

1 *House* BILL NO. *188*
 2 INTRODUCED BY *John Thomas*
 3 *Requested by Dept of Professional Licensing*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 LICENSING AND REGULATION OF RENTAL LOCATION AGENTS; AND
 6 PROVIDING PENALTIES."
 7

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

9 Section 1. Short title. This act may be cited as the
 10 "Montana Rental Location Agent Act of 1975".

11 Section 2. Definitions. As used in this act, unless
 12 the context otherwise requires: (1) "Person" means any
 13 natural person, corporation, partnership, firm, or
 14 association.

15 (2) "Rental location agent" means any person who
 16 engages in the business of claiming, demanding, charging,
 17 receiving, or collecting, or contracting for the collection
 18 of, a fee from a prospective tenant in connection with
 19 locating, assistance in locating, or furnishing information
 20 concerning the location or availability of real property,
 21 including apartment housing, which may be leased or rented
 22 as a private dwelling, abode, or place of residence.

23 (3) "Board" means the Montana board of real estate
 24 established under section 82A-1602.23.

25 Section 3. License required. (1) It is unlawful for

1 any person to engage in the business or capacity of a rental
 2 location agent in this state without first having obtained a
 3 license from the board.

4 (2) A license held by a real estate broker, or a real
 5 estate salesman employed by a licensed real estate broker,
 6 satisfies the license requirements of this act.

7 Section 4. Powers of board. (1) The board may
 8 promulgate rules necessary to administer this act and
 9 determine contested cases under this act.

10 (2) The board may require applicants for a rental
 11 location agent license to successfully pass a written
 12 examination.

13 Section 5. Agents -- contracts -- receipts for fees --
 14 refunds. (1) Each rental location agent engaged in the
 15 rental location business shall give each prospective tenant
 16 a contract or receipt which specifies that any amount over
 17 ten dollars (\$10) will be refunded to the prospective tenant
 18 if the prospective tenant does not obtain a rental through
 19 the efforts of the rental location agent.

20 (2) If the information concerning rentals furnished by
 21 the rental location agent is not current or accurate in
 22 regard to the type of rental desired, the full fee shall be
 23 refunded to the prospective tenant.

24 Section 6. Unlawful activities. (1) It is unlawful
 25 for any rental location agent to knowingly refer a

H.B. 188

1 prospective tenant to:

- 2 (a) a nonexistent address;
- 3 (b) property which is not for lease or rent;
- 4 (c) property which does not meet the specifications of
- 5 the prospective tenant;
- 6 (d) property which leases or rents for a different
- 7 price than that quoted by the rental location agent;
- 8 (e) property listed without the consent of the owner.

9 (2) It is unlawful for any rental location agent to

10 advertise in any manner without including his name and the

11 fact that he is a rental location agent in the

12 advertisement.

13 Section 7. Bond required. No license may be issued to

14 any rental location agent until the applicant has filed with

15 the board a bond in the name of the state of Montana,

16 executed by a surety company authorized to do business in

17 the state, in the amount of ten thousand dollars (\$10,000).

18 The bond shall be used for the payment of any judgement

19 awarded a prospective tenant against the rental location

20 agent.

21 Section 8. Duties of licensee -- renewal of

22 license. (1) A rental location agent shall immediately

23 notify the board, in writing, of a change in his business

24 address, the business address of any branch office or of a

25 change in his business name.

1 (2) When any rental location agent changes his

2 business address, he shall return his license to the board

3 with a request for a new license showing his new business

4 address, and pay a five dollar (\$5) fee.

5 (3) If a rental location agent changes his business

6 address without notifying the board within ten (10) days

7 after such change, his license shall be cancelled.

8 (4) All licenses expire on June 30 of each year and a

9 request for renewal must be made between June 1 and June 30.

10 In the event no request for renewal is made within the

11 prescribed time, it shall be necessary for the licensee to

12 submit a new application and pay the prescribed fee.

13 (5) A rental location license limits a person's

14 activities to those specified and does not allow the

15 licensee to act as a real estate broker or real estate

16 salesman.

17 (6) A rental location agent shall enter into a written

18 contract with or provide a receipt for each prospective

19 tenant which shall clearly reflect:

20 (a) all of the terms and conditions of the agreement

21 upon which service is to be furnished;

22 (b) the type of rental desired in regard to number of

23 bedrooms, terms, and other relevant information;

24 (c) a definite date the service is to terminate;

25 (d) receipt for payment of fee;

1 (e) date of execution;

2 (f) signatures of the prospective tenant, the agent,
3 and, if negotiated by an agent in the employ of another
4 agent, the employed agent on behalf of the employing agent.

