

H B

523

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

and recommended:

- replace with _____ CS _____ same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____
Dept of Commerce 2/23/90

zero fiscal note(s) _____

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Patricia Rodery

John Smith No Rec
John Smith No Rec

Richard Do Pass
Chair: Signature and Recommendation

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

(3) adopt regulations necessary to carry out the purposes

FISCAL NOTE

REQUEST:

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	17.5	17.5	17.5	17.5	17.5	17.5
TRAVEL	18.4	14.7	10.4	10.4	10.4	10.4
CONTRACTUAL	25.0	15.0	15.0	15.0	15.0	15.0
SUPPLIES	1.3	1.3	1.3	1.3	1.3	1.3
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	62.2	48.5	44.2	44.2	44.2	44.2
CAPITAL	0	0	0	0	0	0
REVENUE	60.0	0	60.0	0	60.0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
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 Mercuri 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 Six months, GGU, Range 12A	\$17.5
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Travel:	\$18.4
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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
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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
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Funding will provide standard office supplies.

TOTAL:	\$62.2
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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.

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

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

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

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

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

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

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

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

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

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

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



Larry Merculieff, Commissioner

Date: 2-23-90

STATE OF ALASKA
THE LEGISLATURE

GOUGH • STATE CAPITOL
SHELDON BLANKENBURG
1977 JAS 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1990

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

TO: Representative Mike Navarre

FROM: John B. Gaguine *JG*
Legislative Counsel

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

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

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

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

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

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

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

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

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

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

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

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

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

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

this session will likely require hiring certified appraisers from the "lower 48" on federally funded projects.

Significant points necessary for Alaska to conform to Federal requirements

- 1) An independent regulatory agency that answers to the Governor.
- 2) Appraiser certification/ licensing activities should not be conducted by the same officials that are responsible for real estate regulation.
- 3) Certified appraisers must satisfy criteria established by the Appraisal Qualification Board of the Appraisal Foundation and must pass a state examination consistent with the Appraiser Foundation guidelines.
- 4) "Grandfathering" is not allowed.
- 5) 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.

Amendments made in Labor & Commerce Committee (CSHB 523)

- * Page 1, Sec. 08.87.020 (2) Adopt rules of professional conduct
- * Page 7, Art. 4 deleted in total. This deletion makes appraiser certification mandatory.
- * Page 8, Sec. 08.87.330 Exempts municipal tax assessors.
- * Page 9, Sec. 08.87.900 (8) Excluding subsurface natural resource values.

Amendments made in the Finance Committee

- * Page 1, line 14 change four to five, on lines 15 & 16 delete executive director of Alaska Housing Finance Corporation.
- * Page 4, following line 18. This new section allows for a limited certification, when certain conditions are met.

* Page 8, following line 15. Appraisals By Uncertified Appraisers Permitted. This is a reinstatement of Article 4 that was deleted in Labor & Commerce. The purpose of the reinstatement was to insure that in-house appraisals conducted by insurance companies, banks, or other institutions would be allowed, so long as the appraisal is not held out to be a certified appraisal.

* Page 9, line 9, energy efficiency was inserted.

Current Status of HB 523

* HB 523 passed out of the House Labor & Commerce Committee on March 6th.

* HB 523 passed out of House Finance Committee on March 29th.

* HB 523 passed the House of Representatives on March 6th. The House vote was 35 to 3.

* HB 523 has no known opposition. The bill is supported by the state realtors association, the appraisers association, and the Department of Commerce.

* HB 523 is scheduled to be heard by the Senate Labor & Commerce Committee on April 25th.

For Additional Information: Contact Tom Ackerly (3779) / Capitol 24.

ALASKA MORTGAGE BANKERS ASSOCIATION

P.O. BOX 9-2691 / ANCHORAGE, ALASKA 99509-2691

April 16, 1990

Senator Dick Eliason
Chairman, Labor & Commerce
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811

RE: CSHB 523

Dear Senator Eliason:

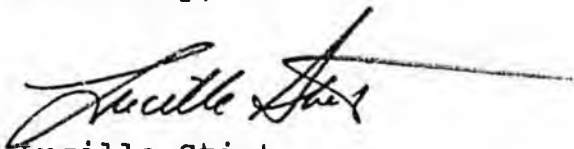
The Alaska Mortgage Bankers Association supports passage of HB523 in the form passed by the House on April 5, 1990.

Federal regulation requires that states pass legislation to comply with the requirements of FIRREA. It is important that legislation be passed this session, to allow for orderly formation of a Board and promulgation and implementation of regulations prior to the federally mandated date of July 1, 1991.

