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# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3/6/90

The LABOR & COMMERCE 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 (L+C) [  ] the same title
- [ ] have attached amendment(s) [ ] a new title
- [  ] do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the finance Committee

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [  ] fiscal impact \_\_\_\_\_
- [  ] zero fiscal note DEC
- [ ] zero with analysis \_\_\_\_\_

- [ ] fiscal note(s) \_\_\_\_\_
- [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING:**

(Check approp. column)

Do Not  
Pass      No Rec      Amend

<u>Dave Douley</u> Douley			
<u>Mark Boyer</u> Boyer			
<u>Paul Finkelstein</u> Finkelstein			
<u>Robert A. Lemay</u> Lemay			
<u>Bob Bowcher</u> Bowcher			
<u>W. J. Owensberg</u> Owensberg			

Dave Douley

Chairman's Signature

**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, CLAMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>62.2</b>	<b>48.5</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>

CAPITAL	0	0	0	0	0	0
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REVENUE	60.0	0	60.0	0	60.0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	62.2	48.5	44.2	44.2	44.2	44.2
<b>TOTAL</b>	<b>62.2</b>	<b>48.5</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>

**POSITIONS:**

FULL-TIME						
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 Mercurieff 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)

## 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.

program  
impleme

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 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.

Prepared by: Jeffery C. Ottesen  
Division: Engineering and Operations Standards

Phone: 465-2951  
Date: February 27, 1990

Approved by Commissioner: Mark A. Hill  
Agency: Department of Transportation and Public Facilities

Date: 3/5/90

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Committee did not  
adopt the DOTPF's  
fiscal note on  
HB 523.

Return to LHC

**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.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. NAVARRE

TO: HB 523

Page 1, line 27, following "appraiser;":

Insert a new paragraph to read:

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

Renumber following paragraph accordingly.

#2

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. NAVARRE

TO: HB 523

Page 7, lines 6 - 9:

Delete all material.

*makes it  
mandatory*

6-2165E  
Gaguine  
3/5/90

Original sponsor(s): REP. NAVARRE, Swackhammer

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 523 (L&C)

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 four members appointed by  
15 the governor and of the executive director of the Alaska Housing  
16 Finance Corporation or the director's designee. One appointed member  
17 shall be a person licensed under this chapter as a general real estate  
18 appraiser, one appointed member shall be a person licensed under this  
19 chapter as a residential real estate appraiser, one appointed member  
20 shall be an executive in a mortgage banking entity, and one appointed  
21 member shall represent the public. The board shall elect a chair from  
22 among its membership.

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

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

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

1 profession; and

2 (3) adopt regulations necessary to carry out the purposes  
3 of this chapter.

4 ARTICLE 2. CERTIFICATION.

5 Sec. 08.87.100. CERTIFICATE REQUIRED. A person is guilty of a  
6 class B misdemeanor who

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

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

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

14 or

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

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

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

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

28 (3) has within the seven years immediately preceding the  
29 filing of the application for certification four years of experience

1 in real property appraisal or three years of experience as a regis-  
2 tered trainee under AS 08.87.310;

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

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

7 (6) has paid the required fees.

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

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

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

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

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

26 (1) has been certified in another state that has certifica-  
27 tion requirements substantially equivalent to the requirements estab-  
28 lished by this chapter and by regulations issued by the board under  
29 this chapter, and that provides for certification of nonresidents

1 under conditions similar to those set out in this subsection and  
2 without discriminatory costs;

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

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

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

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

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

15 (7) has paid the required fees.

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

19 Sec. 08.87.120. CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF  
20 CERTIFICATE. (a) The board may not renew a certificate issued under  
21 this chapter unless the person applying for renewal presents evidence  
22 satisfactory to the board that the person has, within the two years  
23 preceding the application for renewal, attended 40 classroom hours of  
24 instruction in courses or seminars that have received the approval of  
25 the board.

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

28 (1) successfully completed a program of study determined by  
29 the board to be equivalent for continuing education purposes to a

1 course or seminar approved by the board for continuing education  
2 credit; or

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

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

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

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

18 (d) In considering whether to approve courses and seminars under  
19 this section, the board shall give special consideration to courses,  
20 seminars, and other appraisal education programs developed by or under  
21 the auspices of organizations or associations of professional real  
22 estate appraisers that are utilized by those organizations or asso-  
23 ciations for the purposes of awarding real estate appraisal desig-  
24 nations or of indicating compliance with the continuing education  
25 requirements of the organizations or associations.

26 (e) An amendment or repeal of a regulation adopted by the board  
27 under this section shall not operate to deprive a person holding a  
28 certificate under this chapter of credit toward renewal of the per-  
29 son's certificate for a course of instruction or seminar that had been

1 completed by the person before the amendment or repeal of the regu-  
2 lation.

3 ARTICLE 3. PROHIBITED PRACTICES AND  
4 DISCIPLINARY PROCEEDINGS.

5 Sec. 08.87.200. PROHIBITED PRACTICES. A certified real estate  
6 appraiser may not

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

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

12 (3) fail to comply with the Uniform Standards of Profes-  
13 sional Appraisal Practice adopted by the Appraisal Standards Board of  
14 the Appraisal Foundation;

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

19 (5) knowingly make a false statement, submit false informa-  
20 tion, or fail to provide complete information in response to a ques-  
21 tion in an application for certification or for renewal of a certifi-  
22 cate; or

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

26 Sec. 08.87.210. DISCIPLINARY PROCEEDINGS. The board may exer-  
27 cise its disciplinary powers under AS 08.01.075 if, after hearing, the  
28 board finds a certified real estate appraiser has

29 (1) violated a provision of this chapter or a regulation

1 adopted by the board under this chapter;

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

4 (3) committed, while acting as a real estate appraiser, an  
5 act or omission involving dishonesty, fraud, or misrepresentation with  
6 the intent to benefit the appraiser or another person or to injure  
7 another person.

8 ARTICLE 4. GENERAL PROVISIONS.

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

14 (b) The three-year period specified in (a) of this section for  
15 retention of records is applicable to each engagement of the services  
16 of the appraiser and commences upon the date of the submittal of the  
17 appraisal reports to the client unless, within the three-year period,  
18 the appraiser is notified that the appraisal report is involved in  
19 litigation, in which case the three-year retention period commences  
20 upon the date of the final disposition of the litigation.

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

24 Sec. 08.87.310. REGISTERED TRAINEES. (a) A person engaged in  
25 the practice of real estate appraisal who is employed by or under the  
26 direct supervision of a certified real estate appraiser may become a  
27 registered trainee by submitting proof to the board that the person  
28 has successfully completed at least 30 classroom hours of courses in  
29 subjects related to real estate appraisal from an appraisal

1 organization or academic institution approved by the board.

2 (b) A registered trainee may prepare or assist in the prepara-  
3 tion of an appraisal report issued by a certified real estate apprais-  
4 er if the report is also signed by the certified real estate appraiser  
5 and if the certified real estate appraiser accepts full responsibility  
6 for the report.

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

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

16 Sec. 08.87.900. DEFINITIONS. In this chapter

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

20 (2) "appraisal" means an analysis, opinion, or conclusion  
21 prepared by a real estate appraiser relating to the nature, quality,  
22 value, or utility of specified interests in, or aspects of, identified  
23 real estate, and includes a valuation appraisal, an analysis assign-  
24 ment, and a review assignment;

25 (3) "appraisal assignment" means an engagement for which an  
26 appraiser is employed or retained to act, or would be perceived by  
27 third parties or the public as acting, as a disinterested person  
28 rendering an unbiased analysis, opinion, or conclusion relating to the  
29 nature, quality, value, or utility of specified interests in, or

1 aspects of, identified real estate;

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

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

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

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

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

13 (9) "real property" means one or more defined interests,  
14 benefits, and rights inherent in the ownership of real estate;

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

18 (11) "review assignment" means an analysis, opinion, or  
19 conclusion prepared by a real estate appraiser that forms an opinion  
20 as to the adequacy and appropriateness of a valuation appraisal or an  
21 analysis assignment;

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

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

27 (31) Board of Certified Real Estate Appraisers (AS 08.87.-  
28 010).

