

CHAPTER NO. 497

HOUSE BILL NO. 606

INTRODUCED BY ELLIS, GERKE, ELLERD, SCULLY, SIVERTSEN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Business and Industry.
February 7, 1979	Rereferred to Committee on State Administration.
February 16, 1979	On motion by chief sponsor, Representative Sivertsen added as sponsor.
February 19, 1979	Committee recommend bill do pass as amended. Report adopted.
February 21, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass.
February 23, 1979	Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Business and Industry.
March 5, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 7, 1979	Statement of Intent adopted. Second reading, concurred in as amended.

March 7, 1979	On motion, taken from Committee on Bills and Journal and referred to Committee on Rules. Motion adopted.
March 9, 1979	Committee on Rules recommend bill with Statement of Intent be rereferred to second reading. Report adopted.
March 12, 1979	Second reading, concurred in.
March 14, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 15, 1979	Returned from second house. Concurred in as amended.
March 17, 1979	Second reading, amendments rejected. On motion, Free Joint Conference Committee requested.
March 19, 1979	Free Joint Conference Committee appointed.
March 22, 1979	Free Joint Conference Committee dissolved. On motion, Free Conference Committee requested. Free Conference Committee appointed.
March 23, 1979	Free Conference Committee reported.
March 24, 1979	On motion, consideration passed until the 71st Legislative Day.

March 28, 1979

Second reading, adopted.

Adopted by Senate.

March 29, 1979

Third reading, adopted.
Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 606
 2 INTRODUCED BY Eller, Jerke - Ellard, Sull
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
 6 REGULATION OF THE REAL ESTATE INDUSTRY BY A BOARD OF REALTY
 7 REGULATION CREATED IN THE DEPARTMENT OF BUSINESS REGULATION;
 8 TERMINATING OPERATION OF THE BOARD OF REAL ESTATE ON JULY 1,
 9 1979; ELIMINATING REFERENCES TO THE BOARD OF REAL ESTATE;
 10 PERMITTING ADOPTION OF A FEE SCHEDULE; AMENDING SECTIONS
 11 2-8-121, 37-51-102, 37-51-205, 37-51-311, 76-4-1101,
 12 76-4-1202, AND 76-4-1203, MCA; REPEALING SECTIONS 2-15-1642
 13 AND 37-51-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

14
 15 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
 16 will terminate the board of real estate and require a
 17 performance evaluation of the board by the legislative audit
 18 committee; and

19 WHEREAS, as a result of the performance evaluation, the
 20 legislative audit committee recommends that the board of
 21 real estate be abolished and regulation of the real estate
 22 industry be transferred to the board of realty regulation in
 23 the department of business regulation and that certain
 24 statutory provisions be amended or repealed.
 25

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

2 NEW SECTION. Section 1. Board of realty regulation.

3 (1) There is a board of realty regulation.

4 (2) The board consists of five members appointed by
 5 the governor with the consent of the senate. Two members
 6 shall be licensed real estate brokers or salesmen who have
 7 been actively engaged in the real estate business as a
 8 broker or salesman in this state for not less than 5
 9 continuous years before appointment. Three members shall be
 10 representatives of the public who are not state government
 11 officers or employees and who are not engaged in business as
 12 a real estate broker or salesman. The members shall be:

- 13 (a) residents of this state; and
- 14 (b) appointed so not more than three members are from
 15 the same congressional district.

16 (3) Not more than three members, including the
 17 chairman, may be from the same political party.

18 (4) The members shall serve staggered terms of 4
 19 years.

20 (5) The board is allocated to the department for
 21 administrative purposes only as prescribed in 2-15-121.

22 Section 2. Section 2-8-121, MCA, is amended to read:

23 "2-8-121. Effect of termination. Upon Unless otherwise
 24 provided, upon termination, each agency or unit shall
 25 continue in existence until July 1 of the next succeeding

1 year for the purpose of winding up its affairs. During the
 2 windup period, termination does not reduce or otherwise
 3 limit the powers or authority of each respective agency
 4 except that no action may be taken which would continue in
 5 effect beyond the 1-year windup period. Upon the expiration
 6 of the 1 year after termination, each agency not modified or
 7 reestablished shall be abolished and all unexpended balances
 8 of appropriations, allocations, or other funds shall revert
 9 to the fund from which they were appropriated or, if that
 10 fund is abolished, to the general fund."

11 Section 3. Section 37-51-102, MCA, is amended to read:

12 "37-51-102. Definitions. Unless the context requires
 13 otherwise, in this chapter the following definitions apply:

14 (1) "Board" means the board of ~~real-estate-provided~~
 15 ~~for-in-2-15-1642~~ realty regulation provided for in [section
 16 1].

17 (2) "Broker" includes an individual who for another or
 18 for a fee, commission, or other valuable consideration or
 19 who with the intent or expectation of receiving the same
 20 negotiates or attempts to negotiate the listing, sale,
 21 purchase, rental, exchange, or lease of real estate or of
 22 the improvements thereon or collects rents or attempts to
 23 collect rents or advertises or holds himself out as engaged
 24 in any of the foregoing activities. The term "broker" also
 25 includes an individual employed by or on behalf of the owner

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

14 (3) "Department" means the department of ~~professional~~
 15 ~~and-occupational-licensing-provided-for-in-Title-2,--chapter~~
 16 ~~15,--part--16~~ business regulation provided for in 2-15-1801.

17 (4) "Person" includes individuals, partnerships,
 18 associations, and corporations, foreign and domestic, except
 19 that when referring to a person licensed under this chapter,
 20 it means an individual.

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

25 (6) "Salesman" includes an individual who for a

1 salary, commission, or compensation of any kind is employed,
2 either directly, indirectly, regularly, or occasionally, by
3 a real estate broker to sell, purchase, or negotiate for the
4 sale, purchase, exchange, or renting of real estate."

5 Section 4. Section 37-51-205, MCA, is amended to read:
6 *37-51-205. Compensation of members -- expenses ---
7 ~~limitation.~~ (1) Each member of the board shall receive as
8 compensation for each ~~one-half~~ day ~~or--portion--thereof~~
9 actually spent on his official duties the sum of ~~\$750~~ \$25
10 and travel expenses, as provided for in 2-18-501 through
11 2-18-503, connected with the performance of other duties
12 provided for by the board.

13 (2) ~~No member of the board may be reimbursed from the~~
14 ~~board's--earmarked-revenue-fund-for-travel-outside-the-state~~
15 ~~on-business-of-the-board.~~"

16 Section 5. Section 37-51-311, MCA, is amended to read:
17 *37-51-311. Fees -- deposit of fees. (1) ~~The following~~
18 ~~fees shall be charged by the department and paid into the~~
19 ~~earmarked--revenue-fund-for-the-use-of-the-board--subject-to~~
20 ~~37-1-101(6)*~~

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

22 (b) ~~for each original resident broker's license~~
23 ~~issued, a fee not to exceed \$50~~

24 (c) ~~for each annual renewal of a resident broker's~~
25 ~~license, a fee not to exceed \$30~~

1 (d) ~~for each original nonresident broker's license~~
2 ~~issued, a fee not to exceed \$50~~

3 (e) ~~for each annual renewal of a nonresident broker's~~
4 ~~license, a fee not to exceed \$30~~

5 (f) ~~for each original salesman's license issued, a fee~~
6 ~~not to exceed \$25~~

7 (g) ~~for each annual renewal of a salesman's license, a~~
8 ~~fee not to exceed \$15~~

9 (h) ~~for each additional office or place of business~~
10 ~~an annual fee not to exceed \$25~~

11 (i) ~~for each change of place of business or change of~~
12 ~~employer or contractual associate, a fee not to exceed \$15~~

13 (j) ~~for each duplicate license, where the original~~
14 ~~license is lost or destroyed and affidavit is made, a fee~~
15 ~~not to exceed \$10~~

16 (k) ~~for each duplicate pocket card, where the original~~
17 ~~pocket card is lost or destroyed and affidavit is made, a~~
18 ~~fee not to exceed \$10~~

19 (2) ~~The board shall adopt a schedule of fees within~~
20 ~~the limits set by this section. However, a fee once set for~~
21 ~~one of the items for which a fee is charged cannot be~~
22 ~~increased or decreased until at least 1 year has passed~~
23 ~~since the fee for that particular item was last increased or~~
24 ~~decreased. The board shall adopt a schedule of fees to be~~
25 ~~charged by the department and to be paid into the earmarked~~

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1 revenue fund for the use of the board. The fees charged must
 2 be reasonably related to the cost incurred in regulating the
 3 real estate industry."

