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**5 2 3**

# HOUSE COMMITTEE REPORT

File

(11)

Date Referred: March 8, 1990

FURTHER REFERRALS:

Date of Committee Action: 3/29/90

The FINANCE Committee considered:

HB 523

HOUSE BILL NO. 523

BOARD OF REAL ESTATE APPRAISERS

"An Act relating to certification of real estate appraisers; and providing for an effective date."

**RECOMMENDATIONS:**

- be replaced with CS HB 523 (FIN)  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) 3/8/90 / C & E D
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**  
(Check approp. column)

Ronald J. Carson CARSON

Cliff Swadhammer SWADHAMMER

John Koponen KOPONEN

James Barwes BARWES

William Ulmer ULMER

Steve Rieger RIEGER

|                                 | Do Not Pass | No Rec | Amend |
|---------------------------------|-------------|--------|-------|
| <u>Lyne Hoffman</u> Hoffman     | X           |        |       |
| <u>Fay Brown</u> BROWN          | X           |        |       |
| <u>Dick Shultz</u> SHULTZ       | X           |        |       |
| <u>ROD E. PHILLIPS</u> PHILLIPS | ✓           |        |       |
| <u>Kay Wallis</u> WALLIS        | ✓           |        |       |
|                                 |             |        |       |
|                                 |             |        |       |
|                                 |             |        |       |

Lyne Hoffman Hoffman  
Chairman's Signature

Ronald J. Carson CARSON

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to certification of real estate appraisers; . . .  
Sponsor: Representative Navarre  
Requestor: House Labor & Commerce

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 17.5  | 17.5  | 17.5  | 17.5  | 17.5  | 17.5  |
| TRAVEL            | 18.4  | 14.7  | 10.4  | 10.4  | 10.4  | 10.4  |
| CONTRACTUAL       | 25.0  | 15.0  | 15.0  | 15.0  | 15.0  | 15.0  |
| SUPPLIES          | 1.3   | 1.3   | 1.3   | 1.3   | 1.3   | 1.3   |
| EQUIPMENT         | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | 62.2  | 48.5  | 44.2  | 44.2  | 44.2  | 44.2  |

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

|         |      |   |      |   |      |   |
|---------|------|---|------|---|------|---|
| REVENUE | 60.0 | 0 | 60.0 | 0 | 60.0 | 0 |
|---------|------|---|------|---|------|---|

FUNDING: (Thousands of Dollars)

|               |      |      |      |      |      |      |
|---------------|------|------|------|------|------|------|
| GENERAL FUND  |      |      |      |      |      |      |
| FEDERAL FUNDS |      |      |      |      |      |      |
| OTHER GF/PR   | 62.2 | 48.5 | 44.2 | 44.2 | 44.2 | 44.2 |
| TOTAL         | 62.2 | 48.5 | 44.2 | 44.2 | 44.2 | 44.2 |

POSITIONS:

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 1 | 1 | 1 | 1 | 1 | 1 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary) The bill establishes a five-member Board of Real Estate Appraisers to establish examination and continuing education requirements for certification of general real estate appraisers and residential real estate appraisers. The division has received information that approximately 200 individuals may apply and seek certification upon passage of this legislation. (CONTINUED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
Division: Occupational Licensing Date: 2/23/90

Approved by Commissioner: Larry Merculieff Date: 2-23-90  
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Adopted

CONTINUATION OF FISCAL NOTE ANALYSIS - HB 523

This fiscal note represents the cost of certifying real estate appraisers with a three-member board and using an estimate of 200 individuals who may qualify for certification. Costs of the program are projected based on the number of individuals certified. Therefore, using 200 individuals as a base, the real estate appraiser certification program will be responsible to cover less than one percent (.076) of the division's operating costs, in addition to funds required to carry out specific mandates of the bill. A breakdown of these costs is as follows:

Personal Services:

One Seasonal Occupational Licensing Examiner I \$17.5  
Six months, GGU, Range 12A

Travel: \$18.4

In FY 91, this funding will provide for four face-to-face meetings: two in Anchorage, one in Juneau, and one in Fairbanks; assuming two members are appointed from Anchorage, two from Juneau, and one from Fairbanks, and three division staff to attend each meeting. This funding will also provide travel to administer the examination in various locations throughout the state.

In FY 92, board meetings are reduced to three with travel provided to administer the examination in various locations.

FY 93 and forward, board meetings are reduced to two each year and travel funds to administer the examination in various locations throughout the state.

Contractual: \$25.0

This fiscal note provides \$10.0 for development of a professional certification examination in the first year. Currently, there are testing agencies with real estate appraiser examinations and, therefore, only those questions specific to Alaska will need to be developed. An additional \$15.0 will fund printing, advertising, postage and communication costs.

Supplies: \$ 1.3

Funding will provide standard office supplies.

TOTAL: \$62.2

REVENUE:

The revenues are based on 200 individuals paying a certification fee of \$150 per year. Because certifications are issued for a two-year period, revenues are doubled every other year. As indicated, certification fees of 200 certified individuals will not cover program costs and, therefore, the program will have to be covered by other licensing areas renewing in those years or supplemented with general funds.

Original sponsor(s): REP. NAVARRE, Swackhammer

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 523 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certification of real estate  
7 appraisers; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 87. REAL ESTATE APPRAISERS.

11 ARTICLE 1. BOARD OF CERTIFIED REAL ESTATE APPRAISERS.

12 Sec. 08.87.010. BOARD CREATED. There is created in the Depart-  
13 ment of Commerce and Economic Development the Board of Certified Real  
14 Estate Appraisers. The board is composed of five members appointed by  
15 the governor. At least one member shall be a person licensed under  
16 this chapter as a general real estate appraiser, at least one member  
17 shall be a person licensed under this chapter as a residential real  
18 estate appraiser, at least one member shall be an executive in a  
19 mortgage banking entity, and at least one member shall represent the  
20 public. The board shall elect a chair from among its membership.

21 Sec. 08.87.020. POWERS AND DUTIES OF BOARD. In addition to the  
22 powers and duties conferred on the board by AS 08.01, the board shall

23 (1) establish the examination specifications for certifica-  
24 tion as a general real estate appraiser and as a residential real  
25 estate appraiser;

26 (2) adopt rules of professional conduct to establish and  
27 maintain a high standard of integrity in the real estate appraisal  
28 profession; and

29 (3) adopt regulations necessary to carry out the purposes

1 of this chapter.

2 ARTICLE 2. CERTIFICATION.

3 Sec. 08.87.100. CERTIFICATE REQUIRED. A person is guilty of a  
4 class B misdemeanor who

5 (1) does not hold a certificate issued by the board, whose  
6 certificate is suspended or revoked, or whose certificate has lapsed,  
7 and holds out as a certified real estate appraiser in any way, orally  
8 or in writing, directly or by implication; or

9 (2) is certified as a residential real estate appraiser and  
10 holds out as certified to appraise real estate other than

11 (A) residential real property of four or fewer units;

12 or

13 (B) residential real property of 12 or fewer units  
14 when a net income capitalization analysis is not required by the  
15 terms of the appraisal assignment and a secondary mortgage market  
16 form is used.

17 Sec. 08.87.110. REAL ESTATE APPRAISER CERTIFICATE. (a) The  
18 board shall issue a general real estate appraiser certificate to a  
19 person who presents evidence satisfactory to the board that the person

20 (1) has successfully completed 150 or more classroom hours  
21 of instruction in subjects related to real estate appraisal from an  
22 appraisal organization or academic institution approved by the board;

23 (2) has successfully completed 15 classroom hours of in-  
24 struction related to standards of professional practice as a real  
25 estate appraiser;

26 (3) has within the seven years immediately preceding the  
27 filing of the application for certification four years of experience  
28 in real property appraisal or three years of experience as a regis-  
29 tered trainee under AS 08.87.310;

1 (4) successfully completes an examination prescribed by the  
2 board;

3 (5) has not been convicted of a crime involving moral  
4 turpitude; and

5 (6) has paid the required fees.

6 (b) The board shall issue a residential real estate appraiser  
7 certificate to a person who presents evidence satisfactory to the  
8 board that the person

9 (1) meets the requirements of (a)(2) and (4) - (6) of this  
10 section;

11 (2) has successfully completed 60 hours of classroom in-  
12 struction in subjects related to residential real estate appraisal  
13 from an appraisal organization or academic institution approved by the  
14 board; and

15 (3) has within the five years immediately preceding the  
16 filing of the application for certification three years of experience  
17 in real property appraisal or two years of experience as a registered  
18 trainee under AS 08.87.310.

19 (c) Notwithstanding (a) and (b) of this section, the board  
20 shall, without requiring the examination specified in (a)(4) of this  
21 section, issue a general real estate appraiser or residential real  
22 estate appraiser certificate to a person who can, by evidence satis-  
23 factory to the board, show that the person

24 (1) has been certified in another state that has certifica-  
25 tion requirements substantially equivalent to the requirements estab-  
26 lished by this chapter and by regulation issued by the board under  
27 this chapter, and that provides for certification of nonresidents  
28 under conditions similar to those set out in this subsection and  
29 without discriminatory costs;

1 (2) is not the subject of an unresolved complaint or disci-  
2 plinary action before an authority regulating real estate appraisers  
3 or a professional real estate appraisers' association;

4 (3) has not failed the examination for certification as a  
5 real estate appraiser in this state;

6 (4) has not had certification as a real estate appraiser  
7 revoked or suspended in this state or in another jurisdiction;

8 (5) has submitted proof of continued competency satisfac-  
9 tory to the board;

10 (6) successfully completes an examination that may be  
11 prescribed by the board relating to appraisal matters unique to  
12 Alaska; and

13 (7) has paid the required fees.

14 (d) A certificate may be issued to a natural person only. A  
15 certified real estate appraiser may sign an appraisal report on behalf  
16 of a corporation, partnership, firm, or group practice.

17 (e) The board may provide for the limited certification of  
18 persons not meeting the qualifications prescribed in this section and  
19 may prescribe qualifications for limited certification. Persons  
20 receiving limited certification under this subsection may perform an  
21 appraisal that would otherwise require an appraiser certified under  
22 (a) - (c) of this section only if

23 (1) the property being appraised is located in a sparsely  
24 settled area of the state;

25 (2) the cost of an appraisal by an appraiser certified  
26 under (a) - (c) of this section would be unreasonably high with regard  
27 to the value of the property being appraised; and

28 (3) the appraisal by the person is consistent with federal  
29 law.