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

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

3 \* Sec. 4. AS 44.62.330(a) is amended by adding a new paragraph to read:  
4 (55) Board of Certified Real Estate Appraisers.

5 \* Sec. 5. INITIAL APPOINTMENTS TO THE BOARD OF CERTIFIED REAL ESTATE  
6 APPRAISERS. Notwithstanding AS 08.87.010, as enacted by sec. 1 of this  
7 Act, a person is eligible for an initial appointment as an appraiser member  
8 of the Board of Certified Real Estate Appraisers if the person has at least  
9 10 years of experience as a real estate appraiser or if the person is a  
10 designated member in good standing of a real estate appraisal organization  
11 that, as of January 1, 1989, required appraisal experience, appraisal  
12 education, and testing to become a member, and required adherence to gen-  
13 erally accepted standards of professional practice in order to retain  
14 designated membership.

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

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

6-2165E  
Gaguine  
3/5/90

Original sponsor(s): REP. NAVARRE, Swackhammer

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE  
 2 CS FOR HOUSE BILL NO. 523 (L&C)  
 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 four members appointed by  
 15 the governor and of the executive director of the Alaska Housing  
 16 Finance Corporation or the director's designee. One appointed member  
 17 shall be a person licensed under this chapter as a general real estate  
 18 appraiser, one appointed member shall be a person licensed under this  
 19 chapter as a residential real estate appraiser, one appointed member  
 20 shall be an executive in a mortgage banking entity, and one appointed  
 21 member shall represent the public. The board shall elect a chair from  
 22 among its membership.

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

25 (1) establish the examination specifications for certifica-  
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 27 estate appraiser;

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

1 profession; and

2 (3) adopt regulations necessary to carry out the purposes  
3 of this chapter.

4 ARTICLE 2. CERTIFICATION.

5 Sec. 08.87.100. CERTIFICATE REQUIRED. A person is guilty of a  
6 class B misdemeanor who

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

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

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

14 or

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

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

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

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

28 (3) has within the seven years immediately preceding the  
29 filing of the application for certification four years of experience

1 in real property appraisal or three years of experience as a regis-  
2 tered trainee under AS 08.87.310;

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

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

7 (6) has paid the required fees.

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

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

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

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

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

26 (1) has been certified in another state that has certifica-  
27 tion requirements substantially equivalent to the requirements estab-  
28 lished by this chapter and by regulations issued by the board under  
29 this chapter, and that provides for certification of nonresidents

1 under conditions similar to those set out in this subsection and  
2 without discriminatory costs;

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

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

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

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

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

15 (7) has paid the required fees.

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

19 Sec. 08.87.120. CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF  
20 CERTIFICATE. (a) The board may not renew a certificate issued under  
21 this chapter unless the person applying for renewal presents evidence  
22 satisfactory to the board that the person has, within the two years  
23 preceding the application for renewal, attended 40 classroom hours of  
24 instruction in courses or seminars that have received the approval of  
25 the board.

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

28 (1) successfully completed a program of study determined by  
29 the board to be equivalent for continuing education purposes to a

1 course or seminar approved by the board for continuing education  
2 credit; or

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

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

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

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

18 (d) In considering whether to approve courses and seminars under  
19 this section, the board shall give special consideration to courses,  
20 seminars, and other appraisal education programs developed by or under  
21 the auspices of organizations or associations of professional real  
22 estate appraisers that are utilized by those organizations or asso-  
23 ciations for the purposes of awarding real estate appraisal desig-  
24 nations or of indicating compliance with the continuing education  
25 requirements of the organizations or associations.

26 (e) An amendment or repeal of a regulation adopted by the board  
27 under this section shall not operate to deprive a person holding a  
28 certificate under this chapter of credit toward renewal of the per-  
29 son's certificate for a course of instruction or seminar that had been

1 completed by the person before the amendment or repeal of the regu-  
2 lation.

3 ARTICLE 3. PROHIBITED PRACTICES AND  
4 DISCIPLINARY PROCEEDINGS.

5 Sec. 08.87.200. PROHIBITED PRACTICES. A certified real estate  
6 appraiser may not

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

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

12 (3) fail to comply with the Uniform Standards of Profes-  
13 sional Appraisal Practice adopted by the Appraisal Standards Board of  
14 the Appraisal Foundation;

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

19 (5) knowingly make a false statement, submit false informa-  
20 tion, or fail to provide complete information in response to a ques-  
21 tion in an application for certification or for renewal of a certifi-  
22 cate; or

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

26 Sec. 08.87.210. DISCIPLINARY PROCEEDINGS. The board may exer-  
27 cise its disciplinary powers under AS 08.01.075 if, after hearing, the  
28 board finds a certified real estate appraiser has

29 (1) violated a provision of this chapter or a regulation

1 adopted by the board under this chapter;

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

4 (3) committed, while acting as a real estate appraiser, an  
5 act or omission involving dishonesty, fraud, or misrepresentation with  
6 the intent to benefit the appraiser or another person or to injure  
7 another person.

8 ARTICLE 4. GENERAL PROVISIONS.

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

14 (b) The three-year period specified in (a) of this section for  
15 retention of records is applicable to each engagement of the services  
16 of the appraiser and commences upon the date of the submittal of the  
17 appraisal reports to the client unless, within the three-year period,  
18 the appraiser is notified that the appraisal report is involved in  
19 litigation, in which case the three-year retention period commences  
20 upon the date of the final disposition of the litigation.

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

24 Sec. 08.87.310. REGISTERED TRAINEES. (a) A person engaged in  
25 the practice of real estate appraisal who is employed by or under the  
26 direct supervision of a certified real estate appraiser may become a  
27 registered trainee by submitting proof to the board that the person  
28 has successfully completed at least 30 classroom hours of courses in  
29 subjects related to real estate appraisal from an appraisal

1 organization or academic institution approved by the board.

2 (b) A registered trainee may prepare or assist in the prepara-  
3 tion of an appraisal report issued by a certified real estate apprais-  
4 er if the report is also signed by the certified real estate appraiser  
5 and if the certified real estate appraiser accepts full responsibility  
6 for the report.

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

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

16 Sec. 08.87.900. DEFINITIONS. In this chapter

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

20 (2) "appraisal" means an analysis, opinion, or conclusion  
21 prepared by a real estate appraiser relating to the nature, quality,  
22 value, or utility of specified interests in, or aspects of, identified  
23 real estate, and includes a valuation appraisal, an analysis assign-  
24 ment, and a review assignment;

25 (3) "appraisal assignment" means an engagement for which an  
26 appraiser is employed or retained to act, or would be perceived by  
27 third parties or the public as acting, as a disinterested person  
28 rendering an unbiased analysis, opinion, or conclusion relating to the  
29 nature, quality, value, or utility of specified interests in, or

1 aspects of, identified real estate;

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

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

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

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

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

13 (9) "real property" means one or more defined interests,  
14 benefits, and rights inherent in the ownership of real estate;

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

18 (11) "review assignment" means an analysis, opinion, or  
19 conclusion prepared by a real estate appraiser that forms an opinion  
20 as to the adequacy and appropriateness of a valuation appraisal or an  
21 analysis assignment;

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

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

27 (31) Board of Certified Real Estate Appraisers (AS 08.87.-  
28 010).

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

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

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

4                   (55) Board of Certified Real Estate Appraisers.

