEW SECTION. Section 11. Place of business. (1) A
10 resident licensed or certified real estate appraiser shall
11 maintain a principal place of business in this state. If the
12 appraiser changes his principal place of business, he shall
13 promptly notify the board in writing of the change. Upon
14 receipt of notice of the change, the board shall issue a new
15 license or certificate for the unexpired term, stating the
16 principal place of business.

17 (2) A nonresident licensee is not required to maintain
18 a place of business in this state if he maintains a
19 principal place of business in his domicile state.

20 NEW SECTION. Section 12. Collection of appraisal fees.
21 A person who performs independent appraisal services as a
22 licensed or certified real estate appraiser in this state
23 may not bring an action in any court in this state to
24 collect compensation for the performance of those services
25 unless he alleges and proves that he held a valid license or

1 certificate at all times during the performance of those
2 services.

3 NEW SECTION. Section 13. Standards of professional
4 appraisal practice. (1) A licensed or certified real estate
5 appraiser shall comply with generally accepted standards of
6 professional appraisal practice, evidenced by the uniform
7 standards of professional appraisal practice promulgated by
8 the appraisal standards board of the appraisal foundation.

9 (2) If the appraisal standards board of the appraisal
10 foundation modifies the standards or issues supplemental
11 standards that it considers appropriate for all classes of
12 real estate appraisers and requests the board to consider
13 the adoption of the modifications or supplements, the board
14 shall conduct a public hearing to determine whether the
15 modified or supplemented standards must be observed in this
16 state. If following the hearing the board determines the
17 modified or supplemented standards are appropriate, the
18 board shall adopt the standards by rule.

19 NEW SECTION. Section 14. Denial, suspension, or
20 revocation of license or certificate. (1) The board may
21 refuse to issue a license or certificate to an applicant or
22 refuse to renew, revoke, or suspend the license or
23 certificate of a licensee if the licensee or applicant:

24 (a) procures or attempts to procure a license or
25 certificate under [sections 1, 2, and 4 through 29]:

1 (i) through fraud;
 2 (ii) by knowingly making a false statement;
 3 (iii) by submitting false information; or
 4 (iv) by making a material misrepresentation in an
 5 application filed with the board;
 6 (b) pays money other than fees to any member or
 7 employee of the board or department to procure a license or
 8 certificate under [sections 1, 2, and 4 through 29];
 9 (c) commits or omits any act in the practice of real
 10 estate appraisal that constitutes dishonesty, fraud, or
 11 misrepresentation with the intent to substantially benefit
 12 the licensee or another person or substantially injure
 13 another person;
 14 (d) has entered against him a final civil or criminal
 15 judgment on grounds of fraud, misrepresentation, or deceit
 16 in the making of a real estate appraisal;
 17 (e) is convicted of a crime that is substantially
 18 related to the qualifications, functions, or duties of a
 19 person engaging in real estate appraisals;
 20 (f) engages in the business of real estate appraisal
 21 under an assumed or fictitious name not properly registered
 22 in the state of jurisdiction;
 23 (g) pays a finder's fee or referral fee in connection
 24 with a real estate appraisal in this state to a person who
 25 does not have a real estate appraiser's license in this

1 state;
 2 (h) makes a false or misleading statement in that
 3 portion of the written appraisal report that deals with
 4 professional qualifications or in any testimony concerning
 5 professional qualifications;
 6 (i) violates any section of [sections 1, 2, and 4
 7 through 29] or any rule promulgated under [sections 1, 2,
 8 and 4 through 29];
 9 (j) violates the confidential nature of governmental
 10 records to which he gained access through employment or
 11 engagement as a real estate appraiser by a governmental
 12 agency; or
 13 (k) accepts a fee for performing an independent
 14 appraisal service if the employment or fee is contingent
 15 upon:
 16 (i) the appraiser reporting a predetermined estimate,
 17 valuation, analysis, opinion, or conclusion; or
 18 (ii) the consequences resulting from the appraisal.
 19 (2) In a disciplinary proceeding based on a civil
 20 judgment, a licensee may not collaterally attack the
 21 judgment but must be allowed to present matters in
 22 mitigation or extenuation.
 23 (3) Denial, suspension, or revocation of a license or
 24 certificate is permissible only after a hearing and
 25 procedures that comply with the applicable requirements of

1 Title 2, chapter 4.

2 NEW SECTION. Section 15. Retention of records. (1) A

3 licensed or certified real estate appraiser shall retain for
4 5 years from the date of submission of an appraisal report
5 to a client:

6 (a) an original or true copy of any written contract
7 engaging his services as an appraiser;

8 (b) an appraisal report prepared or signed by the
9 licensed or certified real estate appraiser; and

10 (c) all supporting data assembled and formulated by the
11 licensed or certified real estate appraiser in preparing the
12 appraisal report.

13 (2) If a licensed or certified real estate appraiser is
14 notified within this 5-year period that the appraisal report
15 is involved in litigation, the appraiser shall retain the
16 appraisal report for 5 years from the final date of
17 disposition of the litigation.

18 (3) The licensed or certified real estate appraiser
19 shall make available to the board at reasonable times, for
20 inspection and copying, any appraisal report he is required
21 to maintain under the provisions of this section.

22 NEW SECTION. Section 16. Classification of services.

23 (1) A client or employer may retain or employ a licensed or
24 certified real estate appraiser to:

25 (a) act as a disinterested third party in rendering an

1 unbiased analysis, opinion, conclusion, or estimate of
2 value; or

3 (b) provide specialized appraisal services to
4 facilitate the client's or employer's objectives.

5 (2) In either instance described in subsection (1), the
6 appraisal and appraisal report must comply with the
7 provisions of [sections 1, 2, and 4 through 29].

8 NEW SECTION. Section 17. Contingent fee exception for

9 specialized appraisal service. (1) A licensed or certified
10 real estate appraiser who enters into an agreement to
11 perform a specialized appraisal service may accept a fixed
12 fee or a fee that is contingent upon the results achieved by
13 the specialized appraisal service.

14 (2) If a licensed or certified real estate appraiser
15 enters into an agreement to perform a specialized appraisal
16 service for a contingent fee, that fact must be stated
17 conspicuously in each appraisal report. In a written
18 appraisal report and in each letter of transmittal and the
19 certification statement made in the appraisal report, that
20 fact must be clearly stated in a prominent location.

21 NEW SECTION. Section 18. Certification -- use of term

22 -- standards of practice. (1) A person may not represent
23 himself to be a certified real estate appraiser unless he is
24 certified under [sections 1, 2, and 4 through 29].

25 (2) Only a certified real estate appraiser may prepare

1 and sign a certified appraisal report relating to real
 2 estate or real property in this state. If an appraisal
 3 report is prepared, signed, and certified by a certified
 4 real estate appraiser, a person licensed under [sections 1,
 5 2, and 4 through 29] who assisted in the preparation of the
 6 appraisal may cosign the appraisal report.

7 (3) The term "certified real estate appraiser" may not
 8 be used to describe a firm, partnership, corporation, group,
 9 or anyone other than an individual certificate holder.
 10 However, a certified real estate appraiser may develop and
 11 communicate an appraisal on behalf of a firm, partnership,
 12 corporation, or group.

13 NEW SECTION. Section 19. Certification process --
 14 fees. (1) An application for examination for certification,
 15 original certification, or renewal of certification must be
 16 made in writing to the board on forms approved by the board.

17 (2) A fee established by the board by rule must
 18 accompany the application.

19 (3) When an applicant files an application for original
 20 certification or renewal of certification, the applicant
 21 shall sign a pledge that he will comply with the standards
 22 of professional appraisal practice established for certified
 23 real estate appraisers under [section 13]. He shall also
 24 affirm that he understands the types of misconduct for which
 25 disciplinary action may be initiated against him under

1 [section 14].

2 (4) To be eligible for original certification as a real
 3 estate appraiser, an applicant shall:

4 (a) specify the class or classes of certification for
 5 which the applicant is applying and provide evidence
 6 satisfactory to the board that he has the education required
 7 for the class or classes of certification for which he is
 8 applying; and

9 (b) pass an examination prescribed by the board.

10 (5) A certificate issued under [section 22] must bear
 11 the signatures or facsimile signatures of the members of the
 12 board and a certificate number assigned by the board.

13 NEW SECTION. Section 20. Classes of certification --
 14 education and experience requirements. A real estate
 15 appraiser may be certified in any one or more of the
 16 following classes:

17 (1) general real estate, which relates to the appraisal
 18 of all types of real property. To be granted a certificate
 19 as a general real estate appraiser, an applicant shall
 20 present evidence satisfactory to the board that he has:

21 (a) completed at least 165 classroom hours in subjects
 22 relating to real estate appraisal at a school or from a
 23 nationally recognized organization approved by the board, at
 24 least 15 classroom hours of which must be related to the
 25 standards of professional practice; and

1 (b) had 3 years' experience in real estate appraisal
 2 within the 5 years immediately preceding his application.
 3 This evidence must include, by affidavit, written reports or
 4 file memoranda for each year for which experience is
 5 claimed.

6 (2) agricultural/rural lands, which relates to the
 7 appraisal of agricultural and rural lands, including
 8 timberlands. To be granted a certificate as an
 9 agricultural/rural lands real estate appraiser, an applicant
 10 shall present evidence satisfactory to the board that he
 11 has:

12 (a) completed at least 150 classroom hours in subjects
 13 relating to real estate appraisal at a school or from a
 14 nationally recognized organization approved by the board, at
 15 least 15 classroom hours of which must be related to the
 16 standards of professional practice; and

17 (b) had 3 years' experience in real estate appraisal
 18 within the 5 years immediately preceding his application.
 19 This evidence must include, by affidavit, written reports or
 20 file memoranda for each year for which experience is
 21 claimed.

22 NEW SECTION. **Section 21.** Certification examination.

23 (1) A person who satisfies the qualification requirements of
 24 [section 6] and the education and experience requirements of
 25 [section 20] may apply for examination as a certified real

1 estate appraiser in the manner prescribed by this section.

2 (2) The board shall adopt and administer a written
 3 examination for certified real estate appraisers and
 4 establish standards of acceptable performance.

5 (3) An applicant must be examined on the following
 6 subjects:

7 (a) technical terms commonly used in or related to:

8 (i) real estate appraisal;

9 (ii) appraisal report writing; and

10 (iii) economic concepts applicable to real estate;

11 (b) principles of land economics, real estate law, and
 12 real estate appraisal processes;

13 (c) problems likely to be encountered in gathering,
 14 interpreting, and processing data required for developing
 15 and communicating an appraisal;

16 (d) standards for the development and communication of
 17 certified real estate appraisals;

18 (e) (i) theories of depreciation and cost estimating;

19 (ii) methods of capitalization; and

20 (iii) the mathematics of real estate appraisal
 21 appropriate to the class or classes of certification sought
 22 by the applicant; and

23 (f) types of misconduct for which disciplinary action
 24 may be initiated under [sections 1, 2, and 4 through 29].

25 (4) Examinations must be given at least four times each

1 year in Helena and at other times and places as the board
2 determines.

3 (5) An applicant may not retake the examination within
4 6 months after having failed it a second or subsequent time.

5 NEW SECTION. Section 22. Issuance and display of
6 certificate. (1) The board shall issue a certificate and a
7 pocket card to a person who meets the requirements of
8 [sections 19 through 21].

9 (2) The certificate must include the dates of issuance
10 and renewal of certification.

11 (3) A certified real estate appraiser shall
12 conspicuously display the certificate in his principal place
13 of business.

14 (4) A certified real estate appraiser shall designate
15 the class for which he is certified and place his
16 certificate number on each appraisal report, contract, or
17 other instrument used by him in conducting real estate
18 appraisal activities.

19 NEW SECTION. Section 23. Deposit of fees. Fees
20 collected by the board under [sections 1, 2, and 4 through
21 29] must be deposited in the state special revenue fund for
22 the use of the board, subject to 37-1-101(6), and may be
23 used to pay the compensation of board members and other
24 expenses necessary to administer [sections 1, 2, and 4
25 through 29].

1 NEW SECTION. Section 24. Reciprocity -- consent to
2 service of process. (1) A person who holds a valid real
3 estate appraiser's license or certificate in a state that
4 grants reciprocity to Montana real estate appraisers and
5 that has substantially equivalent licensure or certification
6 requirements to this state may be licensed or certified in
7 this state. The person shall conform to the requirements of
8 [sections 1, 2, and 4 through 29].

9 (2) In addition, an applicant for reciprocity under
10 this section shall submit an irrevocable consent that in any
11 action against the applicant arising out of the applicant's
12 activities as a real estate appraiser licensed or certified
13 by this state, service of process may be made upon him by
14 delivery of the process to the secretary of state of this
15 state if the plaintiff cannot effect personal service upon
16 the applicant in the exercise of due diligence.

17 NEW SECTION. Section 25. Renewal of certificate --
18 continuing education requirements. (1) A certificate issued
19 under [section 22] must be renewed every 3 years.

20 (2) A certificate may be renewed upon payment of a
21 renewal fee and production of evidence satisfactory to the
22 board that during the certification period immediately
23 preceding the application for renewal, the certified real
24 estate appraiser has:

25 (a) completed at least 45 classroom hours of

1 instruction in courses or seminars approved by the board, at
 2 least 15 hours of which must be related to standards of
 3 professional appraisal practice;

4 (b) completed an education program determined by the
 5 board to be equivalent to the courses and seminars approved
 6 under subsection (2)(a); or

7 (c) participated, other than as a student, in an
 8 education program approved by the board that relates to the
 9 theory and technique of real property appraisal.

10 (3) An applicant for renewal shall state the class of
 11 certification previously held and presently sought.

12 **NEW SECTION. Section 26. Late renewal of certificate.**

13 (1) A certificate holder who does not renew a certificate
 14 within 3 years from the date of issuance may renew it,
 15 within 2 years from the date the certificate expires, by:

16 (a) filing with the board an application for late
 17 renewal on a form approved by the board;

18 (b) satisfying the continuing education requirements of
 19 [section 25]; and

20 (c) paying a late renewal fee prescribed by the board.

21 (2) The board may refuse to renew a certificate if the
 22 certificate holder has continued to perform independent
 23 appraisal services in this state following expiration of the
 24 certificate.

25 **NEW SECTION. Section 27. Roster of licensed and**

1 **certified real estate appraisers.** The board shall prepare
 2 and issue at least once each calendar year a roster listing
 3 the name and principal place of business of each real estate
 4 appraiser currently licensed or certified under [sections 1,
 5 2, and 4 through 29]. A member of the public may obtain a
 6 copy of the roster by applying to the board. The board may
 7 set a reasonable fee for the cost of providing the roster.

8 **NEW SECTION. Section 28. Certificate of good standing.**

9 The board may issue a certificate of good standing to any
 10 licensed or certified real estate appraiser who holds a
 11 current valid license or certificate in this state.

12 **NEW SECTION. Section 29. Licensure and certification**

13 **of nonresidents -- temporary permit -- service of process.**

14 (1) A person not a resident of this state who has complied
 15 with the provisions of subsection (3) may obtain a license
 16 or certificate as a real estate appraiser in this state by
 17 complying with the provisions of [sections 1, 2, and 4
 18 through 29] relating to the licensure or certification of
 19 real estate appraisers.