1           Sec. 08.87.120. CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF  
2 CERTIFICATE. (a) The board may not renew a certificate issued under  
3 this chapter unless the person applying for renewal presents evidence  
4 satisfactory to the board that the person has, within the two years  
5 preceding the application for renewal, attended 40 classroom hours of  
6 instruction in courses or seminars that have received the approval of  
7 the board.

8           (b) The board may grant credit toward some or all of the re-  
9 quirements of (a) of this section to a person who has

10           (1) successfully completed a program of study determined by  
11 the board to be equivalent for continuing education purposes to a  
12 course or seminar approved by the board for continuing education  
13 credit; or

14           (2) participated, other than as a student, in educational  
15 programs that related to real estate analysis or real property ap-  
16 praisal theory, practice, or technique, including teaching, program  
17 development, and preparation of textbooks, monographs, articles, and  
18 other instructional materials.

19           (c) The board shall adopt regulations on continuing education to  
20 ensure that persons applying for renewal of certificates have thorough  
21 knowledge of current theories, practices, and techniques of real  
22 estate analysis and appraisal. The regulations must provide for

23           (1) procedures for the sponsor of a course or seminar to  
24 apply for board approval for continuing education credit; the regu-  
25 lations must require the sponsor to show that claimed attendance at a  
26 course or seminar can be verified; and

27           (2) procedures for evaluating equivalency claims for appli-  
28 cants for certificate renewal under (b) of this section.

29           (d) In considering whether to approve courses and seminars under

1 this section, the board shall give special consideration to courses,  
2 seminars, and other appraisal education programs developed by or under  
3 the auspices of organizations or associations of professional real  
4 estate appraisers that are utilized by those organizations or asso-  
5 ciations for the purposes of awarding real estate appraisal desig-  
6 nations or of indicating compliance with the continuing education  
7 requirements of the organizations or associations.

8 (e) An amendment or repeal of a regulation adopted by the board  
9 under this section shall not operate to deprive a person holding a  
10 certificate under this chapter of credit toward renewal of the per-  
11 son's certificate for a course of instruction or seminar that had been  
12 completed by the person before the amendment or repeal of the regu-  
13 lation.

14 ARTICLE 3. PROHIBITED PRACTICES AND  
15 DISCIPLINARY PROCEEDINGS.

16 Sec. 08.87.200. PROHIBITED PRACTICES. A certified real estate  
17 appraiser may not

18 (1) act negligently or incompetently or fail without good  
19 cause to exercise reasonable diligence in developing an appraisal,  
20 preparing an appraisal report, or communicating an appraisal;

21 (2) wilfully disregard or violate a provision of this  
22 chapter or of a regulation adopted by the board under this chapter;

23 (3) fail to comply with the Uniform Standards of Profes-  
24 sional Appraisal Practice adopted by the Appraisal Standards Board of  
25 the Appraisal Foundation;

26 (4) accept a fee for an appraisal assignment that is con-  
27 tingent upon the appraiser reporting a predetermined estimate, analy-  
28 sis, or opinion or upon the opinion, conclusion, or valuation reached,  
29 or upon the consequences resulting from the appraisal assignment;

1 (5) knowingly make a false statement, submit false informa-  
2 tion, or fail to provide complete information in response to a ques-  
3 tion in an application for certification or for renewal of a certifi-  
4 cate; or

5 (6) violate the confidential nature of government records  
6 to which the person gains access through retention as an appraiser by  
7 the government agency.

8 Sec. 08.87.210. DISCIPLINARY PROCEEDINGS. The board may exer-  
9 cise its disciplinary powers under AS 08.01.075 i:; after hearing, the  
10 board finds a certified real estate appraiser has

11 (1) violated a provision of this chapter or a regulation  
12 adopted by the board under this chapter;

13 (2) been convicted of a crime that involves moral turpi-  
14 tude; or

15 (3) committed, while acting as a real estate appraiser, an  
16 act or omission involving dishonesty, fraud, or misrepresentation with  
17 the intent to benefit the appraiser or another person or to injure  
18 another person.

19 ARTICLE 4. GENERAL PROVISIONS.

20 Sec. 08.87.300. RETENTION OF RECORDS. (a) A certified real  
21 estate appraiser shall retain for not less than three years copies of  
22 all written contracts engaging the appraiser's services for real  
23 property appraisal work, and all reports and supporting data assembled  
24 and formulated by the appraiser in preparing the reports.

25 (b) The three-year period specified in (a) of this section for  
26 retention of records is applicable to each engagement of the services  
27 of the appraiser and commences upon the date of the submittal of the  
28 appraisal reports to the client unless, within the three-year period,  
29 the appraiser is notified that the appraisal report is involved in

1 litigation, in which case the three-year retention period commences  
2 upon the date of the final disposition of the litigation.

3 (c) All records that a certified appraiser must maintain under  
4 (a) of this section shall be made available to the board or department  
5 for inspection and copying upon reasonable notice to the appraiser.

6 Sec. 08.87.310. REGISTERED TRAINEES. (a) A person engaged in  
7 the practice of real estate appraisal who is employed by or under the  
8 direct supervision of a certified real estate appraiser may become a  
9 registered trainee by submitting proof to the board that the person  
10 has successfully completed at least 30 classroom hours of courses in  
11 subjects related to real estate appraisal from an appraisal orga-  
12 nization or academic institution approved by the board.

13 (b) A registered trainee may prepare or assist in the prepara-  
14 tion of an appraisal report issued by a certified real estate apprais-  
15 er if the report is also signed by the certified real estate appraiser  
16 and if the certified real estate appraiser accepts full responsibility  
17 for the report.

18 Sec. 08.87.320. ACTIONS BY UNCERTIFIED REAL ESTATE APPRAISERS  
19 PROHIBITED. A person may not bring an action in a court of this state  
20 for compensation for an act done or service rendered as a certified  
21 real estate appraiser if the person did not hold a certificate under  
22 this chapter at the time that the person performed the act or service  
23 or offered to perform the act or service.

24 Sec. 08.87.330. EXEMPTIONS. This chapter does not apply to a  
25 person who appraises real estate as part of the tax assessment process  
26 of a municipality.

27 Sec. 08.87.340. APPRAISALS BY UNCERTIFIED APPRAISERS PERMITTED.  
28 Nothing in this chapter precludes a person who is not certified as a  
29 real estate appraiser from appraising real estate for compensation if

1 the person does not hold out to be a certified appraiser and if ap-  
2 praisal by a certified appraiser is not required by federal law.

3 Sec. 08.87.900. DEFINITIONS. In this chapter

4 (1) "analysis assignment" means an analysis, opinion, or  
5 conclusion prepared by a real estate appraiser that relates to the  
6 nature, quality, or utility of certified real estate or real property;

7 (2) "appraisal" means an analysis, opinion, or conclusion  
8 prepared by a real estate appraiser relating to the nature, quality,  
9 value, energy efficiency, or utility of specified interests in, or  
10 aspects of, identified real estate, and includes a valuation ap-  
11 praisal, an analysis assignment, and a review assignment;

12 (3) "appraisal assignment" means an engagement for which an  
13 appraiser is employed or retained to act, or would be perceived by  
14 third parties or the public as acting, as a disinterested person  
15 rendering an unbiased analysis, opinion, or conclusion relating to the  
16 nature, quality, value, or utility of specified interests in, or  
17 aspects of, identified real estate;

18 (4) "appraisal report" means any communication, written or  
19 oral, of an appraisal;

20 (5) "board" means the Board of Certified Real Estate Ap-  
21 praisers;

22 (6) "department" means the Department of Commerce and  
23 Economic Development;

24 (7) "general real estate appraiser" means a real estate  
25 appraiser certified to appraise all types of real property;

26 (8) "real estate" means an identified parcel or tract of  
27 land, including improvements, but excluding subsurface natural re-  
28 source values;

29 (9) "real property" means one or more defined interests,

1 . benefits, and rights inherent in the ownership of real estate;

2 (10) "residential real estate appraiser" means a real estate  
3 appraiser certified to appraise residential real property, subject to  
4 the limitations of AS 08.87.100(2);

5 (11) "review assignment" means an analysis, opinion, or  
6 conclusion prepared by a real estate appraiser that forms an opinion  
7 as to the adequacy and appropriateness of a valuation appraisal or an  
8 analysis assignment;

9 (12) "valuation appraisal" means an analysis, opinion, or  
10 conclusion prepared by a real estate appraiser that estimates the  
11 value of an identified parcel of real estate, or identified real  
12 property at a particular time.

13 \* Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

14 (31) Board of Certified Real Estate Appraisers (AS 08.87.-  
15 010).

16 \* Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:

17 (24) Board of Certified Real Estate Appraisers (AS 08.87.-  
18 010) -- June 30, 1994.

19 \* Sec. 4. AS 44.62.330(a) is amended by adding a new paragraph to read:

20 (55) Board of Certified Real Estate Appraisers.

21 \* Sec. 5. INITIAL APPOINTMENTS TO THE BOARD OF CERTIFIED REAL ESTATE  
22 APPRAISERS. Notwithstanding AS 08.87.010, as enacted by sec. 1 of this  
23 Act, a person is eligible for an initial appointment as an appraiser member  
24 of the Board of Certified Real Estate Appraisers if the person has at least  
25 10 years of experience as a real estate appraiser or if the person is a  
26 designated member in good standing of a real estate appraisal organization  
27 that, as of January 1, 1989, required appraisal experience, appraisal  
28 education, and training to become a member, and required adherence to gen-  
29 erally accepted standards of professional practice in order to retain

1 designated membership.

2 \* Sec. 6. AS 08.87.100, enacted by sec. 1 of this Act, takes effect  
3 July 1, 1991.

4 \* Sec. 7. Except for AS 08.87.100, enacted by sec. 1 of this Act, this  
5 Act takes effect July 1, 1990.

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Adopt. U.C.