5           \* Sec. 5. INITIAL APPOINTMENTS TO THE BOARD OF CERTIFIED REAL ESTATE  
 6 APPRAISERS. Notwithstanding AS 08.87.010, as enacted by sec. 1 of this  
 7 Act, a person is eligible for an initial appointment as an appraiser member  
 8 of the Board of Certified Real Estate Appraisers if the person has at least  
 9 10 years of experience as a real estate appraiser or if the person is a  
 10 designated member in good standing of a real estate appraisal organization  
 11 that, as of January 1, 1989, required appraisal experience, appraisal  
 12 education, and testing to become a member, and required adherence to gen-  
 13 erally accepted standards of professional practice in order to retain  
 14 designated membership.

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

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

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) established 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.

# 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

Eric G. Follett, MAI

Richard H. Follett, MAI

EGF/lt



REALTOR®

ALASKA ASSOCIATION OF REALTORS, INC.®

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



# EQUIVEST

REALTY ADVISORS, INC.

AB523

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

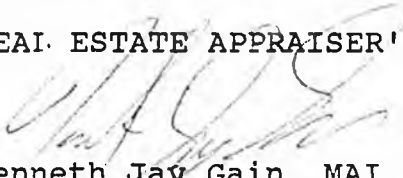
Representative Dave Donley  
February 23, 1990  
Page Two

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

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.

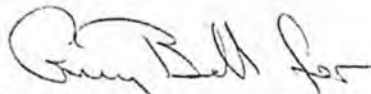
We believe creating two different classes of real estate appraisers in this state will confuse the consumer. We are also concerned that it will leave the consumer unprotected from the unscrupulous. We foresee such a loophole allowing uncertified appraisers to receive payment for appraisal services and 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 Mercurieff, Commissioner

Date: 2-23-90

HB 523  
G  
make copy for Dr



ALASKA CHAPTER NO 57



AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

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

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

# EQUIVEST

HB523

6

REALTY ADVISORS, INC.

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

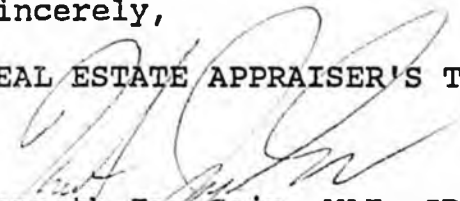
Representative Dave Donley  
February 19, 1990  
Page Two

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 addition 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 State Legislature



WHILE IN SESSION:  
PO BOX 7  
JUNEAU, ALASKA 99811  
(907) 465-3779

HOUSE MAJORITY LEADER

HOME ADDRESS  
PO BOX 155  
KENA, ALASKA 99811  
(907) 262-9376

DISTRICT 5

Representative Mike Navarre

Memorandum

February 16, 1990

To: Representative Dave Donley  
Chairman, Labor & Commerce

From: Representative Mike Navarre

Subject: HB 523, An Act relating to the certification of real estate appraisers.

I am requesting that HB 523 be scheduled in your Labor & Commerce Committee at your earliest convenience. Early next week I will have a memo with the related back-up material sent to your office.

The contact person in my office will be Tom Ackerly. Tom's number is 3718 and is located in Cap 24.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Representative Mike Navarre

MN/tma

# Alaska State Legislature



MIKE NAVARRE  
PO BOX 108  
KENAI ALASKA 99517  
PHONE 485-3772

HOME ADDRESS  
PO BOX 108  
KENAI ALASKA 99517  
PHONE 485-3772

HOUSE MAJORITY LEADER

DISTRICT 2

## Representative Mike Navarre

Memorandum

February 17, 1990

To: Representative Dave Donley, Chairman  
Labor & Commerce Committee

From: Representative Mike Navarre

Subject: House Bill 523, An act relating to the certification of 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 IX 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.

Amendment This act should be mandatory and not voluntary.

Contact person: Tom Ackerly (3779) Capitol 24

### **Attachments to Appraiser Memorandum**

1. House Bill 523, An act relating to the certification of appraisers.
2. Title IX of the Financial Institutions Reform, Recovery, And Enforcement Act of 1989.
3. Title IX synopsis by the National Conference of State Legislatures.
4. Society of Real Estate Appraisers Newsletter on Title IX.
5. Sectional analysis of HB 523.
6. Position paper by the Department of Commerce.
7. List of states that passed legislation in 1989 in regards to appraising certification.
8. List of known supporters.
9. North Carolina appraiser certification legislation passed in 1989. Good model legislation except for the fact that North Carolina makes certification voluntary and they did not create a separate commission.

### **Supplemental Data Available**

1. Model bill written by the realtors. ( 73 pages)
2. Model bill written by the Appraisal Foundation. (16 pages).
3. Uniform Standards of Professional Appraiser Practice ( 30 pages)

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND  
ENFORCEMENT ACT OF 1989

AUGUST 4, 1989 — Ordered to be printed

Mr. GONZALEZ, from the committee of conference,  
submitted the following

## CONFERENCE REPORT

## TITLE XI. REAL ESTATE APPRAISAL REFORM AMENDMENTS

## PURPOSES

Establishes that the purpose of this title is to protect Federal financial and public policy interests in real estate related transactions.

## APPRAISAL SUBCOMMITTEE OF THE FFIEC

This section establishes an appraisal subcommittee of the Federal Financial Institutions Examinations Council ("FFIEC") consisting of the representatives of the heads of the agencies comprising the FFIEC (the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration Board). These representatives shall be persons with demonstrated knowledge and competence in appraisal profession.

## FUNCTIONS OF THE APPRAISAL SUBCOMMITTEE

The functions of the Appraisal Subcommittee include: monitoring the State appraiser certification and licensing systems; monitoring appraisal standards and determinations regarding which Federally related transactions will require the use of certified appraisers and which licensed appraisers; maintaining a national registry of certified and licensed appraisers; and monitoring the work of the Appraisal Foundation, a nonprofit corporation of the appraisal industry. The Subcommittee must report annually to Congress on its activities.

*Chairperson of the Subcommittee*

The Subcommittee will select a chairperson from among its members who will serve a two year term.

*Officers and Staff*

The Conferees intend for all necessary officers and staff of the Subcommittee to be appointed and compensated in the same manner as other employees of the FFIEC.

*Powers of the Appraisal Subcommittee*

The Subcommittee will have those administrative powers needed to carry out its functions.

*Procedures for Establishing Standards*

The establishment of appraisal standards and other requirements will be subject to the publication of notice and receipt of comments or the holding of public hearings and other provisions in accordance with procedures set forth in Section 533 of Title 5 of the United States Code.

*Start-up Funding Appropriations*

The Appraisal Subcommittee is authorized to borrow from the Secretary of the Treasury \$5,000,000 in start up funds on the date of enactment. Any additional funds needed by the Subcommittee would be subject to the normal appropriations process. These funds are to be repaid from fees collected by the Subcommittee under section 1109.

*Roster of State Certified and Licensed Appraisers*

The Subcommittee is authorized to maintain a roster of all State certified and licensed appraisers eligible for Federally related transactions, and to collect from eligible appraisers who perform or seek to perform Federally related work an annual registration fee of not more than \$50. These funds are to be used to fund the activities of the Subcommittee, to repay the Treasury, and to help defray certain expenses of the Appraisal Foundation.

*Functions of the Federal Financial Institution Regulatory Agencies Relating to Standards*

Each Federal financial institution regulatory agency and the Resolution Trust Corporation are required to establish appraisal standards that meet the minimum requirements adopted by the Appraisal Foundation. Additional standards can be required as well. Section 1110 requires that appraisals for the purposes of the title means "written appraisals". Conferees used the term "written appraisal" and defined the term to be absolutely clear about what is required of the title. In doing so the Conferees do not intend to imply that the term "appraisal" as used elsewhere in laws or regulations means anything other than a written appraisal.

*Time for Proposal and Adoption of Standards*

Appraisal standards must be proposed within six months and final within twelve months of enactment.

*Functions of the Federal Financial Institution Regulatory Agencies Relating to Qualifications*

Each Federal financial institution regulatory agency and the Resolution Trust Corporation are required to prescribe which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser.