20 (2) (a) A person not a resident of this state who has
 21 complied with the consent provisions of subsection (3) may
 22 obtain a temporary permit to perform a contract relating to
 23 the appraisal of real estate or real property in this state.
 24 To qualify for a temporary permit, an applicant shall:

25 (i) submit an application to the board on a form

1 approved by the board;

2 (ii) submit evidence that the applicant is licensed or
3 otherwise authorized to appraise real estate or real
4 property in the applicant's domicile state;

5 (iii) submit a copy of the contract for appraisal
6 services that requires the applicant to appraise real estate
7 or real property in this state and certify that the contract
8 is in force and effect;

9 (iv) certify that no disciplinary proceeding is pending
10 against the applicant in the applicant's domicile state;

11 (v) pay an application fee in an amount prescribed by
12 the board; and

13 (vi) comply with the other requirements established by
14 the board.

15 (b) The board may not grant more than three temporary
16 permits to an applicant within a 3-year period.

17 (c) A temporary permit issued under this section is
18 limited to a grant of authority to perform independent
19 appraisal services required by the contract for appraisal
20 services submitted with the application for a temporary
21 permit.

22 (d) A temporary permit expires upon completion of the
23 appraisal services under the contract or 6 months after
24 issuance of the temporary permit, whichever is earlier. A
25 temporary permit may not be renewed.

1 (3) An applicant for licensure or certification under
2 [sections 1, 2, and 4 through 29] who is not a resident of
3 this state shall submit, with his application for licensure
4 or certification, an irrevocable consent that service of
5 process upon the applicant may be made by delivery of the
6 process to the secretary of state of this state if, in an
7 action against the applicant in a court in this state
8 arising out of the applicant's activities as a licensed or
9 certified real estate appraiser in this state, the plaintiff
10 cannot effect personal service upon the applicant in the
11 exercise of due diligence.

12 NEW SECTION. **Section 30. Severability.** If a part of
13 [this act] is invalid, all valid parts that are severable
14 from the invalid part remain in effect. If a part of [this
15 act] is invalid in one or more of its applications, the part
16 remains in effect in all valid applications that are
17 severable from the invalid applications.

18 NEW SECTION. **Section 31. Codification instruction.** (1)
19 [Section 3] is intended to be codified as an integral part
20 of Title 2, chapter 15, part 18, and the provisions of Title
21 2, chapter 15, part 18, apply to [section 3].

22 (2) [Sections 1, 2, and 4 through 29] are intended to
23 be codified as an integral part of Title 37, and the
24 provisions of Title 37 apply to [sections 1, 2, and 4
25 through 29].

SB 0008/01

- 1 NEW SECTION. **Section 32.** Effective date. [This act] is
- 2 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0008, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act regulating the practice of real estate appraising; establishing the Board of Real Estate Appraisers; providing for licensure and certification of real estate appraisers; providing penalties; establishing fees; and providing an immediate effective date.

ASSUMPTIONS:

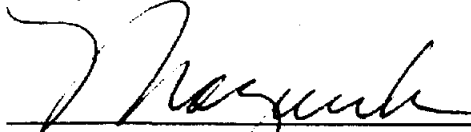
1. Approximately 200 licenses will be issued during the first year and an average of 20 new licenses per year will be issued in subsequent years.
2. Licenses are valid for three years; consequently, initial license fees must be sufficient to support the program over a three year period. License fees will be approximately \$350 per license.
3. The board, consisting of five members, will meet eight times in FY92 and five times in FY93. The board will need one day to conduct its business. Travel cost for board meetings will be approximately \$585 per meeting.
4. The operating expenses of the board will include per diem, travel, supplies, communications, postage, printing and administrative overhead charges.
5. The board will use contracted services to establish an examination and grading system.
6. The Professional and Occupational Licensing Bureau (POL Bureau) will collect license fees and process and/or coordinate the adoption of rules, applications and licenses, continuing education programs, examinations, registry of licensees, administrative support for disciplinary procedures, reciprocity licenses, temporary permits and board meetings.
7. The administrative overhead charges for the above services must be reflected in the POL Bureau. The additional services provided the proposed board will require an additional .25 FTE in the POL Bureau.

FISCAL IMPACT:Bd of Real Estate Appraisers:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	0	2,000	2,000	0	1,250	1,250
Operating Costs	0	33,477	33,477	0	23,141	23,141
Total	0	35,477	35,477	0	24,391	24,391
<u>Funding:</u>						
State Special	0	35,477	35,477	0	24,391	24,391
<u>Revenues:</u>						
License Fees (02)	0	70,000	70,000	0	7,000	7,000
<u>Net Impact:</u>	0	34,523	34,523	0	(17,391)	(17,391)

 2-4-91
 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE

 2/5/91
 JOSEPH P. MAZUREK, PRIMARY SPONSOR

DATE

Fiscal Note for SB0008, as introduced.

SB 8

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 8

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE OF REAL ESTATE APPRAISING; ESTABLISHING THE BOARD OF REAL ESTATE APPRAISERS; PROVIDING FOR LICENSURE AND CERTIFICATION OF REAL ESTATE APPRAISERS; PROVIDING PENALTIES; ESTABLISHING FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] grants rulemaking authority to the newly established board of real estate appraisers.

(1) It is the intent of [section 4] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 29], including specific authority to adopt rules regarding:

(a) license and certificate applications and procedures necessary to receive and process those applications;

(b) examinations and criteria for grading examinations;

(c) disciplinary standards for licensees and certificate holders, including definitions of conduct for which discipline may be appropriate;

(d) continuing education requirements;

(e) the investigation of complaints received under

[section 10];

(f) the setting and modification of appropriate fees;

(g) a process for renewal of licenses and certificates, including a procedure for late renewal;

(h) the retention of board records;

(i) the adoption and modification of standards of professional appraisal practice as set out in [section 13];

(j) reciprocity conditions applicable to licensure and certification as set out in [section 24]; and

(k) procedures for granting temporary permits as set out in [section 29].

(2) It is the intent of [section 3] that the governor have the authority to implement staggered terms for board members during the appointment process.

(3) It is intended that the board of real estate appraisers address by rule the implementation of practices mandated for the profession by future federal legislation and notify the department of commerce of statutory changes necessary to effect those practices, to allow consideration by the legislature.

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

NEW SECTION. Section 1. short title. [Sections 1, 2, and 4 through 29] may be cited as the "Real Estate Appraiser Licensing and Certification Act".

SECOND READING



1 **NEW SECTION. Section 2. Definitions.** As used in
2 [sections 1, 2, and 4 through 29], unless the context
3 requires otherwise, the following definitions apply:

4 (1) "Appraisal" or "real estate appraisal" means an
5 analysis, opinion, or conclusion relating to the nature,
6 quality, value, or utility of a specified interest in or
7 aspects of identified real estate.

8 (2) "Appraisal assignment" means an appraisal
9 classified by the nature of the assignment as:

10 (a) a valuation appraisal, which is an analysis,
11 opinion, or conclusion prepared by a real estate appraiser
12 that estimates the value of an identified parcel of real
13 estate or identified real property at a particular point in
14 time;

15 (b) an analysis assignment, which is an analysis,
16 opinion, or conclusion prepared by a real estate appraiser
17 that relates to the nature, quality, or utility of
18 identified real estate or identified real property; or

19 (c) a review assignment, which is an analysis, opinion,
20 or conclusion prepared by a real estate appraiser that forms
21 an opinion as to the adequacy and appropriateness of a
22 valuation appraisal.

23 (3) "Appraisal foundation" means the appraisal
24 foundation incorporated as an Illinois not-for-profit
25 corporation on November 30, 1987. The purposes of the

1 appraisal foundation are to:

2 (a) establish and improve uniform appraisal standards
3 by defining, issuing, and promoting those standards;

4 (b) establish appropriate criteria for the
5 certification and recertification of qualified appraisers by
6 defining, issuing, and promoting qualification criteria and
7 disseminate the qualification criteria to states and other
8 governmental entities; and

9 (c) develop or assist in the development of appropriate
10 examinations for qualified appraisers.

11 (4) "Appraisal report" means a written or oral
12 communication of a real estate appraisal. An appraisal
13 report may be classified by the nature of the assignment as
14 a "valuation report", an "analysis report", or a "review
15 report". For the purposes of [sections 1, 2, and 4 through
16 29], testimony of a licensed or certified real estate
17 appraiser dealing with the appraiser's analyses, opinions,
18 or conclusions concerning identified real estate or
19 identified real property is considered an oral appraisal
20 report.

21 (5) "Board" means the board of real estate appraisers
22 provided for in [section 3].

23 (6) "Certified appraisal report" means an appraisal or
24 appraisal report given or signed and certified by a
25 certified real estate appraiser. When identifying an

1 appraisal or appraisal report as "certified", the certified
2 real estate appraiser shall indicate the class of
3 certification the appraiser holds.

4 (7) "Certified real estate appraiser" means a person
5 who develops and communicates real estate appraisals and who
6 has a valid real estate appraisal certificate issued under
7 [section 22].

8 (8) "Department" means the department of commerce
9 provided for in 2-15-1801.

10 (9) "Independent appraisal service" means an engagement
11 for which a person is employed or retained to act, or would
12 be perceived by a third party or the public as acting, as a
13 disinterested third party in rendering an unbiased analysis,
14 opinion, or conclusion relating to the nature, quality,
15 value, or utility of identified real estate or identified
16 real property.

17 (10) "Licensed real estate appraiser" means a person who
18 holds a current valid real estate appraiser license issued
19 under [section 5].

20 (11) "Real estate" means an identified parcel or tract
21 of land, including any improvements on the land.

22 (12) "Real property" means one or more defined
23 interests, benefits, and rights inherent in the ownership of
24 real estate.

25 (13) "Specialized appraisal service" means an

1 independent appraisal service that does not fall within the
2 definition of an appraisal assignment. Specialized appraisal
3 services may include a valuation appraisal, an analysis
4 assignment, or a review assignment. Regardless of the intent
5 of the client or employer, if an appraisal is perceived by a
6 third party or the public as the act of a disinterested
7 third party in rendering an unbiased analysis, opinion, or
8 conclusion, the work is considered an independent appraisal
9 service and not a specialized service.

10 NEW SECTION. **Section 3.** Board of real estate
11 appraisers. (1) There is a board of real estate appraisers.

12 (2) The board consists of five members appointed by the
13 governor with the consent of the senate.

14 (3) Four THREE members must be licensed or certified
15 real estate appraisers, and ~~one-member~~ TWO MEMBERS must be a
16 representative REPRESENTATIVES of the public who ~~is~~ ARE not
17 engaged in the occupation of real estate appraisal.

18 (4) Only one member of the board may be primarily
19 affiliated with the same recognized appraisal group defined
20 by the appraisal foundation.

21 (5) (a) Before January 1, 1992, a real estate appraiser
22 board member must be a designated member of a national real
23 estate appraisal organization that requires for membership
24 appraisal experience, certain educational qualifications,
25 successful completion of an examination, and adherence to

1 the standards of professional appraisal practice.

2 (b) On and after January 1, 1992, three real estate
3 appraiser board members must be certified real estate
4 appraisers.

5 (6) Members shall serve staggered 3-year terms. A
6 member may not serve for more than two consecutive terms.

7 (7) The board is allocated to the department for
8 administrative purposes only, as prescribed in 2-15-121.

9 (8) A board member may be removed from the board by the
10 governor for neglect or cause.

11 (9) The board shall meet at least once each calendar
12 quarter to transact its business. Three ~~real-estate~~
13 ~~appraiser~~ members constitute a quorum for transacting
14 business.

15 (10) The board shall elect a chairman from among its
16 members.

17 (11) A board member shall receive compensation and
18 travel expenses as provided in 37-1-133.

19 NEW SECTION. **Section 4. Powers and duties of board.**
20 The board shall:

21 (1) adopt rules to implement and administer the
22 provisions of [sections 1, 2, and 4 through 29];

23 (2) establish and collect fees commensurate with the
24 costs of licensure and certification and renewal of a
25 license or certificate;

1 (3) make available application forms for licensure and
2 certification within 15 days of the first meeting of the
3 board;

4 (4) establish minimum requirements for education,
5 experience, and examination for licensure and certification
6 as set out by the appraisal qualification board of the
7 appraisal foundation;

8 (5) receive applications for examination from qualified
9 applicants, prescribe and administer examinations to
10 qualified applicants, and determine the acceptable level of
11 performance on examinations;

12 (6) receive and review applications for licensure and
13 certification and issue licenses and certificates;

14 (7) review periodically the standards for development
15 and communication of appraisals and adopt rules explaining
16 and interpreting the standards;

17 (8) retain all applications and other records submitted
18 to it;

19 (9) maintain a registry of the names and addresses of
20 licensees and certificate holders;

21 (10) establish disciplinary procedures for reprimand,
22 suspension, or revocation of a license and certificate;

23 (11) adopt by rule standards of professional appraisal
24 practice in this state;

25 (12) reprimand, suspend, revoke, or refuse to renew the

1 license or certificate of a person who has violated the
2 standards established for licensed and certified real estate
3 appraisers;

4 (13) establish criteria for courses and seminars
5 consistent with the continuing education requirements set
6 out in [sections 8 and 25]; and

7 (14) perform other duties necessary to implement
8 [sections 1, 2, and 4 through 29].

9 NEW SECTION. **Section 5. Real estate appraiser license**

10 -- scope and display of license. (1) Upon proof that an
11 applicant meets the qualifications set out in [section 6]
12 and upon payment of license fees adopted under [section 4],
13 the board shall issue to the applicant a real estate
14 appraiser license.

15 (2) Nothing in [sections 1, 2, and 4 through 29]
16 precludes a person who is not a licensed or certified real
17 estate appraiser from appraising real property for
18 compensation, provided the person does not represent himself
19 as a licensed or certified real estate appraiser. A person
20 who refers to himself or his company as being licensed under
21 this section or certified under [sections 19 through 21]
22 without possessing the applicable license or certificate is
23 guilty of a misdemeanor.

24 (3) This section does not:

25 (a) prohibit a person who is licensed to practice in

1 this state under any law from engaging in the practice for
2 which he is licensed;

3 (b) prohibit a licensed real estate appraiser from
4 engaging in real estate appraisal as a professional
5 corporation; or

6 (c) apply to public officials in the conduct of their
7 official duties.

8 (4) A licensed real estate appraiser has restrictions
9 on the scope of practice, depending on the value and
10 complexity of the federally related transaction or
11 transactions pursuant to rules established by the federal
12 financial institutions examination council (FFIEC) agencies,
13 and the restrictions must remain current with any changes in
14 those rules.

15 (5) A licensed real estate appraiser shall
16 conspicuously display the license in his principal place of
17 business.

18 NEW SECTION. **Section 6. Qualifications for licensure.**

19 To qualify for a real estate appraiser license, an
20 applicant:

21 (1) shall successfully complete at least 75 classroom
22 hours of a course of study described in [section 7] and
23 approved by the board.

24 (a) The course of study must be conducted by:

25 (i) an accredited university, college, or junior

1 college;

2 (ii) an approved real estate appraisal or real
3 estate-related organization; or

4 (iii) another school approved by the board.

5 (b) The classroom hours must include:

6 (i) at least 60 hours relating to the basic principles
7 of land economics and real estate appraisal; and

8 (ii) at least 15 hours relating to the standards of
9 professional appraisal practice set out in [section 13] and
10 the ethical rules, as established by board rule, to be
11 observed by a real estate appraiser.