Amendment #1 CS HB 523 (LHC)

by Brown

p. 8, line 22

after "value," insert

"energy efficiency,"

Amendment #2

Adopt.  
U.C.  
3/28/90  
By Ricger

To: CS HB 523 (LIC)

Page 1, line 14

delete "four", insert "five"

Page 1, lines 15 and 16

delete "and of the executive director of the  
Alaska Housing Finance Corporation or the  
director's designee"

Page 1, line 16,

delete "One", insert "At least one"

Page 1, lines 18, 19, and 20

before the word "one" on each line, insert "at least"

Attachment 1  
3/29/90  
6-2165Ea  
Gaguine

AMENDMENT #3

passed  
5-1

OFFERED IN THE HOUSE

TO: CSHB 523(L&C)

Page 8, following line 15:

Insert a new section to read:

"Sec. 08.87.340. APPRAISALS BY UNCERTIFIED APPRAISERS PERMITTED. Nothing in this chapter precludes a person who is not certified as a real estate appraiser from appraising real estate for compensation if the person does not hold out to be a certified appraiser and if appraisal by a certified appraiser is not required by federal law."

A M E N D M E N T #4

passed  
8-1

OFFERED IN THE HOUSE

TO: CSHB 523(L&C)

Page 4, following line 18:

Insert a new subsection to read:-

"(e) The board may provide for the limited certification of persons not meeting the qualifications prescribed in this section and may prescribe qualifications for limited certification. Persons receiving limited certification under this subsection may perform an appraisal that would otherwise require an appraiser certified under (a) - (c) of this section only if

(1) the property being appraised is located in a sparsely settled area of the state;

(2) the cost of an appraisal by an appraiser certified under (a) - (c) of this section would be unreasonably high with regard to the value of the property being appraised; and

(3) the appraisal by the person is consistent with federal law."

# Alaska State Legislature



WHILE IN SESSION  
PO BOX 1  
JUNEAU ALASKA 99801  
907 465-3779

HOUSE MAJORITY LEADER

HOUSE ADDRESS  
PO BOX 1  
JUNEAU ALASKA 99801  
907 465-3779

CONTACT

## Representative Mike Navarre

### Memorandum

March 22, 1990

To: Representative Lyman Hoffman & Representative Rea Larson, Co-Chairmen, House Finance Committee.

From: Representative Mike *Navarre*

Subject: House Bill 523, An act relating to the certification of real estate appraisers.

HB 523 addresses an urgent mandate from the Federal government to certify and license real estate appraisers. The federal requirement is contained in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the thrift bailout bill or FIRREA). Congress acted based on the findings that the major cause of the \$150 billion savings and loan collapse were (1) inflated appraisals and (2) conflicts of interest among appraisers, thrift operators, and real estate developers. FIRREA also established the Appraisal Subcommittee to monitor and assist state licensing and certification activity.

### Importance of FIRREA to Alaska

After July 1, 1991 all appraisals in connection with federally related funds (HUD, highways, BIA, etc.) must be performed by State certified or licensed appraisers. The State of Alaska at this time has no requirements relating to appraisers. The failure of legislation in this session will likely require hiring appraisers from the "lower 48" on federally funded projects.

### Significant points necessary in order to conform to Federal requirements

- 1) Set up independent regulatory agency that answers to the Governor.
- 2) The board chairman should not be actively engaged in the affected business for the term of their office or for a reasonable time after leaving office. The board should not be dominated by any one industry or trade.
- 3) Appraiser certification/licensing activities should not be conducted by the same officials that are responsible for real estate regulation.

4) Certified appraisers must satisfy criteria established by the Appraisal Qualification Board of the Appraisal Foundation and must pass a state examination consistent with Appraisal Foundation guidelines. Licensed appraisers must meet state testing, experience, and educational requirements.

5) "Grandfathering" is not allowed.

6) The Legislature by enacting the proper law during this session would allow sufficient time for those now engaged in appraisal work the necessary time to become certified and licensed.

#### Amendments from the House Labor & Commerce Committee

1) Page 1, line 28 through line 1 on page 2-- rules of professional conduct.

2) Page 7, Section 08.87.300 was deleted. This section would have permitted uncertified appraisers to market their services to the public.

3) Page 8, line 13 through line 15-- municipal tax assessors are exempt.

4) Page 9, lines 11 & 12 -- excluding subsurface natural resource values.

Contact person: Tom Ackerly (3779)/ Capitol 24

STATE OF ALASKA  
THE LEGISLATURE

FOUCH Y STATE CAPITOL  
NEAU ALASKA 99501  
317 445 1810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1990

SUBJECT: Sectional analysis of CSHB 523(L&C)  
(Work Order No. 6-2165)

TO: Representative Mike Navarre

FROM: John B. Gaguine *JG*  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill enacts a new chapter, AS 08.87, to the occupational licensing title. AS 08.87 would provide for the certification of real estate appraisers.

Article 1 establishes a Board of Certified Real Estate Appraisers. The board would consist of four members appointed by the governor - two appraisers, one mortgage banker, and one public member - and the executive director of the Alaska Housing Finance Corporation (or the director's designee). The board would, in addition to the powers it has under AS 08.01 (the centralized licensing statute), establish the examination specifications for certification as a general real estate appraiser and as a residential real estate appraiser (a person who is only certified as an appraiser for residential property of up to four, or in some cases twelve, units), and adopt rules of professional conduct for appraisers.

Article 2, AS 08.87.100 makes it a misdemeanor for a person to hold out as a certified appraiser if the person is not appropriately certified. AS 08.87.110 prescribes the requirements for certification, including the education and experience necessary; subsection (c) provides for Alaska certification of persons certified by other states if those states have requirements equivalent to Alaska's and if those states would recognize Alaska certification. AS 08.87.120

provides that applicants for renewal of certification must meet continuing education requirements, and sets out those requirements.

In Article 3, AS 08.87.200 prohibits certain practices, such as acting negligently, violating AS 08.87, failing to comply with the Uniform Standards of Professional Appraisal Practice, accepting a contingent fee, making false statements in connection with an application for certification, and violating confidential records. AS 08.87.210 provides that an appraiser may lose certification if the person violates AS 08.87 or a board regulation, is convicted of a crime involving moral turpitude, or commits a fraudulent act as an appraiser.

Article 4 contains general provisions. AS 08.87.300 requires certified appraisers to retain records for at least three years. AS 08.87.310 creates the category of registered trainees, who must work under certified appraisers. AS 08.87.320 forbids a person for suing in Alaska for fees for work done as a certified appraiser if the person was not certified.

AS 08.87.330 excludes from the coverage of the chapter persons appraising real estate as part of the tax assessment process of a municipality. Finally, AS 08.87.900 defines several terms used in AS 08.87; it excludes from the definition of "real estate" subsurface natural resource values.

Section 2 makes the Board of Certified Real Estate Appraisers subject to AS 08.01, the centralized licensing chapter.

Section 3 creates a sunset date for the board of June 30, 1994.

Section 4 provides that the board is subject to the administrative adjudication provisions of the Administrative Procedure Act, AS 44.62.

Section 5 prescribes the qualifications of the initial appraiser appointees to the board.

Sections 6 and 7 provide for effective dates. The Act would take effect on July 1, 1990, except for the provision making it a crime for an uncertified person to hold out as certified, which takes effect on July 1, 1991.

National  
Conference  
of State  
Legislatures

I N F O R M A T I O N A L E R T

JANUARY 22, 1990

William T. Pound  
Executive  
Director

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**APPRAISAL SUBCOMMITTEE RELEASES GUIDELINES FOR STATE LICENSING  
AND CERTIFICATION OF REAL ESTATE APPRAISERS**

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council on January 18 released guidelines for state certification and licensing of real estate appraisers. The guidelines should be helpful to states attempting to meet a federal requirement that appraisers be licensed and certified for federally-related real estate transactions.

The federal requirement is contained in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the thrift bailout bill or FIRREA). Congress acted based on findings that major causes of the \$130 billion savings and loan collapse were (1) inflated appraisals and (2) conflicts of interest among appraisers, thrift operators, and real estate developers. FIRREA also established the Appraisal Subcommittee to monitor and assist state licensing and certification activity.

The guidelines issued by the Subcommittee on January 18 address some of the ambiguities about what form of state regulation would be acceptable for federally-related real estate transactions, in particular it addresses ambiguities about the independence and administrative location of state appraisal regulation agencies and about "grandfathering" of appraisers.

LOCATION AND INDEPENDENCE OF AGENCY

The Appraisal Subcommittee expressed its preference for a totally independent regulatory agency answerable to the governor, as the best means of insulating the agency from the influence of industries and individuals with a financial interest in appraisal licensure and certification. At the same time, the subcommittee recognized that there may be fiscal constraints or other legitimate reasons why a separate agency cannot be established. In such circumstances, according to the Subcommittee, "the appraisal certification and licensing function should be located within a state regulatory body which is structured to adequately eliminate the influences of an affected industry over the appraisal function."

In addition, to insure the independence of the agency, appointment of the agency head or board should not be made by a person or persons affiliated with an affected industry. Similarly, an agency head should not be actively engaged in an affected business for the term of his or her appointment and for a reasonable period of time after leaving office. And, any agency board or commission should not be dominated by any one industry or profession. The guidelines explicitly provide that appraisal licensing and certification activities should not be conducted by the same officials responsible for real estate regulation and that agency licensing, certification, and disciplinary decisions should be subject to review only by the courts.

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is a publication  
of the  
NCSL Office of  
State-Federal  
Relations  
that provides  
up-to-date  
information  
on issues under  
consideration  
by Congress or the  
Administration.

(over)

#### GRANDFATHERING AND QUALIFICATION CRITERIA

The guidelines reiterate the qualification criteria in FIRREA. In brief, certified appraisers must satisfy criteria established by the Appraisal Qualifications Board of the Appraisal Foundation and must pass a state examination consistent with Appraisal Foundation guidelines. Licensed appraisers must meet state testing, experience, and educational requirements.

"Grandfathering" is prohibited. The guidelines provide that: "No individual or group of individuals shall be deemed exempt from meeting the criteria established for licensing and certification, or be otherwise 'grandfathered' into the system."

States are prohibited from requiring that an applicant for appraisal certification or licensing hold another occupational license. States must ensure that a code of professional responsibility is incorporated into appraisal licensing and certification requirements.

#### COMMENTS

Comments on the guidelines which will be published in the Federal Register should be sent to: Appraisal Subcommittee, FFIEC, 1776 G Street NW, Washington, D.C. 20006. The subcommittee may wish to issue additional policy guidelines.

- STAFF CONTACT: BILL WAREN.