4 Section 6. Section 76-4-1101, MCA, is amended to read:
 5 "76-4-1101. Definitions. Unless the context requires
 6 otherwise, in this part the following definitions apply:

7 (1) "Blanket encumbrance" shall be considered to mean
 8 a trust deed or mortgage or any other lien or encumbrance,
 9 mechanics' lien or otherwise, securing or evidencing the
 10 payment of money and affecting land to be subdivided or
 11 affecting more than one lot or parcel of subdivided land or
 12 an agreement affecting more than one such lot or parcel by
 13 which the owner or subdivider holds said subdivision under
 14 an option, contract to sell, or trust agreement.

15 (2) "Board" means the board of ~~real-estate~~^{provided}
 16 ~~for-in-2-15-1642~~ realty regulation provided for in [section
 17].

18 (3) "Department" means the department of ~~professiona~~
 19 ~~and-occupational-licensing~~^{provided-for-in-title-2}, chapter
 20 ~~15--part--16~~ business regulation provided for in 2-15-1801.

21 (4) "Subdivision" and "subdivided lands" mean any
 22 tract of land which is hereafter divided into five or more
 23 parcels, a parcel of which is less than 5 acres in size, and
 24 which is offered for sale or lease outside the state of
 25 Montana."

1 Section 7. Section 76-4-1202, MCA, is amended to read:

2 "76-4-1202. Definitions. When used in this part,
 3 unless the context requires otherwise, the following
 4 definitions apply:

5 (1) "Board" means the board of ~~real-estate~~^{provided}
 6 ~~for-in-2-15-1642~~ realty regulation provided for in [section
 7].

8 (2) "Chairman" means the chairman of the board of ~~real~~
 9 ~~estate~~ realty regulation.

10 (3) "Department" means the department of ~~professiona~~
 11 ~~and-occupational-licensing~~^{provided-for-in-title-2}, chapter
 12 ~~15--part--16~~ business regulation provided for in 2-15-1801.

13 (4) "Disposition" includes sale, lease, assignment, or
 14 any other transaction concerning a subdivision if undertaken
 15 for gain or profit.

16 (5) "Offer" includes every inducement, solicitation,
 17 or attempt to encourage a person to acquire an interest in
 18 land if undertaken for gain or profit.

19 (6) "Person" means an individual, corporation,
 20 government, governmental subdivision or agency, business
 21 trust, estate, trust, partnership, unincorporated
 22 association, two or more of any of the foregoing having a
 23 joint or common interest, or any other legal or commercial
 24 entity.

25 (7) "Purchaser" means a person who acquires or

1 attempts to acquire or succeeds to an interest in land.

2 (8) "Subdivider" means any owner of subdivided land
3 who offers it for disposition or the principal agent of an
4 inactive owner.

5 (9) "Subdivision" and "subdivided lands" mean any land
6 which is divided or is proposed to be divided for the
7 purpose of disposition into five or more lots, parcels,
8 units, or interests and also include any land, whether
9 contiguous or not, if five or more lots, parcels, units, or
10 interests are offered as a part of a common promotional plan
11 of advertising and sale."

12 Section 8. Section 76-4-1203, MCA, is amended to read:

13 "76-4-1203. Administration and rules. (1) This part
14 shall be administered by the board. In the administration of
15 this part, the board shall have all of the powers and duties
16 as stated in 37-51-201(2), (3), and (4) and 37-51-205~~++~~.

17 (2) The board shall adopt reasonable rules relating to
18 the administration of this part, but not inconsistent
19 therewith, which may be amended or repealed. The rules shall
20 include but need not be limited to:

21 (a) provisions for advertising standards to assure
22 full and fair disclosure;

23 (b) provisions for escrow or trust agreements or other
24 means reasonably to assure that all improvements referred to
25 in the application for registration and advertising will be

1 completed and that purchasers will receive the interest in
2 land contracted for;

3 (c) provisions for operating procedures; and

4 (d) other rules necessary and proper to accomplish the
5 purpose of this part."

6 Section 9. Transfer of funds. All unexpended balances
7 of appropriations, allocations, or other funds of the board
8 of real estate shall be transferred to the board of realty
9 regulation on the effective date of this act to be used for
10 the purpose of regulating the real estate industry.

11 Section 10. Transition. All orders and rules relating
12 to regulation of the real estate industry made by the board
13 of real estate remain in full force and effect until revoked
14 or modified in accordance with law by the board of realty
15 regulation. The records and documents of the board of real
16 estate are transferred to the board of realty regulation.
17 Licenses, permits, and certificates issued prior to the
18 effective date of this act remain valid under the same terms
19 and conditions as when issued and are subject to the
20 provisions of Title 37, chapter 51.

21 Section 11. Effect of termination. Section 2-8-121
22 does not apply to the board of real estate.

23 Section 12. Initial appointments. Within 30 days of
24 the effective date of this act, the governor shall appoint
25 the initial board of realty regulation. The initial terms

1 shall consist of one term of 1 year, one term of 2 years,
2 one term of 3 years, and two terms of 4 years.

3 Section 13. Codification. Section 1 is intended to be
4 codified in Title 2, chapter 15, part 18, and the provisions
5 of Title 2, chapter 15, part 18, apply to section 1.

6 Section 14. Repealer. Sections 2-15-1642 and
7 37-51-101, MCA, are repealed.

8 Section 15. Effective date. This act is effective on
9 passage and approval.

-End-

STATE OF MONTANA

Request No. 273 79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 1979, there is hereby submitted a Fiscal Note for House Bill 606 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

An act providing for regulation of the Real Estate Industry by a Board of Realty Regulation created in the Department of Business Regulation.

ASSUMPTIONS:

1. The duties of the Real Estate Board will be assumed under the Department of Business Regulation on July 1, 1979.
2. The Board will meet 12 times per year.
3. 4 FTE will be required to carry out the provisions of this act.
4. The workload after the transfer will remain the same.

FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Anticipated revenue	\$160,187	\$164,789
Anticipated expenditures	<u>160,187</u>	<u>164,789</u>
Net fiscal impact	<u>0</u>	<u>0</u>

Revenue and expenditures will accrue to an earmarked revenue fund account.

COMMENT:

This board, currently under the Department of Professional and Occupational Licensing contributes to the Centralized Services Program for services performed for the Department. The elimination of these funds could increase the amount contributed by the remaining boards not scheduled for sunset at this time.

Carolyn Daering
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2-14-79

Approved by Committee
on State Administration

HOUSE BILL NO. 606

INTRODUCED BY ELLIS, GERKE, ELLERD, SCULLY, SIVERTSEN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REGULATION OF THE REAL ESTATE INDUSTRY BY A BOARD OF REALTY REGULATION CREATED IN THE DEPARTMENT OF BUSINESS REGULATION; TERMINATING OPERATION OF THE BOARD OF REAL ESTATE ~~ON JUNE 1, 1979~~ IMMEDIATELY; ELIMINATING REFERENCES TO THE BOARD OF REAL ESTATE; PERMITTING ADOPTION OF A FEE SCHEDULE; AMENDING SECTIONS 2-8-121, 37-51-102, 37-51-205, 37-51-311, 76-4-1101, 76-4-1202, AND 76-4-1203, MCA; REPEALING SECTIONS 2-15-1642 AND 37-51-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, will terminate the board of real estate and require a performance evaluation of the board by the legislative audit committee; and

WHEREAS, as a result of the performance evaluation, the legislative audit committee recommends that the board of real estate be abolished and regulation of the real estate industry be transferred to the board of realty regulation in the department of business regulation and that certain statutory provisions be amended or repealed.

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

NEW SECTION. Section 1. Board of realty regulation.

(1) There is a board of realty regulation.

(2) The board consists of five members appointed by the governor with the consent of the senate. Two ~~THREE~~ members shall be licensed real estate brokers or salesmen who have been actively engaged in the real estate business as a broker or salesman in this state for not less than 5 continuous years before appointment. Three ~~two~~ members shall be representatives of the public who are not state government officers or employees and who are not engaged in business as a real estate broker or salesman. The members shall be:

(a) residents of this state; and

(b) appointed so not more than three members are from the same congressional district.

(3) Not more than three members, including the chairman, may be from the same political party.

(4) The members shall serve staggered terms of 4 years.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

Section 2. Section 2-8-121, MCA, is amended to read:

"2-8-121. Effect of termination. Upon Unless otherwise

1 ~~provided, upon~~ termination, each agency or unit shall
 2 continue in existence until July 1 of the next succeeding
 3 year for the purpose of winding up its affairs. During the
 4 windup period, termination does not reduce or otherwise
 5 limit the powers or authority of each respective agency
 6 except that no action may be taken which would continue in
 7 effect beyond the 1-year windup period. Upon the expiration
 8 of the 1 year after termination, each agency not modified or
 9 reestablished shall be abolished and all unexpended balances
 10 of appropriations, allocations, or other funds shall revert
 11 to the fund from which they were appropriated or, if that
 12 fund is abolished, to the general fund."

