

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on January 14, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 111
Executive Action: SB 83

HEARING ON SB 111

Opening Statement by Sponsor:

Senator Harp, Senate District 4 opened on SB 111 stating its purpose is to create a Property Management License. On page 5, section 3, Line 39, exemptions to SB 111 are listed. Senator Harp stated 45% of all residential rentals are being managed through property management. Concern has arisen with mishandling of income from the rentals. Senator Harp supplied a letter from Whitefish Property Management which stated support of SB 111 and

outlined reasons behind their support (Exhibit #1). Problems have also shown up in continuing education credits which brokers are required to have; however, none of these credits apply to the real estate field. Real estate salesmen and real estate brokers aren't well versed on the Montana Landlord and Tenant Act, whereas people who are professional property managers do understand the act. What SB 111 asks for is the ability for certain people, exclusive of the exemptions, to be licensed, educated and protected as licensed property managers.

Proponents' Testimony:

Marcia Allen, Member of the Board of Realty Regulation spoke from and supplied prepared testimony in support of SB 111 (Exhibit #2).

Helen Garrick, member of Board of Realty Regulation stated her support of SB 111 because she felt people who are licensed in property management are not interested in listing and selling properties and, in most cases, do not mix selling and management. The Board no longer has the ability to give management licenses because of a rule change. SB 111 specifies the specific area of property management which can be conducted without having a broker's license. Exclusions concerned are listed explicitly in SB 111. Ms. Garrick closed by stating she urged the support of the Committee.

George Bennett, Montana Bankers Association, came forth in his support of SB 111 but proposed an amendment. Mr. Bennett stated SB 111 exempted dependents. This exemption would make every desk clerk in Montana in violation of the current statute. Mr. Bennett asked SB 111 be amended to exempt employees and dependents.

Tom Hopgood, Montana Association of Realtors supported SB 111.

Mardi Madson, Property Manager with Prudential Realtors, stated her support of SB 111. Ms. Madson felt SB 111 was very important in order to give her profession credibility. She added there needs to be a separate designation for property managers and special education required.

Jack Moore, Chairman Board of Realty Regulation stated SB 111 is absolutely necessary in order to solve the problems with property management. He felt SB 111 is refined to meet the requirements of the business. One unlicensed person cost the recovery account over \$14,000.00. The Board intends to license, train, and continue to educate the property managers. Mr. Moore asked the Committee to look favorably upon SB 111.

Opponents' Testimony:

Dan Walker, U.S. West stated he would like to make some

amendments with regards to how employees are defined in SB 111.

Greg VanHorsen, representing Income Property Managers Association of Montana and Montana Landlords Association spoke from prepared testimony in opposition to SB 111. (Exhibit #3)

Rhonda Carpenter, Legislative Chair Income Property Owners and Managers Association of Great Falls stated she stood for SB 111 in its intent, but felt SB 111 is vague and the definition of "dependents" needs to be clarified. She asked the Committee to give SB 111 a Do Not Pass recommendation.

Vern Fisher, representing Montana Landlords Association, stated his concern with SB 111 and mobile home park managers. He asked the Committee to give a Do Not Pass to SB 111.

Rick Linafelter, representing Income Property Managers, Montana Landlord Association and a licensed contractor, stated the passage of SB 111 would greatly inhibit landlords and asked the Committee to give a Do Not Pass recommendation.

Informational Testimony:

Nancy Griffin asked what effect SB 111 would have on an absentee property owner has a supervisor on construction on their property who also supervises other components of the property such as land leasing, access, etc. Helen Garrick answered the above situation would be deemed exempt.

Questions From Committee Members and Responses:

Senator Rea asked Helen Garrick what the Boards' feelings were on the employee provision of SB 111. Ms. Garrick answered the Board was willing to work with the employee situation as long as it didn't make a loophole.

Senator Koehnke asked Marcia Allen about a friend managing condominiums who doesn't want to be a real estate broker. Ms. Allen answered the friend must apply for a real estate brokers license under the current law but under SB 111 the friend could apply for a property management license.