We understand there is some question as to the acceptability of section 08.87.110(e) at the federal level. While Alaska is geographically large, its population is small and concentrated. Provision should be made so that financing in sparsely settled, remote areas of the state continues to be available without the burden of additional appraisal costs which are unreasonable in relation to the value of the property being appraised. We support inclusion of this section in the bill, and will be happy to assist in continued efforts to resolve this question at the federal level. Perhaps a section could be added to the bill to make clear that if any provisions in the bill are found to be outside the federal regulations, the remainder of the legislation would stand.

Please contact the undersigned or members of the Board if you have any questions.

Sincerely,



Lucille Stietz
Chair, Legislative Committee
257-3442

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.
7. Alaska Association of Assessing Officers
8. Alaska Banking Association
9. The Appraisal Foundation/ Appraisers Qualification Board, Washington, D.C., evaluated HB 523 and gave the bill a good evaluation.

This list is current as of April 23, 1990.

James W. Klopfenstein
Chairman

Miles M. Etter
Vice Chairman

Raymond A. Leshar

James H. Pritchett

Otis L. Thorpe

Appraiser Qualifications Board of The Appraisal Foundation

1029 Vermont Ave. N.W. • Suite 900 • Washington, DC 20005 • (202) 347-7722 • FAX: (202) 347-7727

April 10, 1990

Mr. Tom Ackerly
P.O. Box V
Juneau, AK 99811

Dear Mr. Ackerly:

We are pleased to respond to your request of April 4, 1990 relative to Alaska House Bill No. 523, Chapter 87, Real Estate Appraisers.

The Appraiser Qualifications Board can only offer comments with respect to qualification requirements contained within the proposed Bill. We are unable to provide comments on the composition of the Board of Certified Real Estate Appraisers, Prohibited Practices and Disciplinary Proceedings, and sections of the General Provisions.

A review of the proposed Bill indicates that there will be two classifications of real estate appraiser certification, being General and Residential.

The requirements, contained in the Bill, necessary to obtain either a General or Residential Real Estate Appraiser Certificate meet and/or exceed the Qualifications Criteria established by the Appraiser Qualifications Board of The Appraisal Foundation.

It is noted that some of the language utilized in the Bill differs somewhat from that developed by the AQB, particularly as it applies to the Education and Experience requirements; however, the overall requirements contained in the proposed Bill would meet the AQB criteria.

It should be understood that the AQB has no provisions nor criteria for registered trainees, nor is there any provision for Exemptions as indicated in Sections 08.87.310 and 0.8.87.330 respectively of the proposed Alaska Bill.

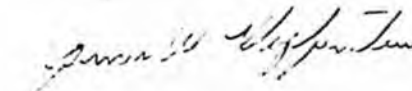
April 10, 1990

Please realize that the comments contained herein are those of the Appraiser Qualifications Board, and not the Appraisal Subcommittee. You will need to submit a copy of your Bill to the Appraisal Subcommittee for their review and consideration.

We are enclosing the Outline Qualification Criteria for the Residential and General Appraiser Classifications. This criteria has been developed and adopted by the Appraiser Qualifications Board.

We appreciate your interest in The Appraisal Foundation and ask that you contact us if additional information is needed, or if we can be of further assistance.

Respectfully submitted,



James W. Klopfenstein, Chairman
Appraiser Qualifications Board

JWK:jj

Enclosures

cc: Kathy Edmonson
Business Manager

Mike Navarre
P.O. Box 169
Kenai, AK 99611

James W. Klopfenstein
Chairman

Miles M. Etter
Vice Chairman

Raymond A. Leshner

James H. Pritchett

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Appraiser Qualifications Board of The Appraisal Foundation

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APPRAISER QUALIFICATIONS CRITERIA RESIDENTIAL CERTIFICATION CLASSIFICATION

The Residential Certification Classification would apply to the appraisals of one to four units and up to twelve units when a net income capitalization analysis is not required.

Applicants must meet the following education, experience and continuing education requirements:

Examination

Successful completion of the Appraiser Qualifications Board endorsed Uniform State Certification Examination or its equivalent.

Prerequisite for Examination

Education:

College degree; or,

75 classroom hours of courses in subjects related to real estate appraisal which shall include coverage of the Uniform Standards of Professional Appraisal Practice.

Experience

Equivalent of two years full time experience within the previous five years. The experience must be supported by adequate written reports or file memoranda.

Continuing Education

The purpose of Continuing Education is to ensure that the appraiser participates in a program that maintains and increases their skill, knowledge and competency in real estate appraising.

The equivalent of 10 classroom hours of instruction in courses or seminars for each year during the period preceding the renewal, providing the original certification was obtained by meeting the aforementioned requirements. (For example, a two-year certification term would require 20 hours; these hours may be obtained anytime during the two-year term.)

There are two alternatives to the classroom hours of instruction:

1. The completion of educational programs or study determined to be equivalent for continuing education purposes; or,
2. Participation other than as a student in educational processes and programs including, but not limited to, teaching, program development, preparation of textbooks, etc.