**APPRAISAL SUBCOMMITTEE  
GUIDELINES REGARDING  
STATE CERTIFICATION AND LICENSING OF APPRAISERS**

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) establishes an Appraisal Subcommittee of the Federal Financial Institutions Examination Council. The responsibilities of the Appraisal Subcommittee include, among other things, monitoring the appraiser certifying and licensing agencies, which states may establish to carry out the purposes of Title XI. Section 1116 (d) of this Title instructs the Subcommittee not to recognize appraiser certifications and licenses from states whose appraisal policies, practices or procedures are found to be inconsistent with Title XI.

The legislative history accompanying Title XI indicates that states should adopt an organizational structure for implementing their appraiser licensing, certification and supervision functions that avoids potential conflicts of interest. Recognizing that each state has fiscal constraints or other factors that could influence the structure and location of the agency charged with licensing and certifying appraisers, the legislative history also indicates a desire to avoid imposing any particular organizational structure upon the states. However, while this suggests that a state could choose to locate the appraisal regulatory function in the same department as the regulation of real estate licensing, promotion, development or financing functions (hereinafter "realty related activities"), the organizational structure of the department must provide adequate safeguards to ensure that the appraisal regulatory function is independent of realty related activities.

In response to numerous requests from states and other interested parties, the Subcommittee is issuing these guidelines to assist the states, territories and the District of Columbia in the establishment of appropriate organizational structures for licensing and certifying appraisers. The guidelines are intended to facilitate the implementation of Title XI, promote the independence of the appraisal regulatory function, reduce conflicts of interest, and address the grandfathering and dual licensing of appraisers. Given the importance of these objectives, the Subcommittee will accept and consider public comments on the issues addressed by these guidelines.

#### GUIDELINES

##### LOCATION OF THE AGENCY

The Subcommittee believes it is preferable that the certification and licensing function be established as a totally independent regulatory agency answerable to the governor or a cabinet level officer who has no regulatory responsibility for realty related activities. (In these guidelines, the appraisal regulatory body will be referred to as the "agency", although it may also be a board, commission, or individual). Such a structure would provide maximum insulation for the agency from influences of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions (hereinafter "affected industry").

If, due to fiscal or other constraints, a separate agency is not feasible, the appraisal certification and licensing function should be located within a state regulatory body which is structured to adequately eliminate the influences of an affected industry over the appraisal function.

#### APPOINTMENT OF THE AGENCY HEAD

The appointment of the agency head or members of the appraisal board should be made by an individual or committee not associated or affiliated with an affected industry. (An individual would be affiliated or associated with an affected industry if the individual had a direct or indirect pecuniary interest in the industry).

#### To illustrate:

An autonomous agency head, appointed by the governor and subject to confirmation by the legislature would generally be considered to be properly appointed.

An individual or board chosen by or answerable to a committee or commission comprised of a majority of real estate appraisers, real estate brokers, financial institution executives or other members of an affected industry would not meet the criteria for being independently appointed.

#### **INDEPENDENCE FROM AFFECTED INDUSTRIES**

If the agency is directed by an individual, that person should not be actively engaged in the appraisal business or any other affected industry for the term of appointment or employment, and for a reasonable period thereafter.

If the agency is directed by a board or commission, the members of that board should represent the broad public interest, and the statute, regulation, or order creating that body should not permit a majority of the board to come from or be dominated by any one industry or profession. Moreover, after its initial establishment, the composition of the board should continue to remain free from domination by any one industry or profession.

#### **INDEPENDENCE OF DECISION MAKING**

Decisions as to whether to license and certify, to discipline or to de-license or de-certify appraisers should not be made by the same state officials whose responsibilities include realty related activities.

Decisions of the state appraiser regulatory agency regarding whether to license or certify, to discipline or to de-license or de-certify appraisers should be final administrative action subject only to appropriate judicial review.

#### **QUALIFICATION CRITERIA**

All appraisers subject to the licensing or certification provisions of Title XI must be qualified through appropriate testing and experience requirements established by state law.

**Certified:** Individuals designated as certified real estate appraisers shall have, at a minimum, 1) satisfied the criteria for certification issued by the Appraisal Qualifications Board of the Appraisal Foundation, and, 2) passed a state administered examination which is consistent with the Uniform State Certification Examination issued or endorsed by the Appraisal Qualifications Board of the Appraisal Foundation.

**Licensed:** States should establish meaningful qualification standards for licensed appraisers, including testing, experience and educational requirements that are adequate to demonstrate knowledge and competency.

Additional qualifications for licensing and certification may be required by any state or federal agency that considers such qualifications necessary to carry out responsibilities under Title XI.

#### **EXEMPTIONS AND GRANDFATHERING**

No individual or group of individuals shall be deemed exempt from meeting the criteria established for licensing or certification, or be otherwise "grandfathered" into the system. This is not meant to preclude states from recognizing existing licenses or certification designations of individuals who currently meet existing state licensing or certification requirements, provided those requirements are fully consistent with the provisions of Title XI.

#### **MANDATORY DUAL LICENSING**

Consistent with the spirit and intent of Title XI, state laws may not require any applicant for appraisal certification or licensing to hold other occupational licenses as a condition of obtaining a license or certification designation as a real estate appraiser.

#### **OTHER**

States should ensure that an appropriate code of professional responsibility is incorporated into their certification and licensing requirements.

To ensure that their licensing and certification procedures are not disapproved by the Subcommittee, states should adhere to the provisions set forth in Title XI and adopt policies, practices and procedures that are consistent with the purposes of the law. The Subcommittee will exercise the authority granted by Title XI to ensure the independence of the appraisal regulatory function within the state systems. The Subcommittee will meet its oversight responsibilities by reviewing each state's compliance with the intent of Title XI in its entirety.

Additional policy guidance may be provided by the Subcommittee, as necessary, to further assist in the effective implementation of Title XI.

**House Bill 523: "An Act relating to certification of real estate appraisers; and providing for an effective date."**

The need for regulating appraisers has been considered intermittently for a number of years. However, when the Federal Savings & Loan Bailout bill was signed into law last August, the time for action became immediate, because Title XI of that bill specifies that, by July of 1991, the appraisal for any federally related transaction must be completed by a state certified appraiser in order to qualify for funding with federal money.

Title XI further provides that states may establish a state appraiser certifying and licensing agency to assure availability of appraisers for federally related transactions, and to assure effective supervision of those appraisers. Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) also established an Appraisal Subcommittee of the Federal Financial Institutions Examination Council. The Appraisal Subcommittee, among other things, has been charged with monitoring the appraiser certifying agencies created by the states, and has been instructed by Title XI not to recognize state appraiser agencies whose appraisal policies, practices, or procedures are found to be inconsistent with Title XI.

To assist states in the adoption of acceptable legislation, the Appraisal Subcommittee recently released guidelines regarding state certification and licensing of appraisers. These guidelines indicate that it will be necessary to regulate appraisers under a separate board in order to satisfy federal requirements that the appraisal regulatory function be independent of realty related activities.

HB 523 was introduced to address the issue of appraiser licensing in Alaska. The bill would create a five-member appraiser board within the Division of Occupational Licensing and give responsibility to the Board of Certified Real Estate Appraisers for the regulation of the appraiser profession in Alaska.

The department supports the intent of this legislation, but has a number of concerns regarding specific provisions of the proposed legislation. Our first concern deals with the voluntary nature of the proposed certification plan outlined in HB 523. Proposed section AS 08.87.300 (see page 7, line 6), permits appraisals by uncertified appraisers. Given that some appraisal work may not be tied directly to federally related transactions, HB 523 provides that appraisers who may be involved in such transactions need not seek certification by the Board of Certified Real Estate Appraisers.

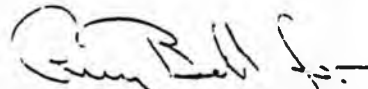
We believe creating two different classes of real estate appraisers in this state will confuse the consumer. We are also concerned that it will leave the consumer unprotected from the unscrupulous. We foresee such a loophole allowing uncertified appraisers to receive payment for appraisal services and the consumer only later discovering that the appraisal is not acceptable to a bank or other entity because it was not performed by a state certified appraiser.

If appraisers are to be regulated in a manner that compares with other professions currently licensed in Alaska and if our primary objective in requiring such licensure is protection of the public from unscrupulous or incompetent practitioners, then we believe all persons seeking to provide appraisal services in Alaska should be subject to the same set of standards.

HB 523 would impose those standards only on appraisers who wish to do work for those projects anticipating the use of federal monies. In our opinion, the vast majority of mortgage financing related to real estate sales and highway projects rely on at least some federal money. And funding for rural projects is frequently tied to BIA dollars. Since most appraisals will have to be done by an appraiser who is subject to the regulatory standards established by this proposed legislation, we believe this section should be deleted.

Our second concern involves the Appraisal Subcommittee's policy requiring states to "ensure that an appropriate code of professional responsibility is incorporated into their certification and licensing requirements." Without statutory provision for the adoption of such a code, the state risks the Subcommittee's disapproval of its plan for appraiser certification. We recommend that proposed AS 08.87.020 (page 1, line 23) be amended by adding a new paragraph to read: "(3) adopt rules of professional conduct to establish and maintain a high standard of integrity in the appraisal profession." This language would then allow the board to establish through regulation the appropriate code of professional responsibility.

As stated before, there is an urgent need to enact appraiser certification legislation this year. All appraisals performed after July of 1991 must be done by state certified appraisers. Legislation must pass this year if the state is to have the time necessary to begin testing and admitting qualified appraisers. We support the intent of HB 523, but request that consideration be given to the suggestions for amendment described above. With the changes suggested, the department would support passage of HB 523.



Larry Merculieff, Commissioner

Date: 2-23-90

## **Supporters of House Bill 523**

1. Ken Gain MAI appraiser/realtor, a spokesman for both groups.
2. Joe Hayes representing the Alaska Association of Realtors
3. Department of Commerce
4. Grayce Oakley, Executive Secretary of the State Real Estate Commission
5. The Kenai Realtors
6. The two Alaska appraiser associations are in agreement with the need for the bill.

This list is current as of February 16, 1990.

# EQUIVEST

REALTY ADVISORS, INC.

