

HOUSE BILL 383

Introduced by Brandewie, et al.

1/28	Introduced
1/28	Referred to Business & Economic Development
1/28	First Reading
1/28	Fiscal Note Requested
2/02	Fiscal Note Received
2/04	Fiscal Note Printed
2/10	Hearing
2/11	Committee Report--Bill Passed as Amended
2/13	2nd Reading Passed
2/16	3rd Reading Passed
	Transmitted to Senate
2/20	First Reading
2/20	Referred to Business & Industry
3/17	Hearing
3/24	Committee Report--Bill Not Passed
3/24	Adverse Committee Report Adopted

1 House BILL NO. 383  
 2 INTRODUCED BY B. Davis  
 3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 BOARD OF REALTY REGULATION LAWS; PROVIDING FOR CREATION OF A  
 7 REAL ESTATE EDUCATION COUNCIL TO MONITOR REAL ESTATE  
 8 EDUCATION PROGRAMS FOR THE BOARD; PROVIDING FOR PAYMENT OF  
 9 THE EXPENSES OF THE COUNCIL FROM THE REAL ESTATE RECOVERY  
 10 ACCOUNT; SPECIFYING GROUNDS FOR DENIAL OF LICENSES TO  
 11 APPLICANTS; ESTABLISHING INTERMEDIATE LIMITED SANCTIONS FOR  
 12 DISCIPLINING LICENSEES; AND AMENDING SECTIONS 37-51-204 AND  
 13 37-51-302, MCA."

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 15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because  
 17 it delegates to the board of realty regulation the authority  
 18 to adopt rules to operate a real estate education council  
 19 and to promulgate functions to be exercised by a real estate  
 20 education council. It is intended that the board shall adopt  
 21 rules providing the real estate education council with  
 22 parameters within which it will operate in approving both  
 23 prelicensure education and continuing education courses.

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



1 Section 1. Section 37-51-204, MCA, is amended to read:

2 "37-51-204. Educational programs and continuing  
 3 education -- real estate education council. (1) The board  
 4 may, subject to 37-1-101, conduct, hold, participate in, or  
 5 assist in conducting or holding real estate clinics,  
 6 meetings, courses, conferences, or institutes and incur  
 7 necessary expenses in this connection for the purpose of  
 8 educating the staff, the board, licensees, and the general  
 9 public.

10 (2) The board may assist libraries and educational  
 11 institutions in sponsoring studies and programs for the  
 12 purpose of raising the standards of the real estate business  
 13 and the competency of licensees.

14 (3) The board may prescribe by rule continuing  
 15 education requirements for all licensees, not to exceed 15  
 16 classroom or equivalent hours in any 2-year period,  
 17 including proof of conformance, ~~but except as provided in~~  
 18 ~~37-51-302 the board may not require examination of~~  
 19 ~~licensees.~~

20 (4) The board may edit, print, and distribute a  
 21 newsletter intended to inform licensees and the general  
 22 public of board activities and upcoming changes in the real  
 23 estate industry or to maintain communications on topics of  
 24 interest.

25 (5) The board may appoint a real estate education

council consisting of six members to perform functions as set forth in rules adopted by the board. Members other than the executive secretary of the board shall serve terms of 4 years, with staggered terms for original members, and must be reimbursed for expenses in the manner provided in 37-1-133. The membership of the council is as follows:

- (a) two members must be real estate educators;
- (b) two members must be real estate licensees;
- (c) one member must be a board member; and
- (d) the remaining member is the executive secretary of the board.

(6) The real estate education council shall:

- (a) offer assistance on behalf of the board to those persons providing real estate clinics, meetings, courses, conferences or institutes;
- (b) recommend real estate education policy and course content for all education courses approved by the board;
- (c) assist in the preparation or approval of other courses or clinics considered advisable for promoting higher standards of practice in the real estate business; and
- (d) pay expenses incurred under this subsection (6) from excess real estate recovery account funds as provided in 37-51-501."

**Section 2.** Section 37-51-302, MCA, is amended to read:

"37-51-302. Broker or salesman license --

qualifications of applicant -- reasons for denial of licensure. (1) Licenses may be granted only to individuals considered by the board to be of good repute and competent to transact the business of a broker or salesman in a manner as to safeguard the interests of the public.

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

- (a) be at least 18 years of age;
- (b) have graduated from an accredited high school or completed an equivalent education as determined by the board;
- (c) have been actively engaged as a licensed real estate salesman for a period of 2 years or have had experience or special education equivalent to that which a licensed real estate salesman ordinarily would receive during this 2-year period as determined by the board, except that if the board finds that an applicant could not obtain employment as a licensed real estate salesman because of conditions existing in the area where he the applicant resides, the board may waive this experience requirement;
- (d) file an application for license with the department; and

(e) furnish written evidence that he the applicant has completed 60 classroom or equivalent hours (in addition to those required to secure a salesman's license) in a course of study approved by the board and taught by instructors

1 approved by the board and has satisfactorily passed an  
2 examination dealing with the material taught in each course.  
3 The course of study must include the subjects of real estate  
4 principles, real estate law, real estate finance, and  
5 related topics.

