

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
5929 HOUSE LABOR & COMMERCE

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

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

INDEPENDENCE OF DECISION MAKING

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

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

QUALIFICATION CRITERIA

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

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

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

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

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

EXEMPTIONS AND GRANDFATHERING

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

MANDATORY DUAL LICENSING

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

OTHER

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

FOLLETT & ASSOCIATES

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



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

March 1, 1990

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

RE: House Bill 523, Real Estate Appraiser Certification

Dear Dave:

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

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

Thank you for your dedicated effort.

Sincerely yours,

FOLLETT & ASSOCIATES

Eric G. Follett, MAI

Richard H. Follett, MAI

EGF/lt



REALTOR®

ALASKA ASSOCIATION OF REALTORS, INC.®

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

February 22, 1990

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

Re: House Bill 523

Dear Representative Donley:

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

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

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

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

We will appreciate your help.

Sincerely,

Jim McCourt
President



EQUIVEST

REALTY ADVISORS, INC.

AB523

February 23, 1990

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

Re: House Bill 523

Dear Representative Donley:

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

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

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

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

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

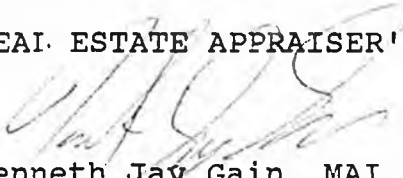
Representative Dave Donley
February 23, 1990
Page Two

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

Thanks for your assistance in this matter.

Sincerely,

REAL ESTATE APPRAISER'S TASK FORCE



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

KJG:sa
eq780

cc: Joe Hayes
Representative Mike Navarre

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

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

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

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

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

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

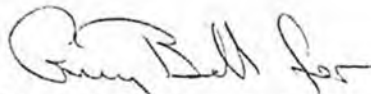
We believe creating two different classes of real estate appraisers in this state will confuse the consumer. We are also concerned that it will leave the consumer unprotected from the unscrupulous. We foresee such a loophole allowing uncertified appraisers to receive payment for appraisal services and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

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

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

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

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



Larry Mercurieff, Commissioner

Date: 2-23-90

HB 523
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make copy for Dr



ALASKA CHAPTER NO 57



AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

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

February 19, 1990

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

Re: House Bill 523

Dear Representative Donley:

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

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

Your assistance is appreciated.

Sincerely,

ALASKA CHAPTER OF
THE AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

William A. Larick, RM
Acting President

EQUIVEST

HB523

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REALTY ADVISORS, INC.

February 19, 1990

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

Re: Regulation of Real Estate Appraisers
House Bill 523

Dear ^{Dave} Representative Donley:

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

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

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

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(907) 279-8551

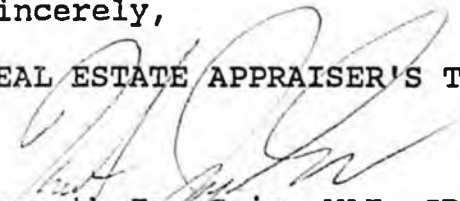
Representative Dave Donley
February 19, 1990
Page Two

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

Thank you for your assistance in this important matter.

Sincerely,

REAL ESTATE APPRAISER'S TASK FORCE



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

EXHIBIT A

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

APPRAISER REGULATION

Is the appraiser you are using licensed or certified?