HB523

February 23, 1990

Representative David Donley  
Chairman  
House Labor & Management Committee  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Re: House Bill 523

Dear Representative Donley:

It is my understanding that you will be holding a hearing on House Bill 523 on March 1, 1990. Since I will be unable to attend that hearing personally, I am using this letter to express our strong support for passage of HB 523.

You have previously received a letter from me advising you that this Bill was developed by a Joint Task Force consisting of members of the Alaska Chapters of the American Institute of Real Estate Appraisers and The Society of Real Estate Appraisers. Legislation of this type is mandated by Federal legislation and it is our opinion that House Bill 523 meets all of the requirements imposed by the Federal legislation.

In addition to being supported by the Alaska Chapters of the American Institute of Real Estate Appraisers and The Society of Real Estate Appraisers, this Bill is also supported by The Alaska Association of Realtors. At a recent Senate hearing on Senate Bill 470, which addresses the same topic, all testimony was in favor of House Bill 523 in preference to S.B. 470. In addition to the aforementioned groups, other testimony supportive of House Bill 523 was offered by the Division of Occupational Licensing and the Right of Way Division of the Department of Transportation.

REAL ESTATE COUNSELING AND EVALUATION, ASSET MANAGEMENT,  
ACQUISITION AND DISPOSITION OF INVESTMENT PROPERTIES

1844 WEST NORTHERN LIGHTS BLVD. ■ ANCHORAGE, ALASKA 99517  
(907) 279-8551

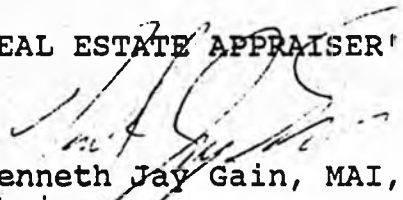
Representative Dave Donley  
February 23, 1990  
Page Two

Due to the deadlines imposed by Federal legislation, it is imperative that this legislation pass during this session of the Legislature. We will, therefore, greatly appreciate it if your committee will move this Bill on with a "do pass" recommendation.

Thanks for your assistance in this matter.

Sincerely,

REAL ESTATE APPRAISER'S TASK FORCE



Kenneth Jay Gain, MAI, SRS, CCIM, CRE  
Chairman

KJG:sa  
eq780

cc: Joe Hayes  
Representative Mike Navarre

# EQUIVEST

REALTY ADVISORS, INC.

HB523

G

February 19, 1990

Representative Dave Donley  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Re: Regulation of Real Estate Appraisers  
House Bill 523

Dear <sup>Dave</sup> ~~Representative Donley~~:

The purpose of this letter is to advise you of the importance of enacting Legislation in this session of the Legislature which will regulate Alaska real estate appraisers. As a result of Federal activity in the adoption of Office of Management and Budget Circular A-129, and the adoption by Congress of Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA), all appraisals involved in Federal activities must be performed by licensed or certified State appraisers by July 1, 1991. Since the Federal government regulates banks, virtually all forms of mortgage loans are affected by these Federal requirements as well as land acquisition programs for Federally funded projects involving highways, harbors, and airports.

In an effort to be responsive to the need for such Legislation, the Alaska Chapters of The American Institute of Real Estate Appraisers and The Society of Real Estate Appraisers appointed a joint Task Force to study the issue and prepare appropriate Legislation. After several months of review and numerous meetings, we did prepare a draft bill based upon similar Legislation from Wyoming as a guideline. It was our understanding that the Office of the Governor would introduce such a Bill, but during the second week of the Legislature, they advised us that they would not. We, therefore, began to work with Senator Rodey to have appropriate Legislation drafted. Although Senator Rodey has not introduced such Legislation, we were pleased that House Bill 523 introduced by Representatives Navarre and Swackhammer is an almost identical version of the Legislation approved by us. Accordingly, we urge your support for the passage of House Bill 523.

REAL ESTATE COUNSELING AND EVALUATION. ASSET MANAGEMENT.  
ACQUISITION AND DISPOSITION OF INVESTMENT PROPERTIES

1844 WEST NORTHERN LIGHTS BLVD. ■ ANCHORAGE, ALASKA 99517  
(907) 279-8551

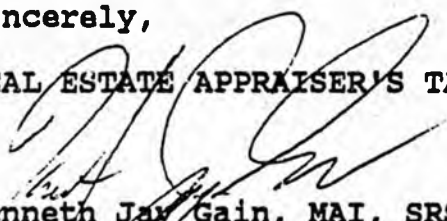
Representative Dave Donley  
February 19, 1990  
Page Two

As additional background on this issue, I am enclosing herewith a copy of an article on this issue which I wrote for the Alaska Real Estate Commission's Newsletter. If you require additional information, you can obtain a Resource Manual by calling me at 279-8551.

Thank you for your assistance in this important matter.

Sincerely,

REAL ESTATE APPRAISER'S TASK FORCE



Kenneth Jay Gain, MAI, SRS, CCIM, CRE  
Chairman

**EXHIBIT A**

**Draft of an article for the Real Estate Commission Newsletter,  
entitled "Appraiser Regulation"**

## APPRAISER REGULATION

Is the appraiser you are using licensed or certified?

The answer to that question is no. At the current time, there is no governmental regulation or licensing requirement for appraisers in the State of Alaska or the majority of the states in the Lower 48. The only regulation is on those appraisers who voluntarily belong to organizations such as the American Institute of Real Estate Appraisers which issues the professional designation of MAI and RM, or the Society of Real Estate Appraisers which issues the designation SRA, SRPA, and SREA. Although these organizations have higher standards than are likely to ever be imposed by governmental regulation and although their requirements for professional designation are substantially greater than any requirements ever proposed for governmental licensing or regulation, they only have jurisdiction over their membership. Nationwide the estimated membership in these two organizations is between 10 and 15% with only 3 to 5% of all the appraisers holding a professional designation! In Alaska those affiliated with one or both of these organizations is approximately 90% of all appraisers and 15 to 20% of all appraisers hold a professional designation. Because of the voluntary affiliation with the two appraisal groups, enactment of government regulation in Alaska will probably not have a noticeable effect on the quality of appraisal work.

Nevertheless, due to provisions contained within Title XI of the recently enacted Savings and Loan Bail-out Legislation, all appraisers involved in Federal activities will have to be State licensed or certified by July 1, 1991. Since all banks, savings and loans and credit unions are federally regulated, the appraisals for virtually all loans will have to be performed by licensed or certified appraisers. Likewise, government agencies which utilize the services of an appraiser in public works programs which have federal funding will also be effected. All such appraisers, including many government staff appraisers will have to become licensed or certified. The only major group of appraisers not impacted by this legislation are local tax assessors.

In response to this legislation and a directive enacted by the Federal Office of Management and Budget last year, the Alaska Chapters of the Society of Real Estate Appraisers and the American Institute of Real Estate Appraisers created a task force to review the various model bills for appraisal licensing and certification. After several months, the task force drafted a proposal based upon the Certification Law recently adopted in Wyoming.

The Bill, as proposed by the Alaska Appraiser's Task Force, provides for voluntary certification so that it will not be necessary to allow for "Grandfathering" of persons currently in business. Under their proposal, all appraisers, even those with 25 to 30 years experience, will be required to meet all of the

qualifications for certification, including passing the examination, before they can become certified. Because the Bill provides for voluntary certification, the only persons who would be required by Alaska Law to be certified would be those who hold themselves out to be "Certified Appraisers" or who claim to have completed "Certified Appraisals". However, because of the requirements of the Federal Legislation which would require Certified Appraisers, if that is the only level of regulation available in a State, every appraiser in the private fee business would have to be certified or work as a trainee for a Certified Appraiser to be able to have enough business to make a living. Because tax assessors do not complete Certified Appraisals they would not have to become certified. Likewise, because opinions of value for listing or competitive market analysis are not Certified Appraisals, real estate brokers and salesmen would not be governed by the act unless they held themselves out to be Certified Appraisers.

The Bill proposed by the Alaska appraisers provides for two levels of certification and for a Registered Trainee. A Registered Trainee would be required to complete 30 classroom hours of appraisal education and would have to work under the supervision of a Certified Appraiser. Although a person could become a Certified Appraiser without ever working as a Registered Trainee, Registered Trainees could become certified with one year less actual appraisal experience.

The two levels of certification would be "Certified Residential Real Estate Appraiser" and "Certified General Real Estate Appraiser". The Certified Residential Real Estate Appraiser would be required to have three years appraisal experience (but only two years if a Registered Trainee), complete 75 classroom hours of appraisal education including 15 hours on Professional Standards and Ethics and pass a written examination. To be certified as a General Real Estate Appraiser, the appraiser would have to have four years appraisal experience (but only three years if a Registered Trainee) and have completed 160 classroom hours of appraisal education including 15 hours on Professional Standards and Ethics and pass a written examination. In additions to the requirements for initial certification, both classes of Certified Appraisers would have to complete 40 classroom hours of continuing education every two years for continuing certification.

As proposed by the Alaska appraisers, they would be regulated by a separate Certified Real Estate Appraiser Board appointed by the Governor. However, to maintain some cooperation with real estate brokers and salesmen, the Executive Secretary of the Real Estate Commission would also be designated as Executive Secretary of the Certified Real Estate Appraiser Board.

The foregoing represents the proposals by the Alaska Appraisers Task Force and undoubtedly, the final legislation will be somewhat different. The important issue is that the Legislature pass some form of licensing or certification so that the program can

be implemented before July 1, 1991. Failure to enact such legislation could seriously limit the ability to get financing in Alaska or limit the ability to complete public works projects involving Federal funding!

While this proposed legislation will not directly affect real estate licensees not engaged in appraisal work, it will have a significant impact on a profession involved in most real estate transactions. Accordingly, it is legislation which licensees should be aware of and which could have a negative impact on licensee's income if the Legislature fails to enact a Bill meeting the Federal Standards.



ALASKA ASSOCIATION OF REALTORS, INC.<sup>®</sup>  
741 Sesame Street, Suite 100 • Anchorage, Alaska 99503  
Telephone 907-563-7133

February 22, 1990

Representative Dave Donley  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Re: House Bill 523

Dear Representative Donley:

I am writing to express the strong support of the Alaska Association of Realtors for H.B. 523.

Due to recently enacted Federal legislation, all banks and Federal agencies must use state certified or licensed appraisers after July 1, 1991. If our State does not license or certify appraisers in a timely manner, there could be a serious limitation on mortgage financing next year.