12 (2) shall pass an examination administered by the board
13 that is based on the study required by [section 7] and
14 subsection (1) of this section and is designed to test the
15 applicant's knowledge of the basic principles of land
16 economics and real estate appraisal, standards of
17 professional appraisal practice, and ethical rules to be
18 observed by a real estate appraiser;

19 (3) must be of good moral character;

20 (4) must have 2-years⁴-experience₇-consisting-of--1,000
21 hours--a--year--with--a--minimum--of--2--calendar--years₇--in--real
22 estate--appraisal--within--the--5--years--immediately--preceding
23 his--application₇--Evidence--of--experience--must--include₇--by
24 affidavit₇--written--reports--or--file--memoranda--for--each--year
25 for--which--experience--is--claimed EXPERIENCE IN REAL ESTATE

1 APPRAISAL AS PRESCRIBED BY THE BOARD. THE BOARD SHALL ADOPT
2 RULES PERTAINING TO REAL ESTATE APPRAISAL EXPERIENCE THAT
3 SUBSTANTIALLY COMPLY WITH AND ARE NOT MORE STRINGENT THAN
4 THOSE REQUIRED FOR COMPLIANCE WITH TITLE XI OF THE FINANCIAL
5 INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.

6 (5) shall comply with any other requirements related to
7 the practice of real estate appraisal as prescribed by the
8 board by rule.

9 NEW SECTION. Section 7. Course of study. A course of
10 study acceptable under [section 6] must include the
11 following subjects:

12 (1) technical terms commonly used in or related to:

13 (a) real estate appraisal;

14 (b) appraisal report writing; and

15 (c) economic concepts applicable to real estate;

16 (2) basic principles of land economics and real estate
17 appraisal;

18 (3) problems likely to be encountered in gathering,
19 interpreting, and processing data required in the real
20 estate appraisal process;

21 (4) standards for the development and communication of
22 real estate appraisals as provided in [sections 1, 2, and 4
23 through 29];

24 (5) ethical rules that a real estate appraiser is
25 required to observe;

1 (6) (a) theories of depreciation and cost estimating;
 2 (b) methods of capitalization; and
 3 (c) the mathematics of real estate appraisal;
 4 (7) basic real estate law; and
 5 (8) types of misconduct for which disciplinary
 6 proceedings may be initiated against a licensed real estate
 7 appraiser, as set forth in [sections 1, 2, and 4 through
 8 29].

9 NEW SECTION. Section 8. License renewal -- continuing
 10 education requirements. (1) A real estate appraiser's
 11 license expires 3 years from the date of issuance.

12 (2) A licensee may renew his license, other than a
 13 temporary permit issued under [section 29], by filing an
 14 application with the board on a form approved by the board,
 15 paying a renewal fee prescribed by the board, and meeting
 16 all requirements of this section.

17 (3) In renewing a license, the board shall assure that
 18 the licensee has a working knowledge of:

19 (a) current real estate appraisal theories; and
 20 (b) practices and techniques that will enable the
 21 licensee to provide competent independent appraisal service
 22 under the authority of his license.

23 (4) An application for renewal must include evidence
 24 satisfactory to the board that within the 3-year period
 25 immediately preceding the application for renewal, the

1 licensee has completed at least 45 classroom hours of
 2 instruction in courses or seminars approved by the board, at
 3 least 15 hours of which must be related to standards of
 4 professional appraisal practice.

5 NEW SECTION. Section 9. Late renewal of license. (1) A
 6 licensee who does not renew a license within 3 years from
 7 the date of issuance may renew it, within 2 years from the
 8 date the license expires, by:

9 (a) filing with the board an application for late
 10 renewal on a form approved by the board;

11 (b) satisfying the continuing education requirements of
 12 [section 8]; and

13 (c) paying a late renewal fee prescribed by the board.

14 (2) The board may refuse to renew a license if the
 15 licensee has continued to perform independent appraisal
 16 services as a licensed real estate appraiser following
 17 expiration of the license.

18 NEW SECTION. Section 10. Complaints and investigations
 19 -- penalties. (1) The board may, upon its own motion, and
 20 shall, upon the written complaint of an aggrieved person,
 21 investigate an alleged violation of [sections 1, 2, and 4
 22 through 29] by a licensee or applicant for licensure in this
 23 state. If the investigation discloses a probable violation
 24 of [sections 1, 2, and 4 through 29], the board shall file a
 25 formal complaint against the licensee or applicant.

1 (2) If after a contested case hearing held pursuant to
 2 Title 2, chapter 4, part 6, the board determines that a
 3 licensee or applicant has violated a provision of [sections
 4 1, 2, and 4 through 29], the board shall:

5 (a) deny an application or suspend or revoke a license;
 6 (b) issue a formal reprimand to the licensee or
 7 applicant;

8 (c) impose upon the licensee or applicant a fine not to
 9 exceed \$500; or

10 (d) impose any combination of penalties set out in
 11 subsections (2)(a) through (2)(c).

12 (3) The penalties provided in subsection (2) do not
 13 apply to a person convicted under [section 5(2)].

14 NEW SECTION. Section 11. Place of business. (1) A
 15 resident licensed or certified real estate appraiser shall
 16 maintain a principal place of business in this state. If the
 17 appraiser changes his principal place of business, he shall
 18 promptly notify the board in writing of the change. Upon
 19 receipt of notice of the change, the board shall issue a new
 20 license or certificate for the unexpired term, stating the
 21 principal place of business.

22 (2) A nonresident licensee is not required to maintain
 23 a place of business in this state if he maintains a
 24 principal place of business in his domicile state.

25 NEW SECTION. Section 12. Collection of appraisal fees.

1 A person who performs independent appraisal services as a
 2 licensed or certified real estate appraiser in this state
 3 may not bring an action in any court in this state to
 4 collect compensation for the performance of those services
 5 unless he alleges and proves that he held a valid license or
 6 certificate at all times during the performance of those
 7 services.

8 NEW SECTION. Section 13. Standards of professional
 9 appraisal practice. (1) A licensed or certified real estate
 10 appraiser shall comply with generally accepted standards of
 11 professional appraisal practice, evidenced by the uniform
 12 standards of professional appraisal practice promulgated by
 13 the appraisal standards board of the appraisal foundation.

14 (2) If the appraisal standards board of the appraisal
 15 foundation modifies the standards or issues supplemental
 16 standards that it considers appropriate for all classes of
 17 real estate appraisers and requests the board to consider
 18 the adoption of the modifications or supplements, the board
 19 shall conduct a public hearing to determine whether the
 20 modified or supplemented standards must be observed in this
 21 state. If following the hearing the board determines the
 22 modified or supplemented standards are appropriate, the
 23 board shall adopt the standards by rule.

24 NEW SECTION. Section 14. Denial, suspension, or
 25 revocation of license or certificate. (1) The board may

1 refuse to issue a license or certificate to an applicant or
 2 ~~refuse--to-renew~~; MAY revoke, or suspend, OR REFUSE TO RENEW
 3 the license or certificate of a licensee if the licensee or
 4 applicant:

5 (a) procures or attempts to procure a license or
 6 certificate under [sections 1, 2, and 4 through 29]:

7 (i) through fraud;

8 (ii) by knowingly making a false statement;

9 (iii) by submitting false information; or

10 (iv) by making a material misrepresentation in an
 11 application filed with the board;

12 (b) pays money other than fees to any member or
 13 employee of the board or department to procure a license or
 14 certificate under [sections 1, 2, and 4 through 29];

15 (c) commits or omits any act in the practice of real
 16 estate appraisal that constitutes dishonesty, fraud, or
 17 misrepresentation with the intent to substantially benefit
 18 the licensee or another person or substantially injure
 19 another person;

20 (d) has entered against him a final civil or criminal
 21 judgment on grounds of fraud, misrepresentation, or deceit
 22 in the making of a real estate appraisal;

23 (e) is convicted of a crime that is substantially
 24 related to the qualifications, functions, or duties of a
 25 person engaging in real estate appraisals;

1 (f) engages in the business of real estate appraisal
 2 under an assumed or fictitious name not properly registered
 3 in the state of jurisdiction;

4 (g) pays a finder's fee or referral fee in connection
 5 with a real estate appraisal in this state to a person who
 6 does not have a real estate appraiser's license in this
 7 state;

8 (h) makes a false or misleading statement in that
 9 portion of the written appraisal report that deals with
 10 professional qualifications or in any testimony concerning
 11 professional qualifications;

12 (i) violates any section of [sections 1, 2, and 4
 13 through 29] or any rule promulgated under [sections 1, 2,
 14 and 4 through 29];

15 (j) violates the confidential nature of governmental
 16 records to which he gained access through employment or
 17 engagement as a real estate appraiser by a governmental
 18 agency; or

19 (k) accepts a fee for performing an independent
 20 appraisal service if the employment or fee is contingent
 21 upon:

22 (i) the appraiser reporting a predetermined estimate,
 23 valuation, analysis, opinion, or conclusion; or

24 (ii) the consequences resulting from the appraisal.

25 (2) In a disciplinary proceeding based on a civil

1 judgment, a licensee may not collaterally attack the
2 judgment but must be allowed to present matters in
3 mitigation or extenuation.

4 (3) Denial, suspension, or revocation of a license or
5 certificate is permissible only after a hearing and
6 procedures that comply with the applicable requirements of
7 Title 2, chapter 4.

8 NEW SECTION. Section 15. Retention of records. (1) A
9 licensed or certified real estate appraiser shall retain for
10 5 years from the date of submission of an appraisal report
11 to a client:

12 (a) an original or true copy of any written contract
13 engaging his services as an appraiser;

14 (b) an appraisal report prepared or signed by the
15 licensed or certified real estate appraiser; and

16 (c) all supporting data assembled and formulated by the
17 licensed or certified real estate appraiser in preparing the
18 appraisal report.

19 (2) If a licensed or certified real estate appraiser is
20 notified within this 5-year period that the appraisal report
21 is involved in litigation, the appraiser shall retain the
22 appraisal report for 5 years from the final date of
23 disposition of the litigation.

24 (3) The licensed or certified real estate appraiser
25 shall make available to the board at reasonable times, for

1 inspection and copying, any appraisal report he is required
2 to maintain under the provisions of this section.

3 NEW SECTION. Section 16. Classification of services.

4 (1) A client or employer may retain or employ a licensed or
5 certified real estate appraiser to:

6 (a) act as a disinterested third party in rendering an
7 unbiased analysis, opinion, conclusion, or estimate of
8 value; or

9 (b) provide specialized appraisal services to
10 facilitate the client's or employer's objectives.

11 (2) In either instance described in subsection (1), the
12 appraisal and appraisal report must comply with the
13 provisions of [sections 1, 2, and 4 through 29].

14 NEW SECTION. Section 17. Contingent fee exception for

15 specialized appraisal service. (1) A licensed or certified
16 real estate appraiser who enters into an agreement to
17 perform a specialized appraisal service may accept a fixed
18 fee or a fee that is contingent upon the results achieved by
19 the specialized appraisal service.

20 (2) If a licensed or certified real estate appraiser
21 enters into an agreement to perform a specialized appraisal
22 service for a contingent fee, that fact must be stated
23 conspicuously in each appraisal report. In a written
24 appraisal report and in each letter of transmittal and the
25 certification statement made in the appraisal report, that

1 fact must be clearly stated in a prominent location.

2 **NEW SECTION. Section 18. Certification -- use of term**
3 **-- standards of practice.** (1) A person may not represent
4 himself to be a certified real estate appraiser unless he is
5 certified under [sections 1, 2, and 4 through 29].

6 (2) Only a certified real estate appraiser may prepare
7 and sign a certified appraisal report relating to real
8 estate or real property in this state. If an appraisal
9 report is prepared, signed, and certified by a certified
10 real estate appraiser, a person licensed under [sections 1,
11 2, and 4 through 29] who assisted in the preparation of the
12 appraisal may cosign the appraisal report.

13 (3) The term "certified real estate appraiser" may not
14 be used to describe a firm, partnership, corporation, group,
15 or anyone other than an individual certificate holder.
16 However, a certified real estate appraiser may develop and
17 communicate an appraisal on behalf of a firm, partnership,
18 corporation, or group.

19 **NEW SECTION. Section 19. Certification process --**
20 **fees.** (1) An application for examination for certification,
21 original certification, or renewal of certification must be
22 made in writing to the board on forms approved by the board.

23 (2) A fee established by the board by rule must
24 accompany the application.

25 (3) When an applicant files an application for original

1 certification or renewal of certification, the applicant
2 shall sign a pledge that he will comply with the standards
3 of professional appraisal practice established for certified
4 real estate appraisers under [section 13]. He shall also
5 affirm that he understands the types of misconduct for which
6 disciplinary action may be initiated against him under
7 [section 14].

8 (4) To be eligible for original certification as a real
9 estate appraiser, an applicant shall:

10 (a) specify the class or classes of certification for
11 which the applicant is applying and provide evidence
12 satisfactory to the board that he has the education required
13 for the class or classes of certification for which he is
14 applying; and

15 (b) pass an examination prescribed by the board.

16 (5) A certificate issued under [section 22] must bear
17 the signatures or facsimile signatures of the members of the
18 board and a certificate number assigned by the board.

19 **NEW SECTION. Section 20. Classes of certification --**
20 **education and experience requirements.** A real estate
21 appraiser may be certified in any one or more of the
22 following classes:

23 (1) general real estate, which relates to the appraisal
24 of all types of real property. To be granted a certificate
25 as a general real estate appraiser, an applicant shall

1 present evidence satisfactory to the board that he has:

2 (a) completed at least 165 classroom hours in subjects
3 relating to real estate appraisal at a school or from a
4 nationally recognized organization approved by the board, at
5 least 15 classroom hours of which must be related to the
6 standards of professional practice; and

7 (b) had 3 years' experience in real estate appraisal
8 within the 5 years immediately preceding his application.
9 This evidence must include, by affidavit, written reports or
10 file memoranda for each year for which experience is
11 claimed.

12 (2) agricultural/rural lands, which relates to the
13 appraisal of agricultural and rural lands, including
14 timberlands. To be granted a certificate as an
15 agricultural/rural lands real estate appraiser, an applicant
16 shall present evidence satisfactory to the board that he
17 has:

18 (a) completed at least ~~150~~ 165 classroom hours in
19 subjects relating to real estate appraisal at a school or
20 from a nationally recognized organization approved by the
21 board, at least 15 classroom hours of which must be related
22 to the standards of professional practice; and

23 (b) had 3 years' experience in real estate appraisal
24 within the 5 years immediately preceding his application.
25 This evidence must include, by affidavit, written reports or

1 file memoranda for each year for which experience is
2 claimed.

3 NEW SECTION. **Section 21. Certification examination.**

4 (1) A person who satisfies the qualification requirements of
5 [section 6] and the education and experience requirements of
6 [section 20] may apply for examination as a certified real
7 estate appraiser in the manner prescribed by this section.

8 (2) The board shall adopt and administer a written
9 examination for certified real estate appraisers and
10 establish standards of acceptable performance.

11 (3) An applicant must be examined on the following
12 subjects:

13 (a) technical terms commonly used in or related to:

14 (i) real estate appraisal;

15 (ii) appraisal report writing; and

16 (iii) economic concepts applicable to real estate;

17 (b) principles of land economics, real estate law, and
18 real estate appraisal processes;

19 (c) problems likely to be encountered in gathering,
20 interpreting, and processing data required for developing
21 and communicating an appraisal;

22 (d) standards for the development and communication of
23 certified real estate appraisals;

24 (e) (i) theories of depreciation and cost estimating;

25 (ii) methods of capitalization; and

1 (iii) the mathematics of real estate appraisal
2 appropriate to the class or classes of certification sought
3 by the applicant; and

4 (f) types of misconduct for which disciplinary action
5 may be initiated under [sections 1, 2, and 4 through 29].