12/15/89

James W. Klopfenstein
Chairman

Miles M. Etter
Vice Chairman

Raymond A. Leshner

James H. Pritchett

Otis L. Thorpe

Appraiser Qualifications Board of The Appraisal Foundation

1029 Vermont Ave. N.W. • Suite 900 • Washington, DC 20005 • (202) 347-7722 • FAX: (202) 347-7727

APPRAISER QUALIFICATIONS CRITERIA GENERAL CERTIFICATION CLASSIFICATION

The General Certification Classification would apply to the appraisals of all types of real property.

Applicants must meet the following education, experience and continuing education requirements:

Examination

Successful completion of the Appraiser Qualifications Board endorsed Uniform State Certification Examination or its equivalent

Prerequisite for Examination

Education:

College degree or

165 classroom hours of courses in subjects related to real estate appraisal which shall include coverage of the Uniform Standards of Professional Appraisal Practice.

Experience

Equivalent of two years full time experience within the previous five years. The experience must be supported by adequate written reports or file memoranda.

Continuing Education

The purpose of Continuing Education is to ensure that the appraiser participates in a program that maintains and increases their skill, knowledge and competency in real estate appraising.

The equivalent of 10 classroom hours of instruction in courses or seminars for each year during the period preceding the renewal, providing the original certification was obtained by meeting the aforementioned requirements. (For example, a two-year certification term would require 20 hours; these hours may be obtained anytime during the two-year term.)

There are two alternatives to the classroom hours of instruction:

1. The completion of educational programs or study determined to be equivalent for continuing education purposes; or,
2. Participation other than as a student in educational processes and programs including, but not limited to, teaching, program development, preparation of textbooks, etc.

12/15/89

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

1st NATIONAL CENTER
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PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

April 5, 1990

Hon. Mike Navarre
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Navarre;

You have asked for our opinion as to whether the provisions for the certification of real estate appraisers contained in HB 523 comply with the current federal guidelines of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the thrift bailout bill or FIRREA). From the information which we were able to review, it appears that HB 523 complies with the federal guidelines, although we have a few comments.

House Bill 523 (HB 523) ("the bill") relates to the certification of real estate appraisers. This bill is in response to federal legislation enacted in 1989 which requires the states to provide for the certification and licensing of real estate appraisers by July 1, 1991. The Appraisal Subcommittee of the Federal Financial Institutions Examination Council released general guidelines on January 18, 1990 which require the states to: create a regulatory agency headed by an individual who has no financial interest in the activities; supervise appraisal activities separately from real estate regulation; provide that agency decisions must be subject only to court review; create testing, experience and educational standards which satisfy the Appraisal Qualifications Board of the Appraisal Foundation, and incorporate a code of professional responsibility. The states may not enact "grandfather" provisions to exempt a group or individual from meeting the licensing and certification standards, and are further prohibited from requiring that an applicant for an appraisal certificate or license hold another occupational license.

Article 2 of the bill provides for the limited certification of persons not meeting the prescribed qualifications to perform appraisals in remote areas of the state. (Proposed AS 08.87.110(e)). No provision is made for such appraisals in the federal guidelines so it is difficult to determine whether this limited certification program would comply; however, since the appraisal must be "consistent with federal law," we believe that the federal government would find this provision to be valid.

Hon. Mike Navarre
Alaska State Legislature

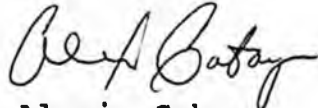
April 5, 1990
Page 2

Article 4 of the bill provides for appraisals by uncertified appraisers. (Proposed AS 08.87.340.) This section is intended to allow uncertified individuals to perform appraisals "in-house," but it is unclear whether such an exemption would be allowed by the federal guidelines.

We apologize that our conclusions are not more definite, but we cannot predict with certainty how a federal agency will interpret new federal law. However, nothing in this bill appears inconsistent, in our opinion, with federal law. I hope this answers your questions.

Sincerely,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By: 
Alexis Gabay
Assistant Attorney General

AG:jf

BRIEFS

August 30, 1989

Federal Law Puts Spotlight on State Appraiser Legislation

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

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

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

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

(Continued on page 2)

At a Glance

Special legislative update issue, containing:

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

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

Jobsearch — p. 11

Annual Conference Attracts National Media

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

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

(Continued on page 2)

States Now With Separate Appraiser Certification and/or Licensing Laws



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



Conference (from p. 1)

ture *Briefs* for tape announcement)

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

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

New Officers Elected

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

President: Ritch LeGrand, SREA, Sioux City, IA

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

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

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

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

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

District governors who were elected are:

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

(Continued on back page)

Law (from p. 1)

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

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

- Role of the Appraisal Foundation. Recognized in the federal law as the legitimate representative of the professional appraisal industry, it may maintain a roster of all state certified and licensed appraisers eligible for federally related work. It also will establish the qualifications criteria and uniform national examination required for certification.
- Grandfathering. All appraisers will be required to meet the Foundation's experience, education and examination requirements to become certified. The oversight body, the Appraisal Subcommittee, established under the federal law, will reject those state practices and procedures that are inconsistent with the federal law.

