

HOUSE BILL 793

IN THE HOUSE

February 14, 1979	Introduced and referred to Committee on Business and Industry.
February 19, 1979	Intent statement attached.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed. Third reading, passed.

IN THE SENATE

February 23, 1979	Referred to Committee on Business and Industry.
March 1, 1979	Rereferred to Committee on State Administration.
March 10, 1979	Committee recommend bill, not concurred.

IN THE HOUSE

March 12, 1979	Returned from Senate, not concurred.
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1 HOUSE BILL NO. 793
2 INTRODUCED BY [Signature]

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE
5 PRACTICE OF REAL ESTATE APPRAISING; ESTABLISHING A REAL
6 ESTATE APPRAISAL BOARD; AND DEFINING ITS POWERS AND DUTIES."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Board of real estate appraisers. (1) There
10 is a board of real estate appraisers.

11 (2) The board consists of five members appointed by
12 the governor with the consent of the senate from a list of
13 nominees submitted by the professional appraisal
14 organizations in the state. Each member must be a resident
15 of the state and a qualified real estate appraiser who has
16 engaged in the general practice of real estate appraising
17 for at least 10 years.

18 (3) Each member shall serve for a term of 3 years,
19 except as provided in [section 3]. Each member shall hold
20 office until the appointment and qualification of his
21 successor. Vacancies occurring prior to the expiration of
22 the term shall be filled in the same manner as original
23 appointments. The governor may remove a member for
24 misconduct, incompetency, neglect of duty, or for any other
25 sufficient cause.

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

3 Section 2. Definitions. As used in [sections 2
4 through 19], the following definitions apply:

5 (1) "Board" means the board of real estate appraisers
6 provided for in [section 2].

7 (2) "Department" means the department of professional
8 and occupational licensing provided for in Title 2, chapter
9 15, part 16.

10 (3) "Appraisal activity" means any activities
11 performed or offered for compensation or with the
12 expectation of receiving compensation by a person who
13 advises, consults, or prepares analyses with respect to real
14 estate values, uses, sales, developments, or dispositions
15 (including dispositions through eminent domain) or who
16 renders opinions relevant to the marketability of real
17 estate.

18 (4) "Real estate appraisal" means the act or process
19 of estimating values or the giving of opinions concerning
20 the value of real estate or any interest therein for a fee
21 or other compensation.

22 (5) "Real estate appraiser" means a person who engages
23 in the practice of real estate appraising or who advertises
24 or offers such services to the general public.

25 Section 3. Initial appointments. Initially, one member

-2- HB 793
INTRODUCED BILL

1 of the board shall be appointed for 1 year, two members for
 2 2 years, and three members for 3-year terms to insure
 3 staggered terms. Thereafter all members shall be appointed
 4 for a full 3-year term as provided in [section 2].

5 Section 4. Quorum -- rules -- officers --
 6 compensation. (1) A majority of the members of the board
 7 constitutes a quorum.

8 (2) The affirmative vote of a majority of the board is
 9 required to revoke, suspend, or deny a license.

10 (3) The board shall adopt rules in accordance with the
 11 Montana Administrative Procedure Act to govern times and
 12 places of of its meeting for organization, the length of
 13 terms of the officers; the holding of examinations; and all
 14 other matters requisite to the exercise of its powers, the
 15 performance of its duties, and the transaction of its
 16 business under the provisions of [sections 2 through 19].

17 (4) The board shall elect a chairman and a
 18 secretary-treasurer.

19 (5) Board members may be compensated as determined by
 20 the board but not to exceed \$25 a day for official business.
 21 Board members shall be reimbursed for their travel expenses,
 22 as provided in 2-18-501 through 2-18-503, as amended,
 23 incurred while on official business of the board.

24 Section 5. Powers and duties. The board shall:

25 (1) receive applications for and issue licenses to

1 real estate appraisers pursuant to the provisions of
 2 [sections 2 through 19];

3 (2) hold meetings and hearings in such places and at
 4 such times as it designates;

5 (3) meet at least 2 times or more each year on the
 6 call of the chairman or when the chairman is requested to do
 7 so by any two or more members of the board;

8 (4) keep a record of its proceedings and a complete
 9 roster of all persons licensed by it and entitled to
 10 practice such profession in the state;

11 (5) investigate any violations of the provisions of
 12 [sections 2 through 19] or rules adopted by the board
 13 pursuant to [sections 2 through 19] and hold hearings and
 14 take testimony on any alleged violations of [sections 2
 15 through 19];

16 (6) promote research or conduct studies relative to
 17 the profession of real estate appraising;

18 (7) grant scholarships to worthy students studying in
 19 preparation for the profession of real estate valuation; and

20 (8) do all other things necessary to carry out the
 21 provisions of [sections 2 through 19].

22 Section 6. Exemptions. [Sections 2 through 19] do not
 23 apply to real estate brokers or salesmen licensed by the
 24 state who, in the ordinary course of business, give an
 25 opinion of the value of real estate for the purpose of a

1 prospective sale. However, in no event may this opinion be
 2 referred to or construed as an appraisal, nor may any
 3 compensation, fee, or consideration be charged for the
 4 opinion other than the normal commission or fee for service
 5 rendered in the sale of the real property involved.

6 Section 7. License required. No person may engage in
 7 appraisal activity without first obtaining a real estate
 8 appraiser license as provided in [sections 2 through 19].

9 Section 8. Application — certificate — public
 10 records. (1) A person who desires to engage in the practice
 11 of real estate appraisal in this state must make
 12 application, in writing, in such form as the board may
 13 prescribe.

14 (2) The board shall:

15 (a) issue to each licensee a license certificate and
 16 pocket card in such size and form as it may approve which
 17 shall remain the property of the state and, upon suspension
 18 or revocation of the license pursuant to [sections 2 through
 19 19], shall be returned immediately to the board;

20 (b) maintain and keep open to public inspection,
 21 during office hours, a complete indexed record of all
 22 applicants, licenses issued, licenses renewed, licenses
 23 reviewed, and all revocations, cancellations, and
 24 suspensions of licenses.

25 Section 9. License classifications. There are three

1 classifications of licensed real estate appraisers
 2 authorized to engage in appraisal activity within the state:

- 3 (1) class C--appraisal trainee;
 4 (2) class B--residential appraiser; and
 5 (3) class A--appraisal consultant.

6 Section 10. Scope of license. A licensed real estate
 7 appraiser is authorized to perform only the following real
 8 estate appraisal assignments:

9 (1) A class C appraisal trainee may assist:

10 (a) a class B licensee in the performance of an
 11 appraisal assignment that is within the scope of a class B
 12 license; and

13 (b) a class A licensee in the performance of an
 14 appraisal assignment that is within the scope of a class A
 15 license.

16 (2) A class B residential appraiser is authorized to
 17 appraise:

18 (a) the fee interest or leasehold interest in
 19 residential property consisting of four or fewer units;

20 (b) the fee interest or leasehold interest in
 21 undeveloped sites zoned for residential property consisting
 22 of four or fewer units.

23 (3) A class A appraisal consultant is authorized to
 24 appraise all types of real property and interests therein.

25 Section 11. Qualifications. (1) An applicant is

1 qualified to receive a class C appraisal license if he is
 2 working under the guidance of a class A or class B licensed
 3 appraiser. In order to renew the class C license, the
 4 applicant must, within 1 year from the date of receiving his
 5 first class C license, successfully complete a course of
 6 study in real estate appraisal principles and practices and
 7 property valuation theory conducted by an accredited
 8 university, college, junior college, or an appraisal
 9 society, institute, or association approved by the board.
 10 The course of study must consist of at least 40 classroom
 11 hours and cover material acceptable to the board.

12 (2) An applicant is qualified to receive a class B
 13 residential appraiser license if he has:

14 (a) a minimum of 2 years' experience as a class C
 15 appraisal trainee;

16 (b) successfully completed an approved course of study
 17 of 40 or more classroom hours consisting of case studies and
 18 drill problems based upon a wide variety of types of
 19 residential property, which facilitates development of
 20 judgment in the residential appraisal process; and

21 (c) successfully completed the residential appraisal
 22 examination provided for in [section 12].

23 (3) An applicant is qualified to receive a class A
 24 appraisal consultant license if he:

25 (a) holds a bachelor's degree from an accredited

1 university or college with substantial credits in real
 2 estate, law, accounting, economics, or business
 3 administration or its equivalent as determined by the board,
 4 except that this subsection does not apply to an applicant
 5 born on or before December 31, 1956;

6 (b) has 2 years' active experience as a class C
 7 appraisal trainee;

8 (c) has an additional 2 years' experience as a class C
 9 appraisal trainee, or 2 years' experience as a class B
 10 residential appraiser;

11 (d) has successfully completed advanced appraisal
 12 courses of study totaling 80 or more classroom hours in
 13 investment properties, mortgage equity analysis, and
 14 condemnation from an accredited university, college, or
 15 junior college or an appraisal society, institute, or
 16 association approved by the board; and

17 (e) has successfully completed a comprehensive
 18 appraisal consultant examination conducted or authorized by
 19 the board.

20 Section 12. Examinations. (1) The board shall
 21 establish examination requirements and procedures necessary
 22 to protect the public interest.

23 (2) Examinations shall include demonstration of basic
 24 proficiencies and knowledge of the English language and an
 25 understanding of real estate law, ethics, and standards of

1 conduct.

2 (3) The class B residential appraiser examination
3 shall test the applicant's knowledge and understanding of
4 principles and practices of real estate appraising, land
5 economics, cost analysis, depreciation theories, market data
6 analysis, narrative report writing, real property law, and
7 real estate appraisal license law.