6 (4) Examinations must be given at least four times each
7 year in Helena and at other times and places as the board
8 determines.

9 (5) An applicant may not retake the examination within
10 6 months after having failed it a second or subsequent time.

11 NEW SECTION. **Section 22.** Issuance and display of
12 certificate. (1) The board shall issue a certificate and a
13 pocket card to a person who meets the requirements of
14 [sections 19 through 21].

15 (2) The certificate must include the dates of issuance
16 and renewal of certification.

17 (3) A certified real estate appraiser shall
18 conspicuously display the certificate in his principal place
19 of business.

20 (4) A certified real estate appraiser shall designate
21 the class for which he is certified and place his
22 certificate number on each appraisal report, contract, or
23 other instrument used by him in conducting real estate
24 appraisal activities.

25 NEW SECTION. **Section 23.** Deposit of fees. Fees

1 collected by the board under [sections 1, 2, and 4 through
2 29] must be deposited in the state special revenue fund for
3 the use of the board, subject to 37-1-101(6), and may be
4 used to pay the compensation of board members and other
5 expenses necessary to administer [sections 1, 2, and 4
6 through 29].

7 NEW SECTION. **Section 24.** Reciprocity -- consent to
8 service of process. (1) A person who holds a valid real
9 estate appraiser's license or certificate in a state that
10 grants reciprocity to Montana real estate appraisers and
11 that has substantially equivalent licensure or certification
12 requirements to this state may be licensed or certified in
13 this state. The person shall conform to the requirements of
14 [sections 1, 2, and 4 through 29].

15 (2) In addition, an applicant for reciprocity under
16 this section shall submit an irrevocable consent that in any
17 action against the applicant arising out of the applicant's
18 activities as a real estate appraiser licensed or certified
19 by this state, service of process may be made upon him by
20 delivery of the process to the secretary of state of this
21 state if the plaintiff cannot effect personal service upon
22 the applicant in the exercise of due diligence.

23 NEW SECTION. **Section 25.** Renewal of certificate --
24 continuing education requirements. (1) A certificate issued
25 under [section 22] must be renewed every 3 years.

1 (2) A certificate may be renewed upon payment of a
2 renewal fee and production of evidence satisfactory to the
3 board that during the certification period immediately
4 preceding the application for renewal, the certified real
5 estate appraiser has:

6 (a) completed at least 45 classroom hours of
7 instruction in courses or seminars approved by the board, at
8 least 15 hours of which must be related to standards of
9 professional appraisal practice;

10 (b) completed an education program determined by the
11 board to be equivalent to the courses and seminars approved
12 under subsection (2)(a); or

13 (c) participated, other than as a student, in an
14 education program approved by the board that relates to the
15 theory and technique of real property appraisal.

16 (3) An applicant for renewal shall state the class of
17 certification previously held and presently sought.

18 NEW SECTION. **Section 26.** Late renewal of certificate.

19 (1) A certificate holder who does not renew a certificate
20 within 3 years from the date of issuance may renew it,
21 within 2 years from the date the certificate expires, by:

22 (a) filing with the board an application for late
23 renewal on a form approved by the board;

24 (b) satisfying the continuing education requirements of
25 [section 25]; and

1 (c) paying a late renewal fee prescribed by the board.

2 (2) The board may refuse to renew a certificate if the
3 certificate holder has continued to perform independent
4 appraisal services in this state following expiration of the
5 certificate.

6 NEW SECTION. **Section 27.** Roster of licensed and
7 certified real estate appraisers. The board shall prepare
8 and issue at least once each calendar year a roster listing
9 the name and principal place of business of each real estate
10 appraiser currently licensed or certified under [sections 1,
11 2, and 4 through 29]. A member of the public may obtain a
12 copy of the roster by applying to the board. The board may
13 set a reasonable fee for the cost of providing the roster.

14 NEW SECTION. **Section 28.** Certificate of good standing.
15 The board may issue a certificate of good standing to any
16 licensed or certified real estate appraiser who holds a
17 current valid license or certificate in this state.

18 NEW SECTION. **Section 29.** Licensure and certification
19 of nonresidents -- temporary permit -- service of process.

20 (1) A person not a resident of this state who has complied
21 with the provisions of subsection (3) may obtain a license
22 or certificate as a real estate appraiser in this state by
23 complying with the provisions of [sections 1, 2, and 4
24 through 29] relating to the licensure or certification of
25 real estate appraisers.

1 (2) (a) A person not a resident of this state who has
 2 complied with the consent provisions of subsection (3) may
 3 obtain a temporary permit to perform a contract relating to
 4 the appraisal of real estate or real property in this state.
 5 To qualify for a temporary permit, an applicant shall:

6 (i) submit an application to the board on a form
 7 approved by the board;

8 (ii) submit evidence that the applicant is licensed or
 9 otherwise authorized to appraise real estate or real
 10 property in the applicant's domicile state;

11 (iii) submit a copy of the contract for appraisal
 12 services that requires the applicant to appraise real estate
 13 or real property in this state and certify that the contract
 14 is in force and effect;

15 (iv) certify that no disciplinary proceeding is pending
 16 against the applicant in the applicant's domicile state;

17 (v) pay an application fee in an amount prescribed by
 18 the board; and

19 (vi) comply with the other requirements established by
 20 the board.

21 (b) The board may not grant more than three temporary
 22 permits to an applicant within a 3-year period.

23 (c) A temporary permit issued under this section is
 24 limited to a grant of authority to perform independent
 25 appraisal services required by the contract for appraisal

1 services submitted with the application for a temporary
 2 permit.

3 (d) A temporary permit expires upon completion of the
 4 appraisal services under the contract or 6 months after
 5 issuance of the temporary permit, whichever is earlier. A
 6 temporary permit may not be renewed.

7 (3) An applicant for licensure or certification under
 8 [sections 1, 2, and 4 through 29] who is not a resident of
 9 this state shall submit, with his application for licensure
 10 or certification, an irrevocable consent that service of
 11 process upon the applicant may be made by delivery of the
 12 process to the secretary of state of this state if, in an
 13 action against the applicant in a court in this state
 14 arising out of the applicant's activities as a licensed or
 15 certified real estate appraiser in this state, the plaintiff
 16 cannot effect personal service upon the applicant in the
 17 exercise of due diligence.

18 NEW SECTION. **Section 30. Severability.** If a part of
 19 [this act] is invalid, all valid parts that are severable
 20 from the invalid part remain in effect. If a part of [this
 21 act] is invalid in one or more of its applications, the part
 22 remains in effect in all valid applications that are
 23 severable from the invalid applications.

24 NEW SECTION. **Section 31. Codification instruction.** (1)
 25 [Section 3] is intended to be codified as an integral part

1 of Title 2, chapter 15, part 18, and the provisions of Title
2 2, chapter 15, part 18, apply to [section 3].

3 (2) [Sections 1, 2, and 4 through 29] are intended to
4 be codified as an integral part of Title 37, and the
5 provisions of Title 37 apply to [sections 1, 2, and 4
6 through 29].

7 NEW SECTION. **Section 32.** **Effective date.** [This act] is
8 effective on passage and approval.

-End-

SENATE BILL NO. 8

INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE OF REAL ESTATE APPRAISING; ESTABLISHING THE BOARD OF REAL ESTATE APPRAISERS; PROVIDING FOR LICENSURE AND CERTIFICATION OF REAL ESTATE APPRAISERS; PROVIDING PENALTIES; ESTABLISHING FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] grants rulemaking authority to the newly established board of real estate appraisers.

(1) It is the intent of [section 4] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 29], including specific authority to adopt rules regarding:

- (a) license and certificate applications and procedures necessary to receive and process those applications;
(b) examinations and criteria for grading examinations;
(c) disciplinary standards for licensees and certificate holders, including definitions of conduct for which discipline may be appropriate;
(d) continuing education requirements;
(e) the investigation of complaints received under

[section 10];

- (f) the setting and modification of appropriate fees;
(g) a process for renewal of licenses and certificates, including a procedure for late renewal;
(h) the retention of board records;
(i) the adoption and modification of standards of professional appraisal practice as set out in [section 13];
(j) reciprocity conditions applicable to licensure and certification as set out in [section 24]; and
(k) procedures for granting temporary permits as set out in [section 29].

(2) It is the intent of [section 3] that the governor have the authority to implement staggered terms for board members during the appointment process.

(3) It is intended that the board of real estate appraisers address by rule the implementation of practices mandated for the profession by future federal legislation and notify the department of commerce of statutory changes necessary to effect those practices, to allow consideration by the legislature.

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

NEW SECTION. Section 1. Short title. [Sections 1, 2, and 4 through 29] may be cited as the "Real Estate Appraiser Licensing and Certification Act".

THIRD READING



1 **NEW SECTION. Section 2. Definitions.** As used in
2 [sections 1, 2, and 4 through 29], unless the context
3 requires otherwise, the following definitions apply:

4 (1) "Appraisal" or "real estate appraisal" means an
5 analysis, opinion, or conclusion relating to the nature,
6 quality, value, or utility of a specified interest in or
7 aspects of identified real estate.

8 (2) "Appraisal assignment" means an appraisal
9 classified by the nature of the assignment as:

10 (a) a valuation appraisal, which is an analysis,
11 opinion, or conclusion prepared by a real estate appraiser
12 that estimates the value of an identified parcel of real
13 estate or identified real property at a particular point in
14 time;

15 (b) an analysis assignment, which is an analysis,
16 opinion, or conclusion prepared by a real estate appraiser
17 that relates to the nature, quality, or utility of
18 identified real estate or identified real property; or

19 (c) a review assignment, which is an analysis, opinion,
20 or conclusion prepared by a real estate appraiser that forms
21 an opinion as to the adequacy and appropriateness of a
22 valuation appraisal.

23 (3) "Appraisal foundation" means the appraisal
24 foundation incorporated as an Illinois not-for-profit
25 corporation on November 30, 1987. The purposes of the

1 appraisal foundation are to:

2 (a) establish and improve uniform appraisal standards
3 by defining, issuing, and promoting those standards;

4 (b) establish appropriate criteria for the
5 certification and recertification of qualified appraisers by
6 defining, issuing, and promoting qualification criteria and
7 disseminate the qualification criteria to states and other
8 governmental entities; and

9 (c) develop or assist in the development of appropriate
10 examinations for qualified appraisers.

11 (4) "Appraisal report" means a written or oral
12 communication of a real estate appraisal. An appraisal
13 report may be classified by the nature of the assignment as
14 a "valuation report", an "analysis report", or a "review
15 report". For the purposes of [sections 1, 2, and 4 through
16 29], testimony of a licensed or certified real estate
17 appraiser dealing with the appraiser's analyses, opinions,
18 or conclusions concerning identified real estate or
19 identified real property is considered an oral appraisal
20 report.

21 (5) "Board" means the board of real estate appraisers
22 provided for in [section 3].

23 (6) "Certified appraisal report" means an appraisal or
24 appraisal report given or signed and certified by a
25 certified real estate appraiser. When identifying an

1 appraisal or appraisal report as "certified", the certified
2 real estate appraiser shall indicate the class of
3 certification the appraiser holds.

4 (7) "Certified real estate appraiser" means a person
5 who develops and communicates real estate appraisals and who
6 has a valid real estate appraisal certificate issued under
7 [section 22].

8 (8) "Department" means the department of commerce
9 provided for in 2-15-1801.

10 (9) "Independent appraisal service" means an engagement
11 for which a person is employed or retained to act, or would
12 be perceived by a third party or the public as acting, as a
13 disinterested third party in rendering an unbiased analysis,
14 opinion, or conclusion relating to the nature, quality,
15 value, or utility of identified real estate or identified
16 real property.

17 (10) "Licensed real estate appraiser" means a person who
18 holds a current valid real estate appraiser license issued
19 under [section 5].

20 (11) "Real estate" means an identified parcel or tract
21 of land, including any improvements on the land.

22 (12) "Real property" means one or more defined
23 interests, benefits, and rights inherent in the ownership of
24 real estate.

25 (13) "Specialized appraisal service" means an

1 independent appraisal service that does not fall within the
2 definition of an appraisal assignment. Specialized appraisal
3 services may include a valuation appraisal, an analysis
4 assignment, or a review assignment. Regardless of the intent
5 of the client or employer, if an appraisal is perceived by a
6 third party or the public as the act of a disinterested
7 third party in rendering an unbiased analysis, opinion, or
8 conclusion, the work is considered an independent appraisal
9 service and not a specialized service.

10 NEW SECTION. **Section 3.** Board of real estate
11 appraisers. (1) There is a board of real estate appraisers.

12 (2) The board consists of five members appointed by the
13 governor with the consent of the senate.

14 (3) Four THREE members must be licensed or certified
15 real estate appraisers, and one-member TWO MEMBERS must be a
16 representative REPRESENTATIVES of the public who is ARE not
17 engaged in the occupation of real estate appraisal.

18 (4) Only one member of the board may be primarily
19 affiliated with the same recognized appraisal group defined
20 by the appraisal foundation.

21 (5) (a) Before January 1, 1992, a real estate appraiser
22 board member must be a designated member of a national real
23 estate appraisal organization that requires for membership
24 appraisal experience, certain educational qualifications,
25 successful completion of an examination, and adherence to

1 the standards of professional appraisal practice.

2 (b) On and after January 1, 1992, three real estate
3 appraiser board members must be certified real estate
4 appraisers.

5 (6) Members shall serve staggered 3-year terms. A
6 member may not serve for more than two consecutive terms.

7 (7) The board is allocated to the department for
8 administrative purposes only, as prescribed in 2-15-121.

9 (8) A board member may be removed from the board by the
10 governor for neglect or cause.

11 (9) The board shall meet at least once each calendar
12 quarter to transact its business. Three ~~real-estate~~
13 ~~appraiser~~ members constitute a quorum for transacting
14 business.

15 (10) The board shall elect a chairman from among its
16 members.

17 (11) A board member shall receive compensation and
18 travel expenses as provided in 37-1-133.

19 NEW SECTION. Section 4. Powers and duties of board.
20 The board shall:

21 (1) adopt rules to implement and administer the
22 provisions of [sections 1, 2, and 4 through 29];

23 (2) establish and collect fees commensurate with the
24 costs of licensure and certification and renewal of a
25 license or certificate;

1 (3) make available application forms for licensure and
2 certification within 15 days of the first meeting of the
3 board;

4 (4) establish minimum requirements for education,
5 experience, and examination for licensure and certification
6 as set out by the appraisal qualification board of the
7 appraisal foundation;

8 (5) receive applications for examination from qualified
9 applicants, prescribe and administer examinations to
10 qualified applicants, and determine the acceptable level of
11 performance on examinations;

12 (6) receive and review applications for licensure and
13 certification and issue licenses and certificates;

14 (7) review periodically the standards for development
15 and communication of appraisals and adopt rules explaining
16 and interpreting the standards;

17 (8) retain all applications and other records submitted
18 to it;

19 (9) maintain a registry of the names and addresses of
20 licensees and certificate holders;

21 (10) establish disciplinary procedures for reprimand,
22 suspension, or revocation of a license and certificate;

23 (11) adopt by rule standards of professional appraisal
24 practice in this state;

25 (12) reprimand, suspend, revoke, or refuse to renew the

1 license or certificate of a person who has violated the
2 standards established for licensed and certified real estate
3 appraisers;

4 (13) establish criteria for courses and seminars
5 consistent with the continuing education requirements set
6 out in [sections 8 and 25]; and

7 (14) perform other duties necessary to implement
8 [sections 1, 2, and 4 through 29].