Senator Klampe asked Helen Garrick why a realtor would be exempt from having a license as a manager. Ms. Garrick answered a realtor would have some training in property management, but not be able to keep up with current legislation. A property manager would be able to concentrate strictly on management and would keep up on legislation. SB 111 would not prohibit brokers from managing. Senator Klampe asked if it would not be possible to grandfather in people who are already working as managers and realtors, and make the law state a realtor would have to pass the same requirements as a property manager would. Ms. Garrick responded the House and Senate are not fond of grandfather clauses.

Senator Gage asked how many additional people would be brought into the requirement in the state. Senator Harp stated the estimate was 250 with 30 each year thereafter for an unspecified period of time. Senator Gage then asked for an estimate on how many people were in current violation of the statute. Ms. Garrick answered there were 2 or 3 complaints a month. Senator Gage inquired about bonding requirements in SB 111. Ms. Garrick answered the realtors and brokers are no longer bonded, but there is a recovery fund which covers any losses. Referring to page 5, subsection A, Senator Gage asked what would happen if the definition of dependent were changed after the effective date of SB 111. Ms. Garrick replied the above situation would be handled with the rule change. Senator Gage inquired about classroom time and examinations on page 7 and what would happen if a person could pass the exam without the classroom time. Ms. Garrick explained there would be equivalency tests and the ability to challenge classes.

Senator Gage addressed Jack Moore asking if there were any other boards which have the ability to fine or revoke licenses. Grace Berger, Department of Commerce, replied there are several boards who have fining authority. Senator Gage stated he assumes the Board would determine if a person was unfit, negligent or incompetent and if the person's license was going to be revoked or if they were going to be fined. Senator Moore stated any person in violation of the statute would go through the same process as any broker or real estate associate.

Senator Lynch asked why a desk clerk at a hotel is not in present violation of the law, or would be in violation of SB 111 if it were passed. There was no response.

Senator Klampe asked about section 3, part G and why a manager of a complex subsidized by the government is exempt. Ms. Garrick responded the exemption is a federal regulation.

Senator Rea asked Helen Garrick if a property manager would become an independent contractor. Ms. Garrick answered the decision was up to the companies which hired the managers. Senator Rea inquired about the test requirements to be a property manager. Ms. Garrick stated the tests are readily available at the Job Services throughout the state.

Senator Mesaros asked Rhonda Carpenter about her testimony and if she could be specific about points in the bill she felt needed to be changed. Ms. Carpenter stated the definition of dependent needed to include immediate family, or changed to relative. Another point she would like to see changed is the definition about managing for more than one person or identity and the definition of "on-site manager".

Senator Wilson asked Ms. Carpenter if he owned 5 units and his parents were watching them for him, if his parents would have to be licensed, or could he be licensed to handle the units from

Helena. Ms. Carpenter answered he wouldn't be in violation if he took care of them himself, but if his parents showed or managed them he would be in violation of the current statute.

Senator Christiaens inquired of Ms. Garrick if a person has 2 or 3 units under Section 8 housing (HUD housing), would the housing be exempt. Ms. Garrick answered yes. Senator Christiaens stated the passage of SB 111 would tell people to make sure they had Section 8 housing or HUD rentals to get around the law. Ms. Garrick responded the Section 8 housing is examined and monitored closely by the federal government. Senator Christiaens stated he wasn't sure of the necessity of SB 111 except for the Board's access to the managers' trust accounts. Ms. Garrick stated the reason for SB 111 was for consumer protection if a property manager were to leave with funds and to make the managers follow standards of practice. Senator Christiaens asked if there were any way the current statute could be amended rather than propose a new law. There was no response.

Senator Lynch asked Senator Harp about the present and proposed law and how much education is necessary for a management position in, for example, a hunting lodge where rents are collected. Senator Harp stated, in the example given, SB 111 is proposing more than is necessary, but the idea behind SB 111 is for professional property managers who would like to hold themselves as managers. Senator Lynch then asked Senator Harp if there was a way the present law could be changed so any person who purports themselves to be a professional property manager could attain a license. Senator Harp agreed with Senator Lynch.

Senator Toews inquired as to the penalties under the current statute. Ms. Garrick answered she believed it was treble damages.

Senator Rea asked Senator Harp if there was a way SB 111 could work in employees or work the language into the current bill. Senator Harp responded the Committee could handle the problem and he would be willing to work with the Committee in the matter.

