

1 House BILL NO. 740  
 2 INTRODUCED BY Vincent Wiloy Hummel Sheldon  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE LICENSED  
 5 REAL ESTATE BROKERS AND SALESMEN TO PROVIDE CERTAIN  
 6 INFORMATION CONCERNING THE CONSERVATION OF HEAT IN CERTAIN  
 7 BUILDINGS AND PROVIDING THAT FAILURE TO SUPPLY THE  
 8 INFORMATION IS GROUNDS FOR DISCIPLINARY ACTION AND TO  
 9 REQUIRE ENERGY SUPPLIERS TO PROVIDE CERTAIN INFORMATION TO  
 10 OWNERS OF IMPROVED PROPERTY; AMENDING SECTION 66-1937,  
 11 P.C.M. 1947."  
 12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14 Section 1. Furnishing energy use information to  
 15 prospective purchaser. (1) Any real estate broker or real  
 16 estate salesman, licensed pursuant to title 66, chapter 19,  
 17 who lists, offers, or shows for sale, exchange, or lease,  
 18 for a tenancy greater than month to month, any real property  
 19 upon which is located a building designed to be heated to 65  
 20 degrees Fahrenheit or more, shall furnish to any prospective  
 21 purchaser, exchanger, or lessee, whenever the entire  
 22 building or a separately metered part of the building is the  
 23 object of the potential transaction, in writing and without  
 24 demand, a statement of the kinds, amount, and cost of energy  
 25 used for the preceding 24-month period or for such lesser

1 period as the building has been completed.

2 (2) If the building has been completed for less than  
 3 12 months before the written statement described in  
 4 subsection (1) is required, the broker or salesman shall  
 5 also furnish a statement of the thermal resistance (R) value  
 6 of insulation in the roof or ceiling, exterior walls, and  
 7 crawl space or foundation perimeter of the building and  
 8 whether the windows are single glazed, storm sash, or  
 9 insulating glass.

10 (3) In addition to the information required in  
 11 subsections (1) and (2), for any building upon which  
 12 construction commences after September 1, 1977, the broker  
 13 or salesman shall also provide to any prospective purchaser,  
 14 exchanger, or lessee, in writing and without demand, a  
 15 statement of the total calculated heat loss of the building,  
 16 including loss by infiltration, expressed in British thermal  
 17 units per hour per square foot of floor area, at a design  
 18 temperature difference of: 68 degrees Fahrenheit interior  
 19 and the median of annual extremes specified in the current  
 20 American society of heating, refrigerating, and  
 21 air-conditioning engineers (ASHRAE) Handbook of Fundamentals  
 22 exterior. The statement shall be certified by a person  
 23 engaged in making such calculations in the regular course of  
 24 business. The certification shall identify the person making  
 25 the total heat loss calculation and his profession or

1 employment. Calculations shall be made in conformance with  
 2 current ASHRAE standards and procedures. The written  
 3 statement required by this subsection is not mandatory after  
 4 the second anniversary of the completion of construction of  
 5 the building when the energy use information required by  
 6 subsection (1) is furnished.

7 (4) Any statement furnished pursuant to this section  
 8 shall include a description of the mechanical heating and  
 9 cooling systems in the building.

10 (5) No information in the written statement furnished  
 11 pursuant to this section may be interpreted as representing  
 12 any promise or warranty of the amount or cost of energy that  
 13 will be used in the future.

14 (6) Any law to the contrary notwithstanding, every  
 15 energy supplier doing business in Montana shall furnish to  
 16 the owner of improved real property or his designated agent  
 17 sufficient information about supplied energy to permit  
 18 compliance with this section.

19 Section 2. Section 66-1937, R.C.M. 1947, is amended to  
 20 read as follows:

21 "66-1937. Grounds for refusal -- suspension or  
 22 revocation of license. The board may, on its own motion, and  
 23 shall, on the sworn complaint in writing of a person,  
 24 investigate the actions of a real estate broker or a real  
 25 estate salesman, subject to sections 82A-1603 and 82A-1604,

1 and may revoke or suspend a license issued under this act  
 2 when the broker or salesman has been found guilty by a  
 3 majority of the board of any of the following practices:

4 (1) Intentionally misleading, untruthful, or  
 5 inaccurate advertising, whether printed or by radio,  
 6 display, or other nature, which advertising in any material  
 7 particular or in any material way misrepresents any  
 8 property, terms, values, policies, or services of the  
 9 business conducted;

10 (2) Making any false promises of a character likely to  
 11 influence, persuade, or induce;

12 (3) Pursuing a continued and flagrant course of  
 13 misrepresentation, or making false promises through agents  
 14 or salesman, or any medium of advertising, or otherwise;

15 (4) Use of the term "realtor" by a person not  
 16 authorized to do so, or using another trade name or insignia  
 17 of membership in a real estate organization of which the  
 18 licensee is not a member;

19 (5) Failing to account for or to remit money coming  
 20 into his possession belonging to others;

21 (6) Accepting, giving, or charging an undisclosed  
 22 commission, rebate, or profit on expenditures made for a  
 23 principal;

24 (7) Acting in a dual capacity of broker and  
 25 undisclosed principal in a transaction;

1 (8) Guaranteeing, authorizing, or permitting a person  
2 to guarantee future profits which may result from the resale  
3 of real property;

4 (9) Offering real property for sale or lease without  
5 the knowledge and consent of the owner or his authorized  
6 agent or on terms other than those authorized by the owner  
7 or his authorized agent;

8 (10) Inducing a party to a contract of sale or lease to  
9 break the contract for the purpose of substituting a new  
10 contract with another principal;

11 (11) Accepting employment or compensation for  
12 appraising real property contingent on the reporting of a  
13 predetermined value or issuing an appraisal report on real  
14 property in which he has an undisclosed interest;

15 (12) Negotiating a sale, exchange, or lease of real  
16 property directly with an owner or lessee if he knows that  
17 the owner has a written outstanding contract in connection  
18 with the property, granting an exclusive agency to another  
19 broker;

20 (13) Soliciting, selling, or offering for sale real  
21 property by conducting lotteries for the purpose of  
22 influencing a purchaser or prospective purchaser of real  
23 property;

24 (14) Representing or attempting to represent a real  
25 estate broker, other than the employer, without the express

1 knowledge or consent of the employer;

2 (15) Failing voluntarily to furnish a copy of a written  
3 instrument to a party executing it at the time of its  
4 execution;

5 (16) Paying a commission in connection with a real  
6 estate sale or transaction to a person who is not licensed  
7 as a real estate broker or real estate salesman under this  
8 act;

9 (17) Intentionally violating a rule adopted by the  
10 board in the interests of the public and in conformity with  
11 this act;

12 (18) Failing, if a salesman, to place, as soon after  
13 receipt as is practicably possible, in the custody of his  
14 registered broker, deposit money or other money entrusted to  
15 him as salesman by a person;

16 (19) Demonstrating his unworthiness or incompetency to  
17 act as a broker or salesman; ~~or~~

18 (20) Conviction of a felony; or

19 (21) Failure to provide the information required by  
20 [section 1 of this act]."

-End-