

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 9, 1979

The thirty-ninth meeting of the State Administration Committee was called to order by Chairman Pete Story on the above date in Room 442 of the State Capitol at 10:00 A.M.

ROLL CALL: All members of the Committee were present, except Senator Roskie was absent.

CONSIDERATION OF HOUSE BILL NO. 793: The Chairman called on Rep. Jay Fabrega, sponsor of the Bill, to present his testimony.

Rep. Fabrega explained the Bill was introduced to create a board of real estate appraisers. Page 1 constitutes the board and calls for five years of experience before a person could be a member of the board. He then went through the Bill, section by section, briefly mentioning what each pertained to. The members of the proposed board would be compensated \$25.00 a day, plus travel expense, which is normal as for other board members. Section 6 exempts real estate brokers and salesmen who give opinions of value. Section 9 details the classification of licenses and Section 10 sets limitations on those classifications. There is a grandfather clause in Section 11 on qualifications to exempt those of us who do not have a college degree who were born before Dec. 31, 1956. Section 13 sets out criteria on what constitutes a proper appraisal report, and Section 14 deals with non resident licenses and reciprocity provisions which are standard in the field. Sections 16 through 19 deals with violations, complaints of negligence of incompetence and penalty for violation. He then read Section 20 which grandfathered present practicing appraisers. Amendments requested by the Dept. of Revenue were submitted by Rep. Fabrega pertaining to exemption of government employees doing in-house valuations. (page 2, line 24).

The Chairman called for proponents.

Clarence Hewitt, representing the Appraisers, from Gt. Falls Federal Savings & Loan Assoc., in support of the Bill, testified they had some responsibility for the proposal as a number of people were trying to appraise without the proper qualifications or experience. These persons submitted reports which were not acceptable, although they would be paid the going fee. The appraisal would have to be done over again by qualified appraisers at the added expense to the consumers. About 22 people at our last meeting strongly supported this Bill, and we have no objections to the amendment proposed.

Bob Raundal, Pres., Mont. Chapter of Rural Appraisers, testified their membership supported the Bill.

John Howe, Rocky Mountain Chapter 50, American Institute of Real Estate Appraisers, testifying in support, stated they were the best known appraisers and have a structure set up in their organization requiring very high standards. Among these are a college degree, five years of experience, pass a comprehensive exam, and they do their own policing. They are based on the "Model Licensing Act for Real Estate Appraisers", prepared by the American Institute of Real Estate Appraisers.

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copy of which is attached to these minutes. He cautioned against weakening the Bill by too many exemptions.

Bill Ferro, President, Montana Society of Appraisers, reported his members indicated their support of the Bill.

Jack Moore, Helena, representing the National Association of Independent Fee Appraisers, and Sec. of the Society of Appraisers, indicated the Association's agreement with the Bill as it is written and the amendments pertaining to staff appraisers. The quality of work some of the people are doing is not acceptable and by asking for licensing provisions, the consumer will be better protected from these non-professional people.

There being no further proponents, opponents were then called for.

James Beck from the highway department, proposed amendments to the Bill, copy of which is attached, and also proposed an additional amendment to page 21, line 7, striking "may" and inserting "shall".

Cliff Christian, representing the Montana Association of Realtors, testified that their membership did not feel this was needed. Referring to the section pertaining to licensed real estate salesmen and brokers, he stated they are asked to give opinions for a fee of \$25 or so as the seller does not want to be obligated to the realtor for a listing. In some cases, all the seller wants is an opinion which he is willing to pay for, not a whole appraisal. He also represents the Montana Farm Bureau on this issue, and they are opposed to it as farmers and ranchers would be covered by the provisions of this Bill. Farmers and ranchers occasionally are requested by neighboring ranchers in the routine course of their operations to give opinions of valuation of land. Most of these people are in the business themselves and have a very good knowledge of valuations, but would be prohibited from doing this. Also this board as proposed would be under the DPOL, but unlike the other boards under this Dept., it does not set up a system for financing itself. We do not want the funds to finance this board to be taken out of those funds contributed by the realtors, the electricians, plumbers, cosmetologists, etc. The realtors provide 20% of the funding under this Dept. now. He questioned whether the number of people contemplated coming under this licensing procedure would be enough to fund their own program as, if there was not and other boards would be assessed an additional fee to provide financing, this would be unfair. Regarding the grandfather clause, with the three types of classes of license, or more, perhaps they could all be included under the act, but as there was no provision for a public member on the board, he cautioned against the "closed shop" situation. Referring to the section on recognized professional organizations, he advised their attorney said this was an open door for any group to call themselves a professionally recognized group. The Fiscal Note was mentioned relating to the expense involved. His members are concerned now about the time it takes to get an appraisal done and questions if this would more

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heavily restrict the process, adding more delay to the length of time it takes to get an appraisal in order to complete a sale and loan. Lender control is in banking institutions now as they will not release funds on an incompetent appraiser's report. He also felt these existing appraiser organizations had the power to police their own groups.

In closing, Rep. Fabrega felt there was some greed in the real estate profession in doing their own appraising and agreed that the banks and lenders did have some control, but it was the consumer who pays for all this and should have the benefit of the protection offered under this Bill. A real estate salesman must sell in order to collect his fee, so he will promote any appraisal to accomplish the sale.

After the meeting was opened for questions from the Committee, Senator Jergeson asked if there was a reason for not including a public member on the board, to which Rep. Fabrega replied he merely had the bill prepared from the national act and did not object to a public member.

Rep. Fabrega recapped the purpose for the Bill for Sen. Brown who had been absent for part of the presentation.