Senator Gage asked Greg VanHorsen how much contact with the Board of Realty Regulation did the Income Property Managers Association of Montana have. Mr. VanHorsen deferred to Rhonda Carpenter. Rhonda responded the contact was minimal.

Closing by Sponsor:

Senator Harp closed on SB 111 stating there is some confusion on the present law and the intent of SB 111. He also brought to the attention of the Committee that the Legislative Audit Committee Sunrise Report on the 1993 biennium noted Property Managers as a new career field in Montana. Senator Harp asked the Committee to try and resolve some of the problems brought up in the hearing.

Announcement:

Chair Lynch announced he would like recommendations as to how to handle SB 111. He asked the interested parties to submit amendments as a whole Committee, and if there was still no resolution, he would call a subcommittee.

EXECUTIVE ACTION ON SB 83**Discussion:**

Mr. Hopgood suggested an amendment on SB 83 to eliminate "such as". Bart Campbell announced that page 1 line 23, section 2 would now read as follows:

Delete line 23 and "such as". It would now read "a private or public employment agency or labor union or an employee thereof who refers persons for employment by others."

Mr. Campbell added that there were also the Department's amendments.

Motion/Vote:

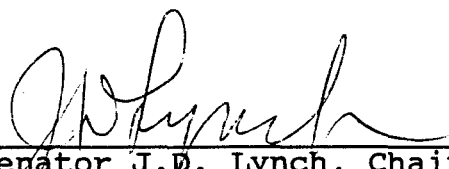
Senator Bruski-Maus moved SB 83 BE AMENDED. MOTION CARRIED UNANIMOUSLY.

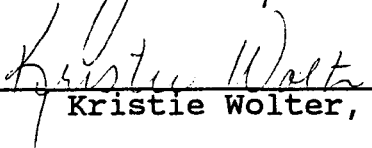
Motion\Vote:

Senator Mesaros moved SB 83 DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 10:55 a.m.



Senator J.D. Lynch, Chair

Kristie Wolter, Secretary

ROLL CALL

SENATE COMMITTEE Business & Industry DATE Jan. 14, 1993

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	/		
Senator Christaens	/		
Senator Bruski-Maus	/		
Senator Gage	/		
Senator Hager	/		
Senator Harding	/		
Senator Kennedy	/		
Senator Klampe	/		
Senator Koehnke	/		
Senator Mesaros	/		
Senator Rea	/		
Senator Toews	/		
Senator Wilson	/		

WHITEFISH PROPERTY MANAGEMENT

128 CENTRAL AVENUE WHITEFISH, MONTANA 59937
(406) 862-2578

Date: January 13, 1993

To: Whom it may concern

From: Whitefish Property Management
128 Central Ave.
Whitefish, MT 59937

Subject: Senate Bill 111 - Property Management Licensing

The owners of Whitefish Property Management would like to voice a proponent "yes" vote on the Senate Bill 111. As full time property managers, we would like to site several reasons this bill is needed in our industry.

1. Presently the Montana Real Estate Board requires 15 hours of continuing education every two years to keep an active Real Estate License. I have now attended three of these seminars with not one hour pertaining to property management. It is a catch 22. Mandatory to maintain my license yet no educational benefit in my field.

2. Two of the three partners have held salesperson licenses for 8 years, the third being as required by law "the Broker". This is merely a token position in the property management business, as we have never had to call on "the Broker" to make any decisions or supervision except when the law dictated. The other property managers, as salesperson, are equally qualified to make decisions. The Montana Landlord and Tenant Act being our guideline.

3. After 8 years in the property management business I cannot without the aid of a broker operate my own business according to the Montana Law. As owner of the business, I would have to hire a "Broker" to supervise my operation. Yet this broker would have much less knowledge of the property management operation, than individuals that have worked full time for over seven years.

4. Lastly, after 8 years in the business I fail to qualify to take a brokers license test, as I have not made any sales. Even if qualified to take the test, about 90% of the material is related to sales and just a small portion property management.