13 Section 3. Section 37-51-102, MCA, is amended to read:

14 *37-51-102. Definitions. Unless the context requires
 15 otherwise, in this chapter the following definitions apply:

16 (1) "Board" means the board of ~~real-estate-provided~~
 17 ~~for-in-2-15-1642 realty regulation provided for in [section~~
 18 ~~1]~~.

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, 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. The term
 6 "broker" also includes an individual who engages in the
 7 business of charging an advance fee or contracting for
 8 collection of a fee in connection with a contract by which
 9 he undertakes primarily to promote the sale, lease, or other
 10 disposition of real estate in this state through its listing
 11 in a publication issued primarily for this purpose or for
 12 referral of information concerning real estate to brokers,
 13 or both, and any person who aids, attempts, or offers to
 14 aid, for a fee, any person in locating or obtaining any real
 15 estate for purchase or lease.

16 (3) "Department" means the department of professional
 17 ~~and-occupational-licensing-provided-for-in-title-27--chapter~~
 18 ~~15--part--16 business regulation provided for in 2-15-1801.~~

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

23 (5) "Real estate" includes leaseholds as well as any
 24 other interest or estate in land, whether corporeal,
 25 incorporeal, freehold, or nonfreehold and whether the real

1 estate is situated in this state or elsewhere.

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

7 Section 4. Section 37-51-205, MCA, is amended to read:

8 "37-51-205. Compensation of members -- expenses----
9 ~~limitation.~~ (1) Each member of the board shall receive as
10 compensation for each one-half day or--portion--thereof
11 actually spent on his official duties the sum of \$750 ~~125~~
12 and travel expenses, as provided for in 2-18-501 through
13 2-18-503, connected with the performance of other duties
14 provided for by the board.

15 (2) ~~No member of the board may be reimbursed from the~~
16 ~~board's earmarked revenue fund for travel outside the state~~
17 ~~on business of the board."~~

18 Section 5. Section 37-51-311, MCA, is amended to read:

19 "37-51-311. Fees -- deposit of fees. (1) ~~The following~~
20 ~~fees shall be charged by the department and paid into the~~
21 ~~earmarked revenue fund for the use of the board, subject to~~
22 ~~37-1-101(6).~~

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

24 (b) ~~for each original resident broker's license~~
25 ~~issued, a fee not to exceed \$50~~

1 (c) ~~for each annual renewal of a resident broker's~~
2 ~~license, a fee not to exceed \$30~~

3 (d) ~~for each original nonresident broker's license~~
4 ~~issued, a fee not to exceed \$50~~

5 (e) ~~for each annual renewal of a nonresident broker's~~
6 ~~license, a fee not to exceed \$30~~

7 (f) ~~for each original salesman's license issued, a fee~~
8 ~~not to exceed \$25~~

9 (g) ~~for each annual renewal of a salesman's license, a~~
10 ~~fee not to exceed \$15~~

11 (h) ~~for each additional office or place of business~~
12 ~~an annual fee not to exceed \$25~~

13 (i) ~~for each change of place of business or change of~~
14 ~~employer or contractual associate, a fee not to exceed \$15~~

15 (j) ~~for each duplicate license, where the original~~
16 ~~license is lost or destroyed and affidavit is made, a fee~~
17 ~~not to exceed \$10~~

18 (k) ~~for each duplicate pocket card, where the original~~
19 ~~pocket card is lost or destroyed and affidavit is made, a~~
20 ~~fee not to exceed \$10~~

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

1 ~~decreased. The board shall adopt a schedule of fees to be~~
2 ~~charged by the department and to be paid into the earmarked~~
3 ~~revenue fund for the use of the board. The fees charged must~~
4 ~~be reasonably related to the cost incurred in regulating the~~
5 ~~real estate industry."~~

6 Section 6. Section 76-4-1101, MCA, is amended to read:
7 "76-4-1101. Definitions. Unless the context requires
8 otherwise, in this part the following definitions apply:

9 (1) "Blanket encumbrance" shall be considered to mean
10 a trust deed or mortgage or any other lien or encumbrance,
11 mechanics' lien or otherwise, securing or evidencing the
12 payment of money and affecting land to be subdivided or
13 affecting more than one lot or parcel of subdivided land or
14 an agreement affecting more than one such lot or parcel by
15 which the owner or subdivider holds said subdivision under
16 an option, contract to sell, or trust agreement.

17 (2) "Board" means the board of real--estate--provided
18 ~~for--in-2-15-1642~~ realty regulation provided for in [section
19 1].

20 (3) "Department" means the department of professtionel
21 ~~and-occupational--licensing--provided-for-in-title-2--chapter~~
22 ~~15--part--16~~ business regulation provided for in 2-15-1801.

23 (4) "Subdivision" and "subdivided lands" mean any
24 tract of land which is hereafter divided into five or more
25 parcels, a parcel of which is less than 5 acres in size, and

1 which is offered for sale or lease outside the state of
2 Montana."

3 Section 7. Section 76-4-1202, MCA, is amended to read:
4 "76-4-1202. Definitions. When used in this part,
5 unless the context requires otherwise, the following
6 definitions apply:

7 (1) "Board" means the board of real-estate--provided
8 ~~for-in-2-15-1642~~ realty regulation provided for in [section
9 1].

10 (2) "Chairman" means the chairman of the board of real
11 estate realty regulation.

12 (3) "Department" means the department of professional
13 ~~and-occupational--licensing--provided-for-in-title-2--chapter~~
14 ~~15--part-16~~ business regulation provided for in 2-15-1801.

15 (4) "Disposition" includes sale, lease, assignment, or
16 any other transaction concerning a subdivision if undertaken
17 for gain or profit.

18 (5) "Offer" includes every inducement, solicitation,
19 or attempt to encourage a person to acquire an interest in
20 land if undertaken for gain or profit.

21 (6) "Person" means an individual, corporation,
22 government, governmental subdivision or agency, business
23 trust, estate, trust, partnership, unincorporated
24 association, two or more of any of the foregoing having a
25 joint or common interest, or any other legal or commercial

1 entity.

2 (7) "Purchaser" means a person who acquires or
3 attempts to acquire or succeeds to an interest in land.

4 (8) "Subdivider" means any owner of subdivided land
5 who offers it for disposition or the principal agent of an
6 inactive owner.

7 (9) "Subdivision" and "subdivided lands" mean any land
8 which is divided or is proposed to be divided for the
9 purpose of disposition into five or more lots, parcels,
10 units, or interests and also include any land, whether
11 contiguous or not, if five or more lots, parcels, units, or
12 interests are offered as a part of a common promotional plan
13 of advertising and sale."

14 Section 8. Section 76-4-1203, MCA, is amended to read:

15 "76 -1203. Administration and rules. (1) This part
16 shall be administered by the board. In the administration of
17 this part, the board shall have all of the powers and duties
18 as stated in 37-51-201(2), (3), and (4) and 37-51-205†††.

19 (2) The board shall adopt reasonable rules relating to
20 the administration of this part, but not inconsistent
21 therewith, which may be amended or repealed. The rules shall
22 include but need not be limited to:

23 (a) provisions for advertising standards to assure
24 full and fair disclosure;

25 (b) provisions for escrow or trust agreements or other

1 means reasonably to assure that all improvements referred to
2 in the application for registration and advertising will be
3 completed and that purchasers will receive the interest in
4 land contracted for;

5 (c) provisions for operating procedures; and

6 (d) other rules necessary and proper to accomplish the
7 purpose of this part."

8 Section 9. Transfer of funds. All unexpended balances
9 of appropriations, allocations, or other funds of the board
10 of real estate shall be transferred to the board of realty
11 regulation on the effective date of this act to be used for
12 the purpose of regulating the real estate industry.

13 Section 10. Transition. All orders and rules relating
14 to regulation of the real estate industry made by the board
15 of real estate remain in full force and effect until revoked
16 or modified in accordance with law by the board of realty
17 regulation. The records and documents of the board of real
18 estate are transferred to the board of realty regulation.
19 Licenses, permits, and certificates issued prior to the
20 effective date of this act remain valid under the same terms
21 and conditions as when issued and are subject to the
22 provisions of Title 37, chapter 51.