8 (4) The class A appraisal consultant examination shall
9 test the applicant's knowledge and understanding of the
10 topics covered in the various courses of study required by
11 [section 11]. In addition, the examination must include at
12 least 3 appraisal problems relating to mortgage equity
13 analysis, marketing finance, capitalization theory, land-use
14 planning, zoning concepts and condemnation laws of the
15 state.

16 (5) The examination may include matters of state and
17 federal law related to the practice of real estate
18 appraisal.

19 (6) An applicant who has failed to pass the
20 examination in 3 or more attempts must successfully complete
21 a course of study of 40 or more classroom hours covering all
22 the topics set forth in [section 11(3)] prior to each
23 subsequent reexamination.

24 (7) The board must conduct or cause to be conducted
25 the comprehensive examinations required by this section at

1 least twice each calendar year.

2 Section 13. Appraisal report requirements. (1) A
3 written or oral appraisal reporting an estimated value must
4 be supported with written documentation or written memoranda
5 that shall include but are not limited to the following:

6 (a) an adequate and definite description of the
7 property being appraised;

8 (b) the purpose of the appraisal and a definition of
9 the value estimated;

10 (c) all facts, assumptions, and conditions upon which
11 the appraisal is based, stated clearly and unequivocally;

12 (d) the effective date of the appraisal;

13 (e) the data and reasoning supporting the value
14 conclusion, which may include the direct sales comparison
15 approach, the income approach, and the cost approach. The
16 exclusion of any of the usual three approaches must be
17 explained and supported.

18 (f) the final estimate of value; and

19 (g) special and limiting conditions, if any.

20 (2) Each appraisal report must contain by the
21 appraiser charged with rendering the valuation which, at the
22 minimum, must certify that:

23 (a) he has no present or contemplated future interest
24 in the real estate that is the subject of the appraisal
25 report;

HB 793

1 (b) he has no personal interest or bias with respect
 2 to the subject matter of the appraisal report or the parties
 3 involved. (However, if a statement, as required in
 4 subsections (a) and (b) cannot be made, then such appraisal
 5 report must contain a clear, frank statement disclosing all
 6 such personal interest or bias.)

7 (c) to the best of the appraiser's knowledge and
 8 belief, the statements of fact contained in the appraisal
 9 report, upon which the analysis, opinions, and conclusions
 10 expressed therein are based, are true and correct;

11 (d) he has set forth in the appraisal report all of
 12 the limiting conditions (imposed by the terms of the
 13 appraiser's assignment or by the appraiser) affecting the
 14 analysis, opinions, and conclusions contained in the report;

15 (e) he personally inspected or did not inspect, as the
 16 case may be, the subject property;

17 (f) no person other than the undersigned (except as
 18 otherwise acknowledged) prepared the analysis, opinions, and
 19 conclusions concerning the real estate that are set forth in
 20 the appraisal report.

21 (3) If a client requests that something less than a
 22 full and complete written appraisal report be prepared by an
 23 appraiser, the appraiser may accept such limited assignments,
 24 provided that he complies with the following requirements:

25 (a) Prior to accepting such limited assignment, the

1 appraiser must advise his client in writing that the
 2 assignment calls for something less than a full and complete
 3 appraisal report and that his appraisal report will,
 4 therefore, be qualified to reflect the limited scope of the
 5 assignment.

6 (b) The limited scope of the appraisal report must be
 7 set forth and described in the report in a clear and precise
 8 manner.

9 (c) The contents of the appraisal report must not be
 10 so limited that the report cannot possibly be meaningful or
 11 so limited that the effect would be to mislead the client or
 12 the public.

13 (4) For the purpose of [sections 2 through 19], the
 14 testimony of an appraiser dealing with the appraiser's
 15 analyses, conclusions, or opinions concerning real estate is
 16 considered to be the equivalent of an oral appraisal report.
 17 Therefore, an appraiser must comply with the specific
 18 reporting rules relating to oral appraisal reports whenever
 19 the appraiser testifies in a judicial proceeding with
 20 respect to any of the appraiser's analyses, conclusions, or
 21 opinions concerning real estate.

22 (5) A true copy of each appraisal and analysis shall
 23 be prepared and retained by the appraiser for not less than
 24 5 years.

25 (6) No person subject to [sections 2 through 19] may

1 omit, without good cause, any of the above minimum
 2 requirements from any appraisal report transmitted to the
 3 client. If, with good cause, any of the above minimum
 4 requirements are not included in the appraisal report
 5 transmitted to the client, the appraiser shall clearly set
 6 forth within the appraisal report a statement to the effect
 7 that the portion excluded or assumptions made (named
 8 specifically) are included in the appraiser's written
 9 appraisal which has been prepared and retained in the
 10 appraiser's file for this assignment and that said retained
 11 written appraisal is incorporated therein by reference and
 12 is an integral part thereof.

13 Section 14. Nonresident license. (1) A nonresident may
 14 be licensed as a real estate appraiser upon complying with
 15 all the provisions and conditions of [sections 2 through
 16 19].

17 (2) Any person who is licensed to practice real estate
 18 appraising in another state, territory of the United States,
 19 or the District of Columbia, who, in the opinion of the
 20 board, meets the qualifications and requirements for
 21 licensure in this state, shall be entitled to receive a
 22 license upon submission of a duly certified copy of his
 23 license from such other state, territory of the United
 24 States, or the District of Columbia or any other information
 25 the board may require and upon payment of the appropriate

1 fee; provided that the laws of such state, territory, or the
 2 District of Columbia accord equal reciprocal rights to a
 3 licensed real estate appraiser in good standing in this
 4 state who desires to practice his profession in such state,
 5 territory, or the District of Columbia, and provided that no
 6 proceeding is pending against the appraiser under [sections
 7 2 through 19] or is unresolved.

8 (3) In application for a license, all questions of the
 9 academic and experience requirements of other states,
 10 territories, or the District of Columbia shall be determined
 11 by the board, and at the discretion of the board, the
 12 reciprocal or nonresident licensee applicant must comply
 13 with additional requirements specified by the board rules.

14 (4) A nonresident licensee may not be required to
 15 maintain a place of business in this state if he maintains
 16 an active place of business in the state of domicile.

17 Section 15. Renewal of licenses. (1) Each application
 18 for a real estate appraiser license or for the renewal
 19 thereof shall be accompanied by the appropriate fee which
 20 shall be prescribed by the board by rule.

21 (2) If the board determines that an applicant meets
 22 the qualifications and requirements of [sections 2 through
 23 19] and is otherwise qualified for a license, it shall issue
 24 a license to the applicant. Any license or renewal thereof
 25 shall remain in effect for 2 years following the date of

1 issuance unless revoked or suspended.

2 (3) Any licensee under [sections 2 through 19] who
3 fails to apply for the renewal of the license and pay the
4 required fee on or before the date of its expiration and who
5 continues or offers to perform the services of a licensed
6 real estate appraiser shall pay, in addition to the
7 prescribed fees, an additional sum as the board shall
8 prescribe by rule for each month or fractional part thereof
9 after the first month such licensee fails to so apply for
10 renewal of license.

11 (4) Any licensee who fails or refuses, after 30 days*
12 written notice from the board to so apply and pay the
13 required fee and all penalties imposed by this section, is
14 practicing without a license.

15 Section 16. Complaints and investigations. The board
16 may, upon its own motion and must upon the written complaint
17 of any aggrieved person, investigate the activities of any
18 person engaged in the practice of real estate appraising.
19 The board may deny, suspend, or revoke a license at any
20 time, after a hearing in accordance with the Montana
21 Administrative Procedure Act, if it finds an applicant or
22 licensee has:

23 (1) purposely made a material misrepresentation in an
24 application filed or obtained license through fraud or
25 misrepresentation;

1 (2) failed to meet the minimum qualifications and
2 requirements of [sections 2 through 19];

3 (3) performed any act in the practice of real estate
4 appraising which constitutes dishonest, fraudulent, or
5 improper conduct;

6 (4) paid money to any person to secure a license other
7 than the fees provided for in [sections 2 through 19];

8 (5) engaged in the business of real estate appraising
9 under an assumed or fictitious name not properly registered
10 in the state of jurisdiction;

11 (6) been convicted of a felony or a crime involving
12 moral turpitude that would affect his qualifications to
13 appraise;

14 (7) been grossly negligent or incompetent in the
15 practice of real estate appraising. The types of error that
16 affect an appraiser's competence and place the appraiser in
17 violation of this provision may be classified as follows:

18 (a) an error of omission or commission which
19 substantially and materially affects the analysis, opinion,
20 or conclusion concerning the real estate which is the
21 subject of an appraisal;

22 (b) a series of errors that, considered individually,
23 do not substantially or materially affect the results of
24 individual appraisal assignments but nevertheless evidence
25 the fact that an appraiser is repeatedly rendering

1 professional services in a careless and negligent manner;

2 (8) permitted his signature to be affixed to any
3 appraisal report if such report was not prepared by
4 applicant or licensee, unless acknowledgment of this is
5 clearly stated in the report;

6 (9) accepted an engagement to appraise a property
7 where employment or fee is contingent upon reporting a
8 predetermined or specified value or is otherwise contingent
9 upon a particular finding to be reported;

10 (10) made the fee or compensation in any case where the
11 amount of an award or recovery would be affected by the
12 appraisal contingent upon the award or recovery;

13 (11) violated any provision of [sections 2 through 19]
14 or any rule adopted by the board;

15 (12) made a false or misleading statement in that
16 portion of a written appraisal report that deals with
17 professional qualifications or in any testimony concerning
18 professional qualifications;

19 (13) received professional assistance, other than that
20 gathered in a normal data research procedure, in arriving at
21 the analyses, opinions, or conclusions concerning real
22 estate contained in an appraisal report signed by the
23 appraiser without acknowledging such fact in the report or
24 without acknowledging by name a party who rendered such
25 assistance unless such party specifically requests that the