*Transactions Requiring a Certified Appraiser*

All federally related transactions involving property with a value over \$1,000,000 must be completed by a State certified appraiser. Additional guidelines are provided by the section.

*Transactions Requiring A Licensed Appraiser*

All federally related transactions not requiring a State certified appraiser must be completed by a State licensed appraiser.

*Time for Proposal and Adoption of Rules*

Rules pursuant to sections 1113 and 1114 must be proposed within six months and final within twelve months of enactment.

*Certification and Licensing Requirements*

State certified appraisers must meet the requirements for certification issued by the Appraisal Foundation, including a passing grade on a uniform examination; and licensed appraisers must satisfy State or territory requirements for licensing. Federal agencies and instrumentalities and Federally recognized entities are authorized to establish additional appraiser certification and licensing qualification criteria. Because State licensed appraisers are not required to meet Appraisal Foundation criteria, the Conferees intend that the Appraisal Subcommittee and the Federal agencies should pay particular attention to the adequacy of State appraiser licensing requirements.

*Establishment of State Certifying and Licensing Agencies*

States are authorized to establish appraiser certification and licensing agencies.

*Monitoring of State Agencies*

Section 1118 gives the Appraisal Subcommittee the responsibility of monitoring State appraiser certifying and licensing agencies for the purpose of determining whether a State's agency's policies, practices and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities and federally recognized entities under the title are ordered not to recognize appraiser certifications and licenses from States whose appraisal policies, practices or procedures are found to be inconsistent with the title.

Federal agencies, instrumentalities, and entities under the title will accept State approved certifications and licenses unless the Appraisal Subcommittee issues a written finding that, among other things, could assert that State decisions concerning appraisal standards, appraiser qualifications, and supervision of appraiser practices are being made in a manner that does not carry out the purposes of the title. In this regard it is the intention of Conferees that States avoid potential conflicts of interest in licensing and certifying appraisers. Decisions as to whether or not to license and certify or to discipline or de-license or de-certify appraisers should not be made by the same state officials whose responsibilities include licensing realtors, or engaging in real estate promotion activities or financing real estate development.

The Conferees do not intend to impose any particular organization upon the States and a State may choose to have appraisal and real estate functions in the same department. The Conferees recognize that each state will have fiscal and other factors to consider when its real estate appraiser licensing and certification system is established. The Conferees do intend, however, that the potential conflicts of interest mentioned above must be avoided. If officials charged with licensing and certifying appraisers are found in the same state agency or department that licenses realtors or promotes real estate development, then adequate safeguards must be established to ensure that conflicts of interest are avoided between these two functions. The Subcommittee should examine the adequacy of such safeguards in making its decisions on whether to disapprove for Federal functions the appraisers licensed and certified by a given state. If such safeguards are not adequate, State certified and licensed appraisers should not be approved for Federal purposes.

#### Recognition of State Certified and Licensed Appraisers

After July 1, 1991 all appraisals in connection with federally related transactions must be performed by State certified or licensed appraisers. An extension until December 1991 is permitted if the Appraisal Subcommittee finds that a State is making substantial

progress in establishing a State certification and licensing system. In addition, the requirements of this title may be waived temporarily if such requirements lead to immediate delays in the performance of federally related appraisals in a State.

#### Violations

Violations of this title are punishable by civil fines. The authority for assessment and collection of such fines is found in section 811 of the FDIA and section 206(k) of the FCIA.

#### Definitions

This section provides definitions of terms used in the section, including the term "written appraisal" referred to in section 1100.

#### Miscellaneous Provisions

This section provides for recognition, among the States, of each other's certifications and licenses in connection with temporary practice and prohibits discrimination against certified and licensed appraisers solely by virtue of membership or lack of membership in any particular appraisal organization.

## TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

#### SEC. 1101. PURPOSE.

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

#### SEC. 1102. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3801 et seq.) is amended by adding at the end thereof the following new section:

##### "SEC. 1101. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE.

"There shall be within the Council a subcommittee to be known as the 'Appraisal Subcommittee', which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession."

#### SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

##### (a) IN GENERAL.—The Appraisal Subcommittee shall—

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction; and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(b) MONITORING AND REVIEWING FOUNDATION.—The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

#### SEC. 1104. CHAIRPERSON OF APPRAISAL SUBCOMMITTEE; TERM OF CHAIRPERSON; MEETINGS.

(a) CHAIRPERSON.—The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) MEETINGS; QUORUM; VOTING.—The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

#### SEC. 1105. OFFICERS AND STAFF.

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the func-

tions of this title consistent with the appointment and compensation practices of the Council.

#### SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

#### SEC. 1107. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS.

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of tit. 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

#### SEC. 1108. STARTUP FUNDING.

(a) IN GENERAL.—For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of \$5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) ADDITIONAL FUNDS.—Except as provided in section 1122(b) of this title, funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

#### SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS; AUTHORITY TO COLLECT AND TRANSMIT FEES.

(a) IN GENERAL.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall—

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$25, such fees to be transmitted by the State agencies to the Council on an annual basis.

Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of \$50 per annum, as necessary to carry out its functions under this title.

(b) USE OF AMOUNTS APPROPRIATED OR COLLECTED.—Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the Foundation relating to the activities of its Appraisal Standards and Practices Qualification Boards.

**SEC. 1110. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.**

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(2) that such appraisals shall be written appraisals.

Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

**SEC. 1111. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.**

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

**SEC. 1112. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.**

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

**SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.**

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

(1) a State certified appraiser shall be required for all federally related transactions having a value of \$1,000,000 or more; and

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

**SEC. 1114. TRANSACTIONS REQUIRING THE SERVICES OF A STATE LICENSED APPRAISER.**

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

**SEC. 1115. TIME FOR PROPOSAL AND ADOPTION OF RULES.**

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

**SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS.**

(a) **IN GENERAL.**—For purposes of this title, the term "State certified real estate appraiser" means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) **RESTRICTION.**—No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) **DEFINITION.**—As used in this section, the term "State licensed appraiser" means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) **ADDITIONAL QUALIFICATION CRITERIA.**—Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

**SEC. 1117. ESTABLISHMENT OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.**

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

**SEC. 1118. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.**

(a) **IN GENERAL.**—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of

determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) **DISAPPROVAL BY APPRAISAL SUBCOMMITTEE.**—The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) **REJECTION OF STATE CERTIFICATIONS AND LICENSES.**—

(1) **OPPORTUNITY TO BE HEARD OR CORRECT CONDITIONS.**—Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) **ADOPTION OF PROCEDURES.**—The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) **JUDICIAL REVIEW.**—A decision of the subcommittee under this section shall be subject to judicial review.

**SEC. 1119. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.**

(a) **EFFECTIVE DATE FOR USE OF CERTIFIED OR LICENSED APPRAISERS ONLY.**—

(1) **IN GENERAL.**—Not later than July 1, 1991, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) **EXTENSION OF EFFECTIVE DATE.**—Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) **TEMPORARY WAIVER OF APPRAISER CERTIFICATION OR LICENSING REQUIREMENTS FOR STATE HAVING SCARCITY OF QUALIFIED APPRAISERS.**—Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State leading to inordinate delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such inordinate delays have been eliminated.

(c) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

(d) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

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(f) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

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(h) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

(i) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

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(k) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

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(p) **REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.**—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, as seems necessary to carry out the purposes of this title.

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appraiser in connection with a real estate related financial transaction defined in section 112115) to which such association or corporation is a party.

(b) **PENALTIES.**—A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8114(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(c) **PROCEEDING.**—A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

#### SEC. 1121. DEFINITIONS.

For purposes of this title:

(1) **STATE APPRAISER CERTIFYING AND LICENSING AGENCY.**—The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this title.

