SENATE BILL NO. 89

INTRODUCED BY B. BROWN BY REQUEST OF THE BOARD OF REALTY REGULATION

IN THE SENATE

II	N THE SENATE
JANUARY 15, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 22, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 23, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 24, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 39; NOES, 11.
	TRANSMITTED TO HOUSE.
II	N THE HOUSE
JANUARY 25, 1991	FIRST READING.
	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
MARCH 7, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1991	SECOND READING, CONCURRED IN.
MARCH 11, 1991	THIRD READING, CONCURRED IN. AYES, 94; NOES, 5.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 12, 1991 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1	SENATE BILL NO. 89
2	INTRODUCED BY B.C Bows
3	BY REQUEST OF THE BOARD OF REALTY REGULATION

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A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING IN THE DEFINITION OF "BROKER" ONE WHO, FOR A FEE, REFERS A PERSON TO ANOTHER TO BUY OR SELL REAL ESTATE; AND AMENDING SECTION 37-51-102, MCA."

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

Section 1. Section 37-51-102, MCA, is amended to read:

"37-51-102. Definitions. Unless the context requires

otherwise, in this chapter the following definitions apply:

- 14 (1) "Account" means the real estate recovery account
 15 established in 37-51-501.
 - (2) "Board" means the board of realty regulation provided for in 2-15-1867.
 - (3) "Broker" includes an individual who:
 - (a) for another or for valuable consideration or who with the intent or expectation of receiving valuable consideration negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements on real estate or collects rents or attempts to collect rents;
 - (b) is employed by or on behalf of the owner or lensor

of real estate to conduct the sale, leasing, subleasing, or other disposition of real estate for consideration;

- (c) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers;
- (d) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers and who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;
- 15 (e) aids or attempts or offers to aid, for a fee, any 16 person in locating or obtaining any real estate for purchase 17 or lease; or
- (f) receives a fee, commission, or other compensation

 for referring to a licensed broker or salesman the name of a

 prospective buyer or seller of real property; or
- through (3)(6) advertises or holds himself out as engaged in any of the activities referred to in subsections (3)(a) through (3)(6)(6).
 - (4) "Broker associate" means a broker who associates
 with a broker owner and does not own an interest in a real

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l estate firm.

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- 2 (5) "Broker owner" means a broker who owns or has a 3 financial interest in a real estate firm.
- 4 (6) "Department" means the department of commerce
 5 provided for in Title 2, chapter 15, part 18.
- 6 (7) "Franchise agreement" means a contract or agreement7 by which:
 - (a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;
- 11 (b) the operation of the franchisee's business is 12 substantially associated with the franchisor's trademark, 13 trade name, logotype, or other commercial symbol or 14 advertising designating the franchisor; and
- 15 (c) the franchisee is required to pay, directly or 16 indirectly, a fee for the right to operate under the 17 agreement.
- 18 (8) "Person" includes individuals, partnerships,
 19 associations, and corporations, foreign and domestic, except
 20 that when referring to a person licensed under this chapter,
 21 it means an individual.
- 22 (9) "Real estate" includes leaseholds as well as any 23 other interest or estate in land, whether corporeal, 24 incorporeal, freehold, or nonfreehold and whether the real 25 estate is situated in this state or elsewhere.

1 (10) "Salesman" includes an individual who for a salary,
2 commission, or compensation of any kind is associated,
3 either directly, indirectly, regularly, or occasionally,
4 with a real estate broker to sell, purchase, or negotiate
5 for the sale, purchase, exchange, or renting of real
6 estate."

-End-

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APPROVED BY COMM. ON **BUSINESS & INDUSTRY**

1		SENATE BILL NO. 89
2	INTRODUCED	BY Bob Brown
3	ву	REQUEST OF THE BOARD OF REALTY REGULATION
4		
5	A BILL FOR	AN ACT ENTITLED: "AN ACT INCLUDING IN THE
6	DEFINITION	OF "BROKER" ONE WHO, FOR A FEE, REFERS A PERSON
7	TO ANOTHER	TO BUY OR SELL REAL ESTATE; AND AMENDING SECTION
8	37-51-102,	MCA."
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16 (2) "Board" means the board of realty regulation 17

provided for in 2-15-1867.

