

S B

470

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to certification of real estate appraisers; . . .
Sponsor: Senator Duncan
Requestor: Senate 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	15.4	12.5	8.9	8.9	8.9	8.9
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	59.2	46.3	42.7	42.7	42.7	42.7
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	59.2	46.3	42.7	42.7	42.7	42.7
TOTAL	59.2	46.3	42.7	42.7	42.7	42.7

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) The bill establishes a three-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: 2/20/90

Approved by Commissioner: Larry Merouffe Date: 21 Feb 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 - SB 470

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: ^{rupat} GGU \$15.4

In FY 91, this funding will provide for four face-to-face meetings: two in Anchorage, one in Juneau, and one in Fairbanks; assuming members are appointed from Anchorage, Juneau, and 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: \$59.2

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.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 470
PUBLISH DATE: 2/12/90

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act Relating to Certification of Real Estate Appraisers
Sponsor: Sen. Duncan
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	12.2	12.2	12.2	12.2	12.2
TRAVEL	22.7	6.5	6.5	6.5	6.5	6.5
CONTRACTURAL	12.6	3.6	3.6	3.6	3.6	3.6
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	22.3	22.3	22.3	22.3	22.3
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	77.9	22.3	22.3	22.3	22.3	22.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

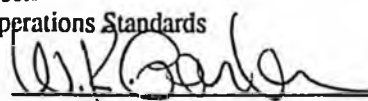
POSITIONS:

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

ANALYSIS: This bill would require that we certify appraisers involved in the acquisition of private property for public purposes. Currently there are 14 staff who would need certification. Approximately one-half of these currently meet the standards for certification. The other one-half would need to undergo the 150 hours of training required. The costs outlined above are for training 7 staff in the first year and 2 staff each year thereafter, based upon an average turnover rate among our appraisal staff.

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

Phone: 465-2951
Date: February 20, 1990

Approved by Commissioner: 
Agency: Department of Transportation and Public Facilities

Date: 2/21/90

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

**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
 2 staff to be certified each year thereafter due to attrition.

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.
	Total per Staff	\$11,130

For FY 1991: 7 staff * 11,130 =	77,910
For FY 1992 and beyond: 2 staff * \$11,130	22,260

* 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.

Senate Bill 470: "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.

SB 470 was introduced to address the issue of appraiser licensing in Alaska. The bill would create a three member appraiser board within the Division of Occupational Licensing and give responsibility to the Real Estate Appraiser Board 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. First, we are opposed to Section 6 of the bill (page 7, line 4), which provides for "transitional certification." This grandfathering section is counter to the Appraisal Subcommittee's guidelines, which states that "[n]o 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." We would ask that this section be removed from the bill, rather than risk Subcommittee disapproval of this state's plan for appraiser certification.

Secondly, we are concerned with proposed section AS 08.87.110(c) (page 3, line 8), the bill's certification by "comity" section. SB 470 provides for appraiser certification without examination to persons who have been certified in another jurisdiction under licensing standards substantially equivalent to those established in this bill. This is common language, which we generally support. However, given the very recent adoption of appraiser certification requirements in this country, Alaska's appraiser community is interested in seeing this section rewritten to reflect admission by "reciprocity." The department supports this request.

Rewriting this section to include reciprocity would mean that certification would be granted without licensure to a person applying from another jurisdiction, but only if 1) the appraiser certification standards were substantially similar to those in Alaska, and 2) the jurisdiction which the person was moving from also granted similar certification without examination privileges to Alaska-certified appraisers interested in moving to that jurisdiction. While the department is generally skeptical of the value and need for reciprocity provisions, because they can hinder movement across state lines, until the appraiser industry nationwide gets through this period of transition and each state's appraiser licensing plan is approved by the Appraisal Subcommittee, we believe it valid to add this level of protection for Alaska's appraisal community.

Finally, our third concern deals with the voluntary nature of the proposed certification plan outlined in SB 470. Proposed section AS 08.87.300 (see page 5, line 6), permits appraisals by uncertified appraisers. Given that some appraisal work may not be tied directly to federally related transactions, SB 470 provides that appraisers who may be involved in such transactions need not seek certification by the Board of 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 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. SB 470 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.

Position Paper
Senate Bill 470
Page Three

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 SB 470, but request that consideration be given to the suggestions for amendment described above. With the changes suggested, the department would support passage of SB 470.