5 (7) An originally signed copy of any contract or
6 receipt shall be furnished to the prospective tenant and a
7 copy shall be retained by the rental location agent for a
8 period of one (1) year subject to the inspection of the
9 board.

10 (8) A list of all addresses given to the prospective
11 tenants and a list of all subsequent addresses given to a
12 tenant by telephone or otherwise, shall be maintained by the
13 agent with the date of dissemination indicated, and such
14 lists shall clearly state the address of the property, a
15 brief description thereof, and the amount of the monthly
16 rental. The lists shall be retained by the agent for a
17 period of one (1) year subject to examination by the board.

18 (9) No rental location agent may furnish a prospective
19 tenant with the address of a prospective rental unless the
20 licensee has received specific authorization to offer the
21 property for rent from the owner or his authorized agent.

22 (10) A rental location agent may not refer a
23 prospective tenant to a rental listing unless the
24 availability of the listing has been verified within three
 (3) business days of the referral.

1 Section 9. License fees. The board shall set the
2 original license fee and renewal fee but each fee may not
3 exceed fifty dollars (\$50).

4 Section 10. Penalty. A person convicted of violating
5 this act shall be fined not to exceed five hundred dollars
6 (\$500) or be imprisoned in the county jail for any term not
7 to exceed six (6) months, or both.

8 Section 11. It is the intent of the legislature that
9 if a part of this act is invalid, all valid parts that are
10 severable from the invalid part remain in effect. If a part
11 of this act is invalid in one or more of its applications,
12 the part remains in effect in all valid applications that
13 are severable from the invalid applications.

-End-

HB 18E

Approved by Committee
on State Administration

HOUSE BILL NO. 188

INTRODUCED BY JACK MOORE

(REQUESTED BY DEPARTMENT OF PROFESSIONAL AND

OCCUPATIONAL LICENSING)

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~PROVIDE-FOR~~ CLARIFY
THE LICENSING AND REGULATION OF RENTAL LOCATION AGENTS, ~~AND~~
~~PROVIDING-PENALTIES.~~"

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

(Strike everything after the enacting clause and insert:)

SECTION 1. SECTION 66-1925, R.C.M. 1947, IS AMENDED TO
READ AS FOLLOWS:

"66-1925. Definitions. Unless the context requires
otherwise, in this act:

(1) "Real estate" includes leaseholds, as well as any
other interest or estate in land, whether corporeal,
incorporeal, freehold or nonfreehold, and whether the real
estate is situated in this state or elsewhere.

(2) "Broker" includes an individual who for another,
or for a fee, commission, or other valuable consideration,
or who with the intent or expectation of receiving the same,
negotiates or attempts to negotiate the listing, sale,
purchase, rental, exchange, or lease of real estate or the
improvements thereon, or collects rents or attempts to

collect rents, or advertises or holds himself out as engaged
in any of the foregoing activities. The term "broker" also
includes an individual employed by or on behalf of the owner
or lessor of real estate, to conduct the sale, leasing,
subleasing, or other disposition thereof at a salary or for
a fee, commission, or any other consideration; it also
includes an individual who engages in the business of
charging an advance fee or contracting for collection of a
fee in connection with a contract by which he undertakes
primarily to promote the sale, lease, or other disposition
of real estate in this state through its listing in a
publication issued primarily for this purpose, or for
referral of information concerning real estate to brokers,
or both; and any person who aids, attempts, or offers to
aid, for a fee, any person in locating or obtaining for
purchase or lease any real estate.

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

(4) "Person" includes individuals, partnerships,
associations, and corporations, foreign and domestic, except
that when referring to a person licensed under this act it

1 means an individual.

2 (5) "Board" means the board of real estate, provided
3 for in section 82A-1602.23.

4 (6) "Department" means the department of professional
5 and occupational licensing, provided for in Title 82A,
6 chapter 16."

-End-

1 HOUSE BILL NO. 188
 2 INTRODUCED BY JACK MOORE
 3 (REQUESTED BY DEPARTMENT OF PROFESSIONAL AND
 4 OCCUPATIONAL LICENSING)

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~PROVIDE FOR~~ CLARIFY
 7 THE LICENSING AND REGULATION OF RENTAL LOCATION AGENTS, ~~AND~~
 8 ~~PROVIDING PENALTIES.~~"

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 (Strike everything after the enacting clause and insert:)

12 SECTION 1. SECTION 66-1925, R.C.M. 1947, IS AMENDED TO
 13 READ AS FOLLOWS:

14 "66-1925. Definitions. Unless the context requires
 15 otherwise, in this act:

16 (1) "Real estate" includes leaseholds, as well as any
 17 other interest or estate in land, whether corporeal,
 18 incorporeal, freehold or nonfreehold, and whether the real
 19 estate is situated in this state or elsewhere.