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

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

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

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

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

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

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

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

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

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

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

Alaska State Legislature



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

HOUSE MAJORITY LEADER

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

DISTRICT 5

Representative Mike Navarre

Memorandum

February 16, 1990

To: Representative Dave Donley
Chairman, Labor & Commerce

From: Representative Mike Navarre

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

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

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

Sincerely,

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

Representative Mike Navarre

MN/tma

Alaska State Legislature



MIKE NAVARRE
PO BOX 108
UNIFALL ALASKA 99511
1907 485-0772

HOUSE MAJORITY LEADER

HOME ADDRESS
PO BOX 108
KENAI ALASKA 99511
1907 262-9362

DISTRICT 2

Representative Mike Navarre

Memorandum

February 17, 1990

To: Representative Dave Donley, Chairman
Labor & Commerce Committee

From: Representative Mike Navarre *Mike*

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

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

Importance of FIRREA to Alaska

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

Significant points necessary in order to conform to Federal requirements

- 1) Set up independent regulatory agency that answers to the Governor.
- 2) The board chairman should not be actively engaged in the affected business for the term of their office or for a reasonable time after leaving office. The board should not be dominated by any one industry or trade.
- 3) Appraiser certification/licensing activities should not be conducted by the same officials that are responsible for real estate regulation.
- 4) Certified appraisers must satisfy criteria established by the Appraisal Qualification Board of the Appraisal Foundation and must pass a state examination consistent with Appraisal Foundation guidelines. Licensed appraisers must meet state testing, experience, and educational requirements.
- 5) "Grandfathering" is not allowed.
- 6) The Legislature by enacting the proper law during this session would allow sufficient time for those now engaged in appraisal work the necessary time to become certified and licensed.

Amendment This act should be mandatory and not voluntary.

Contact person: Tom Ackerly (3779) Capitol 24

Attachments to Appraiser Memorandum

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

Supplemental Data Available

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

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND
ENFORCEMENT ACT OF 1989

AUGUST 4, 1989 — Ordered to be printed

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

CONFERENCE REPORT

TITLE XI. REAL ESTATE APPRAISAL REFORM AMENDMENTS

PURPOSES

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

APPRAISAL SUBCOMMITTEE OF THE FFIEC

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

FUNCTIONS OF THE APPRAISAL SUBCOMMITTEE

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

Chairperson of the Subcommittee

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

Officers and Staff

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

Powers of the Appraisal Subcommittee

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

Procedures for Establishing Standards

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

Start-up Funding Appropriations

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

Roster of State Certified and Licensed Appraisers

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

Functions of the Federal Financial Institution Regulatory Agencies Relating to Standards

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

Time for Proposal and Adoption of Standards

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

Functions of the Federal Financial Institution Regulatory Agencies Relating to Qualifications

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

Transactions Requiring a Certified Appraiser

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

Transactions Requiring A Licensed Appraiser

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

Time for Proposal and Adoption of Rules

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

Certification and Licensing Requirements

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

Establishment of State Certifying and Licensing Agencies

States are authorized to establish appraiser certification and licensing agencies.

Monitoring of State Agencies

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

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

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

Recognition of State Certified and Licensed Appraisers

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

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

Violations

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

Definitions

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

Miscellaneous Provisions

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

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1101. PURPOSE.

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

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

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

"SEC. 1101. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE.

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

SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

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

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

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

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

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

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

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

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

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

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

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

SEC. 1105. OFFICERS AND STAFF.

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

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

SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.

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

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

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

SEC. 1108. STARTUP FUNDING.

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

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

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

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

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

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

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

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

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

(2) to support its activities under this title;

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

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

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

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

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

(2) that such appraisals shall be written appraisals.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) REJECTION OF STATE CERTIFICATIONS AND LICENSES.—

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

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

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

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

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

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

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

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

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

SEC. 1120. VIOLATIONS IN OBTAINING AND PERFORMING APPRAISALS IN FEDERALLY RELATED TRANSACTIONS.

(a) **VIOLATIONS.**—Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b), it shall be a violation of this section—

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser.

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

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

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

SEC. 1121. DEFINITIONS.

For purposes of this title:

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

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

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

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

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

(B) requires the services of an appraiser.

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

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

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

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

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

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

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

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

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

SEC. 1122. MISCELLANEOUS PROVISIONS.

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

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

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

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

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

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

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

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

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

(e) **STUDIES.**—

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

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

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

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

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

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

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

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

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

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

LOCATION AND INDEPENDENCE OF AGENCY

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

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

(over)

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.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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

LOCATION AND INDEPENDENCE OF AGENCY

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

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

(over)

GRANDFATHERING AND QUALIFICATION CRITERIA

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

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

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

COMMENTS

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

- STAFF CONTACT: BILL WAREN.