Thank you for your time,



1/14/93
SB 111

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM SPEAKING TODAY IN SUPPORT OF SENATE BILL 111. THE MEMBERS OF THE BOARD OF REALTY REGULATION HAVE ATTEMPTED TO WORK WITHIN THE CONFINES OF THE CURRENT LAW WHICH REQUIRES A PROPERTY MANAGER TO HOLD A REAL ESTATE BROKER LICENSE, WHILE REMAINING CONSISTENT WITH THE LEGISLATIVE CHARGE OF PROTECTION OF THE PUBLIC.

WITHIN THE PAST TWO YEARS, THE BOARD OF REALTY REGULATION HAS RECEIVED REQUESTS FOR A BROKER LICENSE FROM 13 INDIVIDUALS INTENDING TO LIMIT THEIR OPERATIONS TO PROPERTY MANAGEMENT. THE BOARD HAS THE ABILITY TO ALLOW FULL UNRESTRICTED LICENSING TO THESE INDIVIDUALS, OR DENY THE REQUEST ENTIRELY. THERE IS NO RESTRICTION THAT CAN CURRENTLY BE PLACED ON THESE INDIVIDUALS WHO DO NOT HAVE LISTING OR SELLING EXPERIENCE OR ON OCCASION, HAVE NO PROPERTY MANAGEMENT EXPERIENCE. THE BOARD, IN GOOD CONSCIENCE, WILL NOT ALLOW A PERSON TO OBTAIN AN UNRESTRICTED BROKER LICENSE WITHOUT MEETING THE MINIMUM LISTING AND SELLING REQUIREMENTS.

MORE ALARMING IS THE NUMBER OF UNLICENSED BUSINESSES CURRENTLY IN OPERATION. THIS PAST FALL THE BOARD CONTACTED 75 BUSINESSES ADVERTISING IN THE YELLOWPAGES AS PERFORMING PROPERTY MANAGEMENT SERVICES. OF THOSE CONTACTED, A FULL 1/3 OF THOSE BUSINESSES WERE NOT RAN BY A LICENSED REAL ESTATE AGENT, OR CONNECTED WITH A LICENSEE IN ANY FASHION.

THESE UNLICENSED, UNREGULATED BUSINESSES ARE UNDER NO REGULATION, AND DO NOT HAVE TO SUBMIT TO PERIODIC TRUST ACCOUNT AUDITS. THIS AUDIT PROGRAM IS RAN IN CONJUNCTION WITH THE INVESTIGATIONS FOR THE PROFESSIONAL & OCCUPATIONAL LICENSING BUREAU AND ARE COMPLETED AT THE REQUEST OF THE BOARD.

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SB 111

UNDER THE CURRENT STATUTE, THE BOARD OF REALTY REGULATION CAN DEMAND LICENSING OF THESE BUSINESSES. THE PROBLEM COMES FROM THE TYPE OF EXPERIENCE AND EDUCATION THESE PEOPLE ARE REQUIRED TO OBTAIN. THEY MUST COMPLETE 60 HOURS OF EDUCATION DESIGNED TO TEACH THE PRINCIPLES AND PRACTICES OF THE LISTING AND SELLING AGENT. A BRIEF OVERVIEW OF PROPERTY MANAGEMENT SUBJECTS ARE COVERED, BUT NO IN-DEPTH STUDY OCCURS. THEY MUST ALSO MEET CERTAIN LISTING AND SELLING REQUIREMENTS IN ORDER TO QUALIFY FOR A BROKER LICENSE. PROPERTY MANAGERS DO NOT HAVE THE OPPORTUNITY OR THE DESIRE TO MEET THESE REQUIREMENTS. THEY ARE CONCENTRATING THEIR EFFORTS IN PROPERTY MANAGEMENT. EVEN IF THEY OBTAIN A SALES LICENSE AND ARE LUCKY ENOUGH TO FIND A BROKER TO SUPERVISE THEM, THEY WILL NEVER MEET THE MINIMUM LISTING AND SELLING REQUIREMENTS.

THE BOARD DOES NOT HAVE THE RESOURCES TO OBTAIN INJUNCTIONS AGAINST ALL THOSE OPERATING UNLAWFULLY AS A PROPERTY MANAGER. IT HAS BEEN THE EXPERIENCE OF THE BOARD THAT THE OVERWORKED AND UNDERSTAFFED COUNTY ATTORNEY IS NOT INTERESTED IN PURSUING LEGAL ACTION AGAINST AN UNLICENSED PROPERTY MANAGER.