Both Alaska chapters of the two major national appraiser groups have cooperated in preparing model legislation which has been essentially incorporated into H.B. 523. Our Legislative Committee has reviewed H.B. 523 and has unanimously endorsed it.

Due to the fact that appraiser certification must be in place by July 1, 1991, it is urgent that this legislation be passed this session.

We will appreciate your help.

Sincerely,

Jim McCourt  
President



# FOLLETT & ASSOCIATES

4241 B Street, Suite 305, Anchorage, Alaska 99503 (907) 562-4279



Richard H. Follett, MAI  
Eric G. Follett, MAI

March 1, 1990

Dave Donley, Representative  
Alaska State Legislature  
P. O. Box V (MS3100)  
Juneau, Alaska 99611

RE: House Bill 523, Real Estate Appraiser Certification

Dear Dave:

We have been real estate appraisers in Alaska for eighteen years and have the MAI designation from the American Institute of Real Estate Appraisers. Recent federal legislation has mandated that individual States pass legislation to certify real estate appraisers.

We strongly urge you to support passage of House Bill 523 in order to meet the needs of the appraisal industry. We need a bill passed this session in order to comply with the federal mandate. This is a very good bill which should help to eliminate some of the appraisal abuses and banking problems that have occurred in the recent past.

Thank you for your dedicated effort.

Sincerely yours,

FOLLETT & ASSOCIATES

A handwritten signature in cursive script that reads "Eric G. Follett".

Eric G. Follett, MAI

A handwritten signature in cursive script that reads "Richard H. Follett".

Richard H. Follett, MAI

EGF/lt



ALASKA CHAPTER NO. 57

AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

OF THE NATIONAL ASSOCIATION OF REALTORS  
2102 Cleveland  
Anchorage, Alaska 99503



HB 523  
G  
make copy for D2

February 19, 1990

Representative Dave Donley  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Re: House Bill 523

Dear Representative Donley:

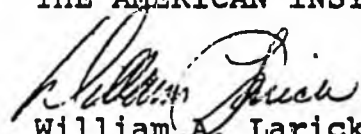
As you have already been advised by the Chairman of our Real Estate Appraiser's Task Force that Federal legislation has been passed which will require certification of appraisers by July 1, 1991.

H.B. 523 is very similar to the model bill prepared by our Task Force. We, therefore, strongly support H.B. 523 and urge its passage as priority legislation during this session of the Legislature.

Your assistance is appreciated.

Sincerely,

ALASKA CHAPTER OF  
THE AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

  
William A. Larick, RM  
Acting President

## BRIEFS

August 30, 1989

### Federal Law Puts Spotlight on State Appraiser Legislation

Now that the federal bill has been signed into law, the focus is shifting to the passage and implementation of state certification programs. Since the use of state certified appraisers is mandated for "federally covered transactions" under the new federal legislation, it becomes necessary for those states that have not as yet enacted certification to do so by July 1991.

To date 15 states have passed some type of appraisal legislation, the majority of which having been enacted within the last year and a half. The programs vary, as can be seen on the summary on pages 3 and 4.

Key elements of the federal law that may be helpful to legislative efforts in those states currently without certification programs, and for those states which may need to make necessary changes in their programs, include the following:

- The federal law mandates the use of certified appraisers and permits licensing. States *must* certify appraisers; if a state fails to do so, no appraisals involving federally related transactions may be performed by appraisers in the state. The Society continues to encourage states to set up certification programs consistent with the Appraisal Foundation's and our model legislation.
- Transactions covered. Certified appraisers can perform an appraisal in all federally related transactions, both residential and commercial. Transactions having a value of *under* \$1 million may also have an appraisal performed by a certified appraiser; this will be decided by each federal bank regulatory agency. The Society has encouraged the use of state certified appraisers to insure the highest level of competency for users.

*(Continued on page 2)*

### At a Glance

Special legislative update issue, containing:

Complete text of federal Appraisal Reform legislation, including congressional Conference Report — pp. 5-7

State-by-state summary of all states having passed legislation to date pertaining to appraising, with key aspects of each law — pp. 3 & 4

Jobsearch — p. 11

### Annual Conference Attracts National Media

With the growing public focus on appraisal reform issues, the fact that this year's Annual Conference attracted members of the nation's press is not surprising. Among those attending the Annual Conference, held in late July-early August in New York City, were representatives from *The New Yorker* and the *New York Post* (the latter interviewing president Louie Reese III, SRPA). Also represented were *Nation's Business* (the monthly magazine of the U.S. Chamber of Commerce), *National Thrift News*, *Washington Cable*, *Real Estate Weekly* and *Everyday Law*.

The Conference brought together close to 1,200 Society members and their families who participated in a series of educational workshops as well as a variety of social and sightseeing activities. For those unable to attend, tapes of all the sessions will be available shortly (see fu-

*(Continued on page 2)*

States Now With Separate Appraiser  
Certification and/or Licensing Laws



See pages 3 and 4 for detailed synopsis  
of key aspects of each state act.



## Conference (from p. 1)

ture *Briefs* for tape announcement)

Special guest speakers included William F. Buckley, Jr., whose remarks opened the Conference; and Frank W. Abagnale, who spoke at the closing luncheon. Abagnale was once described by the *Wall Street Journal* as the "world's greatest con man" but is now a highly respected authority on white collar crime prevention. His inspirational presentation was rated one of the highlights of the Conference.

At the conclusion of the Conference, the Society learned that the Marriott Marquis Hotel would donate a percentage of their income from the Conference to the Children's Network, a charitable organization that assists children in need.

### *New Officers Elected*

Following the Conference the Board of Governors met for two days. Included on their agenda was the election of 1990 national officers and the 10 district governors whose terms expire at the end of 1989. Those elected for the coming year are:

**President:** Ritch LeGrand, SREA, Sioux City, IA

**First Vice President:** Richard G. Pietrowitz, SRPA, Gibbsboro, NJ

**Second Vice President:** Bernard J. Fountain, SRPA, Clinton Corners, NY

**Vice President:** William J. Coyle III, SREA, Pawtucket, RI

**Vice President:** Alfred J. Ferrara, SRPA, Anchorage, AK

**Vice President:** Bill T. Hylton, SRA, High Point, NC

District governors who were elected are:

**District 6:** Basil S. Katsaros, SRPA, Denver, CO

*(Continued on back page)*

## Law (from p. 1)

- Independence of state appraiser certifying agency. Decisions concerning appraisal matters should not be made by the same officials whose responsibilities include licensing of Realtors or others. Only administrative functions may be shared.

- Education/experience/exam requirements. Minimum of 60 hours or a college degree plus 15 hours of professional practice; two years of experience within the last five years, supported by written documentation for certification; and passing of an exam. (The foregoing is contained in the Foundation-endorsed model bill.) Licensing requirements have yet to be determined and will be subject to review by the federal Appraisal Subcommittee.

- Role of the Appraisal Foundation. Recognized in the federal law as the legitimate representative of the professional appraisal industry, it may maintain a roster of all state certified and licensed appraisers eligible for federally related work. It also will establish the qualifications criteria and uniform national examination required for certification.

- Grandfathering. All appraisers will be required to meet the Foundation's experience, education and examination requirements to become certified. The oversight body, the Appraisal Subcommittee, established under the federal law, will reject those state practices and procedures that are inconsistent with the federal law.

The Society's Public Affairs office in Washington is available to consult with members seeking assistance in their state legislative effort. Additionally, all members are urged to keep the Washington office abreast of any developments occurring in their state, and to call for copies of the model bill for state certification. Key staff contacts in

Washington are Donald E. Kelly, Director of Washington Operations, Debbie Geary and Lisa DeFusco (800-346-8897).

## *Requests for Data*

**Wanted:** sales of self-storage (miniwarehouse) properties in major metro areas of North and South Carolina, and sales of Butler manufacture metal self-storage warehouses in any location. Will pay or share data. Contact: Alfred M. Benson, SRPA, 6115 E. Grant Road, Tucson, AZ 85712; 602-886-2000; FAX: 602-886-0156.

# **BRIEFS**

August 30, 1989

Volume 24

Number 18

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# Summary of State Appraiser Legislation

## CALIFORNIA

(California presently has a law that only defines a "certified appraisal." It does not address the certifying and/or licensing of appraisers. The Lancaster-Montoya Appraisal Act took effect January 1, 1983. The law requires that an appraisal report be "certified" (that is, follows and documents certain guidelines and standards) if the client requests a "certified" appraisal report. If the client does not make such a request, this law has no regulatory power over any portion of the appraisal process. The California legislature is currently considering Assembly Bill 527, which is directed at certifying and licensing appraisers. This bill, however, is not supported by the California Coalition of Appraisers because it allows grandfathering as well as allows the commissioner of real estate to regulate appraisers.)

## CONNECTICUT

### *Mandatory Licensing*

**Enacted:** June 1988  
**Board:** Directly regulated by the real estate commission  
**Education:** Residential, 60 hours + exam; General, 120 hours + exam (exam waived through 7/90 for both categories)  
**Continuing Education:** To be determined by the Real Estate Commission  
**Experience:** Residential Appraiser license, 2 years as trainee under licensed appraiser; Real Estate Appraiser license, 2 years as licensed Residential appraiser or 4 years as trainee  
**Grandfathering:** Yes  
**Enforcement:** Real Estate Commission  
**Effective Date:** October 1, 1989

## FLORIDA

### *Voluntary Certification*

**Enacted:** May 1988  
**Board:** Advisory to the Real Estate Commission  
**Education:** Residential, 60 hours + exam; General, 120 hours + exam  
**Continuing Education:** To be determined by the Real Estate Commission  
**Experience:** Residential, 2 years; General, 3 years  
**Grandfathering:** No  
**Enforcement:** Real Estate Commission  
**Effective Date:** 1989

## ILLINOIS

### *Certification*

**Enacted:** June 1989  
**Board:** Independent (within the Department of Professional Regulation)  
**Education:** Residential, 75 hours + exam; General, 165 hours + exam  
**Continuing Education:** Residential, 14 hours per year; General, 21 hours per year.  
**Experience:** Residential, 2 years; General, 3 years (within the past 5) of full-time appraisal work