Senator Ryan inquired as to who was doing the bad appraisals. Mr. Howe responded these were part-time people, retired persons, perhaps farmers or ranchers with a small amount of experience, in contrast to the professionals who invested a great deal of time in study and continue to attend instructional courses. We require a minimum of 240 hours of instruction. These people may pay a small fee and belong to some organization and call themselves appraisers. Senator Ryan then questioned how financial institutions handle this, and Mr. Howe advised they did mostly in-house appraisals and their people attended instructional seminars and studied. Continuing, he stated the pay schedule varied considerably with the individual or area; in Great Falls, the average might be considered between \$75-\$100 for a single family residence.

In answer to Senator Story's inquiry, Mr. Raundal replied they had about 93 members in Montana; Mr. Howe's organization had 17 designated and 30 candidates; the Montana Society reported 45 members and the National Assoc. of Independent Fee Appraisers reported 15 designated and five non-designated. Mr. Moore added that there are two designations other than real estate which are included in his group, which include jewelers, art appraisers, etc., of which there are 12 in Montana.

Senator Story then questioned Mr. Hewitt on how many states had passed this and was told about four and that there might be about 200 persons coming under the grandfather clause.

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Senator Ryan questioned Mr. Christian on the delay in receiving appraisals and was answered that because they had to be selective, there were not enough appraisers.

Mr. Moore responded on a question of time required to do appraisal as two to three weeks in his office as they try to do the job right the first time and be acceptable to lenders, but locality and type of appraisal makes a difference.

After some inquiry into the number of homes sold per year and the number of appraisers necessary to keep up with the demand, the Chairman closed the hearing on House Bill No. 793 and thanked the people for attending.

CONSIDERATION OF HOUSE BILL No. 847: Rep. Fabrega also being the sponsor of this Bill, the Chairman called for his presentation.

Rep. Fabrega stated this Bill would streamline the statutory committee appointments as presently there is quite a variety of procedures for appointment which lead to confusion. The people in the House felt the limitation on opportunity for appointment was not fair as these appointments should be open to all legislators rather than just those on the Finance and Claims Committee. He had checked with Senator Turnage on the numbers of the Committee members.

Senator Story inquired if the two parties would still remain even between the Senate and the House, and was assured they would and that all systems would be maintained. The only difference is that they all would not have to come out of the finance and claims committee which was somewhat of a closed shop situation. He felt this proposed procedure more clearly adheres to the concept of the standing committee idea.

Senator Jergeson asked if it was considered if the Committee on Committees was an outmoded committee and should be changed, to which Rep. Fabrega declined to comment, but added that the House felt no member should be over any other member in the appointment procedure.

Senator Brown questioned if it would be better to wait until a decision was made on the revenue oversight committee becoming a permanent committee. Rep. Fabrega stated that HB 85 contained the same provisions as this Bill.

After short discussion, Senator Bob Brown moved that House Bill 847 BE CONCURRED IN; motion carried without opposition, with Senator Roskie being absent. Senator Brown will carry the Bill on the floor.

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CONSIDERATION OF HOUSE BILL No. 482: The Chairman called on Rep. Darryl Meyer, House District 42, Great Falls, to present his testimony as sponsor of the Bill.

Rep. Meyer advised this would provide that the state, in leasing or renting any equipment, be required to have competitive bidding. He offered amendments to the Bill which would exempt public utilities if they are regulated by the public service commission, and on page 2, line 2, to strike "3" and insert "7" years in order to allow a longer lease or rental term. He stated this was aimed at preventing a state department trying to circumvent the law by not putting up for competitive bidding their equipment supply contracts.

Proponents were called for.

Terry Harris, Capital Office Equipment, Helena, and also representing the Montana Office Machine Dealers Association, testified in favor of the Bill, stating the amount of equipment leased and rented throughout the state every year was several hundred thousand dollars. They have not had the opportunity in the past to bid for this business on a competitive basis. Since a large dollar amount is involved in leased and rented equipment, this should be a matter of concern in state spending.

Jim Hughes, representing Mountain Bell, spoke in favor of the amendment as services provided the state was not the basic purpose of the bill and their prices are a matter of public record and available to anyone to look at. Also, the delay in time when setting up a telephone system and providing phone service would make the competitive bid procedure a hardship for agencies to comply with. He did not feel this inhibited competition for the service as the state should be allowed to get its phone service without a mandated bid process.

There being no opponents, questions were called for.

Senator Jergeson questioned if the proposed amendments deleting the utilities was offered, too, or would be objected to by the House, to which Rep. Meyer responded that he had not proposed them before but did not believe they were objectionable.

In closing, he added that the modern trend to leasing of high-priced equipment was about the only way the state could afford it and that it was becoming a more feasible way with the least cost to the state.

After short discussion, Senator Rasmussen moved the amendments pertaining to the exemption of the public utilities be adopted. Motion carried by unanimous vote of the Committee members present.

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He then moved the amendment on page 2, line 2, changing the lease term to 7 years be adopted; this motion was also passed without opposition.

Senator Tom Rasmussen moved that House Bill No. 482 BE CONCURRED IN AS AMENDED; motion passed by unanimous vote of the Committee members present, with the full amendments being as appears on the attached copy of the Standing Committee Report. Senator Rasmussen will carry the Bill on the floor.

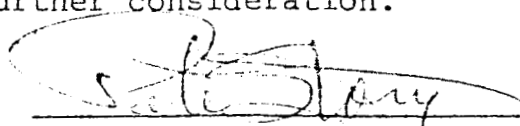
DISPOSITION OF HOUSE BILL No. 793: Senator Greg Jergeson moved that House Bill No. 793 BE NOT CONCURRED IN; after discussion, the roll call vote was taken, and the motion carried by majority vote, with Senator Rasmussen abstaining as he had signed the Bill and Senator Roskie being absent.