IT IS TRUE THAT THIS LEGISLATION DOES NOT GIVE THE BOARD ANY ADDITIONAL JURISDICTION OVER UNLICENSED PRACTICE. WHAT THIS LEGISLATION DOES IS PLACE MEANINGFUL REQUIREMENTS ON PROFESSIONALS. THE MAJORITY OF PROPERTY MANAGERS THAT WE HAVE TALKED WITH ARE NOT OPPOSED TO LICENSING. THEY ARE OPPOSED TO JUMPING THROUGH HOOPS, AND MEETING EDUCATION, TESTING AND EXPERIENCE REQUIREMENTS THAT HAVE LITTLE CONNECTION TO THEIR DAILY BUSINESS, AND DO NOT RECOGNIZE THE SKILLS AND KNOWLEDGE NEEDED TO PERFORM THOSE DAILY ACTIVITIES.

Sen B + J
Ex #2
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SB 111

SOME CRITICISM HAS ARISEN THAT THIS LEGISLATION DOES NOT EXEMPT EMPLOYEES OF AN OWNER OF PROPERTY FROM THE LICENSING REQUIREMENT. THESE EMPLOYEES ARE REQUIRED TO HOLD A REAL ESTATE LICENSE NOW. THE DIFFERENCE IS, THEY WOULD BE REQUIRED TO HOLD A LICENSE IN THE PROFESSION FOR WHICH THEY FUNCTION.

PAST CONCERNS OF THIS LEGISLATION HAS RESULTED IN SOME LICENSING EXEMPTIONS. THIS BILL DOES INCLUDE EXEMPTIONS FOR THOSE MANAGING FOUR OR FEWER RESIDENTIAL UNITS. ALL COMMERCIAL PROPERTY MANAGEMENT WOULD REQUIRE A LICENSE. FAMILY MEMBERS AS DEFINED BY THE IRS WOULD BE EXEMPT FROM THE LICENSING REQUIREMENT.

THIS LEGISLATION IS DIRECTED AT THOSE WHO ACT AS PROPERTY MANAGERS AS A LIVELIHOOD. THIS BILL DOES NOT CHANGE THE DUTIES OF A LICENSED REAL ESTATE BROKER. IT DOES NOT TOUCH THE PROPERTY OWNER. THIS LEGISLATION WOULD BECOME AN INTEGRAL PART OF THE REAL ESTATE LICENSING LAW. THE DEFINITION OF A PROPERTY MANAGER IS A PERSON WHO PERFORMS MANAGEMENT DUTIES "FOR A SALARY, COMMISSION OR COMPENSATION" AND ENGAGES IN MANAGEMENT ACTIVITIES "OF REAL ESTATE BELONGING TO OTHERS"

PROPERTY MANAGEMENT IS BECOMING BIG BUSINESS IN MONTANA. INVESTMENT PROPERTIES, COMMERCIAL UNITS AND ABSENTEE OWNERS ARE CREATING MORE DEMAND FOR THIS SERVICE. FEW REAL ESTATE LICENSEES HAVE THE TIME OR DESIRE TO BECOME AN EXPERT IN BOTH THE LISTING AND SELLING, AND THE MANAGEMENT OF REAL ESTATE. MONTANA IS NOT ALONE IN PURSUING THE SEPARATE LICENSE CONCEPT AS A MEANS OF SOLVING THIS REGULATORY DILEMMA. CURRENTLY FOUR STATES AND TWO CANADIAN PROVINCES HAVE A SEPARATE LICENSE FOR PROPERTY MANAGEMENT. SEVERAL MORE STATES ARE PRESENTLY ATTEMPTING SUCH LEGISLATION.

THE CURRENT SYSTEM IS IN DIRE NEED OF REPAIR. THE BOARD OF REALTY REGULATION HAS ATTEMPTED TO OPERATE UNDER THE PARAMETERS ESTABLISHED BY THE LEGISLATURE AND HAS MET WITH MIXED SUCCESS. IN TODAY'S RAPIDLY CHANGING REAL ESTATE INDUSTRY, WE CAN NO LONGER ALLOW THE LAWS OF YESTERDAY TO DICTATE THE REGULATION OF THE PROFESSION OF TOMORROW.