1 party's name not be used;

2 (14) signed or cosigned an appraisal report without
3 accepting responsibility for the contents of the entire
4 report;

5 (15) accepted, undertook, and completed a real estate
6 appraisal assignment without having or acquiring the
7 knowledge necessary to complete such assignment completely
8 or making the person for whom the report is made fully aware
9 of his inexperience;

10 (16) rendered professional real estate appraisal
11 services when the applicant or licensee knew or when a
12 reasonable person with the same experience would have
13 concluded that his professional experience with respect to
14 the subject matter of the assignment was insufficient to
15 permit completion of the assignment:

16 (a) without associating with another appraiser who has
17 had such previous experience; or

18 (b) unless applicant or licensee discloses such lack
19 of experience to the client prior to accepting the
20 assignment;

21 (17) contracted for and accepted compensation for
22 appraisal services in the form of commission, rebate,
23 division of brokerage commissions, or any other similar
24 forms;

25 (18) received or paid finder's or referral fees;

1 (19) made any use of advertising media in connection
2 with the real estate appraisal practice except in the manner
3 expressly permitted by the rules of the board;

4 (20) failed to comply with the minimum requirements for
5 an appraisal as set forth in [sections 2 through 19], except
6 as expressly provided for herein;

7 (21) disclosed an appraisal report in its entirety or
8 those portions of a report that contain analyses, opinions,
9 or conclusions concerning the tract or parcel of real estate
10 that is the subject of the report to anyone other than:

11 (a) those persons specifically authorized by the
12 client to receive such information;

13 (b) third parties, when and to the extent that the
14 appraiser is legally required to do so by order of the
15 court; or

16 (22) disclosed confidential factual data which came
17 into the appraiser's possession in the course of an
18 appraisal assignment when such confidential factual data is
19 used in the appraisal report to anyone other than:

20 (a) those persons specifically authorized by the
21 client to receive such information; or

22 (b) third parties, when and to the extent that an
23 individual is legally required to do so by order of the
24 court.

25 Section 17. Revocation without a hearing. Whenever the

1 license to practice real estate appraising of a nonresident
2 licensee is revoked in the state of domicile or a licensee
3 is convicted of a crime for which his license may be
4 revoked, the board may, upon receipt of a duly certified
5 copy of the official record of such revocation or conviction
6 and after notice to the licensee, revoke the license of such
7 licensee without a hearing. Whenever the license of a
8 nonresident is suspended or revoked in this state, the board
9 shall notify the licensing authority in the state of
10 domicile of licensee of such suspension or revocation.

11 Section 18. Place of business -- license to be
12 displayed -- change of address. Every resident licensee
13 shall maintain a place of business in this state and shall
14 conspicuously display his license therein. Notice in writing
15 shall be given to the board by each licensee of any change
16 of principal business location, whereupon the board shall
17 issue a new license for the unexpired term.

18 Section 19. Penalty. Any person who violates any
19 provision of [sections 2 through 19] is guilty of a
20 misdemeanor and upon conviction may be imprisoned in the
21 county jail not to exceed 6 months or fined not to exceed
22 \$500, or both.

23 Section 20. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

LC 1356/01

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 402-79

FISCAL NOTE

Form BD-15

In compliance with a written request received Feb. 16, 1979, there is hereby submitted a Fiscal Note for HB 793 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 OF PROPOSED LEGISLATION:

To establish a real estate appraisal board; to provide for regulation of real estate appraisers and defining boards powers and duties.

ASSUMPTIONS:

1. The Board will consist of 5 members and will receive \$25 per day plus travel expenses while on official business.
2. The Board will meet 2 times per year.
3. There are an estimated 200 licensees.
4. The Department will have some administrative costs.
5. License and examination fees will be commensurate with cost.

FISCAL IMPACT:

	<u>FY80</u>	<u>FY81</u>
Additional expenditures under proposed law	<u>\$3,800</u>	<u>\$4,050</u>

Additional revenue collections under the proposed legislation will fund the additional costs.

Richard L. Henry

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 6/22/79

1 STATEMENT OF INTENT RE: HB 793

2
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4 A statement of intent is required for House Bill 793 in
5 that it delegates rulemaking authority to the Board of Real
6 Estate Appraisers in section 4.

7 1. In subsection (3) of section 4 the Board of Real
8 Estate Appraisers delegated the power to promulgate rules
9 relating to the board's organization, the term of its
10 officers, examinations, and all other matters requisite to
11 the exercise of its powers, the performance of its duties,
12 and transaction of its business under the provisions of
13 House Bill 793.

14 2. Specifically, the board's power to promulgate rules
15 shall be limited to the following areas:

16 (a) applications and licensing procedures;

17 (b) the board's organization, including the length of
18 terms of the officers;

19 (c) violations of the act;

20 (d) hearings necessary to carry out the provisions of
21 this act;

22 (e) substantive requirements for licensing, including
23 rules relating to the format and substance of the
24 comprehensive examinations required under this act;

25 (f) license renewal; and

1 (g) complaints and investigations of any aggrieved
2 person, including rules relating to the suspension,
3 revocation, or denial of a license in accordance with the
4 provisions of House Bill 793.

5 3. As stated in House Bill 793, any rule promulgated
6 by the board is subject to the provisions of the Montana
7 Administrative Procedure Act.

8 4. The intent underlying this bill is to establish a
9 board to regulate practices of real estate appraisal and to
10 protect and safeguard the interests of the public.

11 First adopted by the HOUSE COMMITTEE ON BUSINESS AND
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19 except as provided in [section 3]. Each member shall hold
20 office until the appointment and qualification of his
21 successor. Vacancies occurring prior to the expiration of
22 the term shall be filled in the same manner as original
23 appointments. The governor may remove a member for
24 misconduct, incompetency, neglect of duty, or for any other
25 sufficient cause.

1 (4) The board is allocated to the department for
2 administrative purposes only as prescribed in 2-15-121.
3 Section 2. Definitions. As used in [sections 2
4 through 19], the following definitions apply:
5 (1) "Board" means the board of real estate appraisers
6 provided for in [section 2].
7 (2) "Department" means the department of professional
8 and occupational licensing provided for in Title 2, chapter
9 15, part 16.
10 (3) "Appraisal activity" means any activities
11 performed or offered for compensation or with the
12 expectation of receiving compensation by a person who
13 advises, consults, or prepares analyses with respect to real
14 estate values, uses, sales, developments, or dispositions
15 (including dispositions through eminent domain) or who
16 renders opinions relevant to the marketability of real
17 estate.
18 (4) "Real estate appraisal" means the act or process
19 of estimating values or the giving of opinions concerning
20 the value of real estate or any interest therein for a fee
21 or other compensation.
22 (5) "Real estate appraiser" means a person who engages
23 in the practice of real estate appraising or who advertises
24 or offers such services to the general public.
25 Section 3. Initial appointments. Initially, one member

1 of the board shall be appointed for 1 year, two members for
 2 2 years, and three members for 3-year terms to insure
 3 staggered terms. Thereafter all members shall be appointed
 4 for a full 3-year term as provided in [section 2].

5 Section 4. Quorum -- rules -- officers --
 6 compensation. (1) A majority of the members of the board
 7 constitutes a quorum.

8 (2) The affirmative vote of a majority of the board is
 9 required to revoke, suspend, or deny a license.

10 (3) The board shall adopt rules in accordance with the
 11 Montana Administrative Procedure Act to govern times and
 12 places of of its meeting for organization, the length of
 13 terms of the officers; the holding of examinations; and all
 14 other matters requisite to the exercise of its powers, the
 15 performance of its duties, and the transaction of its
 16 business under the provisions of [sections 2 through 19].

17 (4) The board shall elect a chairman and a
 18 secretary-treasurer.

19 (5) Board members may be compensated as determined by
 20 the board but not to exceed \$25 a day for official business.
 21 Board members shall be reimbursed for their travel expenses,
 22 as provided in 2-18-501 through 2-18-503, as amended,
 23 incurred while on official business of the board.

24 Section 5. Powers and duties. The board shall:

25 (1) receive applications for and issue licenses to

1 real estate appraisers pursuant to the provisions of
 2 [sections 2 through 19];

3 (2) hold meetings and hearings in such places and at
 4 such times as it designates;

5 (3) meet at least 2 times or more each year on the
 6 call of the chairman or when the chairman is requested to do
 7 so by any two or more members of the board;

8 (4) keep a record of its proceedings and a complete
 9 roster of all persons licensed by it and entitled to
 10 practice such profession in the state;

11 (5) investigate any violations of the provisions of
 12 [sections 2 through 19] or rules adopted by the board
 13 pursuant to [sections 2 through 19] and hold hearings and
 14 take testimony on any alleged violations of [sections 2
 15 through 19];

16 (6) promote research or conduct studies relative to
 17 the profession of real estate appraising;

18 (7) grant scholarships to worthy students studying in
 19 preparation for the profession of real estate valuation; and

20 (8) do all other things necessary to carry out the
 21 provisions of [sections 2 through 19].

22 Section 6. Exemptions. [Sections 2 through 19] do not
 23 apply to real estate brokers or salesmen licensed by the
 24 state who, in the ordinary course of business, give an
 25 opinion of the value of real estate for the purpose of a

1 prospective sale. However, in no event may this opinion be
 2 referred to or construed as an appraisal, nor may any
 3 compensation, fee, or consideration be charged for the
 4 opinion other than the normal commission or fee for service
 5 rendered in the sale of the real property involved.

6 Section 7. License required. No person may engage in
 7 appraisal activity without first obtaining a real estate
 8 appraiser license as provided in [sections 2 through 19].