(2) **APPRAISAL SUBCOMMITTEE; SUBCOMMITTEE.**—The terms "Appraisal Subcommittee" and "subcommittee" mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) **COUNCIL.**—The term "Council" means the Federal Financial Institutions Examinations Council.

(4) **FEDERALLY RELATED TRANSACTION.**—The term "federally related transaction" means any real estate-related financial transaction which—

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) **REAL ESTATE RELATED FINANCIAL TRANSACTION.**—The term "real estate-related financial transaction" means any transaction involving—

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) **FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.**—The term "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) **FINANCIAL INSTITUTION.**—The term "financial institution" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(8) **CHAIRPERSON.**—The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the council.

(9) **FOUNDATION.**—The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) **WRITTEN APPRAISAL.**—The term "written appraisal" means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

#### SEC. 1122. MISCELLANEOUS PROVISIONS.

(a) **TEMPORARY PRACTICE.**—A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

(1) the property to be appraised is part of a federally related transaction.

(2) the appraiser's business is of a temporary nature, and

(3) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(b) **SUPPLEMENTAL FUNDING.**—Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under this title.

(c) **PROHIBITION AGAINST DISCRIMINATION.**—Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(d) **OTHER REQUIREMENTS.**—A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(e) **STUDIES.**—

(1) **STUDY.**—The Appraisal Subcommittee shall—

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) **REPORT.**—The Appraisal Subcommittee shall—

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after the date of the enactment of this title, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title.

William T. Pound  
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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 \$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.

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.

(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.

## 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 Garry 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

BRIEFS (ISSN 0899-8779) is a biweekly publication of the Society of Real Estate Appraisers®, 225 N. Michigan Avenue, Chicago, Illinois 60601-7601; (312) 819-2400. Second-class postage paid at Chicago, IL, and additional mailing offices.

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Subscription rate: \$ 10.00 per year.

Postmaster: send address changes to Briefs, 225 N. Michigan Avenue, Ste. 724, Chicago, IL 60601-7601

# 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, 1988. 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<sup>1</sup> 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.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 14, 1990

SUBJECT: Sectional analysis of HB 523  
(Work Order No. 6-2165)

TO: Representative Mike Navarre

FROM: John B. Gaguine ~~Dr~~  
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).

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

Representative Mike Navarre  
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February 14, 1990

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 provides that a person not certified as a real estate appraiser may nevertheless appraise real estate as long as the person does not hold out to be a certified appraiser. AS 08.87.310 requires certified appraisers to retain records for at least three years. AS 08.87.320 creates the category of registered trainees, who must work under certified appraisers. AS 08.87.330 forbids a person from suing in Alaska for fees for work done as a certified appraiser if the person was not certified. Finally, AS 08.87.900 defines several terms used in AS 08.87.

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.

Representative Mike Navarre  
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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.

JBG:pl  
WKP2/042

## 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

## **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.

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION  
RATIFIED BILL

CHAPTER 563  
HOUSE BILL 492

AN ACT TO PROVIDE FOR <sup>MANDATORY</sup> VOLUNTARY LICENSURE AND  
CERTIFICATION OF REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-3(a) reads as rewritten:

"(a) There is hereby created the North Carolina Real Estate Commission ~~for issuing licenses to real estate brokers and real estate salesmen~~, hereinafter called the Commission. The Commission shall consist of seven members to be appointed by the Governor, ~~provided, Governor, that at least two~~ At least three members of the Commission shall be licensed real estate ~~brokers, brokers or real estate salesmen, or otherwise directly salesmen~~, one of whom shall have been actively engaged in the business of real estate business, appraising in this State for not less than five years immediately preceding his appointment, and, if appointed to the Commission after January 1, 1991, shall also be a State-licensed or State-certified real estate appraiser, ~~and at~~ At least two members of the Commission ~~must~~ shall be persons who are not involved directly or indirectly in the real estate or real estate appraisal business. Members of the Commission shall serve three-year terms, so staggered that the terms of two members expire in one year, the terms of two members expire in the next year, and the terms of three members expire in the third year of each three-year period. The members of the Commission shall elect one of their members to serve as chairman of the Commission for a term of one year. The Governor may remove any member of the Commission for misconduct, incompetency, or willful neglect of duty. The Governor shall have the power to fill all vacancies occurring on the Commission."

Sec. 2. G.S. 93A-6 reads as rewritten:

"§ 93A-6. **Disciplinary action by Commission.**

(a) The Commission shall have power to take disciplinary action. Upon its own motion, or on the verified complaint of any person, the Commission may investigate the actions of any person or entity licensed under this Chapter, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a licensee has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

The Commission shall have power to suspend or revoke at any time a license issued under the provisions of this Chapter, or to reprimand or censure any licensee, if, following a hearing, the Commission adjudges the licensee to be guilty of:

- (1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact;
- (2) Making any false promises of a character likely to influence, persuade, or induce;

- (3) Pursuing a course of misrepresentation or making of false promises through agents, salesmen, advertising or otherwise;
- (4) Acting for more than one party in a transaction without the knowledge of all parties for whom he acts;
- (5) Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this ~~Chapter~~ Article or Article 4 of this Chapter from any person except the licensed broker by whom he is employed;
- (6) Representing or attempting to represent a real estate broker other than the broker by whom he is engaged or associated, without the express knowledge and consent of the broker with whom he is associated;
- (7) Failing, within a reasonable time, to account for or to remit any moneys coming into his possession which belong to others;
- (8) Being unworthy or incompetent to act as a real estate broker or salesman in a manner as to endanger the interest of the public;
- (9) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Chapter;
- (10) Any other conduct which constitutes improper, fraudulent or dishonest dealing;
- (11) ~~Performing~~ Performing or undertaking to perform any legal service, as set forth in G.S. 84-2.1, or any other acts ~~not specifically set forth in that section~~ constituting the practice of law;
- (12) Commingling the money or other property of his principals with his own or failure to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association in North Carolina all money received by him as a real estate broker acting in that capacity, or an escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; provided, these accounts shall not bear interest unless the principals authorize in writing the deposit be made in an interest bearing account and also provide for the disbursement of the interest accrued;
- (13) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy and sell real estate to the buyer and to the seller;
- (14) Failing as a broker, at the time the transaction is consummated, to deliver to the seller in every real estate transaction, a complete detailed closing statement showing all of the receipts and disbursements handled by him for the seller or failing to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed; or
- (15) Violating any rule or regulation promulgated by the Commission.

The Executive Director shall transmit a certified copy of all final orders of the Commission suspending or revoking licenses issued under this Chapter to the clerk of superior court of the county in which the licensee maintains his principal place of business. The clerk shall enter these orders upon the judgment docket of the county.

(b) Following a hearing, the Commission shall also have power to suspend or revoke any license issued under the provisions of this Chapter or to reprimand or censure any licensee when:

- (1) The licensee has obtained a license by false or fraudulent representation;

- (2) The licensee has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of the criminal offenses of: embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to defraud, or any other offense involving moral turpitude which would reasonably affect the licensee's performance in the real estate business;
- (3) The licensee has violated any of the provisions of G.S. 93A-6(a) when selling, leasing, or buying his own property; or
- (4) The broker's unlicensed employee, who is exempt from the provisions of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular course of business, any act which, if committed by the broker, would constitute a violation of G.S. 93A-6(a) for which the broker could be disciplined; or
- (5) The licensee, who is also a State-licensed or State-certified real estate appraiser pursuant to Article 5 of this Chapter, has violated any provisions of Article 5.

(c) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or rules promulgated by the Commission. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations, or whether the person is a licensee of the Commission.

(d) Each broker shall maintain complete records showing the deposit, maintenance, and withdrawal of money or other property owned by his principals or held in escrow or in trust for his principals. The Commission may inspect these records periodically, without prior notice and may also inspect these records whenever the Commission determines that they are pertinent to an investigation of any specific complaint against a licensee.