SENATE BILL 111
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1/14/93
SEN. SB 111

TESTIMONY OF SENATE BILL 111
ON BEHALF OF
INCOME PROPERTY MANAGERS ASSOCIATION AND
THE MONTANA LANDLORDS ASSOCIATION

Senate Bill 111 heard January 14, 1993,
before the Senate Business and Industry Committee,
Room 410, 10:00 a.m.

My name is Greg Van Horssen. I represent the Income Property Managers Association and The Montana Landlords Association. The Income Property Managers Association currently has 114 members, representing over 3700 rental units, and the Montana Landlords Association has approximately 1270 members, representing approximately 50,000 rental units. These organizations provide a large number of Montana's citizens with safe and affordable rental housing.

The Income Property Managers Association and the Montana Landlords Association oppose Senate Bill 111 because the bill, in its current form, is extremely vague with respect to the actual requirements for licensure.

In particular, the bill requires that any person who "manages" rental properties must be licensed with a few exceptions. However, the bill does not delineate precisely what is meant by the term "property management." In section 2, it provides that a license is required for anyone who conducts business directly or indirectly as a property manager. The bill then defines property management as "any acts performed for compensation of any kind in the leasing, renting, subleasing, or other transfer of properties without

the transfer of title." These two sections combined provide that licensure is apparently required for anyone who is indirectly involved in the leasing, renting, subleasing, or other transfer of possession of real estate without the transfer of title. Sections 2 and 3 are unreasonably vague in this regard because it is unclear as to exactly how involved an individual must be in the rental process before licensure is required.

I offer an example for your consideration: The owner of an apartment building allows a relative, for instance, a sister, brother-in-law, cousin, etc., to live in one of the apartments at a reduced rental rate. This, of course, could be considered "compensation" under the language of the bill in satisfying the first prong of the definition of property management. Now, let's say that the owner of that apartment building must be away from the apartment building for an extended period of time by virtue of military commitments, business commitments, or other responsibilities. At that point, the owner of the apartment building may, and logically would, ask the resident-family member to address any problems that may arise in the building while the owner is absent. For instance, the owner may ask the family member to show any vacant apartments to prospective tenants or to supervise or take part in any way in the re-renting of any vacated apartments. Under the language of Senate Bill 111, the owner of the apartment building, in this situation,

would be required to either license his or her relative which, of course, could include the completion of any number of classroom hours and the completion of various examinations. The alternative to the apartment owner under these circumstances would be to go out and hire a licensed property manager at some expense.

The situation where an apartment building owner or property manager is required to be away from his or her property for an extended period of time occurs with some regularity. To require that property manager to either license a relative who is providing temporary assistance or perhaps an employee who might be providing temporary assistance would be an unwarranted burden and expense. Further, the additional expenses incurred by the property manager under these circumstances would most likely lead to increased rental rates, which would be a disservice to Montana's citizens.

For these reasons, the Income Property Managers Association and the Montana Landlords Association oppose Senate Bill 111 and request that this committee issue a DO NOT PASS recommendation.

Thank you.

Legislative Audit Committee

State of Montana

Report to the Legislature

December 1992

Sunrise Report -- 1993 Biennium

Summary of Sunrise Proposals for the Licensure of:

- ▶ **Crematoriums and Crematory Technicians**
- ▶ **Clinical Laboratory Science Practitioners**
- ▶ **Property Managers**
- ▶ **Denturists**

Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 1/14/93

BILL NO. SB 111

93SP-11

Legislative Audit Committee

Montana State Legislature

Room 135, State Capitol
Helena, MT 59620
(406) 444-3122

SENATE MEMBERS

Senator Greg Jergeson, Chair
Senator Eve Franklin
Senator Lorents Grosfield
Senator Tom Keating

HOUSE MEMBERS

Representative John Cobb, Vice-Chair
Representative Larry Grinde
Representative Mike Kadas
Representative Robert Pavlovich