APPRAISAL SUBCOMMITTEE
GUIDELINES REGARDING
STATE CERTIFICATION AND LICENSING OF APPRAISERS

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

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

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

GUIDELINES

LOCATION OF THE AGENCY

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

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

APPOINTMENT OF THE AGENCY HEAD

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

To illustrate:

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

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

INDEPENDENCE FROM AFFECTED INDUSTRIES

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

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

INDEPENDENCE OF DECISION MAKING

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

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

QUALIFICATION CRITERIA

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

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

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

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

EXEMPTIONS AND GRANDFATHERING

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

MANDATORY DUAL LICENSING

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

OTHER

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

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

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

BRIEFS

August 30, 1989

Federal Law Puts Spotlight on State Appraiser Legislation

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

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

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

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

(Continued on page 2)

At a Glance

Special legislative update issue, containing:

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

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

Jobsearch — p. 11

Annual Conference Attracts National Media

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

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

(Continued on page 2)

States Now With Separate Appraiser Certification and/or Licensing Laws



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



Conference (from p. 1)

ture *Briefs* for tape announcement)

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

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

New Officers Elected

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

President: Ritch LeGrand, SREA, Sioux City, IA

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

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

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

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

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

District governors who were elected are:

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

(Continued on back page)

Law (from p. 1)

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

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

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

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

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

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

Requests for Data

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

BRIEFS

August 30, 1989

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Summary of State Appraiser Legislation

CALIFORNIA

(California presently has a law that only defines a "certified appraisal." It does not address the certifying and/or licensing of appraisers. The Lancaster-Montoya Appraisal Act took effect January 1, 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 years¹ of full-time appraisal work)
Grandfathering: No
Enforcement: Commission of Appraisers of Real Estate
Effective Date: July 1991

NORTH CAROLINA

Voluntary licensing and certification

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

OHIO

Certification

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

OREGON

Mandatory Licensing

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

TEXAS

Certification

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

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

WASHINGTON

Certification

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

WYOMING

Certification

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

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

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 14, 1990

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

TO: Representative Mike Navarre

FROM: John B. Gaguine ~~Dr~~
Legislative Counsel

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

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

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

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

Article 2, AS 08.87.100 makes it a misdemeanor for a person to hold out as a certified appraiser if the person is not appropriately certified. AS 08.87.110 prescribes the

Representative Mike Navarre
Page 2
February 14, 1990

requirements for certification, including the education and experience necessary; subsection (c) provides for Alaska certification of persons certified by other states if those states have requirements equivalent to Alaska's and if those states would recognize Alaska certification. AS 08.87.120 provides that applicants for renewal of certification must meet continuing education requirements, and sets out those requirements.

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

Article 4 contains general provisions. AS 08.87.300 provides that a person not certified as a real estate appraiser may nevertheless appraise real estate as long as the person does not hold out to be a certified appraiser. AS 08.87.310 requires certified appraisers to retain records for at least three years. AS 08.87.320 creates the category of registered trainees, who must work under certified appraisers. AS 08.87.330 forbids a person from suing in Alaska for fees for work done as a certified appraiser if the person was not certified. Finally, AS 08.87.900 defines several terms used in AS 08.87.

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

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

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

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

Representative Mike Navarre
Page 3
February 14, 1990

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

JBG:pl
WKP2/042

1989 Update of State Legislation

Illinois: Certification bill

Board: Independent (within the Department of Professional Regulation)

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

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

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

Grandfathering: No

Enforcement: Real Estate Appraisal Committee

Effective Date: July, 1991

Iowa: Certification bill

Board: Independent (within Department of Commerce)

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

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

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

Grandfathering: No

Enforcement: Real Estate Appraiser Examination Board

Effective Date: July, 1991

Minnesota: Licensing bill (two levels)

Board: Advisory to the Department of Commerce

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

Continuing Education: 15 hours per year

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

Grandfathering: Yes

Enforcement: Department of Commerce

Effective Date: September, 1991

Nevada: Licensing bill

Board: Independent (within the Department of Commerce)

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

Continuing Education: 10 hours per year

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

Grandfathering: No

Enforcement: Commission of Appraisers of Real Estate

Effective Date: July, 1991

North Carolina: Voluntary licensing and certification bill

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

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

Continuing Education: To be determined

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

Grandfathering: Possibly

Enforcement: Real Estate Commission

Effective Date: July, 1990

Ohio: Certification bill

Board: Independent (within Department of Commerce)