(3) "Broker" includes an individual who:

(a) for another or for valuable consideration or who

with the intent or expectation of receiving valuable

21 consideration negotiates or attempts to negotiate the

22 listing, sale, purchase, rental, exchange, or lease of real

estate or of the improvements on real estate or collects

24 rents or attempts to collect rents;

(b) is employed by or on behalf of the owner or lessor

- of real estate to conduct the sale, leasing, subleasing, or other disposition of real estate for consideration;
- 3 (c) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning 9 real estate to brokers;
 - (d) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers and who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;
- 15 (e) aids or attempts or offers to aid, for a fee, any 16 person in locating or obtaining any real estate for purchase 17 or lease; or
- 18 (f) receives a fee, commission, or other compensation 19 for referring to a licensed broker or salesman the name of a 20 prospective buyer or seller of real property; or
- 2 ì tf)(g) advertises or holds himself out as engaged in any of the activities referred to in subsections (3)(a) 22

23 through (3)(e)(3)(f).

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24 (4) "Broker associate" means a broker who associates with a broker owner and does not own an interest in a real

SECOND READING

1 estate firm.

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- 4 (6) "Department" means the department of commerce 5 provided for in Title 2, chapter 15, part 18.
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- (a) a franchisee is granted the right to engage in
 business under a marketing plan prescribed in substantial
 part by the franchisor;
- 11 (b) the operation of the franchisee's business is 12 substantially associated with the franchisor's trademark, 13 trade name, logotype, or other commercial symbol or 14 advertising designating the franchisor; and
- 15 (c) the franchisee is required to pay, directly or 16 indirectly, a fee for the right to operate under the 17 agreement.
 - (8) "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.
- 22 (9) "Real estate" includes leaseholds as well as any 23 other interest or estate in land, whether corporeal, 24 incorporeal, freehold, or nonfreehold and whether the real 25 estate is situated in this state or elsewhere.

(10) "Salesman" includes an individual who for a salary,
commission, or compensation of any kind is associated,
either directly, indirectly, regularly, or occasionally,
with a real estate broker to sell, purchase, or negotiate
for the sale, purchase, exchange, or renting of real
estate."

-End-

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1	BRUE NO. B
2	INTRODUCED BY BL Bows
3	BY REQUEST OF THE BOARD OF REALTY REGULATION
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(b) is employed by or on behalf of the owner or lessor

rents or attempts to collect rents;

1	of real	estate to	conduct	the sale	, leasing,	subleasing,	0
2	other di	sposition	of real	estate f	for conside	ration;	
3	(c)	engages	in the	business	of chargin	g an advance	fe

- or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers;
- (d) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers and who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;
- 15 (e) aids or attempts or offers to aid, for a fee, any 16 person in locating or obtaining any real estate for purchase 17 or lease; or
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 20 prospective buyer or seller of real property; or
- 21 (f)(g) advertises or holds himself out as engaged in 22 any of the activities referred to in subsections (3)(a) 23 through (3)(f).
- 24 (4) "Broker associate" means a broker who associates
 25 with a broker owner and does not own an interest in a real

- l estate firm.
- 2 (5) "Broker owner" means a broker who owns or has a3 financial interest in a real estate firm.
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- 6 (7) "Franchise agreement" means a contract or agreement7 by which:
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 9 business under a marketing plan prescribed in substantial
 10 part by the franchisor;
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 12 substantially associated with the franchisor's trademark,
 13 trade name, logotype, or other commercial symbol or
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- (c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.
- 18 (8) "Person" includes individuals, partnerships,
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-End-

52nd Legislature SB 0089/02

SB 0089/02

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- 3 (c) engages in the business of charging an advance fee 4 or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers:
- 10 (d) makes the advertising, sale, lease, or other real 11 estate information available by public display to potential 12 buyers and who aids, attempts, or offers to aid, for a fee, 1.3 any person in locating or obtaining any real estate for 14 purchase or lease:
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SB 0089/02

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SB 89