December 1992

The 53rd Montana State Legislature:

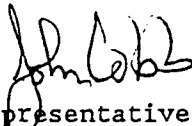
This report is in response to the Sunrise law which requires the Legislative Audit Committee to evaluate qualifying proposals to establish new professional or occupational licensing programs. The Committee must also review proposals to transfer licensing programs between existing licensing boards. During the 1993 Biennium, the Committee evaluated proposals to establish licensing programs for crematoriums and crematory technicians, clinical laboratory science practitioners, and property managers. The Committee also evaluated a proposal to transfer the regulation of denturists from the Board of Dentistry to the Alternative Health Care Board.

Section 2-8-203, MCA, requires the Committee to report to the legislature on its recommendations as to whether each of the professions or occupations should be licensed by the state. The Committee is to include in the report its estimates of the costs of each licensing program and a schedule of fees to recover these costs. The Committee's recommendations are shown on page 2. The Committee's estimates for costs and fees are shown on page 3.

Respectively submitted,



Senator Greg Jergeson, Chairman
Legislative Audit Committee



Representative John Cobb, Vice Chairman
Legislative Audit Committee

Legislative Audit Committee
SUNRISE -- 1993 BIENNIUM

Sen B & J
Ex 44
1/14/93
SB 111

Introduction

The intent of the Sunrise Law (Chapter 266, Laws of Montana 1987) was to improve the legislature's ability to evaluate the need for new professional and occupational licensing programs. Under this law, the Legislative Audit Committee is required to evaluate any qualifying proposal to: 1) establish a new licensing board; 2) add another occupation or profession to an existing board; 3) consolidate any existing licensing boards; or 4) transfer a licensing program between existing licensing boards.

In order for a proposal to qualify for review, the applicant must submit the proposal in the form of a report to the Legislative Audit Committee at least 180 days before the start of the legislative session. The report must provide information to the Committee related to the need for licensure and how the proposed board will operate. For consolidation or transfer proposals the report must describe the benefits of the proposal. Each proposal must include an application fee.

After the Legislative Audit Committee receives the completed report and application fee, the Committee will hold a public meeting to consider the report. The Committee hears testimony from the applicant and any other interested parties. The Committee considers information presented in the applicant's report and testimony given at the public hearing to make its recommendation as to whether the profession or occupation should be licensed. For consolidation or transfer proposals the Committee can recommend the legislature adopt the proposal or adopt some modification of the proposal. Section 2-8-203, MCA, requires the Committee to make its recommendation in a report to the legislature for its next regular session. The report must also include an estimate of the cost to the state for each of the licensing programs along with a proposed schedule of fees that will recover the costs of each program.

Public Hearings

On October 19, 1992, the Legislative Audit Committee heard testimony concerning proposals to license crematoriums and crematory technicians and clinical laboratory science practitioners. On November 20, 1992, the Committee heard testimony concerning a proposal to license property managers and a proposal to transfer regulation of denturists to the Alternative Health Care Board. The Committee voted on its recommendations for the first two proposals at its November meeting. Final Committee action related to Sunrise was taken at the Committee's meeting on December 21, 1992.

The following is a summary of Committee action and recommendations for the four professions which went through the Sunrise process

during the 1993 biennium. Also presented are the Committee's estimates on projected costs for each of the licensing proposals and the estimated fees to cover those costs.

Clinical Laboratory Science Practitioners

A motion was made by Senator Svrcek to recommend licensure for clinical laboratory science practitioners. The motion carried with a unanimous vote.

Crematoriums and Crematory Technicians

A motion was made by Representative Pavlovich to recommend licensure for crematoriums and crematory technicians. The motion carried with a 7 - 0 vote and one abstention.

Denturists

A motion was made by Representative Pavlovich to not recommend the transfer of regulation of denturists from the Board of Dentistry to the Alternative Health Care Board. The motion carried with a unanimous vote.

Committee discussion after this motion indicated the applicant may bring other alternatives before the 1993 Legislature.

Property Managers

A motion was made by Representative Kadas to recommend licensure for property managers. The motion carried with a unanimous vote.