Larry Mercurieff, Commissioner

Date: 21 Feb 90

LM/RPB/dgl6360D
22190a

STATE OF ALASKA
THE LEGISLATURE

POUCH 7 STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1990

SUBJECT: Sectional analysis of SB 470
(Work Order No. 6-1912)

TO: Senator Jim Duncan

FROM: John B. Gaguine JBG
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 three members appointed by the governor - two appraisers and one public member. 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 prescribe continuing education requirements for renewal of certification.

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 substantially equivalent to Alaska's.

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. 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.

Section 6 provides for "grandfathering" without examination appraisers who otherwise meet the requirements for certification.

Section 7 provides for an effective date of July 1, 1990.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 17, 1990

SUBJECT: Regulation of real estate appraisers
(Work Order No. 6-1912)

TO: Senator Jim Duncan
Attn: Dale Staley

FROM: John B. Gaguine *JBG*
Legislative Counsel

Enclosed you will find a bill on the regulation of real estate appraisers. The bill is far shorter than the model bill you sent over, for a couple of major reasons. First, much of the material in the model bill seemed to me more appropriate for the board created by this bill to adopt as regulations. In this category were such items as the content of the appraiser examination, the procedures for renewing a license and the requirement to notify the board of changes of address. If you examine the other statutes in Title 8 (occupational licensing), none of them have the sort of detail found in the model bill, not even those regulating such populous professions as law and medicine.

Second, the board will be covered by AS 08.01 (centralized licensing), which confers rights and responsibilities on the board. For example, AS 08.01.050 mandates the Department of Commerce and Economic Development to handle numerous administrative duties on the board's behalf; AS 08.01.075 provides the basis for the board's disciplinary powers; and AS 08.01.087 gives DCED power to investigate violations of AS 08.01.087. Thus, many of the provisions of the model bill are already found in AS 08.01.

I have given the board three members, since there are, I believe, relatively few real estate appraisers working in Alaska. I can easily expand its membership, if you wish.

If I may be of further assistance, please advise.

JBG:pl
WKP1/008

Enclosure

James 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

APPRAISER QUALIFICATIONS CRITERIA ADOPTED BY APPRAISER QUALIFICATIONS BOARD OF THE APPRAISAL FOUNDATION

GENERAL CERTIFICATION CLASSIFICATION

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

Successful completion of written examination that tests various items, including ethics and conduct.

College degree, or successful completion of 150 classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization, college or university approved by the Appraiser Qualifications Board (AQB), and 15 classroom hours related to the Standards of Professional Practice and Provisions of the State Act.

Equivalent of two years experience within the previous five years. The experience must be supported by adequate written reports or file memoranda. A detailed listing of the reports or file memoranda shall be furnished for each year's experience claimed. It is possible that the experience will need to be submitted.

The term of certification shall be not less than two, nor more than four years.

Continuing Education

Prerequisite for renewal:

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

There are two alternatives to the classroom hours of instruction. The completion of educational programs or study determined by the AQB to be equivalent for continuing education purposes, or participation other than as a student in educational processes and programs including, but not limited to, teaching, program development, preparation of textbooks, etc.

James Klopfenstein
Chairman

Miles M. Etter
Vice Chairman

Raymond A. Leshar

James H. Prichett

Otis L. Thorpe

Appraiser Qualifications Board of The Appraisal Foundation

1129 Vermont Ave. N.W. • Suite 900 • Washington, DC 20005 • (202) 347-7722 • FAX: (202) 347-7727

APPRAISER QUALIFICATIONS CRITERIA ADOPTED BY APPRAISER QUALIFICATIONS BOARD OF THE APPRAISAL FOUNDATION

RESIDENTIAL CERTIFICATION CLASSIFICATION

The Residential Certification Classification would apply primarily for one to four units.

Successful completion of written examination that tests various items, including ethics and conduct.

College degree, or successful completion of 60 classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization, college or university approved by the Appraiser Qualifications Board (AQB); and 15 classroom hours related to the Standards of Professional Practice and Provisions of the State Act.

Equivalent of two years experience within previous five years. The experience must be supported by adequate written reports or file memoranda. A detailed listing of the reports or file memoranda shall be furnished for each year's experience claimed. It is possible that the experience will need to be submitted.

The term of certification shall be not less than two, nor more than four years.

Continuing Education

Prerequisite for renewal.

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

There are two alternatives to the classroom hours of instruction. The completion of educational programs or study determined by the AQB to be equivalent for continuing education purposes, or participation other than as a student in educational processes and programs including, but not limited to, teaching, program development, preparation of textbooks, etc.

William T. Pound
Executive
Director

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

444
North
Capitol
Street, N.W.
Washington, D.C.
20001
(202) 624-5400



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.

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.

EQUIVEST

REALTY ADVISORS, INC.