**Grandfathering:** No  
**Enforcement:** Real Estate Appraisal Committee  
**Effective Date:** July 1991

## IOWA

### *Certification*

**Enacted:** May 1989  
**Board:** Independent (within Department of Commerce)  
**Education:** To be determined by the Real Estate Appraiser Examination Board  
**Continuing Education:** To be determined by the Board  
**Experience:** To be determined by the Board  
**Grandfathering:** No  
**Enforcement:** Real Estate Appraiser Examination Board  
**Effective Date:** July 1991

## LOUISIANA

### *Voluntary Certification*

**Enacted:** 1988  
**Board:** Advisory to the Real Estate Commission  
**Education:** Residential, 60 hours + exam; General, 120 hours + exam  
**Continuing Education:** 15 hours per year  
**Experience:** Residential, 2 years; General, 3 years  
**Grandfathering:** No  
**Enforcement:** Real Estate Commission  
**Effective Date:** January 1990

## MINNESOTA

### *Licensing (two levels)*

**Enacted:** May 1989  
**Board:** Advisory to the Department of Commerce  
**Education:** Level I (residential), 75 hours + exam; Level II (general), 165 hours + exam  
**Continuing Education:** 15 hours per year  
**Experience:** Level I, none required; Level II, 2 years (within past 5 years) of full-time appraisal work  
**Grandfathering:** Yes  
**Enforcement:** Department of Commerce  
**Effective Date:** September 1991

## NEBRASKA

### *Mandatory Licensing*

**Enacted:** 1974  
**Board:** Direct regulation by the Real Estate Commission  
**Education:** None required  
**Continuing Education:** None required  
**Experience:** Appraisal experience or a broker's license required, plus 3 years real estate or real estate finance experience  
**Grandfathering:** Yes  
**Enforcement:** Real Estate Commission

(Continued on page 4)

## NEVADA

### *Licensing*

**Enacted:** June 1989  
**Board:** Independent (within the Department of Commerce)  
**Education:** Residential, 60 hours + exam; General, 120 hours + exam  
**Continuing Education:** 10 hours per year  
**Experience:** Residential, 2 years; General, 3 years (within past 5 years) of full-time appraisal work  
**Grandfathering:** No  
**Enforcement:** Commission of Appraisers of Real Estate  
**Effective Date:** July 1991

## NORTH CAROLINA

### *Voluntary licensing and certification*

**Enacted:** June 1989  
**Board:** Advisory to the Real Estate Commission (1 appraiser added to Commission)  
**Education:** License, 90 hours + exam; Certification, 180 hours + exam  
**Continuing Education:** 24 hours every 2 years  
**Experience:** License, none required; Certification, 2 years (within past 5) of full-time appraisal work  
**Grandfathering:** possibly  
**Enforcement:** Real Estate Commission  
**Effective Date:** July 1990

## OHIO

### *Certification*

**Enacted:** June 1989  
**Board:** Independent (within the Department of Commerce)  
**Education:** Residential, college degree or 75 hours; General, college degree or 165 hours (15 of which are professional practice for both categories)  
**Continuing Education:** 20 hours every 2 years  
**Experience:** 2 years (within past 5 years) of full-time appraising  
**Grandfathering:** No  
**Enforcement:** Division of Real Estate Appraisers  
**Effective Date:** January 1991

## OREGON

### *Mandatory Licensing*

**Enacted:** 1975  
**Board:** Direct regulation by the Real Estate Commission  
**Education/Experience (one of the following):** A) 30 hours of education (community college, Society or Institute courses) and 3 to 4 years of experience; B) 60 hours of education and no appraisal experience; or C) no education but 7 to 8 years appraisal experience (any person with a real estate sales license need only pass the appraisal exam)  
**Grandfathering:** Yes  
**Enforcement:** Real Estate Commission

## TEXAS

### *Certification*

*(Broker or sales license currently required to appraise; also a requirement for certification)*

**Enacted:** May 1989  
**Board:** Advisory to the Real Estate Commission  
**Education:** Residential, 80 hours + exam; General, 150 hours + exam  
**Continuing Education:** To be determined by Real Estate Commission  
**Experience:** Residential, 2 years; General, 3 years.  
**Grandfathering:** No  
**Enforcement:** Real Estate Commission  
**Effective Date:** July 1991

## WASHINGTON

### *Certification*

**Enacted:** April 1989  
**Board:** Advisory to the Department of Licensing  
**Education:** To be determined by the Department of Licensing  
**Continuing Education:** To be determined  
**Experience:** To be determined  
**Grandfathering:** Possibly  
**Enforcement:** Department of Licensing  
**Effective Date:** July 1990

## WYOMING

### *Certification*

**Enacted:** April 1989  
**Board:** Independent (adjunct to Real Estate Commission)  
**Education:** Residential, 75 hours + exam; General, 120 hours + exam  
**Continuing Education:** 20 hours per year  
**Experience:** 2 years (within the past 5) of full-time appraisal work  
**Grandfathering:** No  
**Enforcement:** Certified Real Estate Appraiser Board  
**Effective Date:** July 1991

**Note:** The following states currently require a real estate sales or broker's license to appraise: Delaware, Florida, Indiana, Michigan, Mississippi, Pennsylvania, Rhode Island, South Dakota, Texas, Virgin Islands.

For further information on all state legislative activity, contact the Society's Washington office, 800-346-8897 or 202-298-8497.

## 1989 Update of State Legislation

### Illinois: Certification bill

Board: Independent (within the Department of Professional Regulation)

Education: residential - 75 hours + exam, general - 165 hours + exam

Continuing Education: residential - 14 hours per year, general - 21 hours per year

Experience: residential - 2 years, general - 3 years (within the past 5) of full time appraisal work

Grandfathering: No

Enforcement: Real Estate Appraisal Committee

Effective Date: July, 1991

### Iowa: Certification bill

Board: Independent (within Department of Commerce)

Education: To be determined by the Real Estate Appraiser Examination Board

Continuing Education: To be determined by the Real Estate Appraiser examining Board

Experience: To be determined by the Real Estate Appraiser Examination Board

Grandfathering: No

Enforcement: Real Estate Appraiser Examination Board

Effective Date: July, 1991

### Minnesota: Licensing bill (two levels)

Board: Advisory to the Department of Commerce

Education: Level I (residential) - 75 hours + exam, Level II (general) - 165 hours + exam

Continuing Education: 15 hours per year

Experience: Level I - none required, Level II - 2 years (within the past 5) of full time appraisal work

Grandfathering: Yes

Enforcement: Department of Commerce

Effective Date: September, 1991

**Nevada: Licensing bill**

Board: Independent (within the Department of Commerce)

Education: residential - 75 hours + exam, general - 135 hours + exam

Continuing Education: 10 hours per year

Experience: residential - 2 years, general - 3 years (within the past 5 years) of full time appraisal work

Grandfathering: No

Enforcement: Commission of Appraisers of Real Estate

Effective Date: July, 1991

**North Carolina: Voluntary licensing and certification bill**

Board: Advisory to the real estate commission (also, 1 appraiser added to commission)

Education: License - 90 hours + exam, Certification - 180 hours + exam

Continuing Education: To be determined

Experience: License - no experience required, certification - 2 years (within the past 5) of full time appraisal work

Grandfathering: Possibly

Enforcement: Real Estate Commission

Effective Date: July, 1990

**Ohio: Certification bill**

Board: Independent (within Department of Commerce)

Education: residential - college degree or 75 hours, general - college degree or 165 hours. Both certifications require the passage of an exam.

Continuing Education: 10 hours per year

Experience: 2 years (within the past 5) of full time appraising

Grandfathering: No

Enforcement: Division of Real Estate Appraisers

Effective Date: January, 1991

**Texas: Certification bill**

Board: Advisory to the real estate commission

Education: residential - 80 hours + exam, general - 150 + exam

Continuing Education: To be determined by the real estate commission

Experience: residential - 2 years, general - 3 years

Grandfathering: No

Enforcement: Real Estate Commission

Effective Date: July, 1991

(Broker or sales license currently required to appraise - also a requirement for certification)

**Washington: Certification bill**

Board: Advisory to the Department of Licensing

Education: To be determined by the Department of Licensing

Continuing Education: To be determined by the Department of Licensing

Experience: To be determined by the Department of Licensing

Grandfathering: Possibly

Enforcement: Department of Licensing

Effective Date: July, 1990

**Wyoming: Certification bill**

Board: Independent (adjunct to real estate commission)

Education: residential - 75 hours + exam, general 120 hours + exam

Continuing Education: 20 hours per year

Experience: 2 years (within the past 5) of full time appraisal work

Grandfathering: No

Enforcement: Certified Real Estate Appraiser Board

Effective Date: July, 1991

HB523

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee

1776 G Street, NW, Suite 701

Washington, DC 20006

FOR: Immediate Release

Contact: 202-447-1800

DATE: January 18, 1990

Guidelines for state certification and licensing of real estate appraisers were released today by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC). The guidelines are intended to help states establish certification and licensing procedures for appraisers involved in federally related transactions.

States are authorized to establish such procedures under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). FIRREA also established the Appraisal Subcommittee and made it responsible for monitoring the appraiser certifying and licensing agencies that states may establish to carry out the purposes of Title XI.

The guidelines released today are designed to help states move quickly to implement provisions in Title XI, promote the independence of the appraisal regulatory function, reduce conflicts of interest, and address concerns about grandfathering and dual licensing requirements for appraisers.

In issuing today's guidelines, the Appraisal Subcommittee said it would review each state's compliance with the intent of Title XI in its entirety. Title XI instructs the Subcommittee not to recognize appraiser certifications and licenses from states whose appraisal policies, practices or procedures are found to be inconsistent with the purposes of Title XI.

In light of the important objectives of Title XI, the Subcommittee encourages public comments on the issues addressed by the guidelines, which will be published in the Federal Register. Comments should be sent to the Appraisal Subcommittee, FFIEC, 1776 G Street, N.W. Washington, D.C. 20006.

APPRAISAL SUBCOMMITTEE:  
FEDERAL FINANCIAL INSTITUTIONS  
EXAMINATION COUNCIL  
Guidelines Regarding State Certification  
and Licensing of Appraisers  
Docket No. AS90-1

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of guidelines.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("Appraisal Subcommittee") is issuing this notice of guidelines to assist the states in establishing appropriate organizational structures for licensing and certifying appraisers.