23 Section 11. ~~Effect-of-termination~~ TERMINATION OF BOARD
24 OF REAL ESTATE. NOTWITHSTANDING THE PROVISION OF 2-8-103(1),
25 THE BOARD OF REAL ESTATE TERMINATES ON THE EFFECTIVE DATE OF

1 ~~THIS ACT.~~ Section 2-8-121 does not apply to the board of
2 real estate.

3 Section 12. Initial appointments. Within 30 days of
4 the effective date of this act, the governor shall appoint
5 the initial board of realty regulation. The initial terms
6 shall consist of one term of 1 year, one term of 2 years,
7 one term of 3 years, and two terms of 4 years.

8 Section 13. Codification. Section 1 is intended to be
9 codified in Title 2, chapter 15, part 18, and the provisions
10 of Title 2, chapter 15, part 18, apply to section 1.

11 Section 14. Repealer. Sections 2-15-1642 and
12 37-51-101, MCA, are repealed.

13 Section 15. Effective date. This act is effective on
14 passage and approval.

-End-

1 HOUSE BILL NO. 606

2 INTRODUCED BY ELLIS, GERKE, ELLERD, SCULLY, SIVERTSEN
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
6 REGULATION OF THE REAL ESTATE INDUSTRY BY A BOARD OF REALTY
7 REGULATION CREATED IN THE DEPARTMENT OF BUSINESS REGULATION;
8 TERMINATING OPERATION OF THE BOARD OF REAL ESTATE ~~ON JULY 17~~
9 ~~1999 IMMEDIATELY~~; ELIMINATING REFERENCES TO THE BOARD OF
10 REAL ESTATE; PERMITTING ADOPTION OF A FEE SCHEDULE; AMENDING
11 SECTIONS 2-8-121, 37-51-102, 37-51-205, 37-51-311,
12 76-4-1101, 76-4-1202, AND 76-4-1203, MCA; REPEALING SECTIONS
13 2-15-1642 AND 37-51-101, MCA; AND PROVIDING AN EFFECTIVE
14 DATE."

15
16 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
17 will terminate the board of real estate and require a
18 performance evaluation of the board by the legislative audit
19 committee; and

20 WHEREAS, as a result of the performance evaluation, the
21 legislative audit committee recommends that the board of
22 real estate be abolished and regulation of the real estate
23 industry be transferred to the board of realty regulation in
24 the department of business regulation and that certain
25 statutory provisions be amended or repealed.

1

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

3 NEW SECTION. Section 1. Board of realty regulation.

4 (1) There is a board of realty regulation.

5 (2) The board consists of five members appointed by
6 the governor with the consent of the senate. ~~Two~~ THREE
7 members shall be licensed real estate brokers or salesmen
8 who have been actively engaged in the real estate business
9 as a broker or salesman in this state for not less than 5
10 continuous years before appointment. ~~Three~~ TWO members shall
11 be representatives of the public who are not state
12 government officers or employees and who are not engaged in
13 business as a real estate broker or salesman. The members
14 shall be:

15 (a) residents of this state; and

16 (b) appointed so not more than three members are from
17 the same congressional district.

18 (3) Not more than three members, including the
19 chairman, may be from the same political party.

20 (4) The members shall serve staggered terms of 4
21 years.

22 (5) The board is allocated to the department for
23 administrative purposes only as prescribed in 2-15-121.

24 Section 2. Section 2-8-121, MCA, is amended to read:

25 "2-8-121. Effect of termination. Upon Unless otherwise

1 ~~provided, upon~~ termination, each agency or unit shall
 2 continue in existence until July 1 of the next succeeding
 3 year for the purpose of winding up its affairs. During the
 4 windup period, termination does not reduce or otherwise
 5 limit the powers or authority of each respective agency
 6 except that no action may be taken which would continue in
 7 effect beyond the 1-year windup period. Upon the expiration
 8 of the 1 year after termination, each agency not modified or
 9 reestablished shall be abolished and all unexpended balances
 10 of appropriations, allocations, or other funds shall revert
 11 to the fund from which they were appropriated or, if that
 12 fund is abolished, to the general fund."

13 Section 3. Section 37-51-102, MCA, is amended to read:

14 "37-51-102. Definitions. Unless the context requires
 15 otherwise, in this chapter the following definitions apply:

16 (1) "Board" means the board of real-estate-provided
 17 ~~for-in-2-15-1642~~ realty regulation provided for in [section
 18 1].

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, 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. The term
 6 "broker" also includes an individual who engages in the
 7 business of charging an advance fee or contracting for
 8 collection of a fee in connection with a contract by which
 9 he undertakes primarily to promote the sale, lease, or other
 10 disposition of real estate in this state through its listing
 11 in a publication issued primarily for this purpose or for
 12 referral of information concerning real estate to brokers,
 13 or both, and any person who aids, attempts, or offers to
 14 aid, for a fee, any person in locating or obtaining any real
 15 estate for purchase or lease.

16 (3) "Department" means the department of professiona
 17 ~~and-occupational-licensing-provided-for-in-title-27--chapter~~
 18 ~~15--part--16~~ business regulation provided for in 2-15-1801.

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

23 (5) "Real estate" includes leaseholds as well as any
 24 other interest or estate in land, whether corporeal,
 25 incorporeal, freehold, or nonfreehold and whether the real

1 estate is situated in this state or elsewhere.

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

7 Section 4. Section 37-51-205, MCA, is amended to read:

8 "37-51-205. Compensation of members -- expenses----
9 ~~limitation. (i) Each member of the board shall receive as~~
10 ~~compensation for each one-half day or--portion--thereof~~
11 ~~actually spent on his official duties the sum of \$7.50 \$25~~
12 ~~and travel expenses, as provided for in 2-18-501 through~~
13 ~~2-18-503, connected with the performance of other duties~~
14 ~~provided for by the board.~~

15 ~~(2)--No member of the board may be reimbursed from--the~~
16 ~~board's--earmarked-revenue-fund-for-travel-outside-the-state~~
17 ~~on-business-of-the-board."~~

18 Section 5. Section 37-51-311, MCA, is amended to read:

19 "37-51-311. Fees -- deposit of fees. (i)--The following
20 fees shall be charged by the department and--paid--into--the
21 earmarked--revenue-fund-for-the-use-of-the-board, subject to
22 37-1-101(6)†

23 (a)--for each examination, a fee not to exceed \$25†

24 (b)--for each original resident--broker's--license
25 issued, a fee not to exceed \$50†

1 (c)--for each annual renewal of a resident broker's
2 license, a fee not to exceed \$30†

3 (d)--for each original nonresident--broker's--license
4 issued, a fee not to exceed \$50†

5 (e)--for each annual renewal of a nonresident broker's
6 license, a fee not to exceed \$30†

7 (f)--for each original salesman's license issued, a fee
8 not to exceed \$25†

9 (g)--for each annual renewal of a salesman's license, a
10 fee not to exceed \$15†

11 (h)--for each additional office or place of business,
12 an annual fee not to exceed \$25†

13 (i)--for each change of place of business or change of
14 employer or contract associate, a fee not to exceed \$15†

15 (j)--for each duplicate license, where the original
16 license is lost or destroyed and affidavit is made, a fee
17 not to exceed \$10†

18 (k)--for each duplicate pocket card, where the original
19 pocket card is lost or destroyed and affidavit is made, a
20 fee not to exceed \$10†

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

1 ~~decreased. The board shall adopt a schedule of fees to be~~
 2 ~~charged by the department and to be paid into the earmarked~~
 3 ~~revenue fund for the use of the board. The fees charged must~~
 4 ~~be reasonably related to the cost incurred in regulating the~~
 5 ~~real estate industry."~~

6 Section 6. Section 76-4-1101, MCA, is amended to read:
 7 "76-4-1101. Definitions. Unless the context requires
 8 otherwise, in this part the following definitions apply:

9 (1) "Blanket encumbrance" shall be considered to mean
 10 a trust deed or mortgage or any other lien or encumbrance,
 11 mechanics' lien or otherwise, securing or evidencing the
 12 payment of money and affecting land to be subdivided or
 13 affecting more than one lot or parcel of subdivided land or
 14 an agreement affecting more than one such lot or parcel by
 15 which the owner or subdivider holds said subdivision under
 16 an option, contract to sell, or trust agreement.

17 (2) "Board" means the board of real--estate--provided
 18 ~~for--in-2-15-1642 realty regulation provided for in [section~~
 19 ~~]].~~

20 (3) "Department" means the department of professiona
 21 ~~and-occupational--licensing--provided-for-in-title-2--chapter~~
 22 ~~15--part--16 business regulation provided for in 2-15-1801.~~

23 (4) "Subdivision" and "subdivided lands" mean any
 24 tract of land which is hereafter divided into five or more
 25 parcels, a parcel of which is less than 5 acres in size, and

1 which is offered for sale or lease outside the state of
 2 Montana."