February 16, 1990

Senator Richard I. Dick Eliason
Labor & Commerce
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Re: Senate Bill 470

Dear Senator Eliason

It is my understanding that you will be holding a hearing on Senate Bill 470 on February 21, 1990. I will be attending that hearing by teleconference from Anchorage.

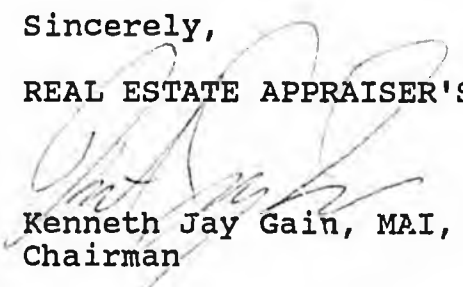
Enclosed herewith is a copy of a letter I sent to Senator Duncan's office outlining the opinion of the Real Estate Appraiser's Task Force on this particular Bill.

Our organization strongly supports House Bill 523 which was recently approved by unanimous vote at our last membership meeting. HB-523 has also been unanimously approved by the Legislative Committee of the Alaska Association of Realtors.

Thanks for your assistance in this matter.

Sincerely,

REAL ESTATE APPRAISER'S TASK FORCE



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

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

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

EQUIVEST

REALTY ADVISORS, INC.

February 15, 1990

Mr. Dale Staley
Administrative Assistant
Office of Senator Jim Duncan
P.O. Box V
Juneau, Alaska 99811

Re: Senate Bill No. 470

Dear Dale:

As we discussed on the telephone yesterday, I am very pleased that Senator Duncan understands the importance of enacting appropriate State Legislation to regulate appraisers during this session of the Legislature.

As I mentioned to you, the Real Estate Appraiser's Task Force has been working on this topic since last spring and we had been led to believe that the Governor's office would introduce our Bill. Unfortunately, we were not informed until the second week of the Legislature that he would not. We, therefore, contacted Senator Pat Rodey, due to his familiarity with real estate and banking issues, to have a Bill prepared which incorporated all of the recommendations of our Task Force. That Bill was prepared and is included in the enclosed Resource Manual as Exhibit "B". Since Senator Duncan introduced SB-470 before Senator Rodey had a chance to introduce our Bill, Senator Rodey has advised us that rather than introducing another Bill, we should concentrate on SB-470.

After careful review of SB-470, I see that it incorporates a number of our suggestions but is different in a number of areas. Our first recommendation would be for Senator Duncan to consider introducing our Bill (Exhibit "B" in the attached Resource Manual) or HB-523, which is virtually identical to our Bill, as a sponsor's substitute for a Senate Bill 470. If that is not acceptable to him, we hope that he will incorporate the following suggested amendments:

Section 08.87.010

In our study of the issue of board size, our Task Force considered a three member board, a five member board, and a seven member board. Due to the limited number of appraisers to be regulated (estimated to be between 200-300), we felt that the

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

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

Mr. Dale Staley
February 15, 1990
Page Two

cost of a seven member board would be excessive. On the other hand, we felt that a three member board was too small due to the fact that a quorum would consist of only two people and as a result, one person who was both knowledgeable and persuasive could, in effect, end up establishing policy for all appraisers within the State of Alaska. For this reason, we believe that a five member board is the best. In our original report (Exhibit "F" of the attached Resource Manual), we proposed a board consisting of four appraisers and one public member. However, subsequent interpretation of the Federal requirements by the Federal Appraisal Sub-Committee (See Exhibit "E" of the Resource Manual) indicated that it would not be acceptable to have a board dominated by any one industry. We, therefore, proposed to Senator Rodey, in a letter dated January 26 (See Exhibit "H") that the board consist of one public member, two appraisers, a representative of the Mortgage Banking Industry, and the Executive Director of the Alaska Housing Finance Corporation or his designee.

Under this same section, in our proposed Bill, we provided that the Executive Secretary of the Alaska Real Estate Commission would serve as Executive Secretary of the board. We believe that this coordination is important.

Section 08.87.020(2)

While we strongly believe in the need for continuing education, we believe that rather than leaving it totally up to the board, there should be some guidelines adopted in the statute. As a result, in our Bill (Exhibit "B"), we proposed Section 08.87.120 on continuing education requirements.

Section 08.87.110(1)(A)

Although we are aware that the minimum guidelines proposed by the Appraisal Foundation also allow for a baccalaureate degree in lieu of the 150 classroom hours of appraisal education, we strongly disagree with that requirement as being inadequate. It might be marginally acceptable if a degree were required in real estate, but even then, most real estate degrees only require from 45 to 90 hours of classroom education in appraisal. Because appraising is a very specialized aspect of real estate, we believe that a person should have specific education in the field and that a degree in unrelated subjects is not an adequate substitute.