(e) When a person or entity licensed under this Chapter is accused of any act, omission, or misconduct which would subject the licensee to disciplinary action, the licensee, with the consent and approval of the Commission, may surrender his or its license and all the rights and privileges pertaining to it for a period of time established by the Commission. A person or entity who surrenders his or its license shall not thereafter be eligible for or submit any application for licensure as a real estate broker or salesman during the period of license surrender."

Sec. 3. G.S. 93A-32 reads as rewritten:

**"§ 93A-32. Definitions.**

As used in this Article:

- (1) 'Commission' means the North Carolina Real Estate Commission.
- (2) 'Private real estate school' means any real estate educational ~~institution or organization~~ entity which is privately owned and operated for profit by an individual, partnership, corporation or association, and which is ~~devoted exclusively to the teaching of real estate courses for which tuition is charged, and wherein the purpose of any of such courses is to qualify applicants under G.S. 93A-4(a) to sit for the licensing examinations for real estate brokers or salesmen.~~ conducts, for a profit or tuition charge, real estate salesman or broker prelicensing courses prescribed by G.S. 93A-4(a) or real estate appraiser prelicensing or precertification courses prescribed by G.S. 93A-63(a), provided that a private business or trade school licensed by the State Board of Community Colleges under G.S. 115D-571 to conduct courses other than those

real estate courses described herein shall not be considered to be a private real estate school."

Sec. 4. G.S. 93A-34(b) reads as rewritten:

"(b) Application for a license shall be filed in the manner and upon the forms prescribed by the Commission for that purpose. ~~Such application shall be accompanied by a~~ The Commission may by rule set nonrefundable application fee of fees not to exceed two hundred fifty dollars (\$250.00) in the form of a certified check or money order payable to the North Carolina Real Estate Commission, shall be signed by the applicant, for each school location and fifty dollars (\$50.00) for each real estate salesman or broker prelicensing course or real estate appraiser prelicensing or precertification course. The application for a license shall be accompanied by the appropriate fees and shall contain the following:

- (1) Name and address of the applicant and the school;
- (2) Names, biographical data, and qualifications of director, administrators and instructors;
- (3) Description of school facilities and equipment;
- (4) Description of course(s) to be offered and instructional materials to be utilized;
- (5) Information on financial resources available to equip and operate the school;
- (6) Information on school policies and procedures regarding administration, record keeping, entrance requirements, registration, tuition and fees, grades, student progress, attendance, and student conduct;
- (7) Copies of bulletins, catalogues and other official publications;
- (8) Copy of bond required by G.S. 93A-36;
- (9) Such additional information as the Commission may deem necessary to enable it to determine the adequacy of the instructional program and the ability of the applicant to operate a school in such a manner as would best serve the public interest."

Sec. 5. G.S. 93A-35(b) reads as rewritten:

"(b) Licenses shall be renewable annually on July 1, provided ~~that a renewal application accompanied by a certified check or money order for the renewal fee in the amount of one hundred dollars (\$100.00) payable to the North Carolina Real Estate Commission~~ the appropriate renewal fees has been filed not later than June 1 in the form and manner prescribed by the Commission, Commission, and provided further that the applicant and school are found to be in compliance with the standards established for issuance of an original license. The Commission may by rule set nonrefundable renewal fees not to exceed one hundred twenty-five dollars (\$125.00) for each school location and twenty-five dollars (\$25.00) for each real estate salesman or broker prelicensing course or real estate appraiser prelicensing or precertification course."

Sec. 6. Chapter 93A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5.

"Real Estate Appraisers.

"§ 93A-60. Title.

This Article shall be known and may be cited as the 'North Carolina Real Estate Appraisers Act'.

"§ 93A-61. Real estate appraiser licensure and certification use.

(a) From and after January 1, 1991, it shall be unlawful for any person in this State to assume or use the title 'State-licensed real estate appraiser' or 'State-certified

real estate appraiser', or any title, designation or abbreviation likely to create the impression of licensure or certification by the State of North Carolina as a real estate appraiser, unless the person has first been licensed or certified by the North Carolina Real Estate Commission under the provisions of this Article. The Commission may adopt for the exclusive use of persons certified under the provisions of this Article, a seal, symbol or other mark identifying the user as a State-licensed or State-certified real estate appraiser.

(b) Any person certified as a real estate appraiser by an appraisal trade organization shall retain the right to use the term 'certified' or any similar term in identifying himself to the public, provided that in each instance wherein such term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to such term, and provided further that the use of such term does not create the impression of certification by the State of North Carolina.

(c) Nothing in this Article shall abridge, infringe upon or otherwise restrict the right to use the term 'certified county appraiser' or any similar term by persons certified by the North Carolina Department of Revenue to perform ad valorem tax appraisals, provided that such term is not used in a manner that creates the impression of certification by the State of North Carolina to perform real estate appraisals other than ad valorem tax appraisals.

(d) No license or certification shall be issued under the provisions of this Article to a partnership, association, corporation, firm or group, nor shall the term 'State-licensed real estate appraiser', 'State-certified real estate appraiser' or any similar term be used following or immediately in connection with the name of a partnership, association, corporation or other firm or group or in such manner that it might create the impression of licensure or certification by the State of North Carolina as a real estate appraiser. However, nothing herein shall preclude a State-licensed or State-certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm or group, provided that the appraisal report is prepared by, or under the immediate personal direction of, the State-licensed or State-certified real estate appraiser and is reviewed and signed by such State-licensed or State-certified appraiser.

(e) Nothing in this Article shall preclude a real estate broker or salesman licensed under Article 1 of this Chapter or any other person who is not a State-licensed or State-certified real estate appraiser from appraising real estate for compensation, provided such persons do not represent themselves as being State-licensed or State-certified as a real estate appraiser.

(f) Any person who is not licensed or certified under this Article may assist a State-licensed or State-certified real estate appraiser in the performance of an appraisal, provided that he is actively and personally supervised by the State-licensed or State-certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the State-licensed or State-certified real estate appraiser.

(g) It shall be unlawful for any person who performs an appraisal of real estate located in this State to describe or refer to such appraisal by the term 'certified' or any similar term unless the person has first been certified by the Commission under the provisions of this Article. Nothing in this Article shall require a State-certified real estate appraiser to render a 'certified' real estate appraisal when performing an appraisal assignment; however, in the event a State-certified real estate appraiser performs a real estate appraisal which is not represented as being 'certified', then such appraiser must clearly inform the person to whom the appraisal report is given and must prominently disclose on the appraisal report that the appraisal is not a 'certified' real estate appraisal.

(h) Nothing in this Article shall entitle a State-licensed or State-certified real estate appraiser to appraise real estate for ad valorem tax purposes unless he has first been certified by the North Carolina Department of Revenue pursuant to G.S. 105-294.

"§ 93A-62. Definitions.

When used in this Article, unless the context otherwise requires, the term:

- (1) 'Appraisal' or 'real estate appraisal' means an analysis, opinion or conclusion as to the value of identified real estate or specified interests therein.
- (2) 'Appraisal assignment' means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.
- (3) 'Appraisal Foundation' or 'Foundation' means the Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.
- (4) 'Appraisal report' means any communication, written or oral, of an appraisal.
- (5) 'Certificate' means that document issued by the North Carolina Real Estate Commission evidencing that the person named therein has satisfied the requirements for certification as a State-certified real estate appraiser and bearing a certificate number assigned by the Commission.
- (6) 'Certificate holder' means a person certified by the Commission under the provisions of this Article.
- (7) 'Certified appraisal' means any appraisal performed by a State-certified real estate appraiser and represented as being 'certified'.
- (8) 'Certified appraisal report' means any communication, written or oral, of an appraisal by a State-certified real estate appraiser which is represented as being 'certified'.
- (9) 'Commission' means the North Carolina Real Estate Commission.
- (10) 'License' means that document issued by the North Carolina Real Estate Commission evidencing that the person named therein has satisfied the requirements for licensure as a State-licensed real estate appraiser and bearing a license number assigned by the Commission.
- (11) 'Licensee' means a person licensed by the Commission under the provisions of this Article.
- (12) 'Real estate' or 'real property' means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.
- (13) 'Real Estate Appraisal Committee', 'Appraisal Committee' or 'Committee' means the body established by the Commission pursuant to the provisions of this Article.
- (14) 'Real estate appraiser' or 'appraiser' means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.
- (15) 'Real estate appraising' means the practice of developing and communicating real estate appraisals.
- (16) 'Residential real estate' means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that

includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, townhouse, or cooperative complex or a planned unit development is considered to be residential real estate.