3 Section 7. Section 76-4-1202, MCA, is amended to read:
 4 "76-4-1202. Definitions. When used in this part,
 5 unless the context requires otherwise, the following
 6 definitions apply:

7 (1) "Board" means the board of real-estate--provided
 8 ~~for-in-2-15-1642 realty regulation provided for in [section~~
 9 ~~]].~~

10 (2) "Chairman" means the chairman of the board of real
 11 estate ~~realty regulation.~~

12 (3) "Department" means the department of professiona
 13 ~~and-occupational--licensing--provided-for-in-title-2--chapter~~
 14 ~~15--part-16 business regulation provided for in 2-15-1801.~~

15 (4) "Disposition" includes sale, lease, assignment, or
 16 any other transaction concerning a subdivision if undertaken
 17 for gain or profit.

18 (5) "Offer" includes every inducement, solicitation,
 19 or attempt to encourage a person to acquire an interest in
 20 land if undertaken for gain or profit.

21 (6) "Person" means an individual, corporation,
 22 government, governmental subdivision or agency, business
 23 trust, estate, trust, partnership, unincorporated
 24 association, two or more of any of the foregoing having a
 25 joint or common interest, or any other legal or commercial

1 entity.

2 (7) "Purchaser" means a person who acquires or
3 attempts to acquire or succeeds to an interest in land.

4 (8) "Subdivider" means any owner of subdivided land
5 who offers it for disposition or the principal agent of an
6 inactive owner.

7 (9) "Subdivision" and "subdivided lands" mean any land
8 which is divided or is proposed to be divided for the
9 purpose of disposition into five or more lots, parcels,
10 units, or interests and also include any land, whether
11 contiguous or not, if five or more lots, parcels, units, or
12 interests are offered as a part of a common promotional plan
13 of advertising and sale."

14 Section 8. Section 76-4-1203, MCA, is amended to read:

15 "76-4-1203. Administration and rules. (1) This part
16 shall be administered by the board. In the administration of
17 this part, the board shall have all of the powers and duties
18 as stated in 37-51-201(2), (3), and (4) and 37-51-205(1).

19 (2) The board shall adopt reasonable rules relating to
20 the administration of this part, but not inconsistent
21 therewith, which may be amended or repealed. The rules shall
22 include but need not be limited to:

23 (a) provisions for advertising standards to assure
24 full and fair disclosure;

25 (b) provisions for escrow or trust agreements or other

1 means reasonably to assure that all improvements referred to
2 in the application for registration and advertising will be
3 completed and that purchasers will receive the interest in
4 land contracted for;

5 (c) provisions for operating procedures; and

6 (d) other rules necessary and proper to accomplish the
7 purpose of this part."

8 Section 9. Transfer of funds. All unexpended balances
9 of appropriations, allocations, or other funds of the board
10 of real estate shall be transferred to the board of realty
11 regulation on the effective date of this act to be used for
12 the purpose of regulating the real estate industry.

13 Section 10. Transition. All orders and rules relating
14 to regulation of the real estate industry made by the board
15 of real estate remain in full force and effect until revoked
16 or modified in accordance with law by the board of realty
17 regulation. The records and documents of the board of real
18 estate are transferred to the board of realty regulation.
19 Licenses, permits, and certificates issued prior to the
20 effective date of this act remain valid under the same terms
21 and conditions as when issued and are subject to the
22 provisions of Title 37, chapter 51.

23 Section 11. ~~Effect-of-termination~~ TERMINATION OF BOARD
24 OF REAL ESTATE. NOTWITHSTANDING THE PROVISION OF 2-8-103(1),
25 THE BOARD OF REAL ESTATE TERMINATES ON THE EFFECTIVE DATE OF

1 ~~THIS ACT.~~ Section 2-8-121 does not apply to the board of
2 real estate.

3 Section 12. Initial appointments. Within 30 days of
4 the effective date of this act, the governor shall appoint
5 the initial board of realty regulation. The initial terms
6 shall consist of one term of 1 year, one term of 2 years,
7 one term of 3 years, and two terms of 4 years.

8 Section 13. Codification. Section 1 is intended to be
9 codified in Title 2, chapter 15, part 18, and the provisions
10 of Title 2, chapter 15, part 18, apply to section 1.

11 Section 14. Repealer. Sections 2-15-1642 and
12 37-51-101, MCA, are repealed.

13 Section 15. Effective date. This act is effective on
14 passage and approval.

-End-

1 March 7, 1979.

1 STATEMENT OF INTENT RE: HB 606

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A statement of intent is required for HB 606 in that it delegates rulemaking authority to the board of realty regulation in Section 8.

Section 8 allows the board to prescribe rules relating to:

"(a) provisions for advertising standards to assure full and fair disclosure;

(b) provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for;

(c) provisions for operating procedures; and

(d) other rules necessary and proper to accomplish the purpose of this part."

It is intended that only those rules necessary to carry out the above functions will be adopted by the board of realty regulation. All rules should have as their primary purpose the protection of the public. No rules may be adopted which restrict entry into the real estate industry except as expressly authorized by statute.

First adopted by the SENATE COMMITTEE OF THE WHOLE on

HOUSE BILL NO. 606

INTRODUCED BY ELLIS, GERKE, ELLERD, SCULLY, SIVERTSEN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REGULATION OF THE REAL ESTATE INDUSTRY BY A BOARD OF REALTY REGULATION CREATED IN THE DEPARTMENT OF BUSINESS--REGULATION PROFESSIONAL AND OCCUPATIONAL LICENSING; TERMINATING OPERATION OF THE BOARD OF REAL ESTATE ON--JULY--17--1979 IMMEDIATELY; ELIMINATING REFERENCES TO THE BOARD OF REAL ESTATE; PERMITTING--ADDITION--OF--A--FEE--SCHEDULE; AMENDING SECTIONS 2-8-121, 37-51-102, 37-51-205, 37-51-311, 76-4-1101, 76-4-1202, AND 76-4-1203, MCA; REPEALING SECTIONS 2-15-1642 AND 37-51-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, will terminate the board of real estate and require a performance evaluation of the board by the legislative audit committee; and

WHEREAS, as a result of the performance evaluation, the legislative audit committee recommends that the board of real estate be abolished and regulation-of-the--real--estate industry-be-transferred-to the board of realty regulation in the department of business--regulation PROFESSIONAL AND

~~OCCUPATIONAL LICENSING BE ESTABLISHED TO REGULATE THE REAL ESTATE INDUSTRY~~ and that certain statutory provisions be amended or repealed.

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

~~NEW SECTION.~~ Section 1. Board of realty regulation.

(1) There is a board of realty regulation.

(2) The board consists of five members appointed by the governor with the consent of the senate. ~~Two~~ THREE members shall be licensed real estate brokers or salesmen who have-been ARE actively engaged in the real estate business as a broker or salesman in this state ~~for not less than 5 1/2 continuous--years--before--appointment.~~ Three ~~two~~ members shall be representatives of the public who are not state government officers or employees and who are not engaged in business as a real estate broker or salesman. The members shall be:

(a) residents of this state; and

(b) appointed so not more than three members are from the same congressional district.

(3) Not more than three members, including the chairman, may be from the same political party.

(4) The members shall serve staggered terms of 4 years. A MEMBER MAY NOT SERVE MORE THAN TWO TERMS OR ANY PORTION THEREOF.

1 (5) The board is allocated to the department for
2 administrative purposes only as prescribed in 2-15-121.

3 Section 2. Section 2-8-121, MCA, is amended to read:

4 "2-8-121. Effect of termination. ~~Upon~~ Unless otherwise
5 provided, upon termination, each agency or unit shall
6 continue in existence until July 1 of the next succeeding
7 year for the purpose of winding up its affairs. During the
8 windup period, termination does not reduce or otherwise
9 limit the powers or authority of each respective agency
10 except that no action may be taken which would continue in
11 effect beyond the 1-year windup period. Upon the expiration
12 of the 1 year after termination, each agency not modified or
13 reestablished shall be abolished and all unexpended balances
14 of appropriations, allocations, or other funds shall revert
15 to the fund from which they were appropriated or, if that
16 fund is abolished, to the general fund."

17 Section 3. Section 37-51-102, MCA, is amended to read:

18 "37-51-102. Definitions. Unless the context requires
19 otherwise, in this chapter the following definitions apply:

20 (1) "Board" means the board of ~~real-estate-provided~~
21 ~~for--in-2-15-1642~~ realty regulation provided for in [section
22 1].