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

Continuing Education: 10 hours per year

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

Grandfathering: No

Enforcement: Division of Real Estate Appraisers

Effective Date: January, 1991

Texas: Certification bill

Board: Advisory to the real estate commission

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

Continuing Education: To be determined by the real estate commission

Experience: residential - 2 years, general - 3 years

Grandfathering: No

Enforcement: Real Estate Commission

Effective Date: July, 1991

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

Washington: Certification bill

Board: Advisory to the Department of Licensing

Education: To be determined by the Department of Licensing

Continuing Education: To be determined by the Department of Licensing

Experience: To be determined by the Department of Licensing

Grandfathering: Possibly

Enforcement: Department of Licensing

Effective Date: July, 1990

Wyoming: Certification bill

Board: Independent (adjunct to real estate commission)

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

Continuing Education: 20 hours per year

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

Grandfathering: No

Enforcement: Certified Real Estate Appraiser Board

Effective Date: July, 1991

Supporters of House Bill 523

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

This list is current as of February 16, 1990.

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION
RATIFIED BILL

CHAPTER 563
HOUSE BILL 492

AN ACT TO PROVIDE FOR ^{MANDATORY} VOLUNTARY LICENSURE AND
CERTIFICATION OF REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 93A-32. Definitions.

As used in this Article:

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

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

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

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

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

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

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

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

"ARTICLE 5.

"Real Estate Appraisers.

"§ 93A-60. Title.

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

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

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

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

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

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

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

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

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

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

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

"§ 93A-62. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 93A-67. Rule-making authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

JAMES C. GARDNER

James C. Gardner
President of the Senate

J. L. MAVRETIC

J. L. Mavretic
Speaker of the House of Representatives

H

B

5

3

2

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The LABOR & COMMERCE Committee considered:

HB 532

HOUSE BILL NO. 532 PLASTIC CONTAINER/BOTTLE CODING REQUIRED

"An Act requiring the placement of certain coding on certain plastic bottles and containers; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

David D. Donley
John H. ...
Brown ...
...
...

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend

David D. Donley
Chairman's Signature

**STATE OF ALASKA
1988 LEGISLATIVE SESSION**

BILL VERSION: HB 532
PUBLISH DATE: February 27, 1990

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act requiring the placement
of certain coding on plastic bottles...
Sponsor: Rep. Virginia Collins
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Quality
Components: _____
Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		5.0				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	5.0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Copying costs and limited advertising campaign
\$5,000/FY 92 only

Prepared by: Rep. David Donley **Phone:** 465-4954
Division: House Labor and Commerce Committee **Date:** 2/27/90

Approved by Commissioner: David Donley **Date:** 2/27/90
Agency: House Labor and Commerce Committee

Distribution (by preparer):

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : HB 532

PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act requiring the placement
of certain coding on certain plastic bottles . . .
 Sponsor: Representative Virginia Collins
 Requestor: _____

Agency Affected: Environ Conservation
 BRU: Environmental Quality
 Components: _____
Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	15,000.0	15,000.0	15,000.0	15,000.0	15,000.0	15,000.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	15,000.0	15,000.0	15,000.0	15,000.0	15,000.0	15,000.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jeff Mach
 Division: Environmental Quality

Phone : 465-2671
 Date : 2/27/90

Approved by Commissioner: 
 Agency: Environmental Conservation

Date: 2/27/90

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

HOUSE LABOR & COMMERCE COMMITTEE

February 27, 1990

Committee Member Bill Packet for:

House Bill 532, "An Act requiring the placement of certain coding on certain plastic bottles and containers; and providing for an effective date."

by COLLINS, Koponen, Finkelstein, Navarre, Hanley, Swackhammer, Davidson, Brown, C. Davis, Leman

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Chapter 06. Recycling and Reduction of Litter.

Section	Section
10. Powers of the department	100. Notice to public
50. Litter receptacles and anti-litter symbol	110. Enforcement authority
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80. Littering prohibited	140. Federal requirements
90. Prohibited beverage containers; packaging requirements	150. Definitions

Cross references. — For intent of 1980 legislation enacting AS 46.06.010 — 46.06.150, see § 1, ch. 149, SLA 1980, in Temporary and Special Acts and Resolves.

Collateral references. — 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 466, 467; 40 Am. Jur. 2d, Highways, Streets and Bridges, § 608; 56 Am. Jur. 2d, Municipal Corporations, Counties, and

Other Political Subdivisions, §§ 455, 456; 61A Am. Jur. 2d, Pollution Control, §§ 46-49.

39A C.J.S., Health and Environment, §§ 44, 125-128.

Validity and construction of statute or ordinance requiring return deposits on soft drink or similar containers. 73 ALR3d 1105.