(17) 'State-certified real estate appraiser' means a person who holds a current, valid certificate as a State-certified real estate appraiser issued under the provisions of this Article.

(18) 'State-licensed real estate appraiser' means a person who holds a current, valid license as a State-licensed real estate appraiser issued under the provisions of this Article.

"§ 93A-63. Qualifications for State licensure and certification: applications; application fees; examinations.

(a) Any person desiring to obtain licensure as a State-licensed real estate appraiser or certification as a State-certified real estate appraiser shall make written application to the Commission on such forms as are prescribed by the Commission setting forth the applicant's qualifications for licensure or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for licensure as a State-licensed real estate appraiser shall have demonstrated to the satisfaction of the Commission that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Commission may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date application is made, through a school approved by the Commission, a course of instruction in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Commission, and shall satisfy such additional qualifications as may be required to render North Carolina State-licensed real estate appraisers eligible to perform appraisals in connection with federally-related transactions requiring the use of a State-licensed real estate appraiser; or the applicant shall possess education or experience which is found by the Commission to be equivalent to the above requirements.

(2) Each applicant for certification as a State-certified real estate appraiser shall have demonstrated to the satisfaction of the Commission that he possesses the knowledge and competence necessary to perform appraisals of all types of real estate by having satisfactorily completed, within the five-year period immediately preceding the date application is made, through a school approved by the Commission, a course of instruction in general real estate appraisal practices consisting of at least 90 hours of classroom instruction in subjects determined by the Commission, such course of instruction to be in addition to the education required for licensure as a State-licensed real estate appraiser, and shall present evidence satisfactory to the Commission of at least two years of full-time experience in real estate appraising within the five-year period immediately preceding the date application is made, and shall satisfy such additional qualifications as may be required to render North Carolina State-certified real estate appraisers eligible to perform appraisals in connection with federally related

transactions requiring the use of a State-certified real estate appraiser; or the applicant shall possess education or experience which is found by the Commission to be equivalent to the above requirements.

(b) Each application for State licensure or certification as a real estate appraiser shall be accompanied by a fee fixed by the Commission but not to exceed one hundred fifty dollars (\$150.00).

(c) Any person who files with the Commission an application for State licensure or certification as a real estate appraiser shall be required to take an oral or written examination to demonstrate his competence. The Commission may also make such investigation as it deems necessary into the ethical background of the applicant to determine his qualifications with due regard to the paramount interests of the public as to his honesty, truthfulness and integrity. If the results of the examination and investigation shall be satisfactory to the Commission, then the Commission shall issue to such person a license or certificate authorizing such person to act as a State-licensed real estate appraiser or a State-certified real estate appraiser in this State.

"§ 93A-64. License and certificate renewal; renewal fees; continuing education; reinstatement; replacement licenses and certificates; licensure and certification history.

(a) Licenses and certificates issued under this Article shall expire on the 30th day of June of every year and shall become invalid after that date unless renewed prior to the expiration date by filing an application with and paying to the Executive Director of the Commission the fee required by the Commission, which may not exceed one hundred dollars (\$100.00). Prerequisite to the renewal of a real estate appraiser license or certificate, the licensee or certificate holder must satisfy any continuing education requirements which may be prescribed by the Commission under G.S. 93A-64(b). The Commission may adopt rules establishing a system of license and certificate renewal in which licenses and certificates expire annually with varying expiration dates.

(b) The Commission may by rule require, as a prerequisite to license or certificate renewal, the completion of education courses approved by the Commission or courses determined by the Commission to be equivalent to such instruction, provided that such continuing education requirements do not exceed 24 hours of classroom instruction during any two-year period, except as may be required to maintain State-certified and State-licensed real estate appraisers' eligibility to perform real estate appraisals in connection with federally-related transactions requiring their use.

(c) All licenses and certificates reinstated after the expiration date shall be subject to a late filing fee of ten dollars (\$10.00) per month for each month or part thereof that such license or certificate is lapsed, not to exceed one hundred twenty dollars (\$120.00). Such late filing fee shall be in addition to the required renewal fee. In the event a licensee or certificate holder fails to reinstate his license or certificate within 12 months after the expiration date thereof, the Commission may, in its discretion, consider such person as not having been previously licensed or certified, and thereby subject to the provisions of this Article relating to the issuance of an original license or certificate, including the examination requirements set forth herein. Applications to reinstate licenses or certificates expired for 12 or more months shall be accompanied by the fee required for an original license or certificate and the accrued one hundred twenty dollar (\$120.00) late filing fee.

(d) Replacement licenses and certificates may be issued by the Commission upon payment of five dollars (\$5.00) by the licensee or certificate holder. Certification by the Commission of the licensure or certification history of a person licensed or certified under this Article shall be made only after the payment of a fee of ten dollars (\$10.00) to the Commission.

"§ 93A-65. Education program approval and fees.

(a) The Commission may by rule prescribe minimum standards for the approval and renewal of approval of schools to conduct appraiser prelicensing and precertification courses required by G.S. 93A-63(a). Such standards may address subject matter, program structuring, instructional materials, requirements for satisfactory course completion, instructors, and other related matters relevant to the provision of such courses in a manner that best serves the public interest.

(b) The Commission may by rule set nonrefundable fees chargeable to appraisal trade organizations for the approval and annual renewal of approval of their education programs as equivalent to the prelicensing and precertification courses required by G.S. 93A-63(a), provided that such fees shall not exceed three hundred dollars (\$300.00) per course for approval and one hundred fifty dollars (\$150.00) per course for renewal of approval. Fees chargeable to licensed private real estate schools to conduct appraiser prelicensing and precertification courses are established by Article 3 of this Chapter. No fees shall be charged for the approval or renewal of approval to conduct appraiser prelicensing or precertification courses where such courses are offered by an accredited North Carolina college, university, junior college, or community or technical college, or by a licensed North Carolina private business school.

(c) The Commission may by rule prescribe minimum standards for the approval and annual renewal of approval of schools and other course sponsors to conduct appraiser continuing education courses. Such standards may address subject matter, instructional materials, requirements for satisfactory course completion, minimum course length, instructors, and other related matters relevant to the provision of such courses in a manner that best serves the public interest.

(d) Nonrefundable fees may be charged to schools and course sponsors for the approval and annual renewal of approval to conduct appraiser continuing education courses, provided that such fees shall not exceed one hundred dollars (\$100.00) per course for approval and fifty dollars (\$50.00) per course for renewal of approval, and provided further that no fees shall be charged for the approval or renewal of approval to conduct appraiser continuing education courses where such courses are offered by an accredited North Carolina college, university, junior college, or community or technical college, or by an agency of the federal, State or local government. A nonrefundable fee not to exceed fifty dollars (\$50.00) per course may be charged to current or former licensees or certificate holders requesting approval by the Commission of a course for continuing education credit when approval of such course has not been previously obtained by the offering school or course sponsor.

"§ 93A-66. Nonresident licensure and certification.

(a) An applicant from another state which offers real estate appraiser certification or licensing privileges to residents of North Carolina may become State-certified or licensed by conforming to all of the provisions of this Article, and, in the discretion of the Commission, such other terms and conditions as are required of North Carolina residents applying for certification or licensure in such other state; provided that the Commission may exempt from the examination prescribed in G.S. 93A-63(c) a real estate appraiser duly certified or licensed in another state if a similar exemption is extended to State-certified or licensed real estate appraisers from North Carolina.