23 (2) "Broker" includes an individual who for another or
24 for a fee, commission, or other valuable consideration or
25 who with the intent or expectation of receiving the same

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

20 (3) "Department" means the department of ~~professional~~
21 ~~and-occupational-licensing-provided-for-in-title-2, chapter~~
22 ~~15, part 16~~ business regulation provided for in 2-15-1901
23 PROFESSIONAL AND OCCUPATIONAL LICENSING, PROVIDED FOR IN
24 TITLE 2, CHAPTER 15, PART 16.

25 (4) "Person" includes individuals, partnerships,

1 associations, and corporations, foreign and domestic, except
2 that when referring to a person licensed under this chapter,
3 it means an individual.

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

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

13 Section 4. Section 37-51-205, MCA, is amended to read:

14 "37-51-205. Compensation of members -- expenses---
15 ~~limitation.~~ (1) Each member of the board shall receive as
16 compensation for each one-half day or--portion--thereof
17 actually spent on his official duties the sum of \$750 ~~\$25~~
18 ~~\$25~~ and travel expenses, as provided for in 2-18-501 through
19 2-13-503, connected with the performance of other duties
20 provided for by the board.

21 (2) ~~No member of the board may be reimbursed from the~~
22 ~~board's earmarked revenue fund for travel outside the state~~
23 ~~on business of the board."~~

24 Section 5. ~~Section 37-51-311, MCA, is amended to read:~~
25 ~~"37-51-311. Fees-----deposit--of--fees--(1) The~~

1 following fees shall be charged by the department--and--paid
2 into the ~~earmarked~~ revenue fund for the use of the board
3 subject to 37-1-101(6):

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

5 (b) ~~for each original resident broker's license~~
6 ~~issued, a fee not to exceed \$50;~~

7 (c) ~~for each annual renewal of a resident broker's~~
8 ~~license, a fee not to exceed \$30;~~

9 (d) ~~for each original nonresident broker's license~~
10 ~~issued, a fee not to exceed \$50;~~

11 (e) ~~for each annual renewal of a nonresident broker's~~
12 ~~license, a fee not to exceed \$30;~~

13 (f) ~~for each original salesman's license issued, a fee~~
14 ~~not to exceed \$25;~~

15 (g) ~~for each annual renewal of a salesman's license, a~~
16 ~~fee not to exceed \$15;~~

17 (h) ~~for each additional office or place of business,~~
18 ~~an annual fee not to exceed \$25;~~

19 (i) ~~for each change of place of business or change of~~
20 ~~employer or contractual associate, a fee not to exceed \$15;~~

21 (j) ~~for each duplicate license where the original~~
22 ~~license is lost or destroyed and affidavit is made, a fee~~
23 ~~not to exceed \$10;~~

24 (k) ~~for each duplicate pocket card where the original~~
25 ~~pocket card is lost or destroyed and affidavit is made, a~~

1 fee not to exceed \$10.

2 ~~(2) The board shall adopt a schedule of fees within~~
 3 ~~the limits set by this section. However, a fee once set for~~
 4 ~~one of the items for which a fee is charged cannot be~~
 5 ~~increased or decreased until at least 1 year has passed~~
 6 ~~since the fee for that particular item was last increased or~~
 7 ~~decreased. The board shall adopt a schedule of fees to be~~
 8 ~~charged by the department and to be paid into the earmarked~~
 9 ~~revenue fund for the use of the board. The fees charged must~~
 10 ~~be reasonably related to the cost incurred in regulating the~~
 11 ~~real estate industry."~~

12 Section 5. Section 76-4-1101, MCA, is amended to read:

13 "76-4-1101. Definitions. Unless the context requires
 14 otherwise, in this part the following definitions apply:

15 (1) "Blanket encumbrance" shall be considered to mean
 16 a trust deed or mortgage or any other lien or encumbrance,
 17 mechanics' lien or otherwise, securing or evidencing the
 18 payment of money and affecting land to be subdivided or
 19 affecting more than one lot or parcel of subdivided land or
 20 an agreement affecting more than one such lot or parcel by
 21 which the owner or subdivider holds said subdivision under
 22 an option, contract to sell, or trust agreement.

23 (2) "Board" means the board of real estate provided
 24 for in 2-15-1642 realty regulation provided for in [section
 25 1].

1 (3) "Department" means the department of professional
 2 and occupational licensing provided for in Title 2, chapter
 3 15, part 16 ~~business regulation provided for in 2-15-1001~~
 4 PROFESSIONAL AND OCCUPATIONAL LICENSING, PROVIDED FOR IN
 5 TITLE 2, CHAPTER 15, PART 16.

6 (4) "Subdivision" and "subdivided lands" mean any
 7 tract of land which is hereafter divided into five or more
 8 parcels, a parcel of which is less than 5 acres in size, and
 9 which is offered for sale or lease outside the state of
 10 Montana."

11 Section 6. Section 76-4-1202, MCA, is amended to read:

12 "76-4-1202. Definitions. When used in this part,
 13 unless the context requires otherwise, the following
 14 definitions apply:

15 (1) "Board" means the board of real estate provided
 16 for in 2-15-1642 realty regulation provided for in [section
 17 1].

18 (2) "Chairman" means the chairman of the board of real
 19 estate realty regulation.

20 (3) "Department" means the department of professional
 21 and occupational licensing provided for in Title 2, chapter
 22 15, part 16 ~~business regulation provided for in 2-15-1001~~
 23 PROFESSIONAL AND OCCUPATIONAL LICENSING, PROVIDED FOR IN
 24 TITLE 2, CHAPTER 15, PART 16.

25 (4) "Disposition" includes sale, lease, assignment, or

1 any other transaction concerning a subdivision if undertaken
2 for gain or profit.

3 (5) "Offer" includes every inducement, solicitation,
4 or attempt to encourage a person to acquire an interest in
5 land if undertaken for gain or profit.

6 (6) "Person" means an individual, corporation,
7 government, governmental subdivision or agency, business
8 trust, estate, trust, partnership, unincorporated
9 association, two or more of any of the foregoing having a
10 joint or common interest, or any other legal or commercial
11 entity.

12 (7) "Purchaser" means a person who acquires or
13 attempts to acquire or succeeds to an interest in land.

14 (8) "Subdivider" means any owner of subdivided land
15 who offers it for disposition or the principal agent of an
16 inactive owner.

17 (9) "Subdivision" and "subdivided lands" mean any land
18 which is divided or is proposed to be divided for the
19 purpose of disposition into five or more lots, parcels,
20 units, or interests and also include any land, whether
21 contiguous or not, if five or more lots, parcels, units, or
22 interests are offered as a part of a common promotional plan
23 of advertising and sale."

24 Section 7. Section 76-4-1203, MCA, is amended to read:
25 "76-4-1203. Administration and rules. (1) This part

1 shall be administered by the board. In the administration of
2 this part, the board shall have all of the powers and duties
3 as stated in 37-51-201(2), (3), and (4) and 37-51-205~~(1)~~.

4 (2) The board shall adopt reasonable rules relating to
5 the administration of this part, but not inconsistent
6 therewith, which may be amended or repealed. The rules shall
7 include but need not be limited to:

8 (a) provisions for advertising standards to assure
9 full and fair disclosure;

10 (b) provisions for escrow or trust agreements or other
11 means reasonably to assure that all improvements referred to
12 in the application for registration and advertising will be
13 completed and that purchasers will receive the interest in
14 land contracted for;

15 (c) provisions for operating procedures; and

16 (d) other rules necessary and proper to accomplish the
17 purpose of this part."

18 Section 8. Transfer of funds. All unexpended balances
19 of appropriations, allocations, or other funds of the board
20 of real estate shall be transferred to the board of realty
21 regulation on the effective date of this act to be used for
22 the purpose of regulating the real estate industry.

23 Section 9. Transition. All orders and rules relating
24 to regulation of the real estate industry made by the board
25 of real estate remain in full force and effect until revoked

1 or modified in accordance with law by the board of realty
2 regulation. The records and documents of the board of real
3 estate are transferred to the board of realty regulation.
4 Licenses, permits, and certificates issued prior to the
5 effective date of this act remain valid under the same terms
6 and conditions as when issued and are subject to the
7 provisions of Title 37, chapter 51.

8 Section 10. ~~Effect-of-termination~~ TERMINATION OF BOARD
9 OF REAL ESTATE. NOTWITHSTANDING THE PROVISION OF 2-8-103(1),
10 THE BOARD OF REAL ESTATE TERMINATES ON THE EFFECTIVE DATE OF
11 THIS ACT. Section 2-8-121 does not apply to the board of
12 real estate.