9 Section 8. Application -- certificate -- public
 10 records. (1) A person who desires to engage in the practice
 11 of real estate appraisal in this state must make
 12 application, in writing, in such form as the board may
 13 prescribe.

14 (2) The board shall:

15 (a) issue to each licensee a license certificate and
 16 pocket card in such size and form as it may approve which
 17 shall remain the property of the state and, upon suspension
 18 or revocation of the license pursuant to [sections 2 through
 19 19], shall be returned immediately to the board;

20 (b) maintain and keep open to public inspection,
 21 during office hours, a complete indexed record of all
 22 applicants, licenses issued, licenses renewed, licenses
 23 reviewed, and all revocations, cancellations, and
 24 suspensions of licenses.

25 Section 9. License classifications. There are three

1 classifications of licensed real estate appraisers
 2 authorized to engage in appraisal activity within the state:

3 (1) class C--appraisal trainee;

4 (2) class B--residential appraiser; and

5 (3) class A--~~appraiser-consultant~~ GENERAL APPRAISAL.

6 Section 10. Scope of license. A licensed real estate
 7 appraiser is authorized to perform only the following real
 8 estate appraisal assignments:

9 (1) A class C appraisal trainee may assist:

10 (a) a class B licensee in the performance of an
 11 appraisal assignment that is within the scope of a class B
 12 license; and

13 (b) a class A licensee in the performance of an
 14 appraisal assignment that is within the scope of a class A
 15 license.

16 (2) A class B residential appraiser is authorized to
 17 appraise:

18 (a) the fee interest or leasehold interest in
 19 residential property consisting of four or fewer units;

20 (b) the fee interest or leasehold interest in
 21 undeveloped sites zoned for residential property consisting
 22 of four or fewer units.

23 (3) A class A ~~appraiser-consultant~~ GENERAL APPRAISAL
 24 is authorized to appraise all types of real property and
 25 interests therein.

1 Section 11. Qualifications. (1) An applicant is
 2 qualified to receive a class C appraisal license if he is
 3 working under the guidance of a class A or class B licensed
 4 appraiser. In order to renew the class C license, the
 5 applicant must, within 1 year from the date of receiving his
 6 first class C license, successfully complete a course of
 7 study in real estate appraisal principles and practices and
 8 property valuation theory conducted by an accredited
 9 university, college, junior college, or an appraisal
 10 society, institute, or association approved by the board.
 11 The course of study must consist of at least 40 classroom
 12 hours and cover material acceptable to the board.

13 (2) An applicant is qualified to receive a class B
 14 residential appraiser license if he has:

15 (a) a minimum of 2 years' experience as a class C
 16 appraisal trainee;

17 (b) successfully completed an approved course of study
 18 of 40 or more classroom hours consisting of case studies and
 19 drill problems based upon a wide variety of types of
 20 residential property, which facilitates development of
 21 judgment in the residential appraisal process; and

22 (c) successfully completed the residential appraisal
 23 examination provided for in [section 12].

24 (3) An applicant is qualified to receive a class A
 25 appraisal consultant license if he:

1 (a) holds a bachelor's degree from an accredited
 2 university or college with substantial credits in real
 3 estate, law, accounting, economics, or business
 4 administration or its equivalent as determined by the board,
 5 except that this subsection does not apply to an applicant
 6 born on or before December 31, 1956;

7 (b) has 2 years' active experience as a class C
 8 appraisal trainee;

9 (c) has an additional 2 years' experience as a class C
 10 appraisal trainee, or 2 years' experience as a class B
 11 residential appraiser;

12 (d) has successfully completed advanced appraisal
 13 courses of study totaling 80 or more classroom hours in
 14 investment properties, mortgage equity analysis, and
 15 condemnation from an accredited university, college, or
 16 junior college or an appraisal society, institute, or
 17 association approved by the board; and

18 (e) has successfully completed a comprehensive
 19 appraisal consultant examination conducted or authorized by
 20 the board.

21 Section 12. Examinations. (1) The board shall
 22 establish examination requirements and procedures necessary
 23 to protect the public interest.

24 (2) Examinations shall include demonstration of basic
 25 proficiencies and knowledge of the English language and an

1 understanding of real estate law, ethics, and standards of
2 conduct.

3 (3) The class B residential appraiser examination
4 shall test the applicant's knowledge and understanding of
5 principles and practices of real estate appraising, land
6 economics, cost analysis, depreciation theories, market data
7 analysis, narrative report writing, real property law, and
8 real estate appraisal license law.

9 (4) The class A ~~appraiser-consultant~~ GENERAL APPRAISAL
10 examination shall test the applicant's knowledge and
11 understanding of the topics covered in the various courses
12 of study required by [section 11]. In addition, the
13 examination must include at least 3 appraisal problems
14 relating to mortgage equity analysis, marketing finance,
15 capitalization theory, land-use planning, zoning concepts
16 and condemnation laws of the state.

17 (5) The examination may include matters of state and
18 federal law related to the practice of real estate
19 appraisal.

20 (6) An applicant who has failed to pass the
21 examination in 3 or more attempts must successfully complete
22 a course of study of 40 or more classroom hours covering all
23 the topics set forth in [section 11(3)] prior to each
24 subsequent reexamination.

25 (7) The board must conduct or cause to be conducted

1 the comprehensive examinations required by this section at
2 least twice each calendar year.

3 Section 13. Appraisal report requirements. (1) A
4 written or oral appraisal reporting an estimated value must
5 be supported with written documentation or written memoranda
6 that shall include but are not limited to the following:

7 (a) an adequate and definite description of the
8 property being appraised;

9 (b) the purpose of the appraisal and a definition of
10 the value estimated;

11 (c) all facts, assumptions, and conditions upon which
12 the appraisal is based, stated clearly and unequivocally;

13 (d) the effective date of the appraisal;

14 (e) the data and reasoning supporting the value
15 conclusion, which may include the direct sales comparison
16 approach, the income approach, and the cost approach. The
17 exclusion of any of the usual three approaches must be
18 explained and supported.

19 (f) the final estimate of value; and

20 (g) special and limiting conditions, if any.

21 (2) Each appraisal report must contain by the
22 appraiser charged with rendering the valuation which, at the
23 minimum, must certify that:

24 (a) he has no present or contemplated future interest
25 in the real estate that is the subject of the appraisal

1 report;

2 (b) he has no personal interest or bias with respect
3 to the subject matter of the appraisal report or the parties
4 involved. (However, if a statement, as required in
5 subsections (a) and (b) cannot be made, then such appraisal
6 report must contain a clear, frank statement disclosing all
7 such personal interest or bias.)

8 (c) to the best of the appraiser's knowledge and
9 belief, the statements of fact contained in the appraisal
10 report, upon which the analysis, opinions, and conclusions
11 expressed therein are based, are true and correct;

12 (d) he has set forth in the appraisal report all of
13 the limiting conditions (imposed by the terms of the
14 appraiser's assignment or by the appraiser) affecting the
15 analysis, opinions, and conclusions contained in the report;

16 (e) he personally inspected or did not inspect, as the
17 case may be, the subject property;

18 (f) no person other than the undersigned (except as
19 otherwise acknowledged) prepared the analysis, opinions, and
20 conclusions concerning the real estate that are set forth in
21 the appraisal report.

22 (3) If a client requests that something less than a
23 full and complete written appraisal report be prepared by an
24 appraiser, the appraiser may accept such limited assignment,
25 provided that he complies with the following requirements:

1 (a) Prior to accepting such limited assignment, the
2 appraiser must advise his client in writing that the
3 assignment calls for something less than a full and complete
4 appraisal report and that his appraisal report will,
5 therefore, be qualified to reflect the limited scope of the
6 assignment.

7 (b) The limited scope of the appraisal report must be
8 set forth and described in the report in a clear and precise
9 manner.

10 (c) The contents of the appraisal report must not be
11 so limited that the report cannot possibly be meaningful or
12 so limited that the effect would be to mislead the client or
13 the public.

14 (4) For the purpose of [sections 2 through 19], the
15 testimony of an appraiser dealing with the appraiser's
16 analyses, conclusions, or opinions concerning real estate is
17 considered to be the equivalent of an oral appraisal report.
18 Therefore, an appraiser must comply with the specific
19 reporting rules relating to oral appraisal reports whenever
20 the appraiser testifies in a judicial proceeding with
21 respect to any of the appraiser's analyses, conclusions, or
22 opinions concerning real estate.

23 (5) A true copy of each appraisal and analysis shall
24 be prepared and retained by the appraiser for not less than
25 5 years.

1 (6) No person subject to [sections 2 through 19] may
 2 omit, without good cause, any of the above minimum
 3 requirements from any appraisal report transmitted to the
 4 client. If, with good cause, any of the above minimum
 5 requirements are not included in the appraisal report
 6 transmitted to the client, the appraiser shall clearly set
 7 forth within the appraisal report a statement to the effect
 8 that the portion excluded or assumptions made (named
 9 specifically) are included in the appraiser's written
 10 appraisal which has been prepared and retained in the
 11 appraiser's file for this assignment and that said retained
 12 written appraisal is incorporated therein by reference and
 13 is an integral part thereof.

14 Section 14. Nonresident license. (1) A nonresident may
 15 be licensed as a real estate appraiser upon complying with
 16 all the provisions and conditions of [sections 2 through
 17 19].

18 (2) Any person who is licensed to practice real estate
 19 appraising in another state, territory of the United States,
 20 or the District of Columbia, who, in the opinion of the
 21 board, meets the qualifications and requirements for
 22 licensure in this state, shall be entitled to receive a
 23 license upon submission of a duly certified copy of his
 24 license from such other state, territory of the United
 25 States, or the District of Columbia or any other information

1 the board may require and upon payment of the appropriate
 2 fee; provided that the laws of such state, territory, or the
 3 District of Columbia accord equal reciprocal rights to a
 4 licensed real estate appraiser in good standing in this
 5 state who desires to practice his profession in such state,
 6 territory, or the District of Columbia, and provided that no
 7 proceeding is pending against the appraiser under [sections
 8 2 through 19] or is unresolved.

