

1 *House* BILL NO. *189*
 2 INTRODUCED BY *Sen. Thorne*
 3 *REQUISITE DEPT OF PROFESSIONAL LICENSING*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 5 LICENSING AND REGULATION OF REAL PROPERTY MANAGERS; AND
 6 AMENDING SECTIONS 66-1925 AND 66-1926, R.C.M. 1947."

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 Property Manager Agent Act of 1975."

11 Section 2. Definitions. As used in this act, unless
 12 the context otherwise requires;

13 (1) "Person" means any natural person, corporation,
 14 partnership, firm, or association.

15 (2) "Property Manager Agent" means any person who for
 16 compensation or in expectation of compensation does or
 17 negotiates to do one or more of the following acts;

18 (a) Leases or rents or offers to lease or rent, places
 19 for rent, solicits listings of places for rent, solicits for
 20 prospective tenants, collects rent from real property or
 21 improvements on real property or from business
 22 opportunities.

23 (b) Collects, sells, negotiates, or offers to
 24 negotiate or assists in collecting, selling or negotiating
 25 income or any interest therein from real property, or

1 improvements thereon, from others as an agent for the owner.

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

4 (4) "Licensee" means a person licensed under this act.

5 Section 3. License required. (1) It is unlawful for
 6 any person to represent or act as a property manager agent
 7 in this state without first being licensed as a property
 8 management agent under this act.

9 (2) The provisions of this act do not apply to
 10 exempted classes set forth in section 66-1926.

11 (3) A license held by a real estate broker satisfies
 12 the license requirements of this act.

13 Section 4. Duty of board--powers. The board shall
 14 administer this act, promulgate rules necessary to carry out
 15 the provisions of this act, and determine contested cases
 16 arising under this act.

17 Section 5. License--application. (1) An application
 18 for a license under this act shall be on a form prescribed
 19 by the board and shall include the following affirmations:

20 (a) that the applicant is at least eighteen (18) years
 21 of age;

22 (b) that the applicant is a citizen of the United
 23 States and a resident of Montana;

24 (c) that the applicant is of a good moral character;

25 and

HB 189

1 (d) that the applicant has paid the application fee.

2 (2) The board may require an applicant to pass a
3 written examination before issuing a license.

4 Section 6. License--surety bond. (1) No license may
5 be issued under this act unless the applicant files with the
6 board a surety bond, executed by a surety company licensed
7 to do business in this state, in the amount of twenty-five
8 thousand dollars (\$25,000).

9 (2) The bond shall be taken in the name of the people
10 of this state and any person injured by the willfull,
11 malicious, or wrongful act of the licensee may bring an
12 action on the bond in his own name to recover damages.

13 (3) Each licensee shall at all times maintain on file
14 with the board the surety bond required by this section.
15 Failure to do so will result in suspension of the license.

16 (4) The sum of twenty-five thousand dollars (\$25,000)
17 may be deposited with the board in lieu of the surety bond
18 required by this section.

19 Section 7. Termination of bond. Bonds executed and
20 filed with the board remain in full force and effect until
21 the surety has terminated future liability by giving the
22 board thirty (30) days' written notice.

23 Section 8. Limitations on licensee. A property
24 manager agent license limits a person's activities to those
25 defined in this act and does not allow a person to act as a

1 real estate broker or real estate salesman.

2 Section 9. License--posting. A person who has a
3 property manager agent's license shall at all times keep it
4 posted in a conspicuous place in his principal place of
5 business.

6 Section 10. Licensee advertising. Every advertisement
7 by a licensed property manager agent soliciting or
8 advertising business shall contain his name and address as
9 they appear on his license.

10 Section 11. Suspension or revocation of license. The
11 board may suspend or revoke a license issued under this act
12 if it determines that a licensee has:

13 (1) Made any false statements in applying for a
14 license or renewal or reinstatement thereof;

15 (2) Violated any of the provisions of this act;

16 (3) Been convicted of a felony;

17 (4) Violated any of the rules of the board promulgated
18 under this act;

19 (5) Failed to account for or remit any money coming
20 into his possession which belonged to others; or

21 (6) Willfully failed or refused to render to a client
22 services which have been promised and paid for.

23 Section 12. License--expiration and renewal.

24 (1) Licenses issued under this act expire on June 30 of
25 each year.

1 (2) To renew a license, the licensee shall before June
2 30 of each year apply for a renewal on a form provided by
3 the board and pay the renewal fee prescribed by the board.

4 Section 13. License--fee schedule. The annual fee for
5 an original license or renewal thereof shall be fixed by the
6 board but it shall not exceed fifty dollars (\$50).

7 Section 14. Violation--penalty. A person convicted of
8 violating this act shall be fined not to exceed five hundred
9 dollars (\$500) or be imprisoned in the county jail for a
10 term not to exceed six (6) months, or both.

11 Section 15. Section 66-1925, R.C.M. 1947, is amended
12 to read as follows:

13 "66-1925. Definitions. Unless the context requires
14 otherwise, in this act:

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

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

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

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

20 (4) "Person" includes individuals, partnerships,
21 associations, and corporations, foreign and domestic, except
22 that when referring to a person licensed under this act it
23 means an individual.

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

HB189

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

4 Section 16. Section 66-1926, R.C.M. 1947, is amended
5 to read as follows:

6 "66-1926. Exempted classes. A single act performed,
7 for a commission or compensation of any kind, in the buying,
8 selling, exchanging, ~~leasing or renting~~ of real estate or in
9 negotiating therefor for others, except as hereinafter
10 specified, shall constitute the person performing any of
11 such acts a real estate broker or real estate salesman. The
12 provisions of this act, however, shall not (1) apply to any
13 person who, as owner or lessor, shall perform any of the
14 aforesaid acts with reference to property owned or leased by
15 himself, or to an auctioneer employed by the owner or lessor
16 to aid and assist in conducting a public sale held by such
17 owner or lessor, or (2) apply to any person acting as
18 attorney in fact under the duly executed power of attorney
19 from the owner of any real estate authorizing the final
20 consummation of any contract for the purchase, sale,
21 exchange, renting or leasing of any real estate, or (3) be
22 construed to include in any way the services rendered by any
23 attorney at law in the performance of his duty as such
24 attorney at law, or (4) apply to any person duly appointed
25 by a court for purpose of evaluation or appraising an estate

1 in a probate matter, or (5) be held to include, while acting
2 as such, a receiver, a trustee in bankruptcy, an
3 administrator or executor, any person selling real estate
4 under order of any court, a trustee under a trust agreement,
5 deed of trust or will, or an auctioneer, employed by a
6 receiver, trustee in bankruptcy, administrator, executor or
7 trustee, to aid and assist in conducting a public sale held
8 by any such officer, or (6) apply to public officials in the
9 conduct of their official duties, or (7) apply to any
10 person, partnership, association or corporation, foreign and
11 domestic, performing any act with respect to prospecting,
12 leasing, drilling or operating land for hydrocarbons and
13 hard minerals, or disposing of any hydrocarbons, hard
14 minerals or mining rights therein, whether upon a royalty
15 basis or otherwise, or (8) apply to the manager of a
16 hotel, motel, auto, or trailer park, or (9) apply to the
17 resident manager of an apartment building, apartment
18 complex, or apartment court of twelve (12) units or less.

19 Section 17. It is the intent of the legislature that
20 if a part of this act is invalid, all valid parts that are
21 severable from the invalid part remain in effect. If a part
22 of this act is invalid in one or more of its applications,
23 the part remains in effect in all valid applications that
24 are severable from the invalid application.

-End-