13 Section 11. Initial appointments. Within 30 days of
14 the effective date of this act, the governor shall appoint
15 the initial board of realty regulation. The initial terms
16 shall consist of one term of 1 year, one term of 2 years,
17 one term of 3 years, and two terms of 4 years.

18 Section 12. Codification. Section 1 is intended to be
19 codified in Title 2, chapter 15, part ~~10 16,~~ and the
20 provisions of Title 2, chapter 15, part ~~10 16,~~ apply to
21 section 1.

22 Section 13. Repealer. Sections 2-15-1642 and
23 37-51-101, MCA, are repealed.

24 Section 14. Effective date. This act is effective on
25 passage and approval.

-End-

-11-

1 STATEMENT OF INTENT RE: HB 606

1 March 7, 1979.

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A statement of intent is required for HB 606 in that it delegates rulemaking authority to the board of realty regulation in Section 8.

Section 8 allows the board to prescribe rules relating to:

"(a) provisions for advertising standards to assure full and fair disclosure;

(b) provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for;

(c) provisions for operating procedures; and

(d) other rules necessary and proper to accomplish the purpose of this part."

It is intended that only those rules necessary to carry out the above functions will be adopted by the board of realty regulation. All rules should have as their primary purpose the protection of the public. No rules may be adopted which restrict entry into the real estate industry except as expressly authorized by statute.

First adopted by the SENATE COMMITTEE OF THE WHOLE on

HB 606

1 HOUSE BILL NO. 606
 2 INTRODUCED BY ELLIS, GERKE, ELLERD, SCULLY, SIVERTSEN
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
 6 REGULATION OF THE REAL ESTATE INDUSTRY BY A BOARD OF REALTY
 7 REGULATION CREATED IN THE DEPARTMENT OF BUSINESS--REGULATION
 8 PROFESSIONAL AND OCCUPATIONAL LICENSING; TERMINATING
 9 OPERATION OF THE BOARD OF REAL ESTATE ON--JULY--17--1979
 10 IMMEDIATELY; ELIMINATING REFERENCES TO THE BOARD OF REAL
 11 ESTATE; PERMITTING-ADOPTION-OF-A--FEE--SCHEDULE; PERMITTING
 12 ADOPTION OF A FEE SCHEDULE; AMENDING SECTIONS 2-8-121,
 13 37-51-102, 37-51-205, ~~37-51-311~~, 76-4-1101, 76-4-1202, AND
 14 76-4-1203, MCA; REPEALING SECTIONS 2-15-1642 AND 37-51-101,
 15 MCA; AND PROVIDING AN EFFECTIVE DATE."
 16
 17 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
 18 will terminate the board of real estate and require a
 19 performance evaluation of the board by the legislative audit
 20 committee; and
 21 WHEREAS, as a result of the performance evaluation, the
 22 legislative audit committee recommends that the board of
 23 real estate be abolished and regulation-of-the-real-estate
 24 industry-be-transferred-to the board of realty regulation in
 25 the department of business--regulation PROFESSIONAL AND

1 ~~OCCUPATIONAL LICENSING BE ESTABLISHED TO REGULATE THE REAL~~
 2 ~~ESTATE INDUSTRY~~ and that certain statutory provisions be
 3 amended or repealed.
 4
 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 6 NEW SECTION. Section 1. Board of realty regulation.
 7 (1) There is a board of realty regulation.
 8 (2) The board consists of five members appointed by
 9 the governor with the consent of the senate. ~~Two THREE~~
 10 members shall be licensed real estate brokers or salesmen
 11 who have--been ARE actively engaged in the real estate
 12 business as a broker or salesman in this state for--not--less
 13 than 5 ~~a~~ continuous--years--before-appointment. Three ~~IND~~
 14 members shall be representatives of the public who are not
 15 state government officers or employees and who are not
 16 engaged in business as a real estate broker or salesman. The
 17 members shall be:
 18 (a) residents of this state; and
 19 (b) appointed so not more than three members are from
 20 the same congressional district.
 21 (3) Not more than three members, including the
 22 chairman, may be from the same political party.
 23 (4) The members shall serve staggered terms of 4
 24 years. A MEMBER MAY NOT SERVE MORE THAN TWO TERMS OR ANY
 25 PORTION THEREOF.

1 (5) The board is allocated to the department for
2 administrative purposes only as prescribed in 2-15-121.

3 Section 2. Section 2-8-121, MCA, is amended to read:

4 "2-8-121. Effect of termination. Upon ~~Unless otherwise~~
5 ~~provided, upon~~ termination, each agency or unit shall
6 continue in existence until July 1 of the next succeeding
7 year for the purpose of winding up its affairs. During the
8 windup period, termination does not reduce or otherwise
9 limit the powers or authority of each respective agency
10 except that no action may be taken which would continue in
11 effect beyond the 1-year windup period. Upon the expiration
12 of the 1 year after termination, each agency not modified or
13 reestablished shall be abolished and all unexpended balances
14 of appropriations, allocations, or other funds shall revert
15 to the fund from which they were appropriated or, if that
16 fund is abolished, to the general fund."

17 Section 3. Section 37-51-102, MCA, is amended to read:

18 "37-51-102. Definitions. Unless the context requires
19 otherwise, in this chapter the following definitions apply:

20 (1) "Board" means the board of ~~real-estate-provided~~
21 ~~for-in-2-15-1642 realty regulation provided for in [section~~
22 ~~1]~~.

23 (2) "Broker" includes an individual who for another or
24 for a fee, commission, or other valuable consideration or
25 who with the intent or expectation of receiving the same

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

20 (3) "Department" means the department of professional
21 ~~and-occupational-licensing-provided-for-in-title-2,--chapter~~
22 ~~15,--part--16 business regulation provided for in 2-15-1001~~
23 PROFESSIONAL AND OCCUPATIONAL LICENSING, PROVIDED FOR IN
24 TITLE 2, CHAPTER 15, PART 16.

25 (4) "Person" includes individuals, partnerships,

1 associations, and corporations, foreign and domestic, except
2 that when referring to a person licensed under this chapter,
3 it means an individual.

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

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

13 Section 4. Section 37-51-205, MCA, is amended to read:
14 "37-51-205. Compensation of members -- expenses ---
15 ~~limitation.~~ (1) Each member of the board shall receive as
16 compensation for each ~~one-half~~ day ~~or portion thereof~~
17 actually spent on his official duties the sum of ~~\$750~~ ~~\$25~~
18 ~~\$22~~ and travel expenses, as provided for in 2-18-501 through
19 2-18-503, connected with the performance of other duties
20 provided for by the board.

21 (2) ~~No member of the board may be reimbursed from the~~
22 ~~board's earmarked revenue fund for travel outside the state~~
23 ~~on business of the board."~~

24 Section 5. ~~Section 37-51-311, MCA, is amended to read:~~
25 ~~"37-51-311. Fees ---- deposit of fees ---- (1) -- the~~

1 following fees shall be charged by the department and paid
2 into the earmarked revenue fund for the use of the board
3 subject to 37-1-101(6):

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

5 (b) for each original resident broker's license
6 issued, a fee not to exceed \$50;

7 (c) for each annual renewal of a resident broker's
8 license, a fee not to exceed \$30;

9 (d) for each original nonresident broker's license
10 issued, a fee not to exceed \$50;

11 (e) for each annual renewal of a nonresident broker's
12 license, a fee not to exceed \$30;

13 (f) for each original salesman's license issued, a fee
14 not to exceed \$25;

15 (g) for each annual renewal of a salesman's license, a
16 fee not to exceed \$15;

17 (h) for each additional office or place of business,
18 an annual fee not to exceed \$25;

19 (i) for each change of place of business or change of
20 employer or contractual associate, a fee not to exceed \$15;

21 (j) for each duplicate license where the original
22 license is lost or destroyed and affidavit is made, a fee
23 not to exceed \$10;

24 (k) for each duplicate pocket card where the original
25 pocket card is lost or destroyed and affidavit is made, a

1 fee not to exceed \$10.
 2 ~~{2} The board shall adopt a schedule of fees within~~
 3 ~~the limits set by this section. However, a fee once set for~~
 4 ~~one of the items for which a fee is charged cannot be~~
 5 ~~increased or decreased until at least a year has passed~~
 6 ~~since the fee for that particular item was last increased or~~
 7 ~~decreased. The board shall adopt a schedule of fees to be~~
 8 ~~charged by the department and to be paid into the earmarked~~
 9 ~~revenue fund for the use of the board. The fees charged must~~
 10 ~~be reasonably related to the cost incurred in regulating the~~
 11 ~~real estate industry."~~

12 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:

13 Schedule of fees. The board shall adopt a schedule of
 14 fees to be charged by the department and to be paid into the
 15 earmarked revenue fund for the use of the board. The fees
 16 charged must be reasonably related to the cost incurred in
 17 regulating the real estate industry.