9 (3) In application for a license, all questions of the
 10 academic and experience requirements of other states,
 11 territories, or the District of Columbia shall be determined
 12 by the board, and at the discretion of the board, the
 13 reciprocal or nonresident licensee applicant must comply
 14 with additional requirements specified by the board rules.

15 (4) A nonresident licensee may not be required to
 16 maintain a place of business in this state if he maintains
 17 an active place of business in the state of domicile.

18 Section 15. Renewal of licenses. (1) Each application
 19 for a real estate appraiser license or for the renewal
 20 thereof shall be accompanied by the appropriate fee which
 21 shall be prescribed by the board by rule.

22 (2) If the board determines that an applicant meets
 23 the qualifications and requirements of [sections 2 through
 24 19] and is otherwise qualified for a license, it shall issue
 25 a license to the applicant. Any license or renewal thereof

1 shall remain in effect for 2 years following the date of
2 issuance unless revoked or suspended.

3 (3) Any licensee under [sections 2 through 19] who
4 fails to apply for the renewal of the license and pay the
5 required fee on or before the date of its expiration and who
6 continues or offers to perform the services of a licensed
7 real estate appraiser shall pay, in addition to the
8 prescribed fees, an additional sum as the board shall
9 prescribe by rule for each month or fractional part thereof
10 after the first month such licensee fails to so apply for
11 renewal of license.

12 (4) Any licensee who fails or refuses, after 30 days'
13 written notice from the board to so apply and pay the
14 required fee and all penalties imposed by this section, is
15 practicing without a license.

16 Section 16. Complaints and investigations. The board
17 may, upon its own motion and must upon the written complaint
18 of any aggrieved person, investigate the activities of any
19 person engaged in the practice of real estate appraising.
20 The board may deny, suspend, or revoke a license at any
21 time, after a hearing in accordance with the Montana
22 Administrative Procedure Act, if it finds an applicant or
23 licensee has:

24 (1) purposely made a material misrepresentation in an
25 application filed or obtained license through fraud or

1 misrepresentation;

2 (2) failed to meet the minimum qualifications and
3 requirements of [sections 2 through 19];

4 (3) performed any act in the practice of real estate
5 appraising which constitutes dishonest, fraudulent, or
6 improper conduct;

7 (4) paid money to any person to secure a license other
8 than the fees provided for in [sections 2 through 19];

9 (5) engaged in the business of real estate appraising
10 under an assumed or fictitious name not properly registered
11 in the state of jurisdiction;

12 (6) been convicted of a felony or a crime involving
13 moral turpitude that would affect his qualifications to
14 appraise;

15 (7) been grossly negligent or incompetent in the
16 practice of real estate appraising. The types of error that
17 affect an appraiser's competence and place the appraiser in
18 violation of this provision may be classified as follows:

19 (a) an error of omission or commission which
20 substantially and materially affects the analysis, opinion,
21 or conclusion concerning the real estate which is the
22 subject of an appraisal;

23 (b) a series of errors that, considered individually,
24 do not substantially or materially affect the results of
25 individual appraisal assignments but nevertheless evidence

1 the fact that an appraiser is repeatedly rendering
2 professional services in a careless and negligent manner;

3 (8) permitted his signature to be affixed to any
4 appraisal report if such report was not prepared by
5 applicant or licensee, unless acknowledgment of this is
6 clearly stated in the report;

7 (9) accepted an engagement to appraise a property
8 where employment or fee is contingent upon reporting a
9 predetermined or specified value or is otherwise contingent
10 upon a particular finding to be reported;

11 (10) made the fee or compensation in any case where the
12 amount of an award or recovery would be affected by the
13 appraisal contingent upon the award or recovery;

14 (11) violated any provision of [sections 2 through 19]
15 or any rule adopted by the board;

16 (12) made a false or misleading statement in that
17 portion of a written appraisal report that deals with
18 professional qualifications or in any testimony concerning
19 professional qualifications;

20 (13) received professional assistance, other than that
21 gathered in a normal data research procedure, in arriving at
22 the analyses, opinions, or conclusions concerning real
23 estate contained in an appraisal report signed by the
24 appraiser without acknowledging such fact in the report or
25 without acknowledging by name a party who rendered such

1 assistance unless such party specifically requests that the
2 party's name not be used;

3 (14) signed or cosigned an appraisal report without
4 accepting responsibility for the contents of the entire
5 report;

6 (15) accepted, undertook, and completed a real estate
7 appraisal assignment without having or acquiring the
8 knowledge necessary to complete such assignment completely
9 or making the person for whom the report is made fully aware
10 of his inexperience;

11 (16) rendered professional real estate appraisal
12 services when the applicant or licensee knew or when a
13 reasonable person with the same experience would have
14 concluded that his professional experience with respect to
15 the subject matter of the assignment was insufficient to
16 permit completion of the assignment:

17 (a) without associating with another appraiser who has
18 had such previous experience; or

19 (b) unless applicant or licensee discloses such lack
20 of experience to the client prior to accepting the
21 assignment;

22 (17) contracted for and accepted compensation for
23 appraisal services in the form of commission, rebate,
24 division of brokerage commissions, or any other similar
25 forms;

1 (18) received or paid finder's or referral fees;

2 (19) made any use of advertising media in connection
3 with the real estate appraisal practice except in the manner
4 expressly permitted by the rules of the board;

5 (20) failed to comply with the minimum requirements for
6 an appraisal as set forth in [sections 2 through 19], except
7 as expressly provided for herein;

8 (21) disclosed an appraisal report in its entirety or
9 those portions of a report that contain analyses, opinions,
10 or conclusions concerning the tract or parcel of real estate
11 that is the subject of the report to anyone other than:

12 (a) those persons specifically authorized by the
13 client to receive such information;

14 (b) third parties, when and to the extent that the
15 appraiser is legally required to do so by order of the
16 court; or

17 (22) disclosed confidential factual data which came
18 into the appraiser's possession in the course of an
19 appraisal assignment when such confidential factual data is
20 used in the appraisal report to anyone other than:

21 (a) those persons specifically authorized by the
22 client to receive such information; or

23 (b) third parties, when and to the extent that an
24 individual is legally required to do so by order of the
25 court.

1 Section 17. Revocation without a hearing. Whenever the
2 license to practice real estate appraising of a nonresident
3 licensee is revoked in the state of domicile or a licensee
4 is convicted of a crime for which his license may be
5 revoked, the board may, upon receipt of a duly certified
6 copy of the official record of such revocation or conviction
7 and after notice to the licensee, revoke the license of such
8 licensee without a hearing. Whenever the license of a
9 nonresident is suspended or revoked in this state, the board
10 shall notify the licensing authority in the state of
11 domicile of licensee of such suspension or revocation.

12 Section 18. Place of business -- license to be
13 displayed -- change of address. Every resident licensee
14 shall maintain a place of business in this state and shall
15 conspicuously display his license therein. Notice in writing
16 shall be given to the board by each licensee of any change
17 of principal business location, whereupon the board shall
18 issue a new license for the unexpired term.

19 Section 19. Penalty. Any person who violates any
20 provision of [sections 2 through 19] is guilty of a
21 misdemeanor and upon conviction may be imprisoned in the
22 county jail not to exceed 6 months or fined not to exceed
23 \$500, or both.

24 ~~SECTION 20. IMPLEMENTATION.~~ For a period of 6 months
25 following the effective date of sections 2 through 19, the

1 board shall waive the requirements set forth in sections 2
2 through 19 under sections establishing classifications in
3 the case of any applicant who holds a designation in a
4 recognized professional appraisal organization, whose
5 requirements, in the opinion of the board, meet the
6 standards as set forth in sections 2 through 19. The board
7 may further waive the requirements under sections 2 through
8 19 for any appraiser who submits, under oath, satisfactory
9 evidence of at least 5 years of appraisal experience
10 acceptable to the board in those classifications for which
11 the waiver is applied.

12 Section 21. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

-End-

1 STATEMENT OF INTENT RE: HB 793
2
3

4 A statement of intent is required for House Bill 793 in
5 that it delegates rulemaking authority to the Board of Real
6 Estate Appraisers in section 4.

7 1. In subsection (3) of section 4 the Board of Real
8 Estate Appraisers delegated the power to promulgate rules
9 relating to the board's organization, the term of its
10 officers, examinations, and all other matters requisite to
11 the exercise of its powers, the performance of its duties,
12 and transaction of its business under the provisions of
13 House Bill 793.

14 2. Specifically, the board's power to promulgate rules
15 shall be limited to the following areas:

16 (a) applications and licensing procedures;

17 (b) the board's organization, including the length of
18 terms of the officers;

19 (c) violations of the act;

20 (d) hearings necessary to carry out the provisions of
21 this act;

22 (e) substantive requirements for licensing, including
23 rules relating to the format and substance of the
24 comprehensive examinations required under this act;

25 (f) license renewal; and

1 (g) complaints and investigations of any aggrieved
2 person, including rules relating to the suspension,
3 revocation, or denial of a license in accordance with the
4 provisions of House Bill 793.

5 3. As stated in House Bill 793, any rule promulgated
6 by the board is subject to the provisions of the Montana
7 Administrative Procedure Act.

8 4. The intent underlying this bill is to establish a
9 board to regulate practices of real estate appraisal and to
10 protect and safeguard the interests of the public.

11 First adopted by the HOUSE COMMITTEE ON BUSINESS AND
12 INDUSTRY on February 19, 1979.

HB 793

HOUSE BILL NO. 793
INTRODUCED BY FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE PRACTICE OF REAL ESTATE APPRAISING; ESTABLISHING A REAL ESTATE APPRAISAL BOARD; AND DEFINING ITS POWERS AND DUTIES."

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

Section 1. Board of real estate appraisers. (1) There is a board of real estate appraisers.

(2) The board consists of five members appointed by the governor with the consent of the senate from a list of nominees submitted by the professional appraisal organizations in the state. Each member must be a resident of the state and a qualified real estate appraiser who has engaged in the general practice of real estate appraising for at least 10 5 years.

(3) Each member shall serve for a term of 3 years, except as provided in [section 3]. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled in the same manner as original appointments. The governor may remove a member for misconduct, incompetency, neglect of duty, or for any other sufficient cause.

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

Section 2. Definitions. As used in [sections 2 through 19], the following definitions apply:

(1) "Board" means the board of real estate appraisers provided for in [section 2].

(2) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(3) "Appraisal activity" means any activities performed or offered for compensation or with the expectation of receiving compensation by a person who advises, consults, or prepares analyses with respect to real estate values, uses, sales, developments, or dispositions (including dispositions through eminent domain) or who renders opinions relevant to the marketability of real estate.

(4) "Real estate appraisal" means the act or process of estimating values or the giving of opinions concerning the value of real estate or any interest therein for a fee or other compensation.

(5) "Real estate appraiser" means a person who engages in the practice of real estate appraising or who advertises or offers such services to the general public.

Section 3. Initial appointments. Initially, one member

NO.	HDR	SUBJECT	REFERRED TO	NO.	AUTHOR	SUBJECT	REFERRED TO
		AS AGENTS OF THE STATE				MENT AND F ENSIC SCIENCE.	GOVENOR 2/3
22	WATT, JERGESON	REVISE LOCAL GOV'T FINANCE LAWS	TAXATION HEARING 1 13 79	39	HAZELBAKER, ET.AL.	REVISE LAWS ABOUT TRADE AND COMMERCE.	HOUSE BUSINESS & INDUSTRY
23	JERGESON, WATT	REVISE LOCAL GOV'T LAWS FOR CONSISTENCY W/ S.B.'S 11-22	LOCAL GOV'T.	40	BOYLAN,ET.AL	REVISE LAWS ABOUT WATER USE.	HOUSE SELECT COMM. ON WATER
24	STORY	AMEND LAW ABOUT EMPLOYMENT OF ASSISTANTS TO INSURANCE COMM.	SIGNED BY GOV. 1/30/79	41	S. BROWN	REVISE LAWS ABOUT JUDICIARY AND COURTS.	GOV. SGND. 2/13/79
25	GALT	REVISE LAWS ABOUT ALCOHOL.	SIGNED BY GOV. 1/30/79	42	DOVER	CREAT RID'S & SID'S FOR DEVLPMNT OF PUBLIC PARKS	TAXATION HEARING 1/19/79
26	GALT	INCREASE THE FEE FOR DUPLICATE LICENSES.	RETURNED TO SENATE 1/19/79	43	DOVER	PROVIDE FOR ISSUANCE OF INDUST DEVELOP BONDS TO FINANCE H2O SUPPLY & DISTRIB SERV AND SEWAGE TREAT FOR RESDNTRL OR COMMRL SUBOVSN	TAXATION HEARING 1/19/79
27	LENSINK,ANDERSON	PERMIT ALL LICENSED TITLE INSURANCE POLICIES. HEARING 1-12	JUDICIARY	44	DOVER	MODIFY REQ. FOR DEDCTN OF PARK- LAND FOR SUBDIVISIONS	3RD RDNG.2/23
28	STORY	GRANTS FROM APPROPRIATION FOR SOLID WASTE MANAGEMENT PROJECT NEED NOT BE REPAID.	HOUSE STATE ADMIN.	45	HIMSL, ET.AL.	REVISE LAWS ABOUT PROFESSIONAL AND OCCUPATIONAL LICENSING.	GOV. SGND. 2/13/79
29	HAFFERMAN, LOWE	DELETE REFERENCE TO CERTIFICATE ISSUED UNDER A REPEALED SECTION.	H. POSTPONED UNTIL DAY CERTAIN	46	ROSKIE	REVISE LAWS ABOUT STATE FINANCE.	HOUSE TAXATION
30	NO SPONSOR	NOT INTRODUCED		47	LOCKREM ET AL	CLARIFY,REVISE AND STANDARDIZE LAWS RELATING TO BUILDING CODES ELECTRICAL,PLUMBING,AND MECHANICAL CODES;TO ADOPT A UNIFORM BUILDING CODE AND TRANSFERING ENFORCEMENT TO LOCAL GOV'T.	2ND RDNG 2/22
31	TOME, E SMITH	PROVIDE FOR 7 MEMBER FISH & AND GAME COMMISSION	KILLED 1/26	48	RYAN	PERMIT GOVERNOR TO DESIGNATE AN INTERSTATE COORDINATOR FOR THE WESTERN INTERSTATE CORRECTIONS COMPACT.	RETURNED TO SENATE 2/2
32	MATHERS	REVISE LAWS @ GOVRN OF COMMNTY COLLEGE DISTRICTS.	HOUSE EDUCATION	49	PETERSON	REVISE LAW ABOUT FIRE DEP'T PENSION FUNDS IN OTHER THAN FIRST AND SECOND CLASS CITIES	HOUSE LOCAL GOVERNMENT
33	VAN VALKENBURG	REVISE LAWS ABOUT REMEDIES.	SIGNED BY GOVERNOR 2/9/79	50	TURNAGE	SIMPLIFY DISPOSITION OF FUEL PERMIT FEE.	HOUSE TAXATION
34	THOMAS, MCCALLUM	REVISE QUALIFICATION LAWS FOR MUNICIPALITY COMMISSIONER, MAYOR AND ALDERMAN.	HOUSE LOCAL GOVERNMENT	51	O'HARA	AMEND LAWS ABOUT SALE TO ORIGINAL OWNER OF INTERESTS IN REAL PROPERTY HELD BY DEP'T OF HIGHWAYS.	KILLED
35	ANDERSON	PERMIT RESIDENTS REACHING 12 YEARS OF AGE BEFORE SEPT.15 TO GET PERMITS.	HOUSE FISH & GAME				
36	NO SPONSOR	NOT INTRODUCED					
37	LENSINK	REVISE LAWS ABOUT EVIDENCE.	JUDICIARY				
38	STORY	REVISE LAWS ABOUT LAW ENFORCE-	SIGNED BY				

1 prospective sale. However, in no event may this opinion be
 2 referred to or construed as an appraisal, nor may any
 3 compensation, fee, or consideration be charged for the
 4 opinion other than the normal commission or fee for service
 5 rendered in the sale of the real property involved.

6 Section 7. License required. No person may engage in
 7 appraisal activity without first obtaining a real estate
 8 appraiser license as provided in [sections 2 through 19].

9 Section 8. Application -- certificate -- public
 10 records. (1) A person who desires to engage in the practice
 11 of real estate appraisal in this state must make
 12 application, in writing, in such form as the board may
 13 prescribe.

14 (2) The board shall:

15 (a) issue to each licensee a license certificate and
 16 pocket card in such size and form as it may approve which
 17 shall remain the property of the state and, upon suspension
 18 or revocation of the license pursuant to [sections 2 through
 19 19], shall be returned immediately to the board;

20 (b) maintain and keep open to public inspection,
 21 during office hours, a complete indexed record of all
 22 applicants, licenses issued, licenses renewed, licenses
 23 reviewed, and all revocations, cancellations, and
 24 suspensions of licenses.

25 Section 9. License classifications. There are three

1 classifications of licensed real estate appraisers
 2 authorized to engage in appraisal activity within the state:

- 3 (1) class C--appraisal trainee;
- 4 (2) class B--residential appraiser; and
- 5 (3) class A--~~appraiser-consultant~~ GENERAL APPRAISAL.

6 Section 10. Scope of license. A licensed real estate
 7 appraiser is authorized to perform only the following real
 8 estate appraisal assignments:

9 (1) A class C appraisal trainee may assist:

10 (a) a class B licensee in the performance of an
 11 appraisal assignment that is within the scope of a class B
 12 license; and

13 (b) a class A licensee in the performance of an
 14 appraisal assignment that is within the scope of a class A
 15 license.

16 (2) A class B residential appraiser is authorized to
 17 appraise:

18 (a) the fee interest or leasehold interest in
 19 residential property consisting of four or fewer units;

20 (b) the fee interest or leasehold interest in
 21 undeveloped sites zoned for residential property consisting
 22 of four or fewer units.

23 (3) A class A ~~appraiser-consultant~~ GENERAL APPRAISAL
 24 is authorized to appraise all types of real property and
 25 interests therein.

1 Section 11. Qualifications. (1) An applicant is
 2 qualified to receive a class C appraisal license if he is
 3 working under the guidance of a class A or class B licensed
 4 appraiser. In order to renew the class C license, the
 5 applicant must, within 1 year from the date of receiving his
 6 first class C license, successfully complete a course of
 7 study in real estate appraisal principles and practices and
 8 property valuation theory conducted by an accredited
 9 university, college, junior college, or an appraisal
 10 society, institute, or association approved by the board.
 11 The course of study must consist of at least 40 classroom
 12 hours and cover material acceptable to the board.

13 (2) An applicant is qualified to receive a class B
 14 residential appraiser license if he has:

15 (a) a minimum of 2 years' experience as a class C
 16 appraisal trainee;

17 (b) successfully completed an approved course of study
 18 of 40 or more classroom hours consisting of case studies and
 19 drill problems based upon a wide variety of types of
 20 residential property, which facilitates development of
 21 judgment in the residential appraisal process; and

22 (c) successfully completed the residential appraisal
 23 examination provided for in [section 12].

24 (3) An applicant is qualified to receive a class A
 25 appraisal consultant license if he:

1 (a) holds a bachelor's degree from an accredited
 2 university or college with substantial credits in real
 3 estate, law, accounting, economics, or business
 4 administration or its equivalent as determined by the board,
 5 except that this subsection does not apply to an applicant
 6 born on or before December 31, 1956;

7 (b) has 2 years' active experience as a class C
 8 appraisal trainee;

9 (c) has an additional 2 years' experience as a class C
 10 appraisal trainee, or 2 years' experience as a class B
 11 residential appraiser;

12 (d) has successfully completed advanced appraisal
 13 courses of study totaling 80 or more classroom hours in
 14 investment properties, mortgage equity analysis, and
 15 condemnation from an accredited university, college, or
 16 junior college or an appraisal society, institute, or
 17 association approved by the board; and

18 (e) has successfully completed a comprehensive
 19 appraisal consultant examination conducted or authorized by
 20 the board.

21 Section 12. Examinations. (1) The board shall
 22 establish examination requirements and procedures necessary
 23 to protect the public interest.

24 (2) Examinations shall include demonstration of basic
 25 proficiencies and knowledge of the English language and an

1 understanding of real estate law, ethics, and standards of
2 conduct.

3 (3) The class B residential appraiser examination
4 shall test the applicant's knowledge and understanding of
5 principles and practices of real estate appraising, land
6 economics, cost analysis, depreciation theories, market data
7 analysis, narrative report writing, real property law, and
8 real estate appraisal license law.

9 (4) The class A ~~appraiser-consultant~~ GENERAL APPRAISAL
10 examination shall test the applicant's knowledge and
11 understanding of the topics covered in the various courses
12 of study required by [section 11]. In addition, the
13 examination must include at least 3 appraisal problems
14 relating to mortgage equity analysis, marketing finance,
15 capitalization theory, land-use planning, zoning concepts
16 and condemnation laws of the state.

17 (5) The examination may include matters of state and
18 federal law related to the practice of real estate
19 appraisal.

20 (6) An applicant who has failed to pass the
21 examination in 3 or more attempts must successfully complete
22 a course of study of 40 or more classroom hours covering all
23 the topics set forth in [section 11(3)] prior to each
24 subsequent reexamination.

25 (7) The board must conduct or cause to be conducted

1 the comprehensive examinations required by this section at
2 least twice each calendar year.

3 Section 13. Appraisal report requirements. (1) A
4 written or oral appraisal reporting an estimated value must
5 be supported with written documentation or written memoranda
6 that shall include but are not limited to the following:

7 (a) an adequate and definite description of the
8 property being appraised;

9 (b) the purpose of the appraisal and a definition of
10 the value estimated;

11 (c) all facts, assumptions, and conditions upon which
12 the appraisal is based, stated clearly and unequivocally;

13 (d) the effective date of the appraisal;

14 (e) the data and reasoning supporting the value
15 conclusion, which may include the direct sales comparison
16 approach, the income approach, and the cost approach. The
17 exclusion of any of the usual three approaches must be
18 explained and supported.

19 (f) the final estimate of value; and

20 (g) special and limiting conditions, if any.

21 (2) Each appraisal report must contain by the
22 appraiser charged with rendering the valuation which, at the
23 minimum, must certify that:

24 (a) he has no present or contemplated future interest
25 in the real estate that is the subject of the appraisal

1 report;

2 (b) he has no personal interest or bias with respect

3 to the subject matter of the appraisal report or the parties

4 involved. (However, if a statement, as required in

5 subsections (a) and (b) cannot be made, then such appraisal

6 report must contain a clear, frank statement disclosing all

7 such personal interest or bias.)

8 (c) to the best of the appraiser's knowledge and

9 belief, the statements of fact contained in the appraisal

10 report, upon which the analysis, opinions, and conclusions

11 expressed therein are based, are true and correct;

12 (d) he has set forth in the appraisal report all of

13 the limiting conditions (imposed by the terms of the

14 appraiser's assignment or by the appraiser) affecting the

15 analysis, opinions, and conclusions contained in the report;

16 (e) he personally inspected or did not inspect, as the

17 case may be, the subject property;

18 (f) no person other than the undersigned (except as

19 otherwise acknowledged) prepared the analysis, opinions, and

20 conclusions concerning the real estate that are set forth in

21 the appraisal report.

22 (3) If a client requests that something less than a

23 full and complete written appraisal report be prepared by an

24 appraiser, the appraiser may accept such limited assignment,

25 provided that he complies with the following requirements:

1 (a) Prior to accepting such limited assignment, the

2 appraiser must advise his client in writing that the

3 assignment calls for something less than a full and complete

4 appraisal report and that his appraisal report will,

5 therefore, be qualified to reflect the limited scope of the

6 assignment.

7 (b) The limited scope of the appraisal report must be

8 set forth and described in the report in a clear and precise

9 manner.

10 (c) The contents of the appraisal report must not be

11 so limited that the report cannot possibly be meaningful or

12 so limited that the effect would be to mislead the client or

13 the public.

14 (4) For the purpose of [sections 2 through 19], the

15 testimony of an appraiser dealing with the appraiser's

16 analyses, conclusions, or opinions concerning real estate is

17 considered to be the equivalent of an oral appraisal report.

18 Therefore, an appraiser must comply with the specific

19 reporting rules relating to oral appraisal reports whenever

20 the appraiser testifies in a judicial proceeding with

21 respect to any of the appraiser's analyses, conclusions, or

22 opinions concerning real estate.

23 (5) A true copy of each appraisal and analysis shall

24 be prepared and retained by the appraiser for not less than

25 5 years.

1 (6) No person subject to [sections 2 through 19] may
 2 omit, without good cause, any of the above minimum
 3 requirements from any appraisal report transmitted to the
 4 client. If, with good cause, any of the above minimum
 5 requirements are not included in the appraisal report
 6 transmitted to the client, the appraiser shall clearly set
 7 forth within the appraisal report a statement to the effect
 8 that the portion excluded or assumptions made (named
 9 specifically) are included in the appraiser's written
 10 appraisal which has been prepared and retained in the
 11 appraiser's file for this assignment and that said retained
 12 written appraisal is incorporated therein by reference and
 13 is an integral part thereof.

14 Section 14. Nonresident license. (1) A nonresident may
 15 be licensed as a real estate appraiser upon complying with
 16 all the provisions and conditions of [sections 2 through
 17 19].

18 (2) Any person who is licensed to practice real estate
 19 appraising in another state, territory of the United States,
 20 or the District of Columbia, who, in the opinion of the
 21 board, meets the qualifications and requirements for
 22 licensure in this state, shall be entitled to receive a
 23 license upon submission of a duly certified copy of his
 24 license from such other state, territory of the United
 25 States, or the District of Columbia or any other information

1 the board may require and upon payment of the appropriate
 2 fee; provided that the laws of such state, territory, or the
 3 District of Columbia accord equal reciprocal rights to a
 4 licensed real estate appraiser in good standing in this
 5 state who desires to practice his profession in such state,
 6 territory, or the District of Columbia, and provided that no
 7 proceeding is pending against the appraiser under [sections
 8 2 through 19] or is unresolved.

9 (3) In application for a license, all questions of the
 10 academic and experience requirements of other states,
 11 territories, or the District of Columbia shall be determined
 12 by the board, and at the discretion of the board, the
 13 reciprocal or nonresident licensee applicant must comply
 14 with additional requirements specified by the board rules.

15 (4) A nonresident licensee may not be required to
 16 maintain a place of business in this state if he maintains
 17 an active place of business in the state of domicile.

18 Section 15. Renewal of licenses. (1) Each application
 19 for a real estate appraiser license or for the renewal
 20 thereof shall be accompanied by the appropriate fee which
 21 shall be prescribed by the board by rule.

22 (2) If the board determines that an applicant meets
 23 the qualifications and requirements of [sections 2 through
 24 19] and is otherwise qualified for a license, it shall issue
 25 a license to the applicant. Any license or renewal thereof

1 shall remain in effect for 2 years following the date of
2 issuance unless revoked or suspended.

3 (3) Any licensee under [sections 2 through 19] who
4 fails to apply for the renewal of the license and pay the
5 required fee on or before the date of its expiration and who
6 continues or offers to perform the services of a licensed
7 real estate appraiser shall pay, in addition to the
8 prescribed fees, an additional sum as the board shall
9 prescribe by rule for each month or fractional part thereof
10 after the first month such licensee fails to so apply for
11 renewal of license.

12 (4) Any licensee who fails or refuses, after 30 days'
13 written notice from the board to so apply and pay the
14 required fee and all penalties imposed by this section, is
15 practicing without a license.

16 Section 16. Complaints and investigations. The board
17 may, upon its own motion and must upon the written complaint
18 of any aggrieved person, investigate the activities of any
19 person engaged in the practice of real estate appraising.
20 The board may deny, suspend, or revoke a license at any
21 time, after a hearing in accordance with the Montana
22 Administrative Procedure Act, if it finds an applicant or
23 licensee has:

24 (1) purposely made a material misrepresentation in an
25 application filed or obtained license through fraud or

1 misrepresentation;

2 (2) failed to meet the minimum qualifications and
3 requirements of [sections 2 through 19];

4 (3) performed any act in the practice of real estate
5 appraising which constitutes dishonest, fraudulent, or
6 improper conduct;

7 (4) paid money to any person to secure a license other
8 than the fees provided for in [sections 2 through 19];

9 (5) engaged in the business of real estate appraising
10 under an assumed or fictitious name not properly registered
11 in the state of jurisdiction;

12 (6) been convicted of a felony or a crime involving
13 moral turpitude that would affect his qualifications to
14 appraise;

15 (7) been grossly negligent or incompetent in the
16 practice of real estate appraising. The types of error that
17 affect an appraiser's competence and place the appraiser in
18 violation of this provision may be classified as follows:

19 (a) an error of omission or commission which
20 substantially and materially affects the analysis, opinion,
21 or conclusion concerning the real estate which is the
22 subject of an appraisal;

23 (b) a series of errors that, considered individually,
24 do not substantially or materially affect the results of
25 individual appraisal assignments but nevertheless evidence

1 the fact that an appraiser is repeatedly rendering
 2 professional services in a careless and negligent manner;

3 (8) permitted his signature to be affixed to any
 4 appraisal report if such report was not prepared by
 5 applicant or licensee, unless acknowledgment of this is
 6 clearly stated in the report;

7 (9) accepted an engagement to appraise a property
 8 where employment or fee is contingent upon reporting a
 9 predetermined or specified value or is otherwise contingent
 10 upon a particular finding to be reported;

11 (10) made the fee or compensation in any case where the
 12 amount of an award or recovery would be affected by the
 13 appraisal contingent upon the award or recovery;

14 (11) violated any provision of [sections 2 through 19]
 15 or any rule adopted by the board;

16 (12) made a false or misleading statement in that
 17 portion of a written appraisal report that deals with
 18 professional qualifications or in any testimony concerning
 19 professional qualifications;

20 (13) received professional assistance, other than that
 21 gathered in a normal data research procedure, in arriving at
 22 the analyses, opinions, or conclusions concerning real
 23 estate contained in an appraisal report signed by the
 24 appraiser without acknowledging such fact in the report or
 25 without acknowledging by name a party who rendered such

1 assistance unless such party specifically requests that the
 2 party's name not be used;

3 (14) signed or cosigned an appraisal report without
 4 accepting responsibility for the contents of the entire
 5 report;

6 (15) accepted, undertook, and completed a real estate
 7 appraisal assignment without having or acquiring the
 8 knowledge necessary to complete such assignment completely
 9 or making the person for whom the report is made fully aware
 10 of his inexperience;

11 (16) rendered professional real estate appraisal
 12 services when the applicant or licensee knew or when a
 13 reasonable person with the same experience would have
 14 concluded that his professional experience with respect to
 15 the subject matter of the assignment was insufficient to
 16 permit completion of the assignment;

17 (a) without associating with another appraiser who has
 18 had such previous experience; or

19 (b) unless applicant or licensee discloses such lack
 20 of experience to the client prior to accepting the
 21 assignment;

22 (17) contracted for and accepted compensation for
 23 appraisal services in the form of commission, rebate,
 24 division of brokerage commissions, or any other similar
 25 forms;

1 (18) received or paid finder's or referral fees;
 2 (19) made any use of advertising media in connection
 3 with the real estate appraisal practice except in the manner
 4 expressly permitted by the rules of the board;

5 (20) failed to comply with the minimum requirements for
 6 an appraisal as set forth in [sections 2 through 19], except
 7 as expressly provided for herein;

8 (21) disclosed an appraisal report in its entirety or
 9 those portions of a report that contain analyses, opinions,
 10 or conclusions concerning the tract or parcel of real estate
 11 that is the subject of the report to anyone other than:

12 (a) those persons specifically authorized by the
 13 client to receive such information;

14 (b) third parties, when and to the extent that the
 15 appraiser is legally required to do so by order of the
 16 court; or

17 (22) disclosed confidential factual data which came
 18 into the appraiser's possession in the course of an
 19 appraisal assignment when such confidential factual data is
 20 used in the appraisal report to anyone other than:

21 (a) those persons specifically authorized by the
 22 client to receive such information; or

23 (b) third parties, when and to the extent that an
 24 individual is legally required to do so by order of the
 25 court.

1 Section 17. Revocation without a hearing. Whenever the
 2 license to practice real estate appraising of a nonresident
 3 licensee is revoked in the state of domicile or a licensee
 4 is convicted of a crime for which his license may be
 5 revoked, the board may, upon receipt of a duly certified
 6 copy of the official record of such revocation or conviction
 7 and after notice to the licensee, revoke the license of such
 8 licensee without a hearing. Whenever the license of a
 9 nonresident is suspended or revoked in this state, the board
 10 shall notify the licensing authority in the state of
 11 domicile of licensee of such suspension or revocation.

12 Section 18. Place of business -- license to be
 13 displayed -- change of address. Every resident licensee
 14 shall maintain a place of business in this state and shall
 15 conspicuously display his license therein. Notice in writing
 16 shall be given to the board by each licensee of any change
 17 of principal business location, whereupon the board shall
 18 issue a new license for the unexpired term.

19 Section 19. Penalty. Any person who violates any
 20 provision of [sections 2 through 19] is guilty of a
 21 misdemeanor and upon conviction may be imprisoned in the
 22 county jail not to exceed 6 months or fined not to exceed
 23 \$500, or both.

24 SECTION 20. IMPLEMENTATION. For a period of 6 months
 25 following the effective date of sections 2 through 19, the

1 board shall waive the requirements set forth in sections 2
2 through 19 under sections establishing classifications in
3 the case of any applicant who holds a designation in a
4 recognized professional appraisal organization, whose
5 requirements, in the opinion of the board, meet the
6 standards as set forth in sections 2 through 19. The board
7 may further waive the requirements under sections 2 through
8 19 for any appraiser who submits, under oath, satisfactory
9 evidence of at least 5 years of appraisal experience
10 acceptable to the board in those classifications for which
11 the waiver is applied.

12 Section 21. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

-End-

HOUSE BILL NO. 793

INTRODUCED BY FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE PRACTICE OF REAL ESTATE APPRAISING; ESTABLISHING A REAL ESTATE APPRAISAL BOARD; AND DEFINING ITS POWERS AND DUTIES."

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

Section 1. Board of real estate appraisers. (1) There is a board of real estate appraisers.

(2) The board consists of five members appointed by the governor with the consent of the senate from a list of nominees submitted by the professional appraisal organizations in the state. Each member must be a resident of the state and a qualified real estate appraiser who has engaged in the general practice of real estate appraising for at least 10 1/2 years.

(3) Each member shall serve for a term of 3 years, except as provided in [section 3]. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled in the same manner as original appointments. The governor may remove a member for misconduct, incompetency, neglect of duty, or for any other sufficient cause.

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

Section 2. Definitions. As used in [sections 2 through 19], the following definitions apply:

(1) "Board" means the board of real estate appraisers provided for in [section 2].

(2) "Department" means the department of professional and occupational licensing provided for in Title 2, chapter 15, part 16.

(3) "Appraisal activity" means any activities performed or offered for compensation or with the expectation of receiving compensation by a person who advises, consults, or prepares analyses with respect to real estate values, uses, sales, developments, or dispositions (including dispositions through eminent domain) or who renders opinions relevant to the marketability of real estate.

(4) "Real estate appraisal" means the act or process of estimating values or the giving of opinions concerning the value of real estate or any interest therein for a fee or other compensation.

(5) "Real estate appraiser" means a person who engages in the practice of real estate appraising or who advertises or offers such services to the general public.

Section 3. Initial appointments. Initially, one member

1 of the board shall be appointed for 1 year, two members for
 2 2 years, and three members for 3-year terms to insure
 3 staggered terms. Thereafter all members shall be appointed
 4 for a full 3-year term as provided in [section 2].

5 Section 4. Quorum -- rules -- officers --
 6 compensation. (1) A majority of the members of the board
 7 constitutes a quorum.

8 (2) The affirmative vote of a majority of the board is
 9 required to revoke, suspend, or deny a license.

10 (3) The board shall adopt rules in accordance with the
 11 Montana Administrative Procedure Act to govern times and
 12 places of of its meeting for organization, the length of
 13 terms of the officers; the holding of examinations; and all
 14 other matters requisite to the exercise of its powers, the
 15 performance of its duties, and the transaction of its
 16 business under the provisions of [sections 2 through 19].

17 (4) The board shall elect a chairman and a
 18 secretary-treasurer.

19 (5) Board members may be compensated as determined by
 20 the board but not to exceed \$25 a day for official business.
 21 Board members shall be reimbursed for their travel expenses,
 22 as provided in 2-18-501 through 2-18-503, as amended,
 23 incurred while on official business of the board.

24 Section 5. Powers and duties. The board shall:

25 (1) receive applications for and issue licenses to

1 real estate appraisers pursuant to the provisions of
 2 [sections 2 through 19];

3 (2) hold meetings and hearings in such places and at
 4 such times as it designates;

5 (3) meet at least 2 times or more each year on the
 6 call of the chairman or when the chairman is requested to do
 7 so by any two or more members of the board;

8 (4) keep a record of its proceedings and a complete
 9 roster of all persons licensed by it and entitled to
 10 practice such profession in the state;

11 (5) investigate any violations of the provisions of
 12 [sections 2 through 19] or rules adopted by the board
 13 pursuant to [sections 2 through 19] and hold hearings and
 14 take testimony on any alleged violations of [sections 2
 15 through 19];

16 (6) promote research or conduct studies relative to
 17 the profession of real estate appraising;

18 (7) grant scholarships to worthy students studying in
 19 preparation for the profession of real estate valuation; and

20 (8) do all other things necessary to carry out the
 21 provisions of [sections 2 through 19].

22 Section 6. Exemptions. [Sections 2 through 19] do not
 23 apply to real estate brokers or salesmen licensed by the
 24 state who, in the ordinary course of business, give an
 25 opinion of the value of real estate for the purpose of a