These guidelines are intended to 1) facilitate timely implementation of the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 2) promote the independence of the state appraisal regulatory function, 3) reduce conflicts of interest, and 4) address concerns regarding the issues of grandfathering and dual licensing.

This notice of guidelines provides states and interested persons with copies of the guidelines and affords them an opportunity to comment. The Appraisal Subcommittee will carefully review the comments received and may issue modified guidelines if necessary.

DATE: Comments must be received on or before (INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

ADDRESS: All comments should be sent to the Appraisal Subcommittee, ATTN: Keith Todd - Docket No. AS90-1, Federal Financial Institutions Examination Council, 1776 G Street, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Written inquiries regarding this notice can be sent ATTN: Keith Todd - APPRAISAL INQUIRY to the address listed above.

**SUPPLEMENTARY INFORMATION:**

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("Title XI"), Pub. L. No. 101-73, 103 Stat. 183, 511 (1989), provides that states may establish a state appraiser certifying and licensing agency to assure availability of appraisers for federally related transactions, and to assure effective supervision of those appraisers. Title XI also established the Appraisal Subcommittee whose responsibilities, among other things, include monitoring the state appraiser certification and licensing systems.

In order to facilitate implementation of Title XI, the Appraisal Subcommittee is issuing these guidelines for use by the states in discharging their functions and responsibilities under the statute.

This notice of guidelines advises the states and interested persons of the content of the guidelines and affords an opportunity to comment on them. The Appraisal Subcommittee will carefully review the comments received and may issue modified guidelines if necessary.

1/18/90

DATED:

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KEVIN BLAKELY

CHAIR, APPRAISAL SUBCOMMITTEE,  
FEDERAL FINANCIAL INSTITUTIONS  
EXAMINING COUNCIL

BILLING CODE: 6210-01-M

APPRAISAL SUBCOMMITTEE  
GUIDELINES REGARDING  
STATE CERTIFICATION AND LICENSING OF APPRAISERS

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) establishes an Appraisal Subcommittee of the Federal Financial Institutions Examination Council. The responsibilities of the Appraisal Subcommittee include, among other things, monitoring the appraiser certifying and licensing agencies, which states may establish to carry out the purposes of Title XI. Section 1116 (d) of this Title instructs the Subcommittee not to recognize appraiser certifications and licenses from states whose appraisal policies, practices or procedures are found to be inconsistent with Title XI.

The legislative history accompanying Title XI indicates that states should adopt an organizational structure for implementing their appraiser licensing, certification and supervision functions that avoids potential conflicts of interest. Recognizing that each state has fiscal constraints or other factors that could influence the structure and location of the agency charged with licensing and certifying appraisers, the legislative history also indicates a desire to avoid imposing any particular organizational structure upon the states. However, while this suggests that a state could choose to locate the appraisal regulatory function in the same department as the regulation of real estate licensing, promotion, development or financing functions (hereinafter "realty related activities"), the organizational structure of the department must provide adequate safeguards to ensure that the appraisal regulatory function is independent of realty related activities.

In response to numerous requests from states and other interested parties, the Subcommittee is issuing these guidelines to assist the states, territories and the District of Columbia in the establishment of appropriate organizational structures for licensing and certifying appraisers. The guidelines are intended to facilitate the implementation of Title XI, promote the independence of the appraisal regulatory function, reduce conflicts of interest, and address the grandfathering and dual licensing of appraisers. Given the importance of these objectives, the subcommittee will accept and consider public comments on the issues addressed by these guidelines.

## GUIDELINES

### LOCATION OF THE AGENCY

The Subcommittee believes it is preferable that the certification and licensing function be established as a totally independent regulatory agency answerable to the governor or a cabinet level officer who has no regulatory responsibility for realty related activities. (In these guidelines, the appraisal regulatory body will be referred to as the "agency", although it may also be a board, commission, or individual). Such a structure would provide maximum insulation for the agency from influences of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions (hereinafter "affected industry").

If, due to fiscal or other constraints, a separate agency is not feasible, the appraisal certification and licensing function should be located within a state

regulatory body which is structured to adequately eliminate the influences of an affected industry over the appraisal function.

#### APPOINTMENT OF THE AGENCY HEAD

The appointment of the agency head or members of the appraisal board should be made by an individual or committee not associated or affiliated with an affected industry. (An individual would be affiliated or associated with an affected industry if the individual had a direct or indirect pecuniary interest in the industry).

*? what does this say*

To illustrate:

An autonomous agency head, appointed by the governor and subject to confirmation by the legislature would generally be considered to be properly appointed.

An individual or board chosen by or answerable to a committee or commission comprised of a majority of real estate appraisers, real estate brokers, financial institution executives or other members of an affected industry would not meet the criteria for being independently appointed.

#### INDEPENDENCE FROM AFFECTED INDUSTRIES

If the agency is directed by an individual, that person should not be actively engaged in the appraisal business or any other affected industry for the term of appointment or employment, and for a reasonable period thereafter.

Keith Todd  
[202] 357 0181  
Kevin Blahely [202] 447 1711

If the agency is directed by a board or commission, the members of that board should represent the broad public interest, and the statute, regulation, or order creating that body should not permit a majority of the board to come from or be dominated by any one industry or profession. Moreover, after its initial establishment, the composition of the board should continue to remain free from domination by any one industry or profession.

#### INDEPENDENCE OF DECISION MAKING

Decisions as to whether to license and certify, to discipline or to de-license or de-certify appraisers should not be made by the same state officials whose responsibilities include realty related activities.

Decisions of the state appraiser regulatory agency regarding whether to license or certify, to discipline or to de-license or de-certify appraisers should be final administrative action subject only to appropriate judicial review.

#### QUALIFICATION CRITERIA

All appraisers subject to the licensing or certification provisions of Title XI must be qualified through appropriate testing and experience requirements established by state law.

Certified: Individuals designated as certified real estate appraisers shall have, at a minimum, 1) satisfied the criteria for certification issued by the Appraisal Qualifications Board of the Appraisal Foundation, and, 2) passed a state administered examination which is consistent with

the Uniform State Certification Examination issued or endorsed by the Appraisal Qualifications Board of the Appraisal Foundation.

Licensed: States should establish meaningful qualification standards for licensed appraisers, including testing, experience and educational requirements that are adequate to demonstrate knowledge and competency.

Additional qualifications for licensing and certification may be required by any state or federal agency that considers such qualifications necessary to carry out responsibilities under Title XI.

#### EXEMPTIONS AND GRANDFATHERING

No individual or group of individuals shall be deemed exempt from meeting the criteria established for licensing or certification, or be otherwise "grandfathered" into the system. This is not meant to preclude states from recognizing existing licenses or certification designations of individuals who currently meet existing state licensing or certification requirements, provided those requirements are fully consistent with the provisions of Title XI.

#### MANDATORY DUAL LICENSING

Consistent with the spirit and intent of Title XI, state laws may not require any applicant for appraisal certification or licensing to hold other occupational licenses as a condition of obtaining a license or certification designation as a real estate appraiser.

OTHER

States should ensure that an appropriate code of professional responsibility is incorporated into their certification and licensing requirements.

**STATE OF ALASKA  
1990 LEGISLATIVE SESSION**

**BILL VERSION: HB 523  
PUBLISH DATE: 2/12/90**

**REQUEST: FISCAL NOTE**

Revision Date:  
Title: **An Act Relating to Certification of Real Estate Appraisers**  
Sponsor: **Representatives Navarre & Swackhammer**  
Requestor: **Labor & Commerce**

Agency Affected: **DOT&PF**  
BRU: **Engineering & Operations Standards and D & C Divs.**  
Components: **ROW Sections**

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

| OPERATING         | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 42.6  | 0     | 0     | 0     | 0     | 0     |
| TRAVEL            | 22.7  | 0     | 0     | 0     | 0     | 0     |
| CONTRACTURAL      | 12.6  | 0     | 0     | 0     | 0     | 0     |
| SUPPLIES          | 0     | 0     | 0     | 0     | 0     | 0     |
| EQUIPMENT         | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES | 0     | 0     | 0     | 0     | 0     | 0     |
| GRANTS, CLAIMS    | 0     | 0     | 0     | 0     | 0     | 0     |
| MISCELLANEOUS     | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL OPERATING   | 77.9  | 0     | 0     | 0     | 0     | 0     |
| CAPITAL           | 0     | 0     | 0     | 0     | 0     | 0     |
| REVENUE           | 0     | 0     | 0     | 0     | 0     | 0     |

**FUNDING:** (Thousands of Dollars)

|               |      |   |   |   |   |   |
|---------------|------|---|---|---|---|---|
| GENERAL FUND  | 77.9 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | 0    | 0 | 0 | 0 | 0 | 0 |
| OTHER         | 0    | 0 | 0 | 0 | 0 | 0 |
| TOTAL         | 0    | 0 | 0 | 0 | 0 | 0 |

**POSITIONS:**

|           |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

**ANALYSIS:** This bill would require that we certify appraisers involved in the acquisition of private property for public purposes. Currently there are 14 staff who would need certification. Approximately one-half of these meet most of the standards for certification. The other one-half would need to undergo the 150 hours of training required. Since the bill requires one year to certify, the department would be obligated to provide necessary training in order to maintain present staffing levels. A loss of appraisal staff could result in delays of federal-aid projects. The costs outlined above are for training 7 staff in the first year.

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Agency: **Department of Transportation and Public Facilities**

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**Department of Transportation and Public Facilities  
Fiscal Note Analysis**

There would be no fiscal impact in FY 1990.

**Assumptions:**        7 staff to be certified in 1991  
                              New staff would be expected to meet certification requirements

|               |   |                 |
|---------------|---|-----------------|
| Course Costs: | \$600 for 50 hours of instruction x 3 courses | \$1,800.        |
| Travel:       | \$600 average x 3 courses                     | 1,800.          |
| Per Diem:     | \$80 day x 6 days x 3 courses                 | 1,440.          |
| Salary*:      | \$174 hours x \$35/hr. average                | 6,090.          |
|               | <b>Total per Staff</b>                        | <b>\$11,130</b> |

For FY 1991: 7 staff \* 11,130 = 77,910

\* ROW Appraisal staff are CIP funded and as such would need funds to cover their salary costs when not performing on a capital project. Discussions with FHWA suggest they would not participate in the costs of this training, and as such all related costs, as depicted above, would require general funds to compensate.