Mr. Dale Staley
February 15, 1990
Page Three

Section 08.87.110(2)

We believe that this level of experience is not sufficient and instead have provided for four years of experience within the previous seven, or three years experience as a "Registered Trainee".

Section .08.87.110(b)

Again, we believe that specific appraisal education should be required and that a degree in a non-related activity is not acceptable. We also recommend that the years of experience be increased to three years unless two of those were as a Registered Trainee.

Section .08.87.110(c)

We believe that sub-section (1) should be amended by adding the words and that provides for certification of non-residents under conditions similar to those set out in this sub-section and without discriminatory cost. We also believe that this section should be amended by adding a new section as follows:

Successfully completes an examination that may be prescribed by the board relating to appraisal matters unique to Alaska.

Section 08.87.900

We believe that this section should be expanded by defining the terms "analysis assignment" "review assignment" and "valuation appraisal". These terms are defined in our draft bill (Exhibit "B") under .08.87.900 as items number 1, 11, and 12.

Section 5

We believe that it is very important that the initial appointments to the board, representing the appraisal industry, are knowledgeable in the appraisal profession and we, therefore, recommend adoption of the wording contained in Section 5 of our Bill (Exhibit "B") which provides that such initial appointments have either 10 years experience or be professionally designated by a recognized real estate appraisal organization that requires experience, education and testing to become a member.

Mr. Dale Staley
February 15, 1990
Page Four

Section 6

We strongly object to transitional certification which, in effect, allows grandfathering of all existing appraisers without the requirement of an examination. We strongly believe that the creditability of the certification bill will be enhanced by requiring that all appraisers must pass an examination. In addition, the interpretations of the Federal Appraisal Subcommittee (See Exhibit "E"), make it very clear that bills which allow grandfathering will not meet the Federal requirements. We recognize that there is always some concern about putting existing persons out of a business when a new licensing law is required. It is for this reason that we included in our Bill, section 08.87.320 providing for "Registered Trainees" so that anyone who might not otherwise meet the requirements could become affiliated with a Certified Appraiser and continue their employment in the appraisal industry until they can become certified in their own right.

In addition to the suggested amendments to sections within S.B. 470, we urge expansion of the Bill to add the following sections from our Bill:

Section .08.87.320 Registered Trainees

Section .08.87.330 Actions By Uncertified Real Estate Appraisers Prohibited

Section .98.87.120 Continuing Education Requirements for Renewal of Certificate.

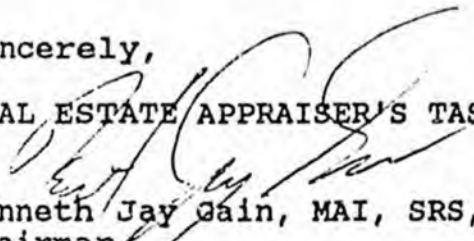
Again, I would like to express our thanks for Senator Duncan's interest in this very important issue and hope that he will accept our comments in the spirit of recommendations for improved Legislation rather than as criticism of his work to date.

Mr. Dale Staley
February 15, 1990
Page Five

If I can provide you with any additional information not contained in this letter or the attached Resource Manual, please feel free to call me.

Sincerely,

REAL ESTATE APPRAISER'S TASK FORCE


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

cc: William A. Larick, RM
Acting President,
Alaska Chapter American Institute of Real Estate Appraisers

Kenneth E. Hinchey, SRA
President, Alaska Chapter Society of Real Estate Appraisers

James McCourt, President, Alaska Association of Realtors

Joe Hayes
Legislative Representative for the Alaska Association of
Realtors

Realtor Board Legislative Committee
Anchorage, Mat-Su, Kenai, Katchemak, Fairbanks and Southeast

Lucille Stietz, Legislative Chairman, Alaska Mortgage
Banker's Association

EQUIVEST

REALTY ADVISORS, INC.

February 19, 1990

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

Re: Regulation of Real Estate Appraisers
House Bill 523

Dear Senator Eilason:

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

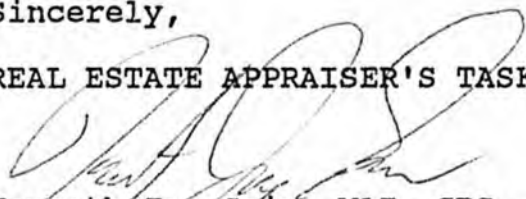
Senator Richard I. Eilason
February 19, 1990
Page Two

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.