Sec. 46.06.010. Powers of the department. The department shall

(1) serve as the coordinating agency among public and private organizations in the state that are involved in the control, reduction, and recycling of litter;

(2) assist local governments in the adoption and amendment of ordinances relating to the control, reduction, and recycling of litter;

(3) promote voluntary local programs and information campaigns that encourage the public to refrain from littering and to participate in efforts to clean up and recycle litter;

(4) inform the public of, and encourage the public to comply with, the provisions of this chapter and regulations adopted under this chapter;

(5) encourage federal, state, and local agencies to assist programs for the recycling of litter by allowing the use of publicly owned land, buildings, or equipment for those programs whenever possible;

(6) apply for, receive, and expend grants, loans, and other monetary and nonmonetary assistance for use in programs established under this chapter;

(7) determine the types of materials or energy that may be profitably recovered from litter, and adopt regulations under the Administrative Procedure Act (AS 44.62) that require the recovery of the materials or energy;

(8) adopt other regulations under the Administrative Procedure Act (AS 44.62) necessary to implement this chapter. (§ 2 ch 149 SLA

1980; am § 1 ch 164 SLA 1984; r § 5 ch 149 SLA 1980, § 9 ch 164 SLA 1984; am § 2 ch 37 SLA 1987)

Revisor's notes. — Enacted as AS 41.21.010. Renumbered in 1980.
Effect of amendments. — The 1984 amendment substituted "reduce littering" for "establish which municipality has the least litter" in paragraph (9) and "that" for "which" throughout the rest of the section.
The 1987 amendment rewrote this section.

Secs. 46.06.020 — 46.06.040. Annual report; advisory council; public awareness; motivation. [Repealed, § 6 ch 37 SLA 1987.]

Sec. 46.06.050. Litter receptacles and anti-litter symbol.

(a) The department shall designate one or more types and sizes of litter receptacles for use in the state. The department shall designate and make available for distribution throughout the state an anti-litter symbol of a uniform color and design adopted by the department. This anti-litter symbol must bear a statement of the penalties for littering and must be designed so that it may be attached to litter receptacles. To aid public recognition and use of litter receptacles, the department may adopt an anti-litter symbol used in another state. The person or agency responsible for the placement of litter receptacles located in public places of the state shall attach to those receptacles the anti-litter symbol designated by the department.

(b) Litter receptacles designated for use in the state by the department shall be placed at public places in the state unless the public place is specifically exempted by regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62). The number of receptacles required to be placed in each public place shall be determined by a formula related to the need for those receptacles. The requirements of this subsection are satisfied by the use of a litter receptacle which was in use before July 1, 1980, if the anti-litter symbol of the state is attached to the receptacle.

(c) A person owning or operating a privately owned public place at which litter receptacles are required under (b) of this section shall place litter receptacles at the public place at the person's own expense.

(d) Compliance with this section requires proper upkeep, maintenance and repair of a litter receptacle sufficient to permit the receptacle to serve the function for which it was designed and to prevent the receptacle from becoming unsightly.

(e) Responsibility for the placement of litter receptacles at publicly owned public places and for the removal of litter from those litter

receptacles remains with the municipality or other public agency performing litter removal. Removal of litter from litter receptacles placed at privately owned public places remains the responsibility of the owner or operator of the privately owned public place.

(f) A person may not damage, deface, abuse or misuse a litter receptacle not owned by the person so as to interfere with its proper function or to detract from its appearance.

(g) A person may not deposit leaves, clippings, prunings, garden refuse or household waste materials in a litter receptacle without the permission of the owner of that receptacle.

(h) Except as provided in (i) of this section, a person who violates the provisions of (b) — (g) of this section is guilty of a violation and in addition to the punishment imposed by AS 12.55.035(b)(5), the court may order a person who violates this section to gather and dispose of litter in an area and for a length of time determined by the court.