Chairman Story announced that the Committee would take executive action on bills heard but remaining in the Committee on Monday if time allowed and that House Bill No. 208 previously acted on would be reconsidered.

ADJOURNMENT:

There being no further business, the meeting was adjourned by the Chairman at 11:15 A.M.

The secretary was later instructed by the Chairman to hold the report on House Bill 847 for further consideration.



PETE STORY, Chairman

DATE

March 9, 1979

COMMITTEE ON

State Administration

HB. 482, 793, 847

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
James R. Beck	Highways	793	Amend	
Michaela Shyne	Appraisers	793	X	
Bob Ruedel	"	793	X	
Bob Kembel M.A.I.	Appraiser	793	X	
WILLIAM FERRO	MONTANA SOCIETY of App.	793	X	
John Howe	Am Asst of Real Est App	793	X	
Clarence Hewitt	Appraisers	793	X	
Jack B Moore	National Assn of Independent Fee Appraisers	793	X	
LUTHER COLMAN	Dept of Admin. Serv.	482	X	
Jim HUGHES	MOUNTAIN BELL	482	Amend	
TERRY HARRIS	CAPITAL OFFICE EQUIP	482	X	
EARL FRED	DEPT of Admin. Serv.	482	✓	
DAVE WETHERELL	APPRAISERS	793	X	
Howard E Sparkhawk	MAI - APPRAISER	793	X	
Wayne Neil, MAI, SRP	Appraisers	793	X	
Henry J Murray, MAI	MAI appraisers	793	X	
Russell L. Leases M.A.I.	Independent Fee Appraiser	793	Without Amendment	
Ernie C. Rogers, ARA, SRP	Appraisers	793	X	
Liff CHRISTIAN	MT Farm Bureau Federation MT ASSN. of REALTORS	793	X	
Tom Stuckey	INDEPENDENT	793	Amend	
Ed Sherry, Jr.	Mont. Savings Loan	793	X	
JOE TREDIK, MAI	Institute of Real Estate Appraisers	793	X	
THOMAS G. STEVENS, R.M.	Appraiser	793	X	
C. Robert White, MAI	Appraisers	793	Without Change	
Howard L. Johnson, MAI - AIREA		793	X	
Thom E. Williams	Appraiser - Mont. Real Est.	793	X	

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
BEN E STANTON MAI	APPRAISERS	793	X	
Phillip F. Frazz MAI, SRA	APPRAISERS	793	X	
Allen J. Frazz	Appraisers	793	X	
Al J. Frazzette, ASA	Appraiser	793	X	
Quinta Frazzette	OBPP	1152	—	

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: BILL FERRO DATE: 3/9/79

ADDRESS: ~~St. Louis~~ GREAT FALLS

PHONE: 761-2200

REPRESENTING WHOM? MONTANA SOCIETY OF APPRAISERS

APPEARING ON WHICH PROPOSAL 4. 793

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Howe DATE: 3-9-79

ADDRESS: Miles City MT

PHONE: 232-0244

REPRESENTING WHOM? Am. Inst. of Real Est. App
Rocky Mts. Chapter #56

APPEARING ON WHICH PROPOSAL: H. B 73

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Clarence Hewitt DATE: 3-9-79

ADDRESS: Great Falls, Montana

PHONE: 761-2200 - 452-7663

REPRESENTING WHOM? Applegreens

APPEARING ON WHICH PROPOSAL: H. B. 793

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jack B Moore DATE: 3-9-79

ADDRESS: 1012 Livingston

PHONE: 442-6596

REPRESENTING WHOM? State Director - National Asso. of Indep
Fee Appraisers

APPEARING ON WHICH PROPOSAL: H.B. - 793

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: If Bill is amended in manner
to weaken it in any way we would change
our position other than staff appraisers

NAME :

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Mar. 9-79 House Bill No. 793 Time

(2) Sent to committee

NAME	YES	NO
Senator Pete Story, Chairman	<i>L</i>	
Senator George F. Roskie, V. Chairman	<i>(absent)</i>	
Senator Bob Brown	<i>L</i>	
Senator A. T. (Tom) Rasmussen	<i>(absent)</i>	
Senator Patrick L. Ryan	<i>L</i>	
Senator Greg Jergeson	<i>✓</i>	
Senator William F. Hafferman	<i>✓</i>	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Greg Jergeson moved that House Bill No. 793
BE NOT CONCURRED IN; motion carried by majority vote, with
Senator Rasmussen abstaining and Senator Roskie being absent.
Senator Story will report the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

.....March 9..... 1973.....

MR.President.....

We, your committee onState Administration.....

having had under considerationHouse..... Bill No. 793.....

Fabrega (Story)

Respectfully report as follows: That.....House..... Bill No. 793,.....

Third Reading Bill,

DOEASSEM BE NOT CONCURRED IN

ROLL CALL VOTE RECORD

62

SENATE COMMITTEE STATE ADMINISTRATION

Date March 17, 1970 Bill No. 482 Time 3:15 PM
Bill introduced by Sen. Rasmussen

NAME	YES	NO
Senator Pete Story, Chairman	✓	
Senator George F. Roskie, V. Chairman	(absent)	
Senator Bob Brown	✓	
Senator A. T. (Tom) Rasmussen	✓	
Senator Patrick L. Ryan	✓	
Senator Greg Jergeson	✓	
Senator William F. Hafferman	✓	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Tom Rasmussen moved that House Bill No. 482
BE CONCURRED IN AS AMENDED; motion carried by unanimous vote of
the Committee members present, with Sen. Roskie being absent.

Sen. Rasmussen will carry the Bill on the floor.

(include enough information on motion--put with yellow copy of committee report.)

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 9-79 House Bill No. 482 Time

*Amendments
4/19/79*

NAME	YES	NO
Senator Pete Story, Chairman	<i>✓</i>	
Senator George F. Roskie, V. Chairman	<i>(absent)</i>	
Senator Bob Brown	<i>✓</i>	
Senator A. T. (Tom) Rasmussen	<i>✓</i>	
Senator Patrick L. Ryan	<i>✓</i>	
Senator Greg Jergeson	<i>✓</i>	
Senator William F. Hafferman	<i>✓</i>	

Jennie L. Palmer
Secretary

Pete Story
Chairman

Motion: Senator Rasmussen moved that the Amendment to House Bill No. 482 pertaining to the exemption of public utilities be adopted; motion carried by unanimous vote, with Sen. Roskie being absent. Sen. Rasmussen also moved the adoption of the amendment to change to 7 years from 3 the term of lease; this also carried unanimously, with Sen. Roskie being absent.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 9 19 79

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 402

Moyer (Rasmussen)

Respectfully report as follows: That House Bill No. 402

Third Reading Bill, be amended as follows:

1. Title, line 7

Following: "STATE"

Insert: ", EXCEPT FOR CERTAIN GOODS OR SERVICES OFFERED BY PUBLIC UTILITIES"

2. Page 1, line 23

Following: "bids"

Insert: ", except that goods or services offered for sale, lease, or rental by public utilities are exempt from [this act] if the prices of the goods or services are regulated by the public service commission or other governmental authority"

3. Page 2, line 2

Following: "than"

Strike: "3"

Insert: "7"

ADD: PASS

And as so amended, BE CONCURRED IN

a county. The consent shall be acknowledged and, if made by a corporation, shall be authenticated by its seal.

History: En. Sec. 13, Ch. 250, L. 1963; amd. Sec. 187, Ch. 350, L. 1974; R.C.M. 1947, 66-1936.

37-51-307. Directory of licensees. The department shall annually publish a directory of licensees, including a list of licenses suspended and revoked, which shall contain such other data the board determines to be in the interest of real estate licensees and the public.

History: En. Sec. 22, Ch. 250, L. 1963; amd. Sec. 192, Ch. 350, L. 1974; R.C.M. 1947, 66-1945.

37-51-308. Broker's office — notice to department of change of address. (1) A resident licensed broker shall maintain a fixed office in this state. The original license of the broker and the original license of each salesman in the employ of or under contract with the broker shall be prominently displayed in the office. The address of the office and a branch office shall be designated on the broker's license.

(2) In case of removal from the designated address, the licensee shall notify the department before removal or within 10 days thereafter, designating the new location of this office and paying the required fee, whereupon a license for the new location for the unexpired period shall be issued.

History: En. Sec. 12, Ch. 250, L. 1963; amd. Sec. 186, Ch. 350, L. 1974; R.C.M. 1947, 66-1935(1).

37-51-309. Employment of salesman by broker — notice to department of change of employment. (1) A salesman may not be employed by or under contract to more than one licensed broker, nor may he perform services for a broker other than the one designated on the license issued to the salesman.

(2) When a licensed salesman desires to change his employment or contractual relationship from one licensed broker to another, he shall notify the department promptly in writing of these facts, pay the required fee, and return his license and pocket card, and a new license and pocket card shall be issued. No salesman shall directly or indirectly work for or with a broker until he has been issued a license to work for or with that broker. On termination of a salesman's employment or contractual relationship, he shall surrender his license and pocket card to his broker who shall return them to the department for cancellation.

(3) Only one license shall be issued to a salesman to be in effect at one time.

History: En. Sec. 12, Ch. 250, L. 1963; amd. Sec. 186, Ch. 350, L. 1974; R.C.M. 1947, 66-1935(2), (3).

37-51-310. Annual renewal. Annual fees are due and payable for the ensuing year during the month of December of each year. Failure to remit annual fees before January 1 automatically cancels the license, but otherwise the license remains in effect continuously from the date of issuance unless suspended or revoked by the board for just cause.

History: En. Sec. 11, Ch. 250, L. 1963; amd. Sec. 185, Ch. 350, L. 1974; amd. Sec. 13, Ch. 533, L. 1977; R.C.M. 1947, 66-1934(3).

37-51-311. Fees — deposit of fees. (1) The following fees shall be charged by the department and paid into the earmarked revenue fund for the use of the board, subject to 37-1-101(6):

(a) for each examination, a fee not to exceed \$25;

- (b) for each original resident broker's license issued, a fee not to exceed \$50;
- (c) for each annual renewal of a resident broker's license, a fee not to exceed \$30;
- (d) for each original nonresident broker's license issued, a fee not to exceed \$50;
- (e) for each annual renewal of a nonresident broker's license, a fee not to exceed \$30;
- (f) for each original salesman's license issued, a fee not to exceed \$25;
- (g) for each annual renewal of a salesman's license, a fee not to exceed \$15;
- (h) for each additional office or place of business, an annual fee not to exceed \$25;
- (i) for each change of place of business or change of employer or contractual associate, a fee not to exceed \$15;
- (j) for each duplicate license, where the original license is lost or destroyed and affidavit is made, a fee not to exceed \$10;
- (k) for each duplicate pocket card, where the original pocket card is lost or destroyed and affidavit is made, a fee not to exceed \$10.

(2) The board shall adopt a schedule of fees within the limits set by this section. However, a fee once set for one of the items for which a fee is charged cannot be increased or decreased until at least 1 year has passed since the fee for that particular item was last increased or decreased.

History: En. Sec. 11, Ch. 250, L. 1963; amd. Sec. 185, Ch. 350, L. 1974; amd. Sec. 13, Ch. 533, L. 1977; R.C.M. 1947, 66-1934(1), (2).

37-51-312. No taxation by municipality. No license fee or tax may be imposed on a real estate broker or salesman by a municipality or any other political subdivision of the state.

History: En. Sec. 11, Ch. 250, L. 1963; amd. Sec. 185, Ch. 350, L. 1974; amd. Sec. 13, Ch. 533, L. 1977; R.C.M. 1947, 66-1934(4).

37-51-313 through 37-51-320 reserved.

37-51-321. Revocation or suspension of license — initiation of proceedings — grounds. The board may on its own motion and shall on the sworn complaint in writing of a person investigate the actions of a real estate broker or a real estate salesman, subject to 37-1-101 and 37-1-102, and may revoke or suspend a license issued under this chapter when the broker or salesman has been found guilty by a majority of the board of any of the following practices:

- (1) intentionally misleading, untruthful, or inaccurate advertising, whether printed or by radio, display, or other nature, which advertising in any material particular or in any material way misrepresents any property, terms, values, policies, or services of the business conducted;
- (2) making any false promises of a character likely to influence, persuade, or induce;
- (3) pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salesmen or any medium of advertising or otherwise;
- (4) use of the term "realtor" by a person not authorized to do so or using another trade name or insignia of membership in a real estate organization of which the licensee is not a member;
- (5) failing to account for or to remit money coming into his possession belonging to others;
- (6) accepting, giving, or charging an undisclosed commission, rebate, or profit on expenditures made for a principal;
- (7) acting in a dual capacity of broker and undisclosed principal in a transaction;

Amend House Bill 793, section 2, page 2, line 24 by inserting
the following new sentence on line 24: REAL ESTATE APPRAISER
AS USED IN THIS ACT DOES NOT APPLY TO EMPLOYEES OF FEDERAL,
STATE OR LOCAL GOVERNMENTS WHO ESTIMATE THE VALUE OF PROPERTY
IN THE COURSE OF THEIR WORK FOR PURELY PUBLIC PURPOSES.

*file in
Dept of
Agriculture
March 4-29*



REALTORS

923 BROADWATER SQUARE - BILLINGS, MONTANA 59101 - PHONE (406) 245-6161

Mr. Cliff Christian
Executive Vice President
Montana Association of Realtors
501 North Sanders
Helena, Montana 59601

Dear Cliff:

Re: House Bill No. 793

I, as manager of an active real estate brokerage firm, have an occasion--as well as the salesmen associated with the firm--to express an estimate of value in writing or orally to property owners who may have an intention of selling their property.

There are instances where the property owner does not want to have the obligation of listing his property, but does want an estimation of what the selling price should be from someone who knows the market. In such a situation the property owner wants to pay for the valuation so that he will not be obligated.

This condition has the characteristics of an appraisal on a fee basis as defined in the proposed legislation. It is my opinion that we should not take this right away from the property owner by passing into law House Bill No. 793 which indicates that you must be licensed, if you render an estimate of value for real estate on a fee basis.

It is further my opinion that the above mentioned proposed legislation is not necessary and creates another agency which is superfluous.

Very truly yours,

Charlie Hamway
Broker-Manager

CURTIS PHIPPS, M.A.I.

..... *Real Estate Appraiser-Consultant*

POST OFFICE BOX 20155

BILLINGS, MONTANA 59104

February 24, 1979

Mr. Cliff Christian
Executive Vice President
Montana Association of Realtors
501 North Sanders
Helena, Montana 59601

Dear Cliff:

Re: House Bill No. 793

I have been in the appraisal business since the 1940's and since that time I have had several occasions where I have testified in court and on those occasions where there was a condemnation on farm and ranch land I testified for one of the parties involved and on numerous instances a farmer or rancher who testified for another property owner did so on a fee basis.

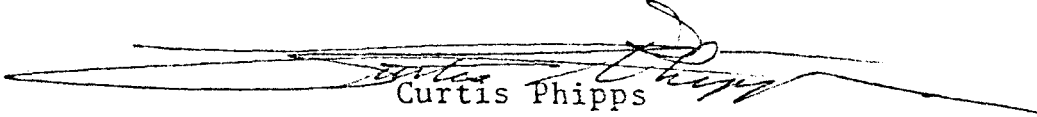
Because the farmer or rancher knew of sales in his area and knew the functions of ranching and farming, he was in a position to render a qualified estimate of value. The fact that I had the opportunity to observe such a procedure gives me reason to believe that if a farmer or rancher expresses an estimate of value for another party on a fee basis, that he should not have to be licensed.

Under the terms of House Bill No. 793, if a condition as mentioned above existed, the rancher or farmer would have to be licensed. It is my opinion that this would be unfair to the public when they are in need of a valuation by an informed person who is actively engaged in farming or ranching.

My professional and appraisal designations include M.A.I., S.R.A. and C.R.E.

On many occasions a farmer or rancher is requested to sign an estate appraisal for which he is paid. For the same reasons stated above, I do not think that he should be licensed to perform such a service.

Very truly yours,


Curtis Phipps

CP:dh

Proposed Amendments -

*Sept 7-13 from Dept of
Highway
March 9-14*

1. Page 1 line 23 strike the word " or " and substitue the word "and".

OR

Page 2 line 21 after the word compensation add the following language.

"Real estate appraisals prepared by local, state or federal employees in the course and scope of their employment are not covered by this act."

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A MODEL LICENSING ACT

FOR

REAL ESTATE APPRAISERS

PREPARED BY

THE COMMITTEE TO REPORT ON APPRAISAL LEGISLATION
THE AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

PREAMBLE

The following licensing act has been developed in the interest of protecting the public from the appraisal activities of those persons who are unqualified, incompetent, dishonest, or are of unacceptable moral character.

It is our belief that licensing should encompass all of those who are qualified. With such a broad scale application, however, it is obvious that for true professional advancement the public will have to continue to look to the professional societies and institutes for the training of appraisers and for the development of the general body of knowledge.

It should be clear that licensing cannot and will not produce more competent appraisers in itself. This must be done by established educational organizations in the field.

T H E A C T

On and after the effective date of this Act it shall be unlawful for anyone to engage in the practice of appraising real estate for others for a fee (except those excluded by the provisions of this Act) without first obtaining a Real Estate Appraiser's License as set forth in this Act.

Section 1 - Definitions

- (a) A "real estate appraisal", as used in this Act, is an estimate or opinion of value of real estate or any interest therein, which is the work product of a real estate appraiser.
- (b) "Real estate appraising" is the act or process of estimating values of real estate or any interest therein, for a fee.
- (c) "Real Estate Appraiser" is a person engaged in the business of estimating real estate values or who advertises or holds himself out to the general public for such service for a fee.
- (d) "Commission" means the Real Estate Appraisal Commission or other administrative body.
- (e) "Trainees" - a Real Estate Appraiser trainee is a person employed, either directly or indirectly, by a licensed real estate appraiser, assisting the licensed appraiser in one or more of the various phases of real estate appraising. This does not include non-professional services such as clerical help.

Section 2 - Exclusions

This Act shall not apply to:

(a) Real Estate Appraisers who are salaried employees of:

- (1) The Federal Government, or the State of
or any political subdivision or agency thereof;
- (2) Any bank or other financial institution licensed by
the State or supervised or regulated by or through
Federal enactments covering financial institutions.

However, any person so employed who also practices as an independent Real Estate Appraiser for others shall be subject to this Act and be duly licensed prior to engaging in such outside appraising.

- (b) A licensed real estate broker or a licensed real estate salesman, who is exempt from the provisions of this Act where he appraises real estate in the ordinary course of his real estate brokerage business, except when a separate fee is paid therefor.
- (c) A Real Estate Appraiser¹ trainee employed either directly or indirectly by a licensed Real Estate Appraiser.

Section 3

Commission - Membership and Duties

(a) In the absence of existing administrative provisions, it is suggested that there shall be a State Real Estate Appraisal Commission or other administrative body whose duty it shall be to administer and enforce the provisions of this Act.

Said Commission shall consist of _____ members appointed by the Governor; at least (a majority) shall be Real Estate Appraisers whose residences and principal places of business are in the State of _____ and who have been engaged in the general practice of Real Estate Appraising for not less than ten (10) years.

Initially _____ member(s) of the Commission shall be appointed for one year, _____ member(s) for two years and _____ member(s) for three years, but thereafter all members shall be appointed for three-year terms. All terms shall commence on _____ of the year in which each member is appointed, and all members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the unexpired terms within _____ days after such vacancy occurs. Each member of the Commission, before entering upon his duties, shall take and file with the Commission an oath to faithfully discharge the duties of his office.

The members of the Commission shall receive compensation as determined from time to time by the State legislature plus reimbursement for such actual and necessary expenses incurred in carrying out the provisions of this Act. The Governor may

remove any member of the Commission for misconduct, incompetency, or neglect of duty.

(b) The Commission shall have the following powers and duties:

- (1) To receive applications for and issue licenses to Real Estate Appraisers pursuant to the provisions of this Act;
- (2) To hold meetings and hearings in such places and at such times as it shall designate;
- (3) To meet at least once in every month period, and more often on call of the Chairman, or when the Chairman shall be requested to do so by any or more members of the Commission;
- (4) To meet within days after the appointment of the members to be regularly appointed within any year for the purpose of selecting from its membership a Chairman for the ensuing year, and any other officers as it may deem necessary and appropriate;
- (5) A majority of the members of the Commission shall constitute a quorum to do business, but the affirmative vote of of the members of said Commission shall be required to revoke, suspend or deny a license;
- (6) To keep a record of its proceedings and a complete roster of all persons licensed by it and entitled to practice such occupation in this State;

- (7) To annually report its activities to the Governor, including a complete statement of the receipts and expenditures of the Commission during the period;
 - (8) To make all necessary regulations pursuant to the provisions of this Act for the pursuit of the occupation within its jurisdiction for the preservation of the welfare of the public;
 - (9) To investigate any violations of the provisions of the Act or of regulations issued pursuant thereto, hold hearings thereon and take testimony relating thereto;
 - (10) To make certified copies of any documents or records of the Commission which, when attested as a true copy by the Commission, shall be competent evidence in any court in the State of the facts contained therein; and
 - (11) To do all things necessary to carry out the provisions of this Act.
- (c) The Commission shall employ an Executive Director who shall also act as its Secretary. He shall serve at its pleasure and shall keep a true and complete record of all the proceedings of the Commission. He shall be a person with broad knowledge of the generally accepted practices of the Real Estate Appraisal profession in this State. His compensation shall be determined by the (appropriate agency)

Section 3 - Page 4

The Commission shall also employ such other clerical and technical assistance as may be necessary properly to administer the work of the Commission.

The Executive Director shall prepare annually a roster showing the names, places of business, residences and classifications of all licensed Real Estate Appraisers, a copy to be furnished to each Appraiser licensed under the provisions of this Act. Copies of such roster shall be available to the public upon application to the Commission, at such price per copy as may be fixed by the Commission.

- (d) The Commission shall issue to each Licensee a license certificate and pocket card in such size and form as it may approve. The license and card shall remain the property of the State and, upon suspension or revocation pursuant to this Act, shall be returned immediately to the Commission.
- (e) The Commission shall maintain and keep open to public inspection during office hours, a complete indexed report of all applications, licenses issued, licenses renewed and all revocations, cancellations and suspensions of licenses.

Section 4 - Types of Licenses

The following classifications of licenses shall be issued in compliance with this Act:

- (a) Real Estate Appraiser License - intended for all who qualify under this Act and maintain their place of residence within this State or regularly appraise real estate in this State.
- (b) Temporary Real Estate Appraiser License - intended for anyone who does not regularly appraise real estate in this State but who meets all other qualifications for licensing set forth in this Act. In the event the temporary Licensee is from out of state, his practice in this State must not require more than sixty (60) days in any one calendar year. (An additional extension of up to sixty (60) days may be granted at the discretion of the Commission); he must notify the Commission in writing of his intention to practice, stating the approximate date when he intends to commence and approximate length of time he expects to continue.
- (c) If an Appraiser has a license in his home state and if that license, conditions and required written examinations are approximately equivalent to the license provided for in this Act, then a Temporary Real Estate Appraiser License shall be issued as an act of reciprocity.
- (d) The intent of the above is to protect the public from Appraisers appraising property who are not subject to any licensing laws.

Section 5 - Qualifications for License

Any person subject to the terms of this Act and who desires to engage in the Real Estate Appraisal profession in the State shall make application, in writing, in such form, in such manner, and containing such information as the Commission may prescribe from time to time. He must meet the following minimum qualifications and requirements:

(A) Age - minimum of twenty-five (25) years

(B) Education:

(1) A Bachelor's Degree from a recognized college with substantial work in Economics and Business Administration

(2) Or a high school diploma with additional course work in:

(a) Principles of Real Estate

(b) Principles of Valuation

(c) Advanced Valuation

(d) Real Estate Law

(C) Experience:

(1) Five years of acceptable experience in the real estate business, real estate financing, or in a public agency serving in the real estate field.

(2) Of this five-year period, at least two years of diversified appraisal experience are required.

(D) Examination. The examination given applicants should demonstrate that the applicant has:

- (1) Appropriate knowledge of the English language including terms commonly used in or related to real property appraisal, and the writing of appraisal reports.
- (2) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, and real property appraisal mathematics.
- (3) A thorough understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting and analysis of data involved in the valuation of real property.
- (4) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes.

(E) Moral Character

- (1) The applicant must have had no felony conviction.
- (2) The applicant must provide proof which upon investigation demonstrates that he has good moral character and a reputation for honesty and integrity in his home and business community.

Section 6 - Special Waiver

From the date this Act shall go into effect until six (6) months thereafter have expired, the Commission shall waive the requirements set forth in sub-sections 5(B), 5(C) and 5(D) above in the case of any applicant who otherwise meets the requirements set forth in Section 5 and, in addition, submits, under oath, satisfactory evidence of at least five (5) years of appraisal experience acceptable to the Commission.

Section 7 - Fees

Each application for a Real Estate Appraiser License shall be accompanied by a fee of \$ and the annual renewal thereof shall be accompanied by a fee of \$ and each application for a Temporary Real Estate Appraiser License shall be accompanied by a fee of \$.

Section 8 - Denial of License

If the Commission shall determine that an applicant is not qualified to receive a license, a license shall not be granted to said applicant and the Commission shall send written notice stating the cause for such denial and accompanied by the refund of the applicant's fee.

Anyone denied a license by the Commission may, within thirty (30) days of notification of denial, request a formal hearing before the Commission and the Commission shall thereupon set the matter down for a hearing in accordance with Section 10 of this Act.

The Commission shall have power to refuse a license for the following reasons:

Section 8 - Page 2

- (a) Lack of moral character as defined under Section 5, Paragraph E-2.
- (b) Prior conviction of a felony, fraud, perjury or similar offense.
- (c) Failure to meet the minimum requirements of this Act or to pass the required examination.
- (d) Other reasons as the Commission may deem proper.

Section 9 - Duties and Obligations of
Licensed Real Estate Appraisers

- (a) Every resident licensee shall maintain a definite place of business in this State, and shall conspicuously display his license therein. Notice in writing shall be given to the Commission by each licensee (both resident and non-resident) of any change of principal business location, whereupon the Commission shall issue a new license for the unexpired term.
- (b) Each licensee shall comply with the Rules and Regulations for Licensed Real Estate Appraisers as prepared and promulgated by the Commission.

Section 10 - Disciplinary Action

- (a) The Commission may, upon its own motion, and shall, upon the written complaint of any aggrieved person, investigate the action of any licensed Real Estate Appraiser and shall have the power to suspend or revoke any license issued under the provisions of this Act at any time when after the hearing as provided for below it finds that the licensee has made any material misrepresentation in his application for a Real Estate Appraiser's license, knowingly violated any of the provisions of this Act or regulations of the Commission, or has done any act which constitutes dishonest, fraudulent or improper conduct.
- (b) If a formal hearing has been requested by an applicant in accordance with Section 8 of this Act, or if information brought to the attention of the Commission concerning the activities, character and integrity of a licensee is such that in the Commission's discretion, it would be proper to suspend or revoke the license of the licensee, the Commission shall forthwith set the matter down for a hearing, and at least thirty (30) days prior to the date set for the hearing it shall notify in writing the applicant or licensee of the reasons for the denial or of the charges made, and shall afford said applicant or licensee an opportunity to be heard in person or through counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant, or license-holder, or by mailing same by

registered mail to the last known business address of such applicant, or license holder. The hearing on such charges shall be at such time and place as the Commission shall prescribe. Provided, however, that in cases involving revocation of the license of a non-resident of this State licensed under this sub-title by the Real Estate Commission of the State or District in which such non-resident licensee is a resident, or where there is a conviction by a Court of competent jurisdiction of any licensee under this sub-title of any act which constitutes a violation of this sub-title and the order of such Commission or Court of competent jurisdiction is certified to the Commission, any non-resident real estate license may be revoked by the Commission without any hearing whatsoever. Any member of the Commission or its executive director shall have power to administer oaths and to subpoena and bring before it any person in this State, or take testimony of any such person by deposition with the same fees and mileage in the same manner as prescribed by law in judicial procedure in Courts of this State in civil cases. Any party to any hearing before the Commission shall have the right to the attendance of witnesses, in his behalf at such hearing, upon making request therefor to the Commission and designating the person or persons to be subpoenaed.

All subpoenas so issued shall be served by (a proper official). Non-residents may be served by registered mail. If any witness so subpoenaed shall refuse or neglect to attend, or attending, refuse to testify, the said official issuing the subpoena shall report the fact to the Appropriate Court and said Court is hereby authorized and directed to proceed by attachment against said witness in all respects as if said neglect, or refusal had been by a witness subpoenaed to appear in said Court in a case pending before it.

If the Commission shall determine that any license holder is guilty of a violation of any of the provisions of this sub-title, his or its license may be suspended or revoked.

Whenever the Commission revokes the license of any person, and no appeal to the proper Court has been filed within the time specified for such appeals, the Commission shall then mail a written notice of such revocation to all licensed Real Estate Appraisers under this sub-title.

Where the license of a non-resident is so suspended or revoked, the Commission shall also send written notice, stating the cause for such revocation or suspension, to the Real Estate Commission or Licensing Authority (if any) in the state or district of which such non-resident Licensee is a resident.

(c) Grounds for suspension and/or revocation are as follows:

- (1) Upon proof that the holder of such license is doing business in violation of this article;
- (2) Upon proof that the license has been obtained or that the holder thereof has obtained such license by fraud or misrepresentation;
- (3) Upon proof that any money was paid to secure such license except fees prescribed by this acticle;
- (4) Upon proof that the holder of such license is falsely impersonating a practitioner or is practicing under an assumed, fictitious or corporate name;
- (5) Upon proof that the holder of such license has been found guilty of a felony;
- (6) Upon proof that the holder of such license is guilty of perjury, fraud, deceit, or of gross negligence, incompetency or misconduct in the practice of real property appraising;
- (7) Upon proof that the holder of such license permitted his signature to be affixed to any appraisal report if such report was not prepared by him or under his personal supervision by his regularly employed subordinates;

- (8) Upon proof that the holder of such license accepted an engagement to appraise a property where his employment or fee is contingent upon his reporting a predetermined or specified value, or is otherwise contingent upon a finding to be reported.
- (9) In cases where monetary damages are involved, making his compensation contingent upon the amount of, or fixing his compensation as a percentage of, the damages which may be agreed upon or finally decreed.
- (10) For other causes that the Commission may deem proper.

Section 11 - Failure to Obtain a License

- (a) No person shall, after the establishment of said Commission, and initiation of its licensing powers, act as a Real Estate Appraiser without a license issued by the Commission.

This Section 11 shall not apply to any person exempted by any other provision of this Act. No person shall testify as an Appraiser before any tribunal, court, judge, referee or judicial committee without being licensed under the provisions of this Act, unless such testimony is in compliance with a subpoena served upon him.

No person engaged in the business or acting in the capacity of a Real Estate Appraiser may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this act without alleging and proving that he was a duly licensed Real Estate Appraiser at all times during the performance of such act or contract.

Any person who violates any of the provisions of this Act is guilty of a misdemeanor.

Section 11 - Page 2

- (b) Any person required by this Act to be licensed who engages in the profession of real estate appraising without obtaining a license as herein provided, if found guilty, shall be fined not more than . He shall be ineligible to obtain a license for from the date of conviction of such offense, except that the Commission, at its discretion, may grant a license to such person within such period upon application and after a hearing thereon.

Section 12 - License Expiration and Renewal

Any license, or renewal thereof, issued under the provisions of this Act shall remain in effect until the following the date of issuance (unless revoked, suspended or cancelled prior thereto).

Any Licensee under this Act who fails to apply for the renewal of his license, and pay the fee therefor on or before the date of its expiration, in each and every year, and who continues to perform or offers to perform the services of a licensed Real Estate Appraiser, shall pay in addition to the fees herein prescribed the sum of (\$) of the prescribed annual fee for each month or fractional part thereof after the first month such Licensee fails to so apply for renewal of his license.

Any such Licensee who fails or refuses, after thirty (30) days written notice from the Commission, to so apply and pay the fee and all penalties imposed by this section shall be deemed to be practicing without a license and subject to the penalties provided for in this Act.

Section 13 - Severability

If any provision of this Act is held invalid, that provision shall be deemed to be excised from this Act and the invalidity thereof shall not affect any of the other provisions of this Act. If the application of any provision of this Act to any person or circumstances is held invalid, it shall not affect the application of such provisions to such persons or circumstances other than those to which it is held invalid.

Section 14 - Effective Date

This Act shall become effective on the first day of

PROPOSED AMENDMENT TO HOUSE BILL 482

* * * * *

SECTION 1(3):

ALSO TITLE TO CONFORM TO AMENDMENT

At Page 1, Line 23, following "bids" insert "except that goods or services offered for sale, lease or rental by public utilities are exempt from this chapter if the prices of the goods or services are regulated by the public service commission or other governmental authority."

Page 2, line 2: changed "3" years to "7" years

~~HB 616~~

~~SECTION 5 - PAGE 4 LINE 6 FOLLOWING "BIDS"~~
~~INSERT ABOVE LANGUAGE.~~