18 Section 6. Section 76-4-1101, MCA, is amended to read:

19 "76-4-1101. Definitions. Unless the context requires
 20 otherwise, in this part the following definitions apply:

21 (1) "Blanket encumbrance" shall be considered to mean
 22 a trust deed or mortgage or any other lien or encumbrance,
 23 mechanics' lien or otherwise, securing or evidencing the
 24 payment of money and affecting land to be subdivided or
 25 affecting more than one lot or parcel of subdivided land or

1 an agreement affecting more than one such lot or parcel by
 2 which the owner or subdivider holds said subdivision under
 3 an option, contract to sell, or trust agreement.

4 (2) "Board" means the board of real estate provided
 5 for in 2-15-1642 realty regulation provided for in [section
 6 1].

7 (3) "Department" means the department of professional
 8 and occupational licensing provided for in Title 2, chapter
 9 15, part 16 business regulation provided for in 2-15-1801
 10 PROFESSIONAL AND OCCUPATIONAL LICENSING, PROVIDED FOR IN
 11 TITLE 2, CHAPTER 15, PART 16.

12 (4) "Subdivision" and "subdivided lands" mean any
 13 tract of land which is hereafter divided into five or more
 14 parcels, a parcel of which is less than 5 acres in size, and
 15 which is offered for sale or lease outside the state of
 16 Montana."

17 Section 7. Section 76-4-1202, MCA, is amended to read:

18 "76-4-1202. Definitions. When used in this part,
 19 unless the context requires otherwise, the following
 20 definitions apply:

21 (1) "Board" means the board of real estate provided
 22 for in 2-15-1642 realty regulation provided for in [section
 23 1].

24 (2) "Chairman" means the chairman of the board of real
 25 estate realty regulation.

1 (3) "Department" means the department of professional
 2 and occupational licensing provided for in title 2, chapter
 3 15, part 16 ~~business regulation provided for in 2-15-1001~~
 4 PROFESSIONAL AND OCCUPATIONAL LICENSING, PROVIDED FOR IN
 5 TITLE 2, CHAPTER 15, PART 16.

6 (4) "Disposition" includes sale, lease, assignment, or
 7 any other transaction concerning a subdivision if undertaken
 8 for gain or profit.

9 (5) "Offer" includes every inducement, solicitation,
 10 or attempt to encourage a person to acquire an interest in
 11 land if undertaken for gain or profit.

12 (6) "Person" means an individual, corporation,
 13 government, governmental subdivision or agency, business
 14 trust, estate, trust, partnership, unincorporated
 15 association, two or more of any of the foregoing having a
 16 joint or common interest, or any other legal or commercial
 17 entity.

18 (7) "Purchaser" means a person who acquires or
 19 attempts to acquire or succeeds to an interest in land.

20 (8) "Subdivider" means any owner of subdivided land
 21 who offers it for disposition or the principal agent of an
 22 inactive owner.

23 (9) "Subdivision" and "subdivided lands" mean any land
 24 which is divided or is proposed to be divided for the
 25 purpose of disposition into five or more lots, parcels,

1 units, or interests and also include any land, whether
 2 contiguous or not, if five or more lots, parcels, units, or
 3 interests are offered as a part of a common promotional plan
 4 of advertising and sale."

5 Section 8. Section 76-4-1203, MCA, is amended to read:

6 "76-4-1203. Administration and rules. (1) This part
 7 shall be administered by the board. In the administration of
 8 this part, the board shall have all of the powers and duties
 9 as stated in 37-51-201(2), (3), and (4) and 37-51-205(1).

10 (2) The board shall adopt reasonable rules relating to
 11 the administration of this part, but not inconsistent
 12 therewith, which may be amended or repealed. The rules shall
 13 include but need not be limited to:

14 (a) provisions for advertising standards to assure
 15 full and fair disclosure;

16 (b) provisions for escrow or trust agreements or other
 17 means reasonably to assure that all improvements referred to
 18 in the application for registration and advertising will be
 19 completed and that purchasers will receive the interest in
 20 land contracted for;

21 (c) provisions for operating procedures; and

22 (d) other rules necessary and proper to accomplish the
 23 purpose of this part."

24 Section 9. Transfer of funds. All unexpended balances
 25 of appropriations, allocations, or other funds of the board

1 of real estate shall be transferred to the board of realty
 2 regulation on the effective date of this act to be used for
 3 the purpose of regulating the real estate industry.

4 Section 10. Transition. All orders and rules relating
 5 to regulation of the real estate industry made by the board
 6 of real estate remain in full force and effect until revoked
 7 or modified in accordance with law by the board of realty
 8 regulation. The records and documents of the board of real
 9 estate are transferred to the board of realty regulation.
 10 Licenses, permits, and certificates issued prior to the
 11 effective date of this act remain valid under the same terms
 12 and conditions as when issued and are subject to the
 13 provisions of Title 37, chapter 51.

14 Section 11. ~~Effect of termination~~ TERMINATION OF BOARD
 15 OF REAL ESTATE. NOTWITHSTANDING THE PROVISION OF 2-8-103(1),
 16 THE BOARD OF REAL ESTATE TERMINATES ON THE EFFECTIVE DATE OF
 17 THIS ACT. Section 2-8-121 does not apply to the board of
 18 real estate.

19 Section 12. Initial appointments. Within 30 days of
 20 the effective date of this act, the governor shall appoint
 21 the initial board of realty regulation. The initial terms
 22 shall consist of one term of 1 year, one term of 2 years,
 23 one term of 3 years, and two terms of 4 years.

24 Section 13. Codification. Section 1 is intended to be
 25 codified in Title 2, chapter 15, part ~~18~~ 16, and the

1 provisions of Title 2, chapter 15, part ~~18~~ 16, apply to
 2 section 1.

3 Section 14. Repealer. Sections 2-15-1642 and
 4 37-51-101, MCA, are repealed.

5 Section 15. Effective date. This act is effective on
 6 passage and approval.

-End-

March 5, 1979

SENATE STANDING COMMITTEE REPORT
(Business & Industry)

That House Bill No. 606 be amended as follows:

1. Title, line 7.
Following: "OF"
Strike: "BUSINESS REGULATION"
Insert: "PROFESSIONAL AND OCCUPATIONAL LICENSING"
2. Title, line 10.
Following: "ESTATE;"
Strike: "PERMITTING ADOPTION OF A FEE SCHEDULE"
3. Title, line 11.
Following: "37-51-205,"
Strike: "37-51-311,"
4. Page 1, lines 22 and 23.
Following: "and" on line 22
Strike: "regulation of the real estate industry be transferred to"
5. Page 1, line 24.
Following: "of"
Strike: "business regulation"
Insert: "professional and occupational licensing be established
to regulate the real estate industry"
6. Page 2, line 9.
Following: "than"
Strike: "5"
Insert: "3"
7. Page 2, line 21.
Following: "years."
Insert: "A member may not serve more than two terms or any portion
thereof."
8. Page 4, line 18.
Following: "16"
Strike: "business regulation provided for in 2-15-1801"
Insert: "professional and occupational licensing, provided for in
Title 2, chapter 15, part 16"
9. Page 5, line 11.
Following: "\$7-50"
Strike: "\$35"
Insert: "\$25"
10. Page 5, line 18 through line 5 on page 7.
Strike: Section 5 in its entirety
Renumber: all subsequent sections

11. Page 7, line 22.

Following: "16"

Strike: "business regulation provided for in 2-15-1801"

Insert: "professional and occupational licensing, provided for in
Title 2, chapter 15, part 16"

12. Page 8, line 14.

Following: "16"

Strike: "business regulation provided for in 2-15-1801"

Insert: "professional and occupational licensing, provided for in
Title 2, chapter 15, part 16"

13. Page 11, line 9.

Following: "part"

Strike: "18"

Insert: "16"

14. Page 11, line 10.

Following: "part"

Strike: "18"

Insert: "16"

March 7, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 606 be amended as follows:

1. Page 2, line 8.

Following: "who"

Strike: "have been"

Insert: "are"

2. Page 2, line 9.

Following: "state"

Strike: remainder of line 9 through "appointment" on line 10