(i) If a municipality of the state adopts an ordinance which prohibits the same conduct prohibited by (b) — (g) of this section, a violation of (b) — (g) of this section which occurs in the municipality is punishable under the provisions of the municipal ordinance if the punishment imposed under the ordinance is equal to or greater than the punishment imposed by AS 12.55.035(b)(5). (§ 2 ch 149 SLA 1980; am § 2 ch 164 SLA 1984; r § 5 ch 149 SLA 1980, § 9 ch 164 SLA 1984)

Revisor's notes. — Enacted as AS 41.21.050. Renumbered in 1980.
Effect of amendments. — The 1984 amendment in subsection (a), inserted "designate and" in the second sentence, substituted "must be designed" for "the department shall design the anti-litter symbol" in the third sentence, and substituted the present last sentence for the former last sentence, which read "The anti-litter symbol designed by the department must be attached to litter receptacles located in the public places of the state by the person or agency responsible for the placement of those receptacles."

Sec. 46.06.060. Litter bags. The department may design and have produced a litter bag bearing the state anti-litter symbol and a statement of the penalties for littering in the state. The department may make litter bags available to the division of motor vehicles in the Department of Public Safety for this purpose. The division of motor vehicles may distribute one litter bag to each person who applies for registration or reregistration of a motor vehicle and shall notify the person of the person's responsibilities under the law. The department may make litter bags available to all vehicle and vessel operators entering the state. The commissioner shall designate distribution points for the broadest possible distribution of litter bags to persons entering the state by vehicle or vessel. (§ 2 ch 149 SLA 1980; am § 3

ch 164 SLA 1984; r § 5 ch 149 SLA 1980, § 9 ch 164 SLA 1984; am § 3 ch 37 SLA 1987)

Revisor's notes. — Enacted as AS 41.21.050. Renumbered in 1980.

Effect of amendments. — The 1984 amendment deleted "biodegradable" preceding "litter bag" in the first sentence, substituted "n" for "his" and "the person's" for "his" in the third sentence and "vehicle" for "automobile" in the last sentence, and rewrote the next-to-last sen-

tence, which formerly read "The department shall make litter bags available to all vessel owners and persons entering the state by automobile."

The 1987 amendment substituted "The" for "To the greatest extent practicable, the" at the beginning of the third sentence and substituted "may" for "shall" throughout the section.

Sec. 46.06.070. Litter patrol. (a) The department may establish a youth litter patrol program for the employment of young people on a seasonal basis. The department shall cooperate with federal, state or municipal programs that either employ young people or encourage their employment. The department may contract with other state agencies to provide administration and other support for the youth litter patrol established by this section.

(b) [Repealed. § 6 ch 37 SLA 1987.] (§ 2 ch 149 SLA 1980; am § 4 ch 164 SLA 1984; r § 5 ch 149 SLA 1980, § 9 ch 164 SLA 1984; am § 6 ch 37 SLA 1987)

Revisor's notes. — Enacted as AS 41.21.070. Renumbered in 1980.

Effect of amendments. — The 1984 amendment substituted "may" for "shall" in the first sentence in subsection (a).

The 1987 amendment repealed subsection (b), which read "The department may adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary to implement this section."

Sec. 46.06.080. Littering prohibited. (a) A person may not throw, drop, deposit, discard or otherwise dispose of litter from a vehicle or otherwise, on public or private property in the state or in waters in the state or under state jurisdiction unless

(1) the property is designated by a state agency or municipality as a site for the sanitary disposal of garbage or refuse, and the person is authorized to use the site for that purpose; or

(2) litter is placed in a litter receptacle so that the litter is prevented from being carried away or deposited by the elements upon public or private property or water in the state or under state jurisdiction.

(b) A vehicle may not be driven or moved on a public highway or right-of-way unless it is constructed, loaded or covered to prevent its load from dropping, sifting, leaking or otherwise escaping from the vehicle. This subsection does not apply to a vehicle used (1) to deposit salt or sand to secure traction, (2) by a public agency to clean or maintain highways, or (3) to transport agricultural, mining or timber products. A person who operates a vehicle from which an object has fallen or escaped which obstructs or endangers travel upon a public

highway or right-of-way shall immediately remove the object at the person's own expense or pay the cost of removal incurred by the state or by another person.

(c) A person who violates this section is guilty of a violation, and may be sentenced to pay a fine of not more than \$1,000. In addition, the court may order the person to gather and dispose of litter in an area and for a length of time determined by the court.

(d) A peace officer shall issue a citation as provided in AS 12.25.180 to a person who violates this section. If a citation is for a minor littering violation, then the person to whom the citation is issued may, within 15 days, mail or personally deliver to the clerk of the court in which the citation is filed

(1) a fine of \$50; and

(2) a copy of the citation indicating that the right to an appearance is waived and a plea of no contest is entered.

(e) If a \$50 fine has been paid under (d) of this section, then the court shall enter a judgment of conviction. Payment of the fine is a complete satisfaction for the violation.

(f) If a person cited under this section fails to pay the fine or to appear in court as required, the citation is considered a summons for a failure to obey a citation under AS 12.25.230, and the court may issue a bench warrant.

(g) Notwithstanding other provisions of law, if a person cited for a minor littering violation under this section appears in court and is found guilty, the penalty that is imposed for the violation may not exceed \$50.

(h) In this section "a minor littering violation" means a violation of (a) or (b) of this section involving littering having an aggregate weight of five pounds or less. (§ 2 ch 149 SLA 1980; am §§ 4, 5 ch 37 SLA 1987)

Revisor's notes. — Enacted as AS 41.21.080. Renumbered in 1980.

Effect of amendments. — The 1987 amendment in subsection (c) substituted "fine of not more than \$1,000. In addition" for "class B misdemeanor, and in addition to the punishment imposed by AS 12.55.035(b)(4) and 12.55.135(b)"; and added subsections (d) — (h).

Sec. 46.06.090. Prohibited beverage containers; packaging requirements. (a) Beginning October 1, 1981, a person may not sell or offer to sell a nonglass beverage container that is designed and constructed so that the container is opened by detaching a metal ring or tab. This section does not apply to a beverage container that is opened by a detachable piece of tape, foil, or other soft material.

(b) Beginning January 1, 1985, a person may not sell or offer to sell in this state beverage containers that are held together by plastic rings or similar plastic devices unless the rings or devices are degradable and bear a distinguishing mark furnished to the department by

the manufacturer. The department may require test data that shows that the plastic rings or plastic devices meet or exceed the department's standards of degradability.

(c) A person who violates this section is guilty of a violation. Each sale or offer to sell is a separate offense. (§ 2 ch 149 SLA 1980; am § 5 ch 164 SLA 1984; r § 5 ch 149 SLA 1980, § 9 ch 164 SLA 1984)

Revisor's notes. — Enacted as AS 41.21.090. Renumbered in 1980.

Cross references. — As to fines for violations, see AS 12 55 035(b)(5).

Effect of amendments. — The 1984 amendment added "packaging requirements" at the end of the catchline, substituted "that" for "which" in the first and

second sentences in subsection (a), and, in subsection (b), added the second sentence and rewrote the first sentence, which formerly read "Beginning October 1, 1981, a person may not sell or offer to sell beverage containers which are held together by plastic rings or similar plastic devices which are not degradable."

Sec. 46.06.100. Notice to public. The penalties imposed for littering shall be posted along the public highways of the state, at visitor centers, at entrances to state parks and recreational areas, at public beaches, and other publicly owned public places the commissioner determines necessary to accomplish the purposes of this chapter. The state agency or municipality responsible for litter removal from a public place shall post the notice required by this section. (§ 2 ch 149 SLA 1980)

Revisor's notes. — Enacted as AS 41.21.100. Renumbered in 1980.

Sec. 46.06.110. Enforcement authority. (a) The following persons are authorized to enforce the provisions of this chapter:

- (1) a state employee authorized by the commissioner; and
- (2) a peace officer.

(b) The department shall prescribe a citation form which shall be used by all peace officers and persons in the state who are authorized to enforce the provisions of this chapter. (§ 2 ch 149 SLA 1980)

Revisor's notes. — Enacted as AS 41.21.110. Renumbered in 1980.

Sec. 46.06.120. Grants. The department may make grants to state agencies, to municipalities, and to private organizations including nonprofit organizations for the establishment and operation of programs authorized under this chapter. A grant under this section may not exceed 18 months. A program qualifying for a grant under this section may include

- (1) courses of instruction at, or the distribution of informative materials to, elementary and secondary schools;
- (2) purchase and erection of roadside signs;

(3) organization and operation of litter removal activities conducted by municipalities, private organizations or service groups using volunteer help;

(4) a public information program to inform the public concerning the reduction of litter using the media including use of the electronic media;

(5) expansion of existing, and planning, design and construction of new, facilities for the recovery of materials and energy from litter;

(6) research and evaluation of markets for the materials and energy recovered from litter;

(7) advice and assistance, including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials or energy obtained from litter, transportation alternatives, and publicity techniques;

(8) surveys by public agencies or recognized research organizations to assess the amount and composition of litter, and rates of littering;

(9) the purchase of litter receptacles;

(10) the creation or expansion of litter law enforcement programs;

(11) the initial purchase or lease of recycling equipment, the cost of operating that equipment, and the cost of storing and transporting materials before and after those materials are recycled. (§ 2 ch 149 SLA 1980)

Revisor's notes. — Enacted as AS 41.21.120. Renumbered in 1980.