(b) Every applicant for State licensure or certification under this Article who is not a resident of this State shall submit with his application an irrevocable consent that service of process in any action against the applicant arising out of the applicant's activities as a State-licensed or State-certified real estate appraiser may be made by delivery of the process on the Executive Director of the Commission.

"§ 93A-67. Rule-making authority.

The Commission shall have the authority to adopt rules and regulations not inconsistent with the provisions of this Article and the General Statutes of North Carolina which may be reasonably necessary to implement, administer and enforce the provisions of this Article, including, but not limited to, the authority to:

- (1) Prescribe forms and procedures for submitting information to the Commission;
- (2) Prescribe standards for the development and communication of real estate appraisals by persons licensed or certified under this Article.

**"§ 93A-68. Real Estate Appraisal Committee.**

(a) The Commission shall appoint a Real Estate Appraisal Committee for the purpose of rendering advice and assistance to the Commission. To the extent possible, the membership of the Committee shall be representative of the members of the real estate appraisal business. The Committee shall consist of five members, three of whom shall have been engaged in the business of real estate appraising in this State for not less than five years immediately preceding their appointment, and, if appointed to the Committee after January 1, 1991, shall also be State-licensed or State-certified real estate appraisers. Members of the Committee shall serve three-year terms, so staggered that the term of one member expires in one year, the terms of two members expire in the next year, and the terms of two members expire in the third year of each three-year period. The members of the Committee shall elect one of their members to serve as chairman of the Committee for a term of one year. The Commission may remove any member of the Committee for misconduct, incompetency, or neglect of duty. The Commission shall have the power to fill all vacancies occurring on the Committee.

(b) The Committee shall advise the Commission on the implementation and operation of this Article and any other applicable provisions of this Chapter relating to standards and operations of real estate appraiser education programs. The Committee shall propose to the Commission for its adoption rules to implement, administer, and enforce this Article and any other applicable provisions of this Chapter relating to standards and operations of real estate appraiser education programs. In proposing rules to the Commission regarding the qualification requirements and standards of practice for State-licensed and State-certified real estate appraisers, the Committee shall consider the Minimum Standards of Qualification issued by the Appraiser Qualification Board of the Appraisal Foundation and the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

(c) Members of the Committee shall be paid the per diem allowances at the rates set forth in G.S. 93B-5; provided that none of the expenses of the Committee shall be payable out of the Treasury of the State of North Carolina.

**"§ 93A-69. Register of applicants; roster of State-licensed and certified appraisers; financial report to Secretary of State; administrative expenses.**

(a) The Executive Director of the Commission shall keep a register of all applicants for State licensure or certification as real estate appraisers, showing for each the date of application, name, business or residence address, and whether the license or certificate was granted or refused.

(b) The Executive Director of the Commission shall also keep a current roster showing the names and places of business of all State-licensed and State-certified real estate appraisers, which roster shall be kept on file in the office of the Commission and be opened to public inspection.

(c) On or before the first day of September of each year, the Commission shall file with the Secretary of State a copy of the roster of real estate appraisers licensed or certified by the Commission, and a report containing a complete statement of

income received by the Commission in connection with the licensure and certification of real estate appraisers for the preceding fiscal year ending June 30th, attested by the affidavit of the Executive Director of the Commission. The report shall be made a part of those annual reports required under the provisions of G.S. 93A-5 and G.S. 93A-53.

(d) All fees collected by the Commission under this Article shall be deposited into the operating account of the Commission. None of the expenses incurred by the Commission in administering this Article, including the compensation of expenses of the Real Estate Appraisal Committee or any officer or employee of the Commission, may be paid or payable out of the Treasury of the State of North Carolina, and the Real Estate Appraisal Committee may not make or incur any expense, debt or other financial obligation binding upon the Commission or the State of North Carolina.

(e) In addition to those fees prescribed in this Article for making application for and renewing appraiser licenses and certificates, the Commission may collect from applicants and holders of such licenses and certificates and remit to the appropriate agency or instrumentality of the federal government any additional fees as may be required to render North Carolina State-licensed or State-certified appraisers eligible to perform appraisals in connection with federally related transactions.

"§ 93A-70. Disciplinary action by Commission.

(a) The Commission may take disciplinary action against State-licensed or State-certified real estate appraisers. Upon its own motion, or on the verified complaint of any person, the Commission may investigate the actions of any person licensed or certified under this Article or any other person who shall assume to act in such capacity. If the Commission finds probable cause that a person licensed or certified under this Article has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

The Commission shall have power to suspend or revoke at any time licensure or certification privileges granted under the provisions of this Article or to reprimand or censure any licensee or certificate holder if, following a hearing, the Commission finds the licensee or certificate holder to have:

- (1) Procured licensure or certification pursuant to this Article by making a false or fraudulent representation;
- (2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;
- (3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon consequences resulting from the appraisal assignment;
- (4) Acted or held oneself out as a State-licensed or State-certified real estate appraiser when not so licensed or certified;
- (5) Failed as a State-licensed or State-certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Article who assists the State-licensed or State-certified real estate appraiser in performing real estate appraisals;
- (6) Failed to retain for three years and to make available to the Commission for its inspection without prior notice, originals or true copies of all written contracts engaging his services to appraise real property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;
- (7) Paid a fee or valuable consideration to any person for acts or services performed in violation of this Article;

- (8) Acted as a real estate appraiser in such an unworthy or incompetent manner as to endanger the interest of the public;
- (9) Violated any of the standards for the development or communication of real estate appraisals or any other rule promulgated by the Commission;
- (10) Performed any other act which constitutes improper, fraudulent, or dishonest conduct; or
- (11) Violated any of the provisions of this Chapter.

(b) Following a hearing, the Commission shall also have power to suspend or revoke any license or certificate issued under the provisions of this Article or to reprimand or censure any licensee or certificate holder when:

- (1) The licensee or certificate holder has been convicted of, or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, to an offense involving moral turpitude which would reasonably affect the performance of the licensee or certificate holder in the real estate appraisal business; or
- (2) A final civil judgment has been entered against the licensee or certificate holder on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real estate.

(c) When a person licensed or certified under this Article is accused of any act, omission, or misconduct which would subject him to disciplinary action, the licensee or certificate holder, with the consent and approval of the Commission, may surrender his license or certificate and all the rights and privileges pertaining to it for a period of time established by the Commission. A person who surrenders his license or certificate shall not thereafter be eligible for or submit any application for licensure or certification as a real estate appraiser during the period that the license or certificate is surrendered.

"§ 93A-71. Penalty for violation of this Article.

(a) Any person who acts as, or holds himself out to be, a State-licensed or State-certified real estate appraiser without first obtaining a license or certificate as provided in this Article, or who willfully performs the acts specified in G.S. 93A-70(a)(1) through (10), shall be guilty of a misdemeanor and shall be punished by a fine or imprisonment, or by both, in the discretion of the court.

(b) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Article or rules promulgated by the Commission. The superior court shall have the power to grant these injunctions whether or not criminal prosecution has been or may be instituted as a result of the violations, and whether or not the person is the holder of a license or certificate issued by the Commission under this Article."

Sec. 7. This act is effective upon ratification except for Sections 3 through 5 which shall become effective July 1, 1990. The North Carolina Real Estate Commission shall have the authority upon ratification of this act to adopt rules not inconsistent with the provisions of this act and the General Statutes of North Carolina which are reasonably necessary to implement this act.

In the General Assembly read three times and ratified this the 4th day of July, 1989.

**JAMES C. GARDNER**

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James C. Gardner  
President of the Senate

**J. L. MAVRETIC**

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J. L. Mavretic  
Speaker of the House of Representatives