9 **NEW SECTION. Section 5. Real estate appraiser license**
10 **-- scope and display of license.** (1) Upon proof that an
11 applicant meets the qualifications set out in [section 6]
12 and upon payment of license fees adopted under [section 4],
13 the board shall issue to the applicant a real estate
14 appraiser license.

15 (2) Nothing in [sections 1, 2, and 4 through 29]
16 precludes a person who is not a licensed or certified real
17 estate appraiser from appraising real property for
18 compensation, provided the person does not represent himself
19 as a licensed or certified real estate appraiser. A person
20 who refers to himself or his company as being licensed under
21 this section or certified under [sections 19 through 21]
22 without possessing the applicable license or certificate is
23 guilty of a misdemeanor.

24 (3) This section does not:

25 (a) prohibit a person who is licensed to practice in

1 this state under any law from engaging in the practice for
2 which he is licensed;

3 (b) prohibit a licensed real estate appraiser from
4 engaging in real estate appraisal as a professional
5 corporation; or

6 (c) apply to public officials in the conduct of their
7 official duties.

8 (4) A licensed real estate appraiser has restrictions
9 on the scope of practice, depending on the value and
10 complexity of the federally related transaction or
11 transactions pursuant to rules established by the federal
12 financial institutions examination council (FPIEC) agencies,
13 and the restrictions must remain current with any changes in
14 those rules.

15 (5) A licensed real estate appraiser shall
16 conspicuously display the license in his principal place of
17 business.

18 **NEW SECTION. Section 6. Qualifications for licensure.**
19 To qualify for a real estate appraiser license, an
20 applicant:

21 (1) shall successfully complete at least 75 classroom
22 hours of a course of study described in [section 7] and
23 approved by the board.

24 (a) The course of study must be conducted by:

25 (i) an accredited university, college, or junior

1 college;

2 (ii) an approved real estate appraisal or real

3 estate-related organization; or

4 (iii) another school approved by the board.

5 (b) The classroom hours must include:

6 (i) at least 60 hours relating to the basic principles

7 of land economics and real estate appraisal; and

8 (ii) at least 15 hours relating to the standards of

9 professional appraisal practice set out in [section 13] and

10 the ethical rules, as established by board rule, to be

11 observed by a real estate appraiser.

12 (2) shall pass an examination administered by the board

13 that is based on the study required by [section 7] and

14 subsection (1) of this section and is designed to test the

15 applicant's knowledge of the basic principles of land

16 economics and real estate appraisal, standards of

17 professional appraisal practice, and ethical rules to be

18 observed by a real estate appraiser;

19 (3) must be of good moral character;

20 (4) must have ~~2-years+-experience,-consisting-of--1,000~~

21 ~~hours--a--year--with--a--minimum--of--2--calendar--years,-in--real~~

22 ~~estate--appraisal--within--the--5--years--immediately--preceding~~

23 ~~his--application;-Evidence--of--experience--must--include--by~~

24 ~~affidavit,-written-reports-or-file-memoranda-for--each--year~~

25 ~~for--which--experience--is--claimed~~ EXPERIENCE IN REAL ESTATE

1 APPRAISAL AS PRESCRIBED BY THE BOARD. THE BOARD SHALL ADOPT

2 RULES PERTAINING TO REAL ESTATE APPRAISAL EXPERIENCE THAT

3 SUBSTANTIALLY COMPLY WITH AND ARE NOT MORE STRINGENT THAN

4 THOSE REQUIRED FOR COMPLIANCE WITH TITLE XI OF THE FINANCIAL

5 INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.

6 (5) shall comply with any other requirements related to

7 the practice of real estate appraisal as prescribed by the

8 board by rule.

9 NEW SECTION. Section 7. Course of study. A course of

10 study acceptable under [section 6] must include the

11 following subjects:

12 (1) technical terms commonly used in or related to:

13 (a) real estate appraisal;

14 (b) appraisal report writing; and

15 (c) economic concepts applicable to real estate;

16 (2) basic principles of land economics and real estate

17 appraisal;

18 (3) problems likely to be encountered in gathering,

19 interpreting, and processing data required in the real

20 estate appraisal process;

21 (4) standards for the development and communication of

22 real estate appraisals as provided in [sections 1, 2, and 4

23 through 29];

24 (5) ethical rules that a real estate appraiser is

25 required to observe;

1 (6) (a) theories of depreciation and cost estimating;
 2 (b) methods of capitalization; and
 3 (c) the mathematics of real estate appraisal;
 4 (7) basic real estate law; and
 5 (8) types of misconduct for which disciplinary
 6 proceedings may be initiated against a licensed real estate
 7 appraiser, as set forth in [sections 1, 2, and 4 through
 8 29].

9 NEW SECTION. Section 8. License renewal -- continuing
 10 education requirements. (1) A real estate appraiser's
 11 license expires 3 years from the date of issuance.

12 (2) A licensee may renew his license, other than a
 13 temporary permit issued under [section 29], by filing an
 14 application with the board on a form approved by the board,
 15 paying a renewal fee prescribed by the board, and meeting
 16 all requirements of this section.

17 (3) In renewing a license, the board shall assure that
 18 the licensee has a working knowledge of:

19 (a) current real estate appraisal theories; and
 20 (b) practices and techniques that will enable the
 21 licensee to provide competent independent appraisal service
 22 under the authority of his license.

23 (4) An application for renewal must include evidence
 24 satisfactory to the board that within the 3-year period
 25 immediately preceding the application for renewal, the

1 licensee has completed at least 45 classroom hours of
 2 instruction in courses or seminars approved by the board, at
 3 least 15 hours of which must be related to standards of
 4 professional appraisal practice.

5 NEW SECTION. Section 9. Late renewal of license. (1) A
 6 licensee who does not renew a license within 3 years from
 7 the date of issuance may renew it, within 2 years from the
 8 date the license expires, by:

9 (a) filing with the board an application for late
 10 renewal on a form approved by the board;

11 (b) satisfying the continuing education requirements of
 12 [section 8]; and

13 (c) paying a late renewal fee prescribed by the board.

14 (2) The board may refuse to renew a license if the
 15 licensee has continued to perform independent appraisal
 16 services as a licensed real estate appraiser following
 17 expiration of the license.

18 NEW SECTION. Section 10. Complaints and investigations
 19 -- penalties. (1) The board may, upon its own motion, and
 20 shall, upon the written complaint of an aggrieved person,
 21 investigate an alleged violation of [sections 1, 2, and 4
 22 through 29] by a licensee or applicant for licensure in this
 23 state. If the investigation discloses a probable violation
 24 of [sections 1, 2, and 4 through 29], the board shall file a
 25 formal complaint against the licensee or applicant.

1 (2) If after a contested case hearing held pursuant to
2 Title 2, chapter 4, part 6, the board determines that a
3 licensee or applicant has violated a provision of [sections
4 1, 2, and 4 through 29], the board shall:

5 (a) deny an application or suspend or revoke a license;

6 (b) issue a formal reprimand to the licensee or
7 applicant;

8 (c) impose upon the licensee or applicant a fine not to
9 exceed \$500; or

10 (d) impose any combination of penalties set out in
11 subsections (2)(a) through (2)(c).

12 (3) The penalties provided in subsection (2) do not
13 apply to a person convicted under [section 5(2)].

14 NEW SECTION. Section 11. Place of business. (1) A
15 resident licensed or certified real estate appraiser shall
16 maintain a principal place of business in this state. If the
17 appraiser changes his principal place of business, he shall
18 promptly notify the board in writing of the change. Upon
19 receipt of notice of the change, the board shall issue a new
20 license or certificate for the unexpired term, stating the
21 principal place of business.

22 (2) A nonresident licensee is not required to maintain
23 a place of business in this state if he maintains a
24 principal place of business in his domicile state.

25 NEW SECTION. Section 12. Collection of appraisal fees.

1 A person who performs independent appraisal services as a
2 licensed or certified real estate appraiser in this state
3 may not bring an action in any court in this state to
4 collect compensation for the performance of those services
5 unless he alleges and proves that he held a valid license or
6 certificate at all times during the performance of those
7 services.

8 NEW SECTION. Section 13. Standards of professional
9 appraisal practice. (1) A licensed or certified real estate
10 appraiser shall comply with generally accepted standards of
11 professional appraisal practice, evidenced by the uniform
12 standards of professional appraisal practice promulgated by
13 the appraisal standards board of the appraisal foundation.

14 (2) If the appraisal standards board of the appraisal
15 foundation modifies the standards or issues supplemental
16 standards that it considers appropriate for all classes of
17 real estate appraisers and requests the board to consider
18 the adoption of the modifications or supplements, the board
19 shall conduct a public hearing to determine whether the
20 modified or supplemented standards must be observed in this
21 state. If following the hearing the board determines the
22 modified or supplemented standards are appropriate, the
23 board shall adopt the standards by rule.

24 NEW SECTION. Section 14. Denial, suspension, or
25 revocation of license or certificate. (1) The board may

1 refuse to issue a license or certificate to an applicant or
 2 ~~refuse--to-renew~~ MAY revoke, or suspend, OR REFUSE TO RENEW
 3 the license or certificate of a licensee if the licensee or
 4 applicant:

5 (a) procures or attempts to procure a license or
 6 certificate under [sections 1, 2, and 4 through 29]:

7 (i) through fraud;

8 (ii) by knowingly making a false statement;

9 (iii) by submitting false information; or

10 (iv) by making a material misrepresentation in an
 11 application filed with the board;

12 (b) pays money other than fees to any member or
 13 employee of the board or department to procure a license or
 14 certificate under [sections 1, 2, and 4 through 29];

15 (c) commits or omits any act in the practice of real
 16 estate appraisal that constitutes dishonesty, fraud, or
 17 misrepresentation with the intent to substantially benefit
 18 the licensee or another person or substantially injure
 19 another person;

20 (d) has entered against him a final civil or criminal
 21 judgment on grounds of fraud, misrepresentation, or deceit
 22 in the making of a real estate appraisal;

23 (e) is convicted of a crime that is substantially
 24 related to the qualifications, functions, or duties of a
 25 person engaging in real estate appraisals;

1 (f) engages in the business of real estate appraisal
 2 under an assumed or fictitious name not properly registered
 3 in the state of jurisdiction;

4 (g) pays a finder's fee or referral fee in connection
 5 with a real estate appraisal in this state to a person who
 6 does not have a real estate appraiser's license in this
 7 state;

8 (h) makes a false or misleading statement in that
 9 portion of the written appraisal report that deals with
 10 professional qualifications or in any testimony concerning
 11 professional qualifications;

12 (i) violates any section of [sections 1, 2, and 4
 13 through 29] or any rule promulgated under [sections 1, 2,
 14 and 4 through 29];

15 (j) violates the confidential nature of governmental
 16 records to which he gained access through employment or
 17 engagement as a real estate appraiser by a governmental
 18 agency; or

19 (k) accepts a fee for performing an independent
 20 appraisal service if the employment or fee is contingent
 21 upon:

22 (i) the appraiser reporting a predetermined estimate,
 23 valuation, analysis, opinion, or conclusion; or

24 (ii) the consequences resulting from the appraisal.

25 (2) In a disciplinary proceeding based on a civil

1 judgment, a licensee may not collaterally attack the
2 judgment but must be allowed to present matters in
3 mitigation or extenuation.

4 (3) Denial, suspension, or revocation of a license or
5 certificate is permissible only after a hearing and
6 procedures that comply with the applicable requirements of
7 Title 2, chapter 4.

8 **NEW SECTION. Section 15. Retention of records.** (1) A
9 licensed or certified real estate appraiser shall retain for
10 5 years from the date of submission of an appraisal report
11 to a client:

12 (a) an original or true copy of any written contract
13 engaging his services as an appraiser;

14 (b) an appraisal report prepared or signed by the
15 licensed or certified real estate appraiser; and

16 (c) all supporting data assembled and formulated by the
17 licensed or certified real estate appraiser in preparing the
18 appraisal report.

19 (2) If a licensed or certified real estate appraiser is
20 notified within this 5-year period that the appraisal report
21 is involved in litigation, the appraiser shall retain the
22 appraisal report for 5 years from the final date of
23 disposition of the litigation.

24 (3) The licensed or certified real estate appraiser
25 shall make available to the board at reasonable times, for

1 inspection and copying, any appraisal report he is required
2 to maintain under the provisions of this section.

3 **NEW SECTION. Section 16. Classification of services.**

4 (1) A client or employer may retain or employ a licensed or
5 certified real estate appraiser to:

6 (a) act as a disinterested third party in rendering an
7 unbiased analysis, opinion, conclusion, or estimate of
8 value; or

9 (b) provide specialized appraisal services to
10 facilitate the client's or employer's objectives.

11 (2) In either instance described in subsection (1), the
12 appraisal and appraisal report must comply with the
13 provisions of [sections 1, 2, and 4 through 29].

14 **NEW SECTION. Section 17. Contingent fee exception for
15 specialized appraisal service.** (1) A licensed or certified
16 real estate appraiser who enters into an agreement to
17 perform a specialized appraisal service may accept a fixed
18 fee or a fee that is contingent upon the results achieved by
19 the specialized appraisal service.

20 (2) If a licensed or certified real estate appraiser
21 enters into an agreement to perform a specialized appraisal
22 service for a contingent fee, that fact must be stated
23 conspicuously in each appraisal report. In a written
24 appraisal report and in each letter of transmittal and the
25 certification statement made in the appraisal report, that

1 fact must be clearly stated in a prominent location.

2 NEW SECTION. Section 18. Certification -- use of term
3 -- standards of practice. (1) A person may not represent
4 himself to be a certified real estate appraiser unless he is
5 certified under [sections 1, 2, and 4 through 29].

6 (2) Only a certified real estate appraiser may prepare
7 and sign a certified appraisal report relating to real
8 estate or real property in this state. If an appraisal
9 report is prepared, signed, and certified by a certified
10 real estate appraiser, a person licensed under [sections 1,
11 2, and 4 through 29] who assisted in the preparation of the
12 appraisal may cosign the appraisal report.

13 (3) The term "certified real estate appraiser" may not
14 be used to describe a firm, partnership, corporation, group,
15 or anyone other than an individual certificate holder.
16 However, a certified real estate appraiser may develop and
17 communicate an appraisal on behalf of a firm, partnership,
18 corporation, or group.

19 NEW SECTION. Section 19. Certification process --
20 fees. (1) An application for examination for certification,
21 original certification, or renewal of certification must be
22 made in writing to the board on forms approved by the board.

23 (2) A fee established by the board by rule must
24 accompany the application.

25 (3) When an applicant files an application for original

1 certification or renewal of certification, the applicant
2 shall sign a pledge that he will comply with the standards
3 of professional appraisal practice established for certified
4 real estate appraisers under [section 13]. He shall also
5 affirm that he understands the types of misconduct for which
6 disciplinary action may be initiated against him under
7 [section 14].