Sec. 46.06.130. Conditions for grants. (a) The department shall adopt regulations under the Administrative Procedure Act (AS 44.62) which establish

(1) eligibility requirements for applicants for a grant under AS 46.06.120;

(2) standards for the evaluation of proposals submitted by applicants for grants under AS 46.06.120; and

(3) other conditions for the receipt of a grant under AS 46.06.120 which are necessary to achieve the purposes of this chapter.

(b) The regulations adopted by the department under (a) of this section must meet the following criteria:

(1) if there is not enough money for grants to all eligible applicants, the following shall receive priority:

(A) a proposed program or project which most efficiently recovers materials or energy from litter;

(B) the proposed program or project which creates the greatest number of new jobs;

(2) the maximum amount for a single grant shall be established so that available money is distributed to a variety of programs;

(3) a grant may be made for new programs or for improvements to or additions to existing programs which were not previously financed by other existing resources of financing. (§ 2 ch 149 SLA 1980)

Revisor's notes. — Enacted as AS 41.21.130. Renumbered in 1980.

Sec. 46.06.140. Federal requirements. If a federal department or agency issues a formal ruling that a section of this chapter will prevent the state from receiving federal financial participation in a program or activity established under this chapter, the section does not apply to the extent that it causes the program or activity to lose federal funding. (§ 2 ch 149 SLA 1980)

Revisor's notes. — Enacted as AS 41.21.140. Renumbered in 1980.

Sec. 46.06.150. Definitions. In this chapter,

(1) "beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing beer or other malt beverages or carbonated soft drinks, in liquid form;

(2) "commissioner" means the commissioner of environmental conservation;

(3) "department" means the Department of Environmental Conservation;

(4) "litter" means all waste material including disposable packages or containers disposed of in a manner prohibited by AS 46.06.080, but does not include the wastes of the primary processes of mining or other extraction process, logging, sawmilling, farming or manufacturing;

(5) "litter bag" means a bag, sack or other container made of any material which is large enough and suitable to serve as a receptacle for litter inside a vehicle or vessel;

(6) "public place" means public or private property that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, trailer parks, drive-in and fast food restaurants, gasoline service stations, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches, bathing areas, school grounds, sporting event sites with seating capacity for more than 200 spectators, business district sidewalks, parking lots for taverns, shopping centers and grocery stores, and other parking lots if they have a capacity for more than 50 vehicles;

(7) "vehicle" means a mechanically driven device of any kind which is used for the transportation of a person or property on a public highway, trail or path;

(8) "vessel" means all descriptions of watercraft used or capable of being used as a means of transportation on the water.

(9) "degradable" means a characteristic of a material that allows the material to be broken down by biological, chemical, photochemical, or other physical processes

(A) within two years upon exposure to natural elements; and

(B) to a particle size and chemical composition that may be assimilated harmlessly and aesthetically into the environment without producing a residue or by-product determined by the department to be hazardous. (§ 2 ch 149 SLA 1980; am §§ 6—8 ch 164 SLA 1984; r § 5 ch 149 SLA 1980, § 9 ch 164 SLA 1984)

Revisor's notes. — Enacted as AS 41.21.150. Renumbered in 1980.

Effect of amendments. — The 1984 amendment added paragraph (9) and, in paragraph (4), substituted "material including disposable packages or containers disposed of in a manner prohibited by AS 46.06.080, but" for "materials susceptible to being dropped, deposited, discarded or otherwise disposed of upon property in the state or in waters under state jurisdiction; litter" and "wastes" for "waste"; and, in

paragraph (6), inserted "whether owned or operated by public or private interests," deleted "parking lots for taverns, shopping centers and grocery stores and other parking lots which have a capacity for more than 50