20 (2) "Broker" includes an individual who for another,
 21 or for a fee, commission, or other valuable consideration,
 22 or who with the intent or expectation of receiving the same,
 23 negotiates or attempts to negotiate the listing, sale,
 24 purchase, rental, exchange, or lease of real estate or the
 25 improvements thereon, or collects rents or attempts to

1 collect rents, or advertises or holds himself out as engaged
 2 in any of the foregoing activities. The term "broker" also
 3 includes an individual employed by or on behalf of the owner
 4 or lessor of real estate, to conduct the sale, leasing,
 5 subleasing, or other disposition thereof at a salary or for
 6 a fee, commission, or any other consideration; it also
 7 includes an individual who engages in the business of
 8 charging an advance fee or contracting for collection of a
 9 fee in connection with a contract by which he undertakes
 10 primarily to promote the sale, lease, or other disposition
 11 of real estate in this state through its listing in a
 12 publication issued primarily for this purpose, or for
 13 referral of information concerning real estate to brokers,
 14 or both; and any person who aids, attempts, or offers to
 15 aid, for a fee, any person in locating or obtaining for
 16 purchase or lease any real estate.

17 (3) "Salesman" includes an individual who, for a
 18 salary, commission, or compensation of any kind, is
 19 employed, either directly, indirectly, regularly, or
 20 occasionally, by a real estate broker to sell, purchase, or
 21 negotiate for the sale, purchase, exchange, or renting of
 22 real estate.

23 (4) "Person" includes individuals, partnerships,
 24 associations, and corporations, foreign and domestic, except
 25 that when referring to a person licensed under this act it

1 means an individual.

2 (5) "Board" means the board of real estate, provided
3 for in section 82A-1602.23.

4 (6) "Department" means the department of professional
5 and occupational licensing, provided for in Title 82A,
6 chapter 16."

-End-

1 HOUSE BILL NO. 188
 2 INTRODUCED BY JACK MOORE
 3 (REQUESTED BY DEPARTMENT OF PROFESSIONAL AND
 4 OCCUPATIONAL LICENSING)
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~PROVIDE FOR~~ CLARIFY
 7 THE LICENSING AND REGULATION OF RENTAL LOCATION AGENTS, ~~AND~~
 8 ~~PROVIDING PENALTIES.~~"

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 (Strike everything after the enacting clause and insert:)

12 SECTION 1. SECTION 66-1925, R.C.M. 1947, IS AMENDED TO
 13 READ AS FOLLOWS:

14 "66-1925. Definitions. Unless the context requires
 15 otherwise, in this act:

16 (1) "Real estate" includes leaseholds, as well as any
 17 other interest or estate in land, whether corporeal,
 18 incorporeal, freehold or nonfreehold, and whether the real
 19 estate is situated in this state or elsewhere.

20 (2) "Broker" includes an individual who for another,
 21 or for a fee, commission, or other valuable consideration,
 22 or who with the intent or expectation of receiving the same,
 23 negotiates or attempts to negotiate the listing, sale,
 24 purchase, rental, exchange, or lease of real estate or of
 25 the improvements thereon, or collects rents or attempts to

1 collect rents, or advertises or holds himself out as engaged
 2 in any of the foregoing activities. The term "broker" also
 3 includes an individual employed by or on behalf of the owner
 4 or lessor of real estate, to conduct the sale, leasing,
 5 subleasing, or other disposition thereof at a salary or for
 6 a fee, commission, or any other consideration; it also
 7 includes an individual who engages in the business of
 8 charging an advance fee or contracting for collection of a
 9 fee in connection with a contract by which he undertakes
 10 primarily to promote the sale, lease, or other disposition
 11 of real estate in this state through its listing in a
 12 publication issued primarily for this purpose, or for
 13 referral of information concerning real estate to brokers,
 14 or both; and any person who aids, attempts, or offers to
 15 aid, for a fee, any person in locating or obtaining for
 16 purchase or lease any real estate.

17 (3) "Salesman" includes an individual who, for a
 18 salary, commission, or compensation of any kind, is
 19 employed, either directly, indirectly, regularly, or
 20 occasionally, by a real estate broker to sell, purchase, or
 21 negotiate for the sale, purchase, exchange, or renting of
 22 real estate.

23 (4) "Person" includes individuals, partnerships,
 24 associations, and corporations, foreign and domestic, except
 25 that when referring to a person licensed under this act it

1 means an individual.

2 (5) "Board" means the board of real estate, provided
3 for in section 82A-1602.23.

4 (6) "Department" means the department of professional
5 and occupational licensing, provided for in Title 82A,
6 chapter 16."

-End-