Licensing Program Costs and Fees

The Committee and the Department of Commerce reviewed the cost information provided by the applicants. The Committee believes the final figures are reasonable estimates of the yearly costs for the new licensing programs. To cover the costs of these new programs, the applicants and department staff estimated the necessary licensing fees. The Committee believes the fees presented in the following chart are reasonable and will comply with section 37-1-134, MCA, which requires fees to be commensurate with costs.

Sun D R L
 Exhibit #4
 1-14-93
 SB-111

SUNRISE PROPOSALS -- PROJECTED EXPENDITURES AND REVENUES

Profession	-----Expenditures-----		-----Revenues-----					
	1st Year	2nd Year	Fee Types	Fee Amounts	No of 1st yr	Amount 1st yr	No of 2nd Yr	Amount 2nd Yr
*****	*****	*****	*****	*****	*****	*****	*****	*****
Clinical	\$27,615	\$25,700	Application	\$35	900	\$31,500	10	\$350
Laboratory			License	\$10	900	\$9,000	10	\$100
Practitioners			Temp. Permit	\$100	10	\$1,000	10	\$1,000
			Renewal	\$30	0	\$0	900	\$27,000
			Late Renewal	\$30	0	\$0	50	\$1,500
			Total			\$41,500		\$29,950

Crematoriums	\$1,932 *	\$1,632 *	Crematory App	\$100	13	\$1,300	0	\$0
			Crematory Renew	\$100	0	\$0	13	\$1,300
			Technician App	\$60	5	\$300	0	\$0
			Technician Renew	\$60	0	\$0	5	\$300
			Total			\$1,600		\$1,600

Property	\$19,958 *	\$7,293 *	Applic & Exam	\$40	250	\$10,000	30	\$1,200
Managers			License	\$40	250	\$10,000	30	\$1,200
			Renewal	\$20	0	\$0	250	\$5,000
			Total			\$20,000		\$7,400

* Additional costs for licensing a new profession under an existing board

Note: Denturists are not shown since the Legislative Audit Committee did not recommend a change in the regulation of denturists.

NAME mardi madsen

ADDRESS 3524 Glenfinnan Rd. Billings, MT

HOME PHONE 248-4021 WORK PHONE 259-6435

REPRESENTING Prudential Global Realty Property Management Group

APPEARING ON WHICH PROPOSAL? SB111

DO YOU: SUPPORT X OPPOSE _____ AMEND X

COMMENTS:

I am in favor of SB111. I feel a property management license would give credibility, and a level of professionalism to the profession.

I do feel salespersons or brokers working in the property management field should be required to hold a property management license and take the necessary course work. Sales and management are two different fields.

How many discrimination suits can be avoided when a qualified licensed property manager handles a property? Someone who is educated in ADA and equal housing laws.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to Senate Bill No. 83
First Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
January 14, 1993

1. Page 1, line 23.

Following: "(2)"

Strike: the remainder of line 23

2. Page 1, line 24.

Strike: "such as a"

Insert: "A"

3. Page 1, line 25.

Following: "union,"

Insert: "or an employee thereof,"

DATE Jan. 14, 1993
 SENATE COMMITTEE ON Business & Industry
 BILLS BEING HEARD TODAY: SB 111

Name	Representing	Bill No.	Check One	
			Support	Oppose
Mardi Madsen	The Prudential Floberg Realtors	SB 111	X	
Lynn L. Madsen		SB 111	X	
Georgis Brunz II	MONT. BANKERS	SB 111	X	
MARCIA ALLEN	Board of Realty Reg	SB 111	X	
HELEW GARRICK	"	SB 111	X	
Shirley Hansen	Flathead Rental Co	SB 111	V	
Sandra Magnan	Town & Country Prop	SB 111	X	
RONDA CARPENTER	Income Prop Owners Mngs Inc	SB 111		X
Ken L. Fischer	INCOME Property Owners Mngers INC	SB 111		X
Rickey LINAFELTER	INCOME PROPERTY OWNERS	SB 111		X
Tom Hopgood	Mt. Assoc. Realtors	SB 111	V	
Greg Van Housen	Mt Landlords Association Income Property Managers Assn	SB 111		X
JACK K. MOORE	CH. Bd of REALTY REG	SB 111	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY