

HB 473 INTRODUCED BY BRANDEWIE
LICENSE AND REGULATE REAL ESTATE PROPERTY MANAGEMENT
BROKERS
BY REQUEST OF BOARD OF REALTY REGULATION

1/26	INTRODUCED		
1/26	REFERRED TO BUSINESS & LABOR		
1/27	FISCAL NOTE REQUESTED		
2/02	FISCAL NOTE RECEIVED		
2/09	HEARING		
2/09	COMMITTEE REPORT--BILL PASSED		
2/11	2ND READING PASSED	66	29
	TRANSMITTED TO SENATE		
2/13	REFERRED TO BUSINESS & INDUSTRY		
3/13	HEARING		
3/16	COMMITTEE REPORT--BILL CONCURRED		
3/19	2ND READING NOT CONCURRED AS AMENDED	46	4
3/19	2ND READING INDEFINITELY POSTPONED	36	14
3/20	RETURNED TO HOUSE NOT CONCURRED		

1 part by the franchisor;

2 (b) the operation of the franchisee's business is
3 substantially associated with the franchisor's trademark,
4 trade name, logotype, or other commercial symbol or
5 advertising designating the franchisor; and

6 (c) the franchisee is required to pay, directly or
7 indirectly, a fee for the right to operate under the
8 agreement.

9 (8) "Person" includes individuals, partnerships,
10 associations, and corporations, foreign and domestic, except
11 that when referring to a person licensed under this chapter,
12 it means an individual.

13 (9) "Property management broker" means an individual
14 who for another:

15 (a) or for a fee, commission, or other valuable
16 consideration, or with the intent or expectation of
17 receiving the same, negotiates or attempts to negotiate the
18 rental or lease of real estate or the improvements thereon;
19 or

20 (b) collects or attempts to collect rent or maintains
21 or manages real estate and accounts for a fee.

22 ~~(9)~~(10) "Real estate" includes leaseholds as well as
23 any other interest or estate in land, whether corporeal,
24 incorporeal, freehold, or nonfreehold and whether the real
25 estate is situated in this state or elsewhere.

1 ~~(10)~~(11) "Salesman" includes an individual who for a
2 salary, commission, or compensation of any kind is
3 associated, either directly, indirectly, regularly, or
4 occasionally, with a real estate broker to sell, purchase,
5 or negotiate for the sale, purchase, exchange, or renting of
6 real estate."

7 Section 2. Section 37-51-301, MCA, is amended to read:

8 "37-51-301. License required -- limited to persons.

9 (1) It is unlawful for a person to engage in or conduct,
10 directly or indirectly, or to advertise or hold himself out
11 as engaging in or conducting the business or acting in the
12 capacity of a real estate broker, or a real estate salesman,
13 or property management broker within this state without a
14 license ~~as a broker or salesman~~ or otherwise complying with
15 this chapter.

16 (2) Corporations, partnerships, and associations may
17 not be licensed under this chapter. A corporation or a
18 partnership may act as a real estate broker if every
19 corporate officer and every partner performing the functions
20 of a "broker", as defined in 37-51-102~~(2)~~, is licensed as a
21 broker. All officers of a corporation or all members of a
22 partnership acting as a broker are in violation of this
23 chapter unless there is full compliance with this
24 subsection."

25 Section 3. Section 37-51-302, MCA, is amended to read:

1 "37-51-302. ~~Broker--or--salesman--license~~ License --
 2 qualifications of applicant. (1) (a) Licenses may be granted
 3 only to individuals considered by the board to be of good
 4 repute and competent to transact the business of a broker,
 5 or salesman, or property management broker in a manner as to
 6 safeguard the interests of the public.

7 (b) The board shall require information it considers
 8 necessary from an applicant to determine his honesty, trust
 9 worthiness, and competency.

10 (2) An applicant for a broker's license shall:

11 (a) be at least 18 years of age;

12 (b) have graduated from an accredited high school or
 13 completed an equivalent education as determined by the
 14 board;

15 (c) have been actively engaged as a licensed real
 16 estate salesman for a period of 2 years or have had
 17 experience or special education equivalent to that which a
 18 licensed real estate salesman ordinarily would receive
 19 during this 2-year period as determined by the board, except
 20 that if the board finds that an applicant could not obtain
 21 employment as a licensed real estate salesman because of
 22 conditions existing in the area where he resides, the board
 23 may waive this experience requirement;

24 (d) file an application for license with the
 25 department; and

1 (e) furnish written evidence that he has completed 60
 2 classroom or equivalent hours (in addition to those required
 3 to secure a salesman's license) in a course of study
 4 approved by the board and taught by instructors approved by
 5 the board and has satisfactorily passed an examination
 6 dealing with the material taught in each course. The course
 7 of study must include the subjects of real estate
 8 principles, real estate law, real estate finance, and
 9 related topics.

10 ~~(3)--The--board--shall--require--information--it--considers~~
 11 ~~necessary--from--an--applicant--to--determine--his--honesty,~~
 12 ~~trustworthiness,--and--competency.~~

13 ~~(4)(3)~~ (a) An applicant for a salesman's license
 14 shall:

15 (i) be at least 18 years of age;

16 (ii) have received credit for completion of 2 years of
 17 full curriculum study at an accredited high school or
 18 completed an equivalent education as determined by the
 19 board;

20 (iii) file an application for license with the
 21 department; and

22 (iv) furnish written evidence that he has completed 60
 23 classroom or equivalent hours in a course of study approved
 24 by the board and taught by instructors approved by the board
 25 and has satisfactorily passed an examination dealing with

1 the material taught in each course. The course of study must
2 include the subjects of real estate principles, real estate
3 law and ethics, real estate finance, and related topics.

4 (b) His application shall be accompanied by the
5 recommendation of the licensed broker by whom the applicant
6 will be employed or placed under contract, certifying that
7 the applicant is of good repute and that the broker will
8 actively supervise and train the applicant during the period
9 the requested license remains in effect.

10 (4) An applicant for a property management broker's
11 license must be:

12 (a) at least 18 years old; and

13 (b) a graduate of an accredited high school or shall
14 have completed an equivalent education as determined by the
15 board.

16 (5) The department shall issue to each ~~licensed-broker~~
17 ~~and--to--each--licensed--salesman~~ licensee a license and a
18 pocket card in a form and size as the board prescribes.

19 (6) A broker's license must indicate whether the
20 broker is a broker owner, or a broker associate, or a
21 property management broker."

22 Section 4. Section 37-51-303, MCA, is amended to read:

23 "37-51-303. Broker or salesman examination. (1) In
24 addition to proof of honesty, trustworthiness, and good
25 reputation, an applicant whose application is then pending

1 shall satisfactorily pass a written examination prepared by
2 or under the supervision of the board. The examination shall
3 be given at least once each 6 months and at places within
4 the state the board prescribes.

5 (2) (a) The examination for a salesman's license shall
6 include:

7 (i) business ethics, writing, composition, arithmetic,
8 elementary principles of land economics and appraisal;

9 (ii) a general knowledge of the statutes of this state
10 relating to deeds, mortgages, contracts of sale, agency,
11 brokerage, and of this chapter.

12 (b) If the applicant passes one subject portion of the
13 examination, (2)(a)(i) or (2)(a)(ii), he shall not be
14 required to repeat that portion of the examination if he
15 passes the remaining portion within 12 months.

16 (3) The examination for a broker's license shall be of
17 a more exacting nature and scope and more stringent than the
18 examination for a salesman's license.

19 (4) (a) The applicant for a property management
20 broker's license shall pass an examination that includes:

21 (i) business ethics, writing, composition, and
22 arithmetic;

23 (ii) the provisions of this chapter and the rules
24 adopted thereunder; and

25 (iii) the provisions of The Montana Residential

1 Landlord and Tenant Act of 1977.

2 (b) The applicant must pass all portions of the
3 examination at one sitting. The board shall give prior
4 notice to an applicant of this requirement."

5 Section 5. Section 37-51-305, MCA, is amended to read:

6 "37-51-305. License -- form -- delivery -- display --
7 pocket card. (1) The board shall prescribe the form of
8 license. A license shall bear the seal of the board.

9 (2) The license of a real estate salesman shall be
10 delivered or mailed to the real estate broker with whom the
11 real estate salesman is associated and shall be kept in the
12 custody and control of the broker.

13 (3) A broker or property management broker shall
14 display his own license conspicuously in his place of
15 business.

16 (4) The department shall annually prepare and deliver
17 a pocket card certifying that the person whose name appears
18 is a registered real estate broker, or a registered real
19 estate salesman, or a registered property management broker,
20 stating the period for which fees have been paid and, on
21 real estate salesman's cards only, the name and address of
22 the broker with whom he is associated."

23 Section 6. Section 37-51-308, MCA, is amended to read:

24 "37-51-308. ~~Broker's~~ Office -- notice to
25 department of change of address. (1) A resident licensed

1 broker or property management broker shall maintain a fixed
2 office in this state. The original license of the broker or
3 property management broker and the original license of each
4 salesman associated or under contract with the broker shall
5 be prominently displayed in the office. The address of the
6 office and any branch office shall be designated on the
7 broker's license.

8 (2) In case of removal from the designated address,
9 the licensee shall notify the department before removal or
10 within 10 days thereafter, designating the new location of
11 this office and paying the required fee, whereupon a license
12 for the new location must be issued for the unexpired
13 period."

14 Section 7. Section 37-51-312, MCA, is amended to read:

15 "37-51-312. No taxation by municipality. No license
16 fee or tax may be imposed on a real estate broker, property
17 management broker, or real estate salesman by a municipality
18 or any other political subdivision of the state."

19 Section 8. Section 37-51-321, MCA, is amended to read:

20 "37-51-321. Revocation or suspension of license --
21 initiation of proceedings -- grounds. The board may on its
22 own motion and shall on the sworn complaint in writing of a
23 person investigate the actions of a real estate broker,
24 property management broker, or a real estate salesman,
25 subject to 37-1-101 and 37-1-121, and may revoke or suspend

1 a license issued under this chapter when the ~~broker or~~
 2 ~~salesman licensee~~ has been found guilty by a majority of the
 3 board of any of the following practices:

4 (1) intentionally misleading, untruthful, or
 5 inaccurate advertising, whether printed or by radio,
 6 display, or other nature, which advertising in any material
 7 particular or in any material way misrepresents any
 8 property, terms, values, policies, or services of the
 9 business conducted. A broker who operates under a franchise
 10 agreement engages in misleading, untruthful, or inaccurate
 11 advertising if in using the franchise name he does not
 12 incorporate his own name in the franchise name or logotype
 13 or does not conspicuously display, on his letterhead and
 14 other printed materials available to the public, a statement
 15 that his office is independently owned and operated. The
 16 board may not adopt advertising standards more stringent
 17 than those set forth in this subsection.

18 (2) making any false promises of a character likely to
 19 influence, persuade, or induce;

20 (3) pursuing a continued and flagrant course of
 21 misrepresentation or making false promises through agents or
 22 salesmen or any medium of advertising or otherwise;

23 (4) use of the term "realtor" by a person not
 24 authorized to do so or using another trade name or insignia
 25 of membership in a real estate organization of which the

1 licensee is not a member;

2 (5) failing to account for or to remit money coming
 3 into his possession belonging to others;

4 (6) accepting, giving, or charging an undisclosed
 5 commission, rebate, or profit on expenditures made for a
 6 principal;

7 (7) acting in a dual capacity of broker and
 8 undisclosed principal in a transaction;

9 (8) guaranteeing, authorizing, or permitting a person
 10 to guarantee future profits which may result from the resale
 11 of real property;

12 (9) offering real property for sale or lease without
 13 the knowledge and consent of the owner or his authorized
 14 agent or on terms other than those authorized by the owner
 15 or his authorized agent;

16 (10) inducing a party to a contract of sale or lease to
 17 break the contract for the purpose of substituting a new
 18 contract with another principal;

19 (11) accepting employment or compensation for
 20 appraising real property contingent on the reporting of a
 21 predetermined value or issuing an appraisal report on real
 22 property in which he has an undisclosed interest;

23 (12) negotiating a sale, exchange, or lease of real
 24 property directly with an owner or lessee if he knows that
 25 the owner has a written, outstanding contract in connection

1 with the property granting an exclusive agency to another
2 broker;

3 (13) soliciting, selling, or offering for sale real
4 property by conducting lotteries for the purpose of
5 influencing a purchaser or prospective purchaser of real
6 property;

7 (14) representing or attempting to represent a real
8 estate broker other than the employer without the express
9 knowledge or consent of the employer;

10 (15) failing voluntarily to furnish a copy of a written
11 instrument to a party executing it at the time of its
12 execution;

13 (16) paying a commission in connection with a real
14 estate sale or transaction to a person who is not licensed
15 as a real estate broker or real estate salesman under this
16 chapter;

17 (17) intentionally violating a rule adopted by the
18 board in the interests of the public and in conformity with
19 this chapter;

20 (18) failing, if a salesman, to place, as soon after
21 receipt as is practicably possible, in the custody of his
22 registered broker, deposit money or other money entrusted to
23 him as salesman by a person;

24 (19) demonstrating his unworthiness or incompetency to
25 act as a broker or salesman; or

1 (20) conviction of a felony."

2 Section 9. Section 37-51-322, MCA, is amended to read:

3 "37-51-322. Right to notice and hearing. When the
4 board has investigated an application for a ~~real-estate~~
5 ~~broker's-or-salesman's~~ license or, subject to 37-1-101 and
6 37-1-121, investigated the actions of ~~a-real-estate-broker~~
7 ~~or-salesman~~ an applicant or licensee on the sworn complaint
8 in writing of a person or on its own motion and the
9 investigation has revealed reasonable grounds for denying
10 the application or reasonable indication of a violation of
11 this chapter as cause for revoking or suspending a license
12 issued to a ~~real--estate-broker-or-salesman~~ licensee, the
13 board shall, before denying the application or revoking or
14 suspending the license, give notice and set the matter for
15 hearing."

16 NEW SECTION. Section 10. Extension of authority. Any
17 existing authority of the board of realty regulation to make
18 rules on the subject of the provisions of this act is
19 extended to the provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB473, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for the licensing and regulation of real estate property management brokers and amending those sections affected.

ASSUMPTIONS:

1. Assume existing staff can handle the work load.
2. Assume 300 additional licenses.
3. Assume the Realty Board will have to write an examination for the new licensees by having attorney do initial groundwork.
4. Assume no additional board meetings would be necessary.
5. Assume there will be little implementation of new rules.
6. Assume continuing education minimal implementation - absorbed into existing law.
7. Assume the board's budget needs will increase in direct proportion to the increase in licensees.
8. Assume funding for the additional licensees will have to come out of the Realty Earmarked Revenue Fund until fees can be adopted.

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>			<u>89 Biennium</u>
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Difference</u>
Additional Revenues	\$ 0	\$30,000	\$30,000	\$ 0	\$ 9,000	\$ 9,000	\$39,000
Additional Expenditures	0	2,500	2,500	0	1,050	1,050	3,550
Increase to Realty Account	\$ 0	\$27,500	\$27,500	\$ 0	\$ 7,950	\$ 7,950	\$35,450

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:


None apparent.


LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The expenditures and income should remain relatively constant.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

None.

 DATE 1/31/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE _____
 RAYMOND BRANDEWIE, PRIMARY SPONSOR

Fiscal Note for HB473, as introduced.

HB 473

APPROVED BY COMM. ON
BUSINESS AND LABOR

1 House BILL NO. 473
2 INTRODUCED BY Branche
3 BY REQUEST OF THE BOARD OF REALTY REGULATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO LICENSE AND REGULATE
6 REAL ESTATE PROPERTY MANAGEMENT BROKERS; AND AMENDING
7 SECTIONS 37-51-102, 37-51-301 THROUGH 37-51-303, 37-51-305,
8 37-51-308, 37-51-312, 37-51-321, AND 37-51-322, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. 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) "Account" means the real estate recovery account
15 established in 37-51-501.

16 (2) "Board" means the board of realty regulation
17 provided for in 2-15-1867.

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

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

15 (4) "Broker associate" means a broker who associates
16 with a broker owner and does not own an interest in a real
17 estate firm.

18 (5) "Broker owner" means a broker who owns or has a
19 financial interest in a real estate firm.

20 (6) "Department" means the department of commerce
21 provided for in Title 2, chapter 15, part 18.

22 (7) "Franchise agreement" means a contract or
23 agreement by which:

24 (a) a franchisee is granted the right to engage in
25 business under a marketing plan prescribed in substantial



1 part by the franchisor;

2 (b) the operation of the franchisee's business is
3 substantially associated with the franchisor's trademark,
4 trade name, logotype, or other commercial symbol or
5 advertising designating the franchisor; and

6 (c) the franchisee is required to pay, directly or
7 indirectly, a fee for the right to operate under the
8 agreement.

9 (8) "Person" includes individuals, partnerships,
10 associations, and corporations, foreign and domestic, except
11 that when referring to a person licensed under this chapter,
12 it means an individual.

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14 who for another:

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16 consideration, or with the intent or expectation of
17 receiving the same, negotiates or attempts to negotiate the
18 rental or lease of real estate or the improvements thereon;
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23 any other interest or estate in land, whether corporeal,
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25 estate is situated in this state or elsewhere.

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3 associated, either directly, indirectly, regularly, or
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 8 necessary from an applicant to determine his honesty, trust
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12 (b) have graduated from an accredited high school or
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 14 board;

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 16 estate salesman for a period of 2 years or have had
 17 experience or special education equivalent to that which a
 18 licensed real estate salesman ordinarily would receive
 19 during this 2-year period as determined by the board, except
 20 that if the board finds that an applicant could not obtain
 21 employment as a licensed real estate salesman because of
 22 conditions existing in the area where he resides, the board
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24 (d) file an application for license with the
 25 department; and

1 (e) furnish written evidence that he has completed 60
 2 classroom or equivalent hours (in addition to those required
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23 person investigate the actions of a real estate broker,
24 property management broker, or a real estate salesman,
25 subject to 37-1-101 and 37-1-121, and may revoke or suspend

1 a license issued under this chapter when the broker-or
2 salesman licensee has been found guilty by a majority of the
3 board of any of the following practices:

4 (1) intentionally misleading, untruthful, or
5 inaccurate advertising, whether printed or by radio,
6 display, or other nature, which advertising in any material
7 particular or in any material way misrepresents any
8 property, terms, values, policies, or services of the
9 business conducted. A broker who operates under a franchise
10 agreement engages in misleading, untruthful, or inaccurate
11 advertising if in using the franchise name he does not
12 incorporate his own name in the franchise name or logotype
13 or does not conspicuously display, on his letterhead and
14 other printed materials available to the public, a statement
15 that his office is independently owned and operated. The
16 board may not adopt advertising standards more stringent
17 than those set forth in this subsection.

18 (2) making any false promises of a character likely to
19 influence, persuade, or induce;

20 (3) pursuing a continued and flagrant course of
21 misrepresentation or making false promises through agents or
22 salesmen or any medium of advertising or otherwise;

23 (4) use of the term "realtor" by a person not
24 authorized to do so or using another trade name or insignia
25 of membership in a real estate organization of which the

1 licensee is not a member;

2 (5) failing to account for or to remit money coming
3 into his possession belonging to others;

4 (6) accepting, giving, or charging an undisclosed
5 commission, rebate, or profit on expenditures made for a
6 principal;

7 (7) acting in a dual capacity of broker and
8 undisclosed principal in a transaction;

9 (8) guaranteeing, authorizing, or permitting a person
10 to guarantee future profits which may result from the resale
11 of real property;

12 (9) offering real property for sale or lease without
13 the knowledge and consent of the owner or his authorized
14 agent or on terms other than those authorized by the owner
15 or his authorized agent;

16 (10) inducing a party to a contract of sale or lease to
17 break the contract for the purpose of substituting a new
18 contract with another principal;

19 (11) accepting employment or compensation for
20 appraising real property contingent on the reporting of a
21 predetermined value or issuing an appraisal report on real
22 property in which he has an undisclosed interest;

23 (12) negotiating a sale, exchange, or lease of real
24 property directly with an owner or lessee if he knows that
25 the owner has a written, outstanding contract in connection

1 with the property granting an exclusive agency to another
2 broker;

3 (13) soliciting, selling, or offering for sale real
4 property by conducting lotteries for the purpose of
5 influencing a purchaser or prospective purchaser of real
6 property;

7 (14) representing or attempting to represent a real
8 estate broker other than the employer without the express
9 knowledge or consent of the employer;

10 (15) failing voluntarily to furnish a copy of a written
11 instrument to a party executing it at the time of its
12 execution;

13 (16) paying a commission in connection with a real
14 estate sale or transaction to a person who is not licensed
15 as a real estate broker or real estate salesman under this
16 chapter;

17 (17) intentionally violating a rule adopted by the
18 board in the interests of the public and in conformity with
19 this chapter;

20 (18) failing, if a salesman, to place, as soon after
21 receipt as is practicably possible, in the custody of his
22 registered broker, deposit money or other money entrusted to
23 him as salesman by a person;

24 (19) demonstrating his unworthiness or incompetency to
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3 "37-51-322. Right to notice and hearing. When the
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6 37-1-121, investigated the actions of ~~a-real-estate-broker~~
7 ~~or-salesman~~ an applicant or licensee on the sworn complaint
8 in writing of a person or on its own motion and the
9 investigation has revealed reasonable grounds for denying
10 the application or reasonable indication of a violation of
11 this chapter as cause for revoking or suspending a license
12 issued to a ~~real-estate-broker-or-salesman~~ licensee, the
13 board shall, before denying the application or revoking or
14 suspending the license, give notice and set the matter for
15 hearing."

16 NEW SECTION. Section 10. Extension of authority. Any
17 existing authority of the board of realty regulation to make
18 rules on the subject of the provisions of this act is
19 extended to the provisions of this act.

-End-

1 House BILL NO. 473
 2 INTRODUCED BY Dan Lewis
 3 BY REQUEST OF THE BOARD OF REALTY REGULATION

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO LICENSE AND REGULATE
 6 REAL ESTATE PROPERTY MANAGEMENT BROKERS; AND AMENDING
 7 SECTIONS 37-51-102, 37-51-301 THROUGH 37-51-303, 37-51-305,
 8 37-51-308, 37-51-312, 37-51-321, AND 37-51-322, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. 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) "Account" means the real estate recovery account
 15 established in 37-51-501.

16 (2) "Board" means the board of realty regulation
 17 provided for in 2-15-1867.

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

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

15 (4) "Broker associate" means a broker who associates
 16 with a broker owner and does not own an interest in a real
 17 estate firm.

18 (5) "Broker owner" means a broker who owns or has a
 19 financial interest in a real estate firm.

20 (6) "Department" means the department of commerce
 21 provided for in Title 2, chapter 15, part 18.

22 (7) "Franchise agreement" means a contract or
 23 agreement by which:

24 (a) a franchisee is granted the right to engage in
 25 business under a marketing plan prescribed in substantial

1 part by the franchisor;

2 (b) the operation of the franchisee's business is
3 substantially associated with the franchisor's trademark,
4 trade name, logotype, or other commercial symbol or
5 advertising designating the franchisor; and

6 (c) the franchisee is required to pay, directly or
7 indirectly, a fee for the right to operate under the
8 agreement.

9 (8) "Person" includes individuals, partnerships,
10 associations, and corporations, foreign and domestic, except
11 that when referring to a person licensed under this chapter,
12 it means an individual.

13 (9) "Property management broker" means an individual
14 who for another:

15 (a) or for a fee, commission, or other valuable
16 consideration, or with the intent or expectation of
17 receiving the same, negotiates or attempts to negotiate the
18 rental or lease of real estate or the improvements thereon;
19 or

20 (b) collects or attempts to collect rent or maintains
21 or manages real estate and accounts for a fee.

22 (9)(10) "Real estate" includes leaseholds as well as
23 any other interest or estate in land, whether corporeal,
24 incorporeal, freehold, or nonfreehold and whether the real
25 estate is situated in this state or elsewhere.

1 ~~(10)~~(11) "Salesman" includes an individual who for a
2 salary, commission, or compensation of any kind is
3 associated, either directly, indirectly, regularly, or
4 occasionally, with a real estate broker to sell, purchase,
5 or negotiate for the sale, purchase, exchange, or renting of
6 real estate."

7 Section 2. Section 37-51-301, MCA, is amended to read:

8 "37-51-301. License required -- limited to persons.

9 (1) It is unlawful for a person to engage in or conduct,
10 directly or indirectly, or to advertise or hold himself out
11 as engaging in or conducting the business or acting in the
12 capacity of a real estate broker, or a real estate salesman,
13 or property management broker within this state without a
14 license ~~as-a-broker-or-salesman~~ or otherwise complying with
15 this chapter.

16 (2) Corporations, partnerships, and associations may
17 not be licensed under this chapter. A corporation or a
18 partnership may act as a real estate broker if every
19 corporate officer and every partner performing the functions
20 of a "broker", as defined in 37-51-102(2), is licensed as a
21 broker. All officers of a corporation or all members of a
22 partnership acting as a broker are in violation of this
23 chapter unless there is full compliance with this
24 subsection."

25 Section 3. Section 37-51-302, MCA, is amended to read:

1 "37-51-302. ~~Broker--or--salesman--license~~ License --
 2 qualifications of applicant. (1) (a) Licenses may be granted
 3 only to individuals considered by the board to be of good
 4 repute and competent to transact the business of a broker,
 5 or salesman, or property management broker in a manner as to
 6 safeguard the interests of the public.

7 (b) The board shall require information it considers
 8 necessary from an applicant to determine his honesty, trust
 9 worthiness, and competency.

10 (2) An applicant for a broker's license shall:

11 (a) be at least 18 years of age;

12 (b) have graduated from an accredited high school or
 13 completed an equivalent education as determined by the
 14 board;

15 (c) have been actively engaged as a licensed real
 16 estate salesman for a period of 2 years or have had
 17 experience or special education equivalent to that which a
 18 licensed real estate salesman ordinarily would receive
 19 during this 2-year period as determined by the board, except
 20 that if the board finds that an applicant could not obtain
 21 employment as a licensed real estate salesman because of
 22 conditions existing in the area where he resides, the board
 23 may waive this experience requirement;

24 (d) file an application for license with the
 25 department; and

1 (e) furnish written evidence that he has completed 60
 2 classroom or equivalent hours (in addition to those required
 3 to secure a salesman's license) in a course of study
 4 approved by the board and taught by instructors approved by
 5 the board and has satisfactorily passed an examination
 6 dealing with the material taught in each course. The course
 7 of study must include the subjects of real estate
 8 principles, real estate law, real estate finance, and
 9 related topics.

10 ~~{3}--The--board--shall--require--information--it--considers~~
 11 ~~necessary--from--an--applicant--to--determine--his--honesty,~~
 12 ~~trustworthiness,--and--competency--~~

13 ~~{4}{3}~~ (a) An applicant for a salesman's license
 14 shall:

15 (i) be at least 18 years of age;

16 (ii) have received credit for completion of 2 years of
 17 full curriculum study at an accredited high school or
 18 completed an equivalent education as determined by the
 19 board;

20 (iii) file an application for license with the
 21 department; and

22 (iv) furnish written evidence that he has completed 60
 23 classroom or equivalent hours in a course of study approved
 24 by the board and taught by instructors approved by the board
 25 and has satisfactorily passed an examination dealing with

1 the material taught in each course. The course of study must
2 include the subjects of real estate principles, real estate
3 law and ethics, real estate finance, and related topics.

4 (b) His application shall be accompanied by the
5 recommendation of the licensed broker by whom the applicant
6 will be employed or placed under contract, certifying that
7 the applicant is of good repute and that the broker will
8 actively supervise and train the applicant during the period
9 the requested license remains in effect.

10 (4) An applicant for a property management broker's
11 license must be:

12 (a) at least 18 years old; and

13 (b) a graduate of an accredited high school or shall
14 have completed an equivalent education as determined by the
15 board.

16 (5) The department shall issue to each ~~licensed-broker~~
17 ~~and--to--each--licensed--salesman~~ licensee a license and a
18 pocket card in a form and size as the board prescribes.

19 (6) A broker's license must indicate whether the
20 broker is a broker owner, or a broker associate, or a
21 property management broker."

22 Section 4. Section 37-51-303, MCA, is amended to read:

23 "37-51-303. Broker or salesman examination. (1) In
24 addition to proof of honesty, trustworthiness, and good
25 reputation, an applicant whose application is then pending

1 shall satisfactorily pass a written examination prepared by
2 or under the supervision of the board. The examination shall
3 be given at least once each 6 months and at places within
4 the state the board prescribes.

5 (2) (a) The examination for a salesman's license shall
6 include:

7 (i) business ethics, writing, composition, arithmetic,
8 elementary principles of land economics and appraisal;

9 (ii) a general knowledge of the statutes of this state
10 relating to deeds, mortgages, contracts of sale, agency,
11 brokerage, and of this chapter.

12 (b) If the applicant passes one subject portion of the
13 examination, (2)(a)(i) or (2)(a)(ii), he shall not be
14 required to repeat that portion of the examination if he
15 passes the remaining portion within 12 months.

16 (3) The examination for a broker's license shall be of
17 a more exacting nature and scope and more stringent than the
18 examination for a salesman's license.

19 (4) (a) The applicant for a property management
20 broker's license shall pass an examination that includes:

21 (i) business ethics, writing, composition, and
22 arithmetic;

23 (ii) the provisions of this chapter and the rules
24 adopted thereunder; and

25 (iii) the provisions of The Montana Residential

1 Landlord and Tenant Act of 1977.

2 (b) The applicant must pass all portions of the
3 examination at one sitting. The board shall give prior
4 notice to an applicant of this requirement."

5 Section 5. Section 37-51-305, MCA, is amended to read:

6 "37-51-305. License -- form -- delivery -- display --
7 pocket card. (1) The board shall prescribe the form of
8 license. A license shall bear the seal of the board.

9 (2) The license of a real estate salesman shall be
10 delivered or mailed to the real estate broker with whom the
11 real estate salesman is associated and shall be kept in the
12 custody and control of the broker.

13 (3) A broker or property management broker shall
14 display his own license conspicuously in his place of
15 business.

16 (4) The department shall annually prepare and deliver
17 a pocket card certifying that the person whose name appears
18 is a registered real estate broker, or a registered real
19 estate salesman, or a registered property management broker,
20 stating the period for which fees have been paid and, on
21 real estate salesman's cards only, the name and address of
22 the broker with whom he is associated."

23 Section 6. Section 37-51-308, MCA, is amended to read:

24 "37-51-308. ~~Broker's~~ Office -- notice to
25 department of change of address. (1) A resident licensed

1 broker or property management broker shall maintain a fixed
2 office in this state. The original license of the broker or
3 property management broker and the original license of each
4 salesman associated or under contract with the broker shall
5 be prominently displayed in the office. The address of the
6 office and any branch office shall be designated on the
7 broker's license.

8 (2) In case of removal from the designated address,
9 the licensee shall notify the department before removal or
10 within 10 days thereafter, designating the new location of
11 this office and paying the required fee, whereupon a license
12 for the new location must be issued for the unexpired
13 period."

14 Section 7. Section 37-51-312, MCA, is amended to read:

15 "37-51-312. No taxation by municipality. No license
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18 board in the interests of the public and in conformity with
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