

1 SENATE BILL NO. 89
2 INTRODUCED BY Bob Brown
3 BY 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."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

12 "37-51-102. Definitions. Unless the context requires
13 otherwise, in this chapter the following definitions apply:

14 (1) "Account" means the real estate recovery account
15 established in 37-51-501.

16 (2) "Board" means the board of realty regulation
17 provided for in 2-15-1867.

18 (3) "Broker" includes an individual who:

19 (a) for another or for valuable consideration or who
20 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
23 estate or of the improvements on real estate or collects
24 rents or attempts to collect rents;

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

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

3 (c) engages in the business of charging an advance fee
4 or contracting for collection of a fee in connection with a
5 contract by which he undertakes primarily to promote the
6 sale, lease, or other disposition of real estate in this
7 state through its listing in a publication issued primarily
8 for this purpose or for referral of information concerning
9 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,
13 any person in locating or obtaining any real estate for
14 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

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)(e)~~(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

1 estate firm.

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 agreement
7 by which:

8 (a) a franchisee is granted the right to engage in
9 business under a marketing plan prescribed in substantial
10 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-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

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