8 (4) To be eligible for original certification as a real
9 estate appraiser, an applicant shall:

10 (a) specify the class or classes of certification for
11 which the applicant is applying and provide evidence
12 satisfactory to the board that he has the education required
13 for the class or classes of certification for which he is
14 applying; and

15 (b) pass an examination prescribed by the board.

16 (5) A certificate issued under [section 22] must bear
17 the signatures or facsimile signatures of the members of the
18 board and a certificate number assigned by the board.

19 NEW SECTION. Section 20. Classes of certification --
20 education and experience requirements. A real estate
21 appraiser may be certified in any one or more of the
22 following classes:

23 (1) general real estate, which relates to the appraisal
24 of all types of real property. To be granted a certificate
25 as a general real estate appraiser, an applicant shall

1 present evidence satisfactory to the board that he has:

2 (a) completed at least 165 classroom hours in subjects
3 relating to real estate appraisal at a school or from a
4 nationally recognized organization approved by the board, at
5 least 15 classroom hours of which must be related to the
6 standards of professional practice; and

7 (b) had 3 years' experience in real estate appraisal
8 within the 5 years immediately preceding his application.
9 This evidence must include, by affidavit, written reports or
10 file memoranda for each year for which experience is
11 claimed.

12 (2) agricultural/rural lands, which relates to the
13 appraisal of agricultural and rural lands, including
14 timberlands. To be granted a certificate as an
15 agricultural/rural lands real estate appraiser, an applicant
16 shall present evidence satisfactory to the board that he
17 has:

18 (a) completed at least ~~150~~ 165 classroom hours in
19 subjects relating to real estate appraisal at a school or
20 from a nationally recognized organization approved by the
21 board, at least 15 classroom hours of which must be related
22 to the standards of professional practice; and

23 (b) had 3 years' experience in real estate appraisal
24 within the 5 years immediately preceding his application.
25 This evidence must include, by affidavit, written reports or

1 file memoranda for each year for which experience is
2 claimed.

3 NEW SECTION. Section 21. Certification examination.

4 (1) A person who satisfies the qualification requirements of
5 [section 6] and the education and experience requirements of
6 [section 20] may apply for examination as a certified real
7 estate appraiser in the manner prescribed by this section.

8 (2) The board shall adopt and administer a written
9 examination for certified real estate appraisers and
10 establish standards of acceptable performance.

11 (3) An applicant must be examined on the following
12 subjects:

13 (a) technical terms commonly used in or related to:

14 (i) real estate appraisal;

15 (ii) appraisal report writing; and

16 (iii) economic concepts applicable to real estate;

17 (b) principles of land economics, real estate law, and
18 real estate appraisal processes;

19 (c) problems likely to be encountered in gathering,
20 interpreting, and processing data required for developing
21 and communicating an appraisal;

22 (d) standards for the development and communication of
23 certified real estate appraisals;

24 (e) (i) theories of depreciation and cost estimating;

25 (ii) methods of capitalization; and

1 (iii) the mathematics of real estate appraisal
2 appropriate to the class or classes of certification sought
3 by the applicant; and

4 (f) types of misconduct for which disciplinary action
5 may be initiated under [sections 1, 2, and 4 through 29].

6 (4) Examinations must be given at least four times each
7 year in Helena and at other times and places as the board
8 determines.

9 (5) An applicant may not retake the examination within
10 6 months after having failed it a second or subsequent time.

11 NEW SECTION. Section 22. Issuance and display of
12 certificate. (1) The board shall issue a certificate and a
13 pocket card to a person who meets the requirements of
14 [sections 19 through 21].

15 (2) The certificate must include the dates of issuance
16 and renewal of certification.

17 (3) A certified real estate appraiser shall
18 conspicuously display the certificate in his principal place
19 of business.

20 (4) A certified real estate appraiser shall designate
21 the class for which he is certified and place his
22 certificate number on each appraisal report, contract, or
23 other instrument used by him in conducting real estate
24 appraisal activities.

25 NEW SECTION. Section 23. Deposit of fees. Fees

1 collected by the board under [sections 1, 2, and 4 through
2 29] must be deposited in the state special revenue fund for
3 the use of the board, subject to 37-1-101(6), and may be
4 used to pay the compensation of board members and other
5 expenses necessary to administer [sections 1, 2, and 4
6 through 29].

7 NEW SECTION. Section 24. Reciprocity -- consent to
8 service of process. (1) A person who holds a valid real
9 estate appraiser's license or certificate in a state that
10 grants reciprocity to Montana real estate appraisers and
11 that has substantially equivalent licensure or certification
12 requirements to this state may be licensed or certified in
13 this state. The person shall conform to the requirements of
14 [sections 1, 2, and 4 through 29].

15 (2) In addition, an applicant for reciprocity under
16 this section shall submit an irrevocable consent that in any
17 action against the applicant arising out of the applicant's
18 activities as a real estate appraiser licensed or certified
19 by this state, service of process may be made upon him by
20 delivery of the process to the secretary of state of this
21 state if the plaintiff cannot effect personal service upon
22 the applicant in the exercise of due diligence.

23 NEW SECTION. Section 25. Renewal of certificate --
24 continuing education requirements. (1) A certificate issued
25 under [section 22] must be renewed every 3 years.

1 (2) A certificate may be renewed upon payment of a
2 renewal fee and production of evidence satisfactory to the
3 board that during the certification period immediately
4 preceding the application for renewal, the certified real
5 estate appraiser has:

6 (a) completed at least 45 classroom hours of
7 instruction in courses or seminars approved by the board, at
8 least 15 hours of which must be related to standards of
9 professional appraisal practice;

10 (b) completed an education program determined by the
11 board to be equivalent to the courses and seminars approved
12 under subsection (2)(a); or

13 (c) participated, other than as a student, in an
14 education program approved by the board that relates to the
15 theory and technique of real property appraisal.

16 (3) An applicant for renewal shall state the class of
17 certification previously held and presently sought.

18 **NEW SECTION. Section 26. Late renewal of certificate.**

19 (1) A certificate holder who does not renew a certificate
20 within 3 years from the date of issuance may renew it,
21 within 2 years from the date the certificate expires, by:

22 (a) filing with the board an application for late
23 renewal on a form approved by the board;

24 (b) satisfying the continuing education requirements of
25 [section 25]; and

1 (c) paying a late renewal fee prescribed by the board.

2 (2) The board may refuse to renew a certificate if the
3 certificate holder has continued to perform independent
4 appraisal services in this state following expiration of the
5 certificate.

6 **NEW SECTION. Section 27. Roster of licensed and**
7 **certified real estate appraisers.** The board shall prepare
8 and issue at least once each calendar year a roster listing
9 the name and principal place of business of each real estate
10 appraiser currently licensed or certified under [sections 1,
11 2, and 4 through 29]. A member of the public may obtain a
12 copy of the roster by applying to the board. The board may
13 set a reasonable fee for the cost of providing the roster.

14 **NEW SECTION. Section 28. Certificate of good standing.**
15 The board may issue a certificate of good standing to any
16 licensed or certified real estate appraiser who holds a
17 current valid license or certificate in this state.

18 **NEW SECTION. Section 29. Licensure and certification**
19 **of nonresidents -- temporary permit -- service of process.**

20 (1) A person not a resident of this state who has complied
21 with the provisions of subsection (3) may obtain a license
22 or certificate as a real estate appraiser in this state by
23 complying with the provisions of [sections 1, 2, and 4
24 through 29] relating to the licensure or certification of
25 real estate appraisers.

1 (2) (a) A person not a resident of this state who has
 2 complied with the consent provisions of subsection (3) may
 3 obtain a temporary permit to perform a contract relating to
 4 the appraisal of real estate or real property in this state.
 5 To qualify for a temporary permit, an applicant shall:

6 (i) submit an application to the board on a form
 7 approved by the board;

8 (ii) submit evidence that the applicant is licensed or
 9 otherwise authorized to appraise real estate or real
 10 property in the applicant's domicile state;

11 (iii) submit a copy of the contract for appraisal
 12 services that requires the applicant to appraise real estate
 13 or real property in this state and certify that the contract
 14 is in force and effect;

15 (iv) certify that no disciplinary proceeding is pending
 16 against the applicant in the applicant's domicile state;

17 (v) pay an application fee in an amount prescribed by
 18 the board; and

19 (vi) comply with the other requirements established by
 20 the board.

21 (b) The board may not grant more than three temporary
 22 permits to an applicant within a 3-year period.

23 (c) A temporary permit issued under this section is
 24 limited to a grant of authority to perform independent
 25 appraisal services required by the contract for appraisal

1 services submitted with the application for a temporary
 2 permit.

3 (d) A temporary permit expires upon completion of the
 4 appraisal services under the contract or 6 months after
 5 issuance of the temporary permit, whichever is earlier. A
 6 temporary permit may not be renewed.

7 (3) An applicant for licensure or certification under
 8 [sections 1, 2, and 4 through 29] who is not a resident of
 9 this state shall submit, with his application for licensure
 10 or certification, an irrevocable consent that service of
 11 process upon the applicant may be made by delivery of the
 12 process to the secretary of state of this state if, in an
 13 action against the applicant in a court in this state
 14 arising out of the applicant's activities as a licensed or
 15 certified real estate appraiser in this state, the plaintiff
 16 cannot effect personal service upon the applicant in the
 17 exercise of due diligence.

18 NEW SECTION. Section 30. Severability. If a part of
 19 [this act] is invalid, all valid parts that are severable
 20 from the invalid part remain in effect. If a part of [this
 21 act] is invalid in one or more of its applications, the part
 22 remains in effect in all valid applications that are
 23 severable from the invalid applications.

24 NEW SECTION. Section 31. Codification instruction. (1)
 25 [Section 3] is intended to be codified as an integral part

SB 0008/02

1 of Title 2, chapter 15, part 18, and the provisions of Title
2 2, chapter 15, part 18, apply to [section 3].

3 (2) [Sections 1, 2, and 4 through 29] are intended to
4 be codified as an integral part of Title 37, and the
5 provisions of Title 37 apply to [sections 1, 2, and 4
6 through 29].

7 NEW SECTION. **Section 32. Effective date.** [This act] is
8 effective on passage and approval.

-End-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 8
Representative Harper

March 22, 1991
Page 2 of 2

March 22, 1991 8:34 am
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 8 (third reading copy -- blue).

Signed: Harper
Representative Harper

And, that such amendments to Senate Bill 8 read as follows:

1. Page 4, line 12.
Following: "appraisal."
✓ Insert: "An appraisal report for a federally-related transaction must be in writing."
- ✓ 2. Page 5, line 25 through page 6 line 9.
Strike: subsection 13 in its entirety.
- ✓ 3. Page 9, line 15.
Following: line 14
Insert: "(2) The term "licensed real estate appraiser" may not be used to describe a firm, partnership, corporation, group or anyone other than an individual licensee. However, a licensed real estate appraiser may engage in real estate appraisal as a professional corporation."
Re-number: subsequent subsections
- ✓ 4. Page 9, line 17.
Following: "property"
Insert: "for non-federally related transactions"
- ✓ 5. Page 10, lines 3 through 5.
Strike: subsection (b) in its entirety.
Re-number: subsequent subsections
- ✓ 6. Page 10, line 7.
Following: "duties"
Insert: "which are not governed by the rules established by the Federal Financial Institutions Examination Council (FFIEC) agencies"
- ✓ 7. Page 20, line 14 through page 21 line 1.
Strike: Section 17 in its entirety
Re-number: subsequent sections

- ✓ 8. Page 22, line 24 through page 23 line 11.
Following: "property" on line 24.
✓ Strike: remainder of line 24 through "claimed" on page 23 line 11.
9. Page 23, line 14 through page 24 line 2.
Following: "timberlands."
Strike: remainder of line 14 through "claimed" on page 24 line 2.
Insert: "(2) Residential real estate, which relates to the appraisal of expensive or complex 1-4 family homes.
(3) The board shall adopt rules pertaining to real estate appraisal education and experience that are at least as stringent as those required for compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989."
- ✓ 10. Page 24, line 10.
Following: "performance"
Insert: "for each class of certification that are at least as stringent as those required for compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989"
11. Page 29 lines 21 and 22.
Strike: subsection (b) in its entirety.
Re-number: subsequent subsections.

ADOPT

REJECT

SB008.1
620834CW.Hpd

HOUSE
308

1 SENATE BILL NO. 8

2 INTRODUCED BY MAZUREK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE PRACTICE
5 OF REAL ESTATE APPRAISING; ESTABLISHING THE BOARD OF REAL
6 ESTATE APPRAISERS; PROVIDING FOR LICENSURE AND CERTIFICATION
7 OF REAL ESTATE APPRAISERS; PROVIDING PENALTIES; ESTABLISHING
8 FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
9

10 STATEMENT OF INTENT

11 A statement of intent is required for this bill because
12 [section 4] grants rulemaking authority to the newly
13 established board of real estate appraisers.

14 (1) It is the intent of [section 4] that the board have
15 authority to adopt rules to implement and enforce [sections
16 1, 2, and 4 through 29], including specific authority to
17 adopt rules regarding:

18 (a) license and certificate applications and procedures
19 necessary to receive and process those applications;

20 (b) examinations and criteria for grading examinations;

21 (c) disciplinary standards for licensees and
22 certificate holders, including definitions of conduct for
23 which discipline may be appropriate;

24 (d) continuing education requirements;

25 (e) the investigation of complaints received under

1 [section 10];

2 (f) the setting and modification of appropriate fees;

3 (g) a process for renewal of licenses and certificates,
4 including a procedure for late renewal;

5 (h) the retention of board records;

6 (i) the adoption and modification of standards of
7 professional appraisal practice as set out in [section 13];

8 (j) reciprocity conditions applicable to licensure and
9 certification as set out in [section 24]; and

10 (k) procedures for granting temporary permits as set
11 out in [section 29].

12 (2) It is the intent of [section 3] that the governor
13 have the authority to implement staggered terms for board
14 members during the appointment process.

15 (3) It is intended that the board of real estate
16 appraisers address by rule the implementation of practices
17 mandated for the profession by future federal legislation
18 and notify the department of commerce of statutory changes
19 necessary to effect those practices, to allow consideration
20 by the legislature.

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

23 NEW SECTION. **Section 1.** Short title. [Sections 1, 2,
24 and 4 through 29] may be cited as the "Real Estate Appraiser
25 Licensing and Certification Act".

REFERENCE BILL

1 **NEW SECTION. Section 2. Definitions.** As used in
2 [sections 1, 2, and 4 through 29], unless the context
3 requires otherwise, the following definitions apply:

4 (1) "Appraisal" or "real estate appraisal" means an
5 analysis, opinion, or conclusion relating to the nature,
6 quality, value, or utility of a specified interest in or
7 aspects of identified real estate.

8 (2) "Appraisal assignment" means an appraisal
9 classified by the nature of the assignment as:

10 (a) a valuation appraisal, which is an analysis,
11 opinion, or conclusion prepared by a real estate appraiser
12 that estimates the value of an identified parcel of real
13 estate or identified real property at a particular point in
14 time;

15 (b) an analysis assignment, which is an analysis,
16 opinion, or conclusion prepared by a real estate appraiser
17 that relates to the nature, quality, or utility of
18 identified real estate or identified real property; or

19 (c) a review assignment, which is an analysis, opinion,
20 or conclusion prepared by a real estate appraiser that forms
21 an opinion as to the adequacy and appropriateness of a
22 valuation appraisal.

23 (3) "Appraisal foundation" means the appraisal
24 foundation incorporated as an Illinois not-for-profit
25 corporation on November 30, 1987. The purposes of the

1 appraisal foundation are to:

2 (a) establish and improve uniform appraisal standards
3 by defining, issuing, and promoting those standards;

4 (b) establish appropriate criteria for the
5 certification and recertification of qualified appraisers by
6 defining, issuing, and promoting qualification criteria and
7 disseminate the qualification criteria to states and other
8 governmental entities; and

9 (c) develop or assist in the development of appropriate
10 examinations for qualified appraisers.

11 (4) "Appraisal report" means a written or oral
12 communication of a real estate appraisal. An appraisal
13 report may be classified by the nature of the assignment as
14 a "valuation report", an "analysis report", or a "review
15 report". For the purposes of [sections 1, 2, and 4 through
16 29], testimony of a licensed or certified real estate
17 appraiser dealing with the appraiser's analyses, opinions,
18 or conclusions concerning identified real estate or
19 identified real property is considered an oral appraisal
20 report.

21 (5) "Board" means the board of real estate appraisers
22 provided for in [section 3].

23 (6) "Certified appraisal report" means an appraisal or
24 appraisal report given or signed and certified by a
25 certified real estate appraiser. When identifying an

1 appraisal or appraisal report as "certified", the certified
2 real estate appraiser shall indicate the class of
3 certification the appraiser holds.

4 (7) "Certified real estate appraiser" means a person
5 who develops and communicates real estate appraisals and who
6 has a valid real estate appraisal certificate issued under
7 [section 22].

8 (8) "Department" means the department of commerce
9 provided for in 2-15-1801.

10 (9) "Independent appraisal service" means an engagement
11 for which a person is employed or retained to act, or would
12 be perceived by a third party or the public as acting, as a
13 disinterested third party in rendering an unbiased analysis,
14 opinion, or conclusion relating to the nature, quality,
15 value, or utility of identified real estate or identified
16 real property.

17 (10) "Licensed real estate appraiser" means a person who
18 holds a current valid real estate appraiser license issued
19 under [section 5].

20 (11) "Real estate" means an identified parcel or tract
21 of land, including any improvements on the land.

22 (12) "Real property" means one or more defined
23 interests, benefits, and rights inherent in the ownership of
24 real estate.

25 (13) "Specialized appraisal service" means an

1 independent appraisal service that does not fall within the
2 definition of an appraisal assignment. Specialized appraisal
3 services may include a valuation appraisal, an analysis
4 assignment, or a review assignment. Regardless of the intent
5 of the client or employer, if an appraisal is perceived by a
6 third party or the public as the act of a disinterested
7 third party in rendering an unbiased analysis, opinion, or
8 conclusion, the work is considered an independent appraisal
9 service and not a specialized service.

10 NEW SECTION. **Section 3.** Board of real estate
11 appraisers. (1) There is a board of real estate appraisers.

12 (2) The board consists of five members appointed by the
13 governor with the consent of the senate.

14 (3) Four THREE members must be licensed or certified
15 real estate appraisers, and one-member TWO MEMBERS must be a
16 representative REPRESENTATIVES of the public who is ARE not
17 engaged in the occupation of real estate appraisal.

18 (4) Only one member of the board may be primarily
19 affiliated with the same recognized appraisal group defined
20 by the appraisal foundation.

21 (5) (a) Before January 1, 1992, a real estate appraiser
22 board member must be a designated member of a national real
23 estate appraisal organization that requires for membership
24 appraisal experience, certain educational qualifications,
25 successful completion of an examination, and adherence to

1 the standards of professional appraisal practice.

2 (b) On and after January 1, 1992, three real estate
3 appraiser board members must be certified real estate
4 appraisers.

5 (6) Members shall serve staggered 3-year terms. A
6 member may not serve for more than two consecutive terms.

7 (7) The board is allocated to the department for
8 administrative purposes only, as prescribed in 2-15-121.

9 (8) A board member may be removed from the board by the
10 governor for neglect or cause.

11 (9) The board shall meet at least once each calendar
12 quarter to transact its business. Three ~~real-estate~~
13 ~~appraiser~~ members constitute a quorum for transacting
14 business.

15 (10) The board shall elect a chairman from among its
16 members.

17 (11) A board member shall receive compensation and
18 travel expenses as provided in 37-1-133.

19 **NEW SECTION. Section 4. Powers and duties of board.**
20 The board shall:

21 (1) adopt rules to implement and administer the
22 provisions of [sections 1, 2, and 4 through 29];

23 (2) establish and collect fees commensurate with the
24 costs of licensure and certification and renewal of a
25 license or certificate;

1 (3) make available application forms for licensure and
2 certification within 15 days of the first meeting of the
3 board;

4 (4) establish minimum requirements for education,
5 experience, and examination for licensure and certification
6 as set out by the appraisal qualification board of the
7 appraisal foundation;

8 (5) receive applications for examination from qualified
9 applicants, prescribe and administer examinations to
10 qualified applicants, and determine the acceptable level of
11 performance on examinations;

12 (6) receive and review applications for licensure and
13 certification and issue licenses and certificates;

14 (7) review periodically the standards for development
15 and communication of appraisals and adopt rules explaining
16 and interpreting the standards;

17 (8) retain all applications and other records submitted
18 to it;

19 (9) maintain a registry of the names and addresses of
20 licensees and certificate holders;

21 (10) establish disciplinary procedures for reprimand,
22 suspension, or revocation of a license and certificate;

23 (11) adopt by rule standards of professional appraisal
24 practice in this state;

25 (12) reprimand, suspend, revoke, or refuse to renew the

1 license or certificate of a person who has violated the
2 standards established for licensed and certified real estate
3 appraisers;

4 (13) establish criteria for courses and seminars
5 consistent with the continuing education requirements set
6 out in [sections 8 and 25]; and

7 (14) perform other duties necessary to implement
8 [sections 1, 2, and 4 through 29].

9 **NEW SECTION. Section 5. Real estate appraiser license**
10 -- scope and display of license. (1) Upon proof that an
11 applicant meets the qualifications set out in [section 6]
12 and upon payment of license fees adopted under [section 4],
13 the board shall issue to the applicant a real estate
14 appraiser license.

15 (2) Nothing in [sections 1, 2, and 4 through 29]
16 precludes a person who is not a licensed or certified real
17 estate appraiser from appraising real property for
18 compensation, provided the person does not represent himself
19 as a licensed or certified real estate appraiser. A person
20 who refers to himself or his company as being licensed under
21 this section or certified under [sections 19 through 21]
22 without possessing the applicable license or certificate is
23 guilty of a misdemeanor.

24 (3) This section does not:

25 (a) prohibit a person who is licensed to practice in

1 this state under any law from engaging in the practice for
2 which he is licensed;

3 (b) prohibit a licensed real estate appraiser from
4 engaging in real estate appraisal as a professional
5 corporation; or

6 (c) apply to public officials in the conduct of their
7 official duties.

8 (4) A licensed real estate appraiser has restrictions
9 on the scope of practice, depending on the value and
10 complexity of the federally related transaction or
11 transactions pursuant to rules established by the federal
12 financial institutions examination council (FFIEC) agencies,
13 and the restrictions must remain current with any changes in
14 those rules.

15 (5) A licensed real estate appraiser shall
16 conspicuously display the license in his principal place of
17 business.

18 **NEW SECTION. Section 6. Qualifications for licensure.**
19 To qualify for a real estate appraiser license, an
20 applicant:

21 (1) shall successfully complete at least 75 classroom
22 hours of a course of study described in [section 7] and
23 approved by the board.

24 (a) The course of study must be conducted by:

25 (i) an accredited university, college, or junior

1 college;

2 (ii) an approved real estate appraisal or real
3 estate-related organization; or

4 (iii) another school approved by the board.

5 (b) The classroom hours must include:

6 (i) at least 60 hours relating to the basic principles
7 of land economics and real estate appraisal; and

8 (ii) at least 15 hours relating to the standards of
9 professional appraisal practice set out in [section 13] and
10 the ethical rules, as established by board rule, to be
11 observed by a real estate appraiser.

12 (2) shall pass an examination administered by the board
13 that is based on the study required by [section 7] and
14 subsection (1) of this section and is designed to test the
15 applicant's knowledge of the basic principles of land
16 economics and real estate appraisal, standards of
17 professional appraisal practice, and ethical rules to be
18 observed by a real estate appraiser;

19 (3) must be of good moral character;

20 (4) must have ~~2-years+experience, consisting of--1,000~~
21 ~~hours--a--year--with--a--minimum--of--2--calendar--years--in--real~~
22 ~~estate--appraisal--within--the--5--years--immediately--preceding~~
23 ~~his--application.--Evidence--of--experience--must--include,--by~~
24 ~~affidavit,--written--reports--or--file--memoranda--for--each--year~~
25 ~~for--which--experience--is--claimed~~ EXPERIENCE IN REAL ESTATE

1 APPRAISAL AS PRESCRIBED BY THE BOARD. THE BOARD SHALL ADOPT
2 RULES PERTAINING TO REAL ESTATE APPRAISAL EXPERIENCE THAT
3 SUBSTANTIALLY COMPLY WITH AND ARE NOT MORE STRINGENT THAN
4 THOSE REQUIRED FOR COMPLIANCE WITH TITLE XI OF THE FINANCIAL
5 INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.

6 (5) shall comply with any other requirements related to
7 the practice of real estate appraisal as prescribed by the
8 board by rule.

9 NEW SECTION. Section 7. Course of study. A course of
10 study acceptable under [section 6] must include the
11 following subjects:

12 (1) technical terms commonly used in or related to:

13 (a) real estate appraisal;

14 (b) appraisal report writing; and

15 (c) economic concepts applicable to real estate;

16 (2) basic principles of land economics and real estate
17 appraisal;

18 (3) problems likely to be encountered in gathering,
19 interpreting, and processing data required in the real
20 estate appraisal process;

21 (4) standards for the development and communication of
22 real estate appraisals as provided in [sections 1, 2, and 4
23 through 29];

24 (5) ethical rules that a real estate appraiser is
25 required to observe;

1 (6) (a) theories of depreciation and cost estimating;
 2 (b) methods of capitalization; and
 3 (c) the mathematics of real estate appraisal;
 4 (7) basic real estate law; and
 5 (8) types of misconduct for which disciplinary
 6 proceedings may be initiated against a licensed real estate
 7 appraiser, as set forth in [sections 1, 2, and 4 through
 8 29].

9 NEW SECTION. Section 8. License renewal -- continuing
 10 education requirements. (1) A real estate appraiser's
 11 license expires 3 years from the date of issuance.

12 (2) A licensee may renew his license, other than a
 13 temporary permit issued under [section 29], by filing an
 14 application with the board on a form approved by the board,
 15 paying a renewal fee prescribed by the board, and meeting
 16 all requirements of this section.

17 (3) In renewing a license, the board shall assure that
 18 the licensee has a working knowledge of:

19 (a) current real estate appraisal theories; and
 20 (b) practices and techniques that will enable the
 21 licensee to provide competent independent appraisal service
 22 under the authority of his license.

23 (4) An application for renewal must include evidence
 24 satisfactory to the board that within the 3-year period
 25 immediately preceding the application for renewal, the

1 licensee has completed at least 45 classroom hours of
 2 instruction in courses or seminars approved by the board, at
 3 least 15 hours of which must be related to standards of
 4 professional appraisal practice.

5 NEW SECTION. Section 9. Late renewal of license. (1) A
 6 licensee who does not renew a license within 3 years from
 7 the date of issuance may renew it, within 2 years from the
 8 date the license expires, by:

9 (a) filing with the board an application for late
 10 renewal on a form approved by the board;

11 (b) satisfying the continuing education requirements of
 12 [section 8]; and

13 (c) paying a late renewal fee prescribed by the board.

14 (2) The board may refuse to renew a license if the
 15 licensee has continued to perform independent appraisal
 16 services as a licensed real estate appraiser following
 17 expiration of the license.

18 NEW SECTION. Section 10. Complaints and investigations
 19 -- penalties. (1) The board may, upon its own motion, and
 20 shall, upon the written complaint of an aggrieved person,
 21 investigate an alleged violation of [sections 1, 2, and 4
 22 through 29] by a licensee or applicant for licensure in this
 23 state. If the investigation discloses a probable violation
 24 of [sections 1, 2, and 4 through 29], the board shall file a
 25 formal complaint against the licensee or applicant.

1 (2) If after a contested case hearing held pursuant to
2 Title 2, chapter 4, part 6, the board determines that a
3 licensee or applicant has violated a provision of [sections
4 1, 2, and 4 through 29], the board shall:

5 (a) deny an application or suspend or revoke a license;

6 (b) issue a formal reprimand to the licensee or
7 applicant;

8 (c) impose upon the licensee or applicant a fine not to
9 exceed \$500; or

10 (d) impose any combination of penalties set out in
11 subsections (2)(a) through (2)(c).

12 (3) The penalties provided in subsection (2) do not
13 apply to a person convicted under [section 5(2)].

14 NEW SECTION. Section 11. Place of business. (1) A
15 resident licensed or certified real estate appraiser shall
16 maintain a principal place of business in this state. If the
17 appraiser changes his principal place of business, he shall
18 promptly notify the board in writing of the change. Upon
19 receipt of notice of the change, the board shall issue a new
20 license or certificate for the unexpired term, stating the
21 principal place of business.

22 (2) A nonresident licensee is not required to maintain
23 a place of business in this state if he maintains a
24 principal place of business in his domicile state.

25 NEW SECTION. Section 12. Collection of appraisal fees.

1 A person who performs independent appraisal services as a
2 licensed or certified real estate appraiser in this state
3 may not bring an action in any court in this state to
4 collect compensation for the performance of those services
5 unless he alleges and proves that he held a valid license or
6 certificate at all times during the performance of those
7 services.

8 NEW SECTION. Section 13. Standards of professional
9 appraisal practice. (1) A licensed or certified real estate
10 appraiser shall comply with generally accepted standards of
11 professional appraisal practice, evidenced by the uniform
12 standards of professional appraisal practice promulgated by
13 the appraisal standards board of the appraisal foundation.

14 (2) If the appraisal standards board of the appraisal
15 foundation modifies the standards or issues supplemental
16 standards that it considers appropriate for all classes of
17 real estate appraisers and requests the board to consider
18 the adoption of the modifications or supplements, the board
19 shall conduct a public hearing to determine whether the
20 modified or supplemented standards must be observed in this
21 state. If following the hearing the board determines the
22 modified or supplemented standards are appropriate, the
23 board shall adopt the standards by rule.

24 NEW SECTION. Section 14. Denial, suspension, or
25 revocation of license or certificate. (1) The board may

1 refuse to issue a license or certificate to an applicant or
 2 ~~refuse--to-renew~~ MAY revoke, or suspend, OR REFUSE TO RENEW
 3 the license or certificate of a licensee or
 4 applicant:

5 (a) procures or attempts to procure a license or
 6 certificate under [sections 1, 2, and 4 through 29]:

7 (i) through fraud;

8 (ii) by knowingly making a false statement;

9 (iii) by submitting false information; or

10 (iv) by making a material misrepresentation in an
 11 application filed with the board;

12 (b) pays money other than fees to any member or
 13 employee of the board or department to procure a license or
 14 certificate under [sections 1, 2, and 4 through 29];

15 (c) commits or omits any act in the practice of real
 16 estate appraisal that constitutes dishonesty, fraud, or
 17 misrepresentation with the intent to substantially benefit
 18 the licensee or another person or substantially injure
 19 another person;

20 (d) has entered against him a final civil or criminal
 21 judgment on grounds of fraud, misrepresentation, or deceit
 22 in the making of a real estate appraisal;

23 (e) is convicted of a crime that is substantially
 24 related to the qualifications, functions, or duties of a
 25 person engaging in real estate appraisals;

1 (f) engages in the business of real estate appraisal
 2 under an assumed or fictitious name not properly registered
 3 in the state of jurisdiction;

4 (g) pays a finder's fee or referral fee in connection
 5 with a real estate appraisal in this state to a person who
 6 does not have a real estate appraiser's license in this
 7 state;

8 (h) makes a false or misleading statement in that
 9 portion of the written appraisal report that deals with
 10 professional qualifications or in any testimony concerning
 11 professional qualifications;

12 (i) violates any section of [sections 1, 2, and 4
 13 through 29] or any rule promulgated under [sections 1, 2,
 14 and 4 through 29];

15 (j) violates the confidential nature of governmental
 16 records to which he gained access through employment or
 17 engagement as a real estate appraiser by a governmental
 18 agency; or

19 (k) accepts a fee for performing an independent
 20 appraisal service if the employment or fee is contingent
 21 upon:

22 (i) the appraiser reporting a predetermined estimate,
 23 valuation, analysis, opinion, or conclusion; or

24 (ii) the consequences resulting from the appraisal.

25 (2) In a disciplinary proceeding based on a civil

1 judgment, a licensee may not collaterally attack the
2 judgment but must be allowed to present matters in
3 mitigation or extenuation.

4 (3) Denial, suspension, or revocation of a license or
5 certificate is permissible only after a hearing and
6 procedures that comply with the applicable requirements of
7 Title 2, chapter 4.

8 **NEW SECTION. Section 15. Retention of records.** (1) A
9 licensed or certified real estate appraiser shall retain for
10 5 years from the date of submission of an appraisal report
11 to a client:

12 (a) an original or true copy of any written contract
13 engaging his services as an appraiser;

14 (b) an appraisal report prepared or signed by the
15 licensed or certified real estate appraiser; and

16 (c) all supporting data assembled and formulated by the
17 licensed or certified real estate appraiser in preparing the
18 appraisal report.

19 (2) If a licensed or certified real estate appraiser is
20 notified within this 5-year period that the appraisal report
21 is involved in litigation, the appraiser shall retain the
22 appraisal report for 5 years from the final date of
23 disposition of the litigation.

24 (3) The licensed or certified real estate appraiser
25 shall make available to the board at reasonable times, for

1 inspection and copying, any appraisal report he is required
2 to maintain under the provisions of this section.

3 **NEW SECTION. Section 16. Classification of services.**

4 (1) A client or employer may retain or employ a licensed or
5 certified real estate appraiser to:

6 (a) act as a disinterested third party in rendering an
7 unbiased analysis, opinion, conclusion, or estimate of
8 value; or

9 (b) provide specialized appraisal services to
10 facilitate the client's or employer's objectives.

11 (2) In either instance described in subsection (1), the
12 appraisal and appraisal report must comply with the
13 provisions of [sections 1, 2, and 4 through 29].

14 **NEW SECTION. Section 17. Contingent fee exception for**
15 **specialized appraisal service.** (1) A licensed or certified
16 real estate appraiser who enters into an agreement to
17 perform a specialized appraisal service may accept a fixed
18 fee or a fee that is contingent upon the results achieved by
19 the specialized appraisal service.

20 (2) If a licensed or certified real estate appraiser
21 enters into an agreement to perform a specialized appraisal
22 service for a contingent fee, that fact must be stated
23 conspicuously in each appraisal report. In a written
24 appraisal report and in each letter of transmittal and the
25 certification statement made in the appraisal report, that

1 fact must be clearly stated in a prominent location.

2 **NEW SECTION. Section 18. Certification -- use of term**
3 **-- standards of practice.** (1) A person may not represent
4 himself to be a certified real estate appraiser unless he is
5 certified under [sections 1, 2, and 4 through 29].

6 (2) Only a certified real estate appraiser may prepare
7 and sign a certified appraisal report relating to real
8 estate or real property in this state. If an appraisal
9 report is prepared, signed, and certified by a certified
10 real estate appraiser, a person licensed under [sections 1,
11 2, and 4 through 29] who assisted in the preparation of the
12 appraisal may cosign the appraisal report.

13 (3) The term "certified real estate appraiser" may not
14 be used to describe a firm, partnership, corporation, group,
15 or anyone other than an individual certificate holder.
16 However, a certified real estate appraiser may develop and
17 communicate an appraisal on behalf of a firm, partnership,
18 corporation, or group.

19 **NEW SECTION. Section 19. Certification process --**
20 **fees.** (1) An application for examination for certification,
21 original certification, or renewal of certification must be
22 made in writing to the board on forms approved by the board.

23 (2) A fee established by the board by rule must
24 accompany the application.

25 (3) When an applicant files an application for original

1 certification or renewal of certification, the applicant
2 shall sign a pledge that he will comply with the standards
3 of professional appraisal practice established for certified
4 real estate appraisers under [section 13]. He shall also
5 affirm that he understands the types of misconduct for which
6 disciplinary action may be initiated against him under
7 [section 14].

8 (4) To be eligible for original certification as a real
9 estate appraiser, an applicant shall:

10 (a) specify the class or classes of certification for
11 which the applicant is applying and provide evidence
12 satisfactory to the board that he has the education required
13 for the class or classes of certification for which he is
14 applying; and

15 (b) pass an examination prescribed by the board.

16 (5) A certificate issued under [section 22] must bear
17 the signatures or facsimile signatures of the members of the
18 board and a certificate number assigned by the board.

19 **NEW SECTION. Section 20. Classes of certification --**
20 **education and experience requirements.** A real estate
21 appraiser may be certified in any one or more of the
22 following classes:

23 (1) general real estate, which relates to the appraisal
24 of all types of real property. To be granted a certificate
25 as a general real estate appraiser, an applicant shall

1 present evidence satisfactory to the board that he has:

2 (a) completed at least 165 classroom hours in subjects
3 relating to real estate appraisal at a school or from a
4 nationally recognized organization approved by the board, at
5 least 15 classroom hours of which must be related to the
6 standards of professional practice; and

7 (b) had 3 years' experience in real estate appraisal
8 within the 5 years immediately preceding his application.
9 This evidence must include, by affidavit, written reports or
10 file memoranda for each year for which experience is
11 claimed.

12 (2) agricultural/rural lands, which relates to the
13 appraisal of agricultural and rural lands, including
14 timberlands. To be granted a certificate as an
15 agricultural/rural lands real estate appraiser, an applicant
16 shall present evidence satisfactory to the board that he
17 has:

18 (a) completed at least ~~150~~ 165 classroom hours in
19 subjects relating to real estate appraisal at a school or
20 from a nationally recognized organization approved by the
21 board, at least 15 classroom hours of which must be related
22 to the standards of professional practice; and

23 (b) had 3 years' experience in real estate appraisal
24 within the 5 years immediately preceding his application.
25 This evidence must include, by affidavit, written reports or

1 file memoranda for each year for which experience is
2 claimed.

3 NEW SECTION. **Section 21. Certification examination.**

4 (1) A person who satisfies the qualification requirements of
5 [section 6] and the education and experience requirements of
6 [section 20] may apply for examination as a certified real
7 estate appraiser in the manner prescribed by this section.

8 (2) The board shall adopt and administer a written
9 examination for certified real estate appraisers and
10 establish standards of acceptable performance.

11 (3) An applicant must be examined on the following
12 subjects:

13 (a) technical terms commonly used in or related to:

- 14 (i) real estate appraisal;
15 (ii) appraisal report writing; and
16 (iii) economic concepts applicable to real estate;

17 (b) principles of land economics, real estate law, and
18 real estate appraisal processes;

19 (c) problems likely to be encountered in gathering,
20 interpreting, and processing data required for developing
21 and communicating an appraisal;

22 (d) standards for the development and communication of
23 certified real estate appraisals;

- 24 (e) (i) theories of depreciation and cost estimating;
25 (ii) methods of capitalization; and

1 (iii) the mathematics of real estate appraisal
2 appropriate to the class or classes of certification sought
3 by the applicant; and

4 (f) types of misconduct for which disciplinary action
5 may be initiated under [sections 1, 2, and 4 through 29].

6 (4) Examinations must be given at least four times each
7 year in Helena and at other times and places as the board
8 determines.

9 (5) An applicant may not retake the examination within
10 6 months after having failed it a second or subsequent time.

11 NEW SECTION. Section 22. Issuance and display of
12 certificate. (1) The board shall issue a certificate and a
13 pocket card to a person who meets the requirements of
14 [sections 19 through 21].

15 (2) The certificate must include the dates of issuance
16 and renewal of certification.

17 (3) A certified real estate appraiser shall
18 conspicuously display the certificate in his principal place
19 of business.

20 (4) A certified real estate appraiser shall designate
21 the class for which he is certified and place his
22 certificate number on each appraisal report, contract, or
23 other instrument used by him in conducting real estate
24 appraisal activities.

25 NEW SECTION. Section 23. Deposit of fees. Fees

1 collected by the board under [sections 1, 2, and 4 through
2 29] must be deposited in the state special revenue fund for
3 the use of the board, subject to 37-1-101(6), and may be
4 used to pay the compensation of board members and other
5 expenses necessary to administer [sections 1, 2, and 4
6 through 29].

7 NEW SECTION. Section 24. Reciprocity -- consent to
8 service of process. (1) A person who holds a valid real
9 estate appraiser's license or certificate in a state that
10 grants reciprocity to Montana real estate appraisers and
11 that has substantially equivalent licensure or certification
12 requirements to this state may be licensed or certified in
13 this state. The person shall conform to the requirements of
14 [sections 1, 2, and 4 through 29].

15 (2) In addition, an applicant for reciprocity under
16 this section shall submit an irrevocable consent that in any
17 action against the applicant arising out of the applicant's
18 activities as a real estate appraiser licensed or certified
19 by this state, service of process may be made upon him by
20 delivery of the process to the secretary of state of this
21 state if the plaintiff cannot effect personal service upon
22 the applicant in the exercise of due diligence.

23 NEW SECTION. Section 25. Renewal of certificate --
24 continuing education requirements. (1) A certificate issued
25 under [section 22] must be renewed every 3 years.

1 (2) A certificate may be renewed upon payment of a
2 renewal fee and production of evidence satisfactory to the
3 board that during the certification period immediately
4 preceding the application for renewal, the certified real
5 estate appraiser has:

6 (a) completed at least 45 classroom hours of
7 instruction in courses or seminars approved by the board, at
8 least 15 hours of which must be related to standards of
9 professional appraisal practice;

10 (b) completed an education program determined by the
11 board to be equivalent to the courses and seminars approved
12 under subsection (2)(a); or

13 (c) participated, other than as a student, in an
14 education program approved by the board that relates to the
15 theory and technique of real property appraisal.

16 (3) An applicant for renewal shall state the class of
17 certification previously held and presently sought.

18 **NEW SECTION. Section 26.** Late renewal of certificate.

19 (1) A certificate holder who does not renew a certificate
20 within 3 years from the date of issuance may renew it,
21 within 2 years from the date the certificate expires, by:

22 (a) filing with the board an application for late
23 renewal on a form approved by the board;

24 (b) satisfying the continuing education requirements of
25 [section 25]; and

1 (c) paying a late renewal fee prescribed by the board.

2 (2) The board may refuse to renew a certificate if the
3 certificate holder has continued to perform independent
4 appraisal services in this state following expiration of the
5 certificate.

6 **NEW SECTION. Section 27.** Roster of licensed and
7 certified real estate appraisers. The board shall prepare
8 and issue at least once each calendar year a roster listing
9 the name and principal place of business of each real estate
10 appraiser currently licensed or certified under [sections 1,
11 2, and 4 through 29]. A member of the public may obtain a
12 copy of the roster by applying to the board. The board may
13 set a reasonable fee for the cost of providing the roster.

14 **NEW SECTION. Section 28.** Certificate of good standing.
15 The board may issue a certificate of good standing to any
16 licensed or certified real estate appraiser who holds a
17 current valid license or certificate in this state.

18 **NEW SECTION. Section 29.** Licensure and certification
19 of nonresidents -- temporary permit -- service of process.
20 (1) A person not a resident of this state who has complied
21 with the provisions of subsection (3) may obtain a license
22 or certificate as a real estate appraiser in this state by
23 complying with the provisions of [sections 1, 2, and 4
24 through 29] relating to the licensure or certification of
25 real estate appraisers.

1 (2) (a) A person not a resident of this state who has
 2 complied with the consent provisions of subsection (3) may
 3 obtain a temporary permit to perform a contract relating to
 4 the appraisal of real estate or real property in this state.
 5 To qualify for a temporary permit, an applicant shall:

6 (i) submit an application to the board on a form
 7 approved by the board;

8 (ii) submit evidence that the applicant is licensed or
 9 otherwise authorized to appraise real estate or real
 10 property in the applicant's domicile state;

11 (iii) submit a copy of the contract for appraisal
 12 services that requires the applicant to appraise real estate
 13 or real property in this state and certify that the contract
 14 is in force and effect;

15 (iv) certify that no disciplinary proceeding is pending
 16 against the applicant in the applicant's domicile state;

17 (v) pay an application fee in an amount prescribed by
 18 the board; and

19 (vi) comply with the other requirements established by
 20 the board.

21 (b) The board may not grant more than three temporary
 22 permits to an applicant within a 3-year period.

23 (c) A temporary permit issued under this section is
 24 limited to a grant of authority to perform independent
 25 appraisal services required by the contract for appraisal

1 services submitted with the application for a temporary
 2 permit.

3 (d) A temporary permit expires upon completion of the
 4 appraisal services under the contract or 6 months after
 5 issuance of the temporary permit, whichever is earlier. A
 6 temporary permit may not be renewed.

7 (3) An applicant for licensure or certification under
 8 [sections 1, 2, and 4 through 29] who is not a resident of
 9 this state shall submit, with his application for licensure
 10 or certification, an irrevocable consent that service of
 11 process upon the applicant may be made by delivery of the
 12 process to the secretary of state of this state if, in an
 13 action against the applicant in a court in this state
 14 arising out of the applicant's activities as a licensed or
 15 certified real estate appraiser in this state, the plaintiff
 16 cannot effect personal service upon the applicant in the
 17 exercise of due diligence.

18 NEW SECTION. **Section 30.** Severability. If a part of
 19 [this act] is invalid, all valid parts that are severable
 20 from the invalid part remain in effect. If a part of [this
 21 act] is invalid in one or more of its applications, the part
 22 remains in effect in all valid applications that are
 23 severable from the invalid applications.

24 NEW SECTION. **Section 31.** Codification instruction. (1)
 25 [Section 3] is intended to be codified as an integral part

SB 0008/02

1 of Title 2, chapter 15, part 18, and the provisions of Title
2 2, chapter 15, part 18, apply to [section 3].

3 (2) [Sections 1, 2, and 4 through 29] are intended to
4 be codified as an integral part of Title 37, and the
5 provisions of Title 37 apply to [sections 1, 2, and 4
6 through 29].

7 NEW SECTION. **Section 32.** Effective date. [This act] is
8 effective on passage and approval.

-End-