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

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

Requests for Data

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

BRIEFS

August 30, 1989

Volume 24

Number 18

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) 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.

ational
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of State
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I N F O R M A T I O N A L E R T

JANUARY 22, 1990

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)

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SL Office of
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up-to-date
information
on issues under
consideration
by Congress or the
Administration.

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.

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.

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.

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.



ALASKA CHAPTER NO 57

AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS



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

February 19, 1990

Senator Richard I. Eilason
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Re: House Bill 523

Dear Senator Eilason:


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

ALASKA CHAPTER NO. 158



SOCIETY OF REAL ESTATE APPRAISERS®

P.O. Box 201201

Anchorage, AK 99520-1201

February 27, 1990

Senator Richard I. Eilason
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Re: Appraiser Regulation

Dear Senator Eilason:

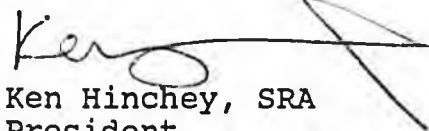
Recently enacted Federal legislation requires that all appraisers involved in Federal transactions, including loans by regulated banks, must be State certified or licensed by July 1, 1991.

The work of our Appraiser's Certification Task Force has been pretty much incorporated into H.B. 523. We strongly support the passage of this Bill. Due to the deadline set by the Federal legislation, it is important that this Bill be passed this session.

Thanks for your help.

Sincerely,

ALASKA CHAPTER OF THE SOCIETY OF REAL ESTATE APPRAISERS



Ken Hinchey, SRA
President



ALASKA ASSOCIATION OF REALTORS, INC.[®]

741 Sesame Street, Suite 100 • Anchorage, Alaska 99503
Telephone 907-563-7133

February 22, 1990

Senator Richard I. Eilason
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Re: House Bill 523

Dear Senator Eilason:

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



Alaska Valuation Service, Inc.

550 WEST 54TH AVENUE • ANCHORAGE, ALASKA 99518
(907) 561-1031 FAX (907) 562-7241

March 13, 1990

Senator Richard L. Ellason
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99611

Dear Senator Ellason;

I am writing in regard to the appraiser certification legislation introduced in the house by Representative Navarre and Swackhammer as House Bill 523.

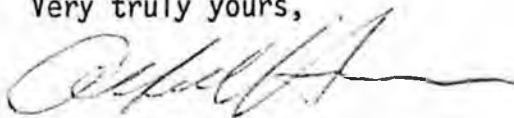
The real estate appraisers in Alaska are virtually unanimous in their support for this bill as it conforms to the federally mandated appraisal guidelines which must be in effect in all states by July 1, 1991. Only independent fee appraisers will be covered in Alaska, though state and federal appraisers could be certified if they choose.

We realize that Senate Bill 470 was also introduced pertaining to appraisers, but this bill does not meet federal requirements in several areas and is opposed by the appraisal community. We prefer the house bill as we know there will be no problem with federal agencies or secondary market sources if the Alaska appraisers are certified under those guidelines.

There is no grandfathering in HB 523 which is acceptable. That means that every appraiser will have to demonstrate experience and be tested to be certified. Our professional appraisal organizations in Alaska, of which most appraisers are members, strongly support this legislation as do many other industry related groups.

I ask that you support HB 523 for passage this session and our committee will be available to testify or answer questions on its behalf.

Very truly yours,



Alfred J. Ferrara, SRPA, MAI
President

cc: Governor Steven Cowper
Real Estate Appraiser Certified Task Force

AJF/jbp

MUNDY-DAY-BUNN

(not a partnership)

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March 3, 1990

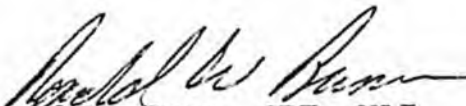
Alaska State Legislature
P.O. Box V (M/S 3100)
Juneau, AK 99611

RE: Appraiser Certification

Dear Alaska Legislator:

As you may be aware with the advent of Resolution Trust Corporation and the banking industry crisis, there is a strong national wide movement for state by state appraiser certification. Housebill 523 incorporates all recommendations of the joint appraiser certification task force representing both the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers. It has also been endorsed by the Alaska Association of Realtors. I strongly urge your support for Housebill 523 to be passed during the 1990 session.

Sincerely,


Ronald W. Bunn, CRE, MAI

RWB/rlj