6 (3) The board shall require information it considers  
7 necessary from an applicant to determine his honesty,  
8 trustworthiness, and competency.

9 (4) The board may deny an application for a license for  
10 any of the following reasons:

11 (a) failure to meet the relevant requirements for  
12 licensure pursuant to Title 37, chapter 51;

13 (b) making any untrue or fraudulent statement in  
14 support of the application;

15 (c) failure of the applicant to demonstrate financial  
16 or fiduciary responsibility; or

17 (d) any of the grounds set forth in 37-51-321 that, had  
18 a license already been issued, would be sufficient for  
19 suspension or revocation of a license.

20 ~~†4†~~(5) (a) An applicant for a salesman's license shall:

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

22 (ii) have received credit for completion of 2 years of  
23 full curriculum study at an accredited high school or  
24 completed an equivalent education as determined by the  
25 board;

1 (iii) file an application for license with the  
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10 and related topics.

11 (b) His An application ~~shall~~ must be accompanied by the  
12 recommendation of the licensed broker by whom the applicant  
13 will be employed or placed under contract, certifying that  
14 the applicant is of good repute and that the broker will  
15 actively supervise and train the applicant during the period  
16 the requested license remains in effect.

17 ~~†5†~~(6) The department shall issue to each licensed  
18 broker and to each licensed salesman a license and a pocket  
19 card in a form and size as the board prescribes.

20 ~~†6†~~(7) A broker's license must indicate whether the  
21 broker is a broker owner or a broker associate."

22 NEW SECTION. Section 3. Limited sanctions. If the  
23 board, after opportunity for a hearing, determines that  
24 evidence obtained against a licensee does not warrant  
25 suspension or revocation of a license as prescribed in

1 37-51-321, but does warrant other sanctions, it may:  
2 (1) issue a public or private censure;  
3 (2) impose a probationary period, with terms and  
4 conditions adapted to the particular circumstances of the  
5 case;  
6 (3) issue a letter of reprimand to the licensee;  
7 (4) levy an administrative penalty not to exceed \$5,000  
8 to be deposited in the general fund; or  
9 (5) impose any combination of the sanctions in  
10 subsections (1) through (4) as the board finds appropriate.  
11 NEW SECTION. **Section 4. Codification instruction.**  
12 [Section 3] is intended to be codified as an integral part  
13 of Title 37, chapter 51, part 3, and the provisions of Title  
14 37, chapter 51, part 3, apply to [section 3].

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0383, as introduced.


**DESCRIPTION OF PROPOSED LEGISLATION:** The bill generally revises the real estate regulation laws; providing for a real estate education council to monitor real estate education programs for the board; providing payment of the expenses of the council from the real estate recovery account; specifying grounds for denial of licenses to applications; establishing intermediate limited sanctions for disciplining licensees.

**ASSUMPTIONS:**

1. The budget will be the current and modified levels approved in the executive budget for FY94 and FY95, and the income will be same as FY92.
2. There will be two news letters per year for 5,500 licensees at \$1,500 per issue, plus distribution costs of \$1,000 per issue.
3. The council will consist of six members and will meet at least six times per year, at cost of \$1,000 per meeting, including mileage, per diem, lodging, and meals.
4. The board and administrative staff will participate in and earn continuing education credits at a cost of \$4,400 for 4 members.
5. The actual education program will cost \$1,000 per day for 15 days; meeting rooms \$100 per day; and course materials \$166 per day; and travel expenses of \$67 per day.
6. The program will be paid for out of income and account balance of the Real Estate Recovery Fund.

**FISCAL IMPACT:**

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<b>Expenditures:</b>						
Personal Service	57,856	59,856	2,000	58,218	60,218	2,000
Operating Expenses	<u>195,809</u>	<u>230,224</u>	<u>34,415</u>	<u>196,751</u>	<u>231,166</u>	<u>34,415</u>
Total	253,665	290,080	36,415	254,969	291,384	36,415
<b>Revenues:</b>						
Fees	304,000	304,000	0	304,000	304,000	0
<b>Net Impact:</b>	<u>50,335</u>	<u>13,920</u>	<u>36,415</u>	<u>49,031</u>	<u>12,616</u>	<u>36,415</u>

 2.2.93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

 2-4-93  
 RAY BRANDEWIE, PRIMARY SPONSOR DATE

Fiscal Note for HB0383, as introduced

**HB 383**

APPROVED BY COM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

## HOUSE BILL NO. 383

INTRODUCED BY BRANDENIE, WISEMAN

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE BOARD OF REALTY REGULATION LAWS; PROVIDING FOR CREATION OF A REAL ESTATE EDUCATION COUNCIL TO MONITOR REAL ESTATE EDUCATION PROGRAMS FOR THE BOARD; PROVIDING FOR PAYMENT OF THE EXPENSES OF THE COUNCIL FROM THE REAL ESTATE RECOVERY ACCOUNT; SPECIFYING GROUNDS FOR DENIAL OF LICENSES TO APPLICANTS; ESTABLISHING INTERMEDIATE LIMITED SANCTIONS FOR DISCIPLINING LICENSEES; AND AMENDING SECTIONS 37-51-204 AND 37-51-302, MCA."

## STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates to the board of realty regulation the authority to adopt rules to operate a real estate education council and to promulgate functions to be exercised by a real estate education council. It is intended that the board shall adopt rules providing the real estate education council with parameters within which it will operate in approving both prelicensure education and continuing education courses.

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

## Section 1. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs and continuing education -- real estate education council. (1) The board may, subject to 37-1-101, conduct, hold, participate in, or assist in conducting or holding real estate clinics, meetings, courses, conferences, or institutes and incur necessary expenses in this connection for the purpose of educating the staff, the board, licensees, and the general public.

(2) The board may assist libraries and educational institutions in sponsoring studies and programs for the purpose of raising the standards of the real estate business and the competency of licensees.

(3) The board may prescribe by rule continuing education requirements for all licensees, not to exceed 15 classroom or equivalent hours in any 2-year period, including proof of conformance, ~~but except as provided in 37-51-302 the board may not require examination of~~ licensees.

(4) The board may edit, print, and distribute a newsletter intended to inform licensees and the general public of board activities and upcoming changes in the real estate industry or to maintain communications on topics of interest.

(5) The board may appoint a real estate education

council consisting of ~~six~~ SEVEN members to perform functions as set forth in rules adopted by the board. Members other than the executive secretary of the board shall serve terms of 4 years, with staggered terms for original members, and must be reimbursed for expenses in the manner provided in 37-1-133. The membership of the council is as follows:

(a) two members must be real estate educators;

(b) two members must be real estate licensees;

(C) ONE MEMBER MUST BE A PROPERTY MANAGER LICENSED AS PROVIDED IN [SENATE BILL NO. 111];

~~(c)~~(D) one member must be a board member; and

~~(d)~~(E) the remaining member is the executive secretary of the board.

(6) The real estate education council shall:

(a) offer assistance on behalf of the board to those persons providing real estate clinics, meetings, courses, conferences or institutes;

(b) recommend real estate education policy and course content for all education courses approved by the board;

(c) assist in the preparation or approval of other courses or clinics considered advisable for promoting higher standards of practice in the real estate business; and

(d) pay expenses incurred under this subsection (6) from excess real estate recovery account funds as provided in 37-51-501."

**Section 2.** Section 37-51-302, MCA, is amended to read:

**"37-51-302. Broker or salesman license -- qualifications of applicant -- reasons for denial of licensure.** (1) Licenses may be granted only to individuals considered by the board to be of good repute and competent to transact the business of a broker or salesman in a manner as to safeguard the interests of the public.

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

(a) be at least 18 years of age;

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

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

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

(e) furnish written evidence that he the applicant has completed 60 classroom or equivalent hours (in addition to



those required to secure a salesman's license) in a course of study approved by the board and taught by instructors approved by the board and has satisfactorily passed an examination dealing with the material taught in each course. The course of study must include the subjects of real estate principles, real estate law, real estate finance, and related topics.

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

(4) The board may deny an application for a license for any of the following reasons:

(a) failure to meet the relevant requirements for licensure pursuant to Title 37, chapter 51;

(b) making any untrue or fraudulent statement in support of the application;

(c) failure of the applicant to demonstrate financial or fiduciary responsibility; or

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†5†(6) The department shall issue to each licensed broker and to each licensed salesman a license and a pocket card in a form and size as the board prescribes.

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NEW SECTION. **Section 3.** Limited sanctions. If the board, after opportunity for a hearing, determines that

evidence obtained against a licensee does not warrant suspension or revocation of a license as prescribed in 37-51-321, but does warrant other sanctions, it may:

(1) issue a public or private censure;

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**NEW SECTION. Section 4. Codification instruction.**

[Section 3] is intended to be codified as an integral part of Title 37, chapter 51, part 3, and the provisions of Title 37, chapter 51, part 3, apply to [section 3].

**NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF**

**SENATE BILL NO. 111, INCLUDING PROVISIONS CREATING A  
PROPERTY MANAGER'S LICENSE, IS NOT PASSED AND APPROVED, THEN  
THE CODE COMMISSIONER IS INSTRUCTED TO REVISE [THIS ACT] TO  
CHANGE THE NUMBER OF MEMBERS OF THE REAL ESTATE EDUCATION  
COUNCIL PROVIDED FOR IN 37-51-204(5) TO SIX AND TO STRIKE  
THE PROPERTY MANAGER FROM THE MEMBERSHIP OF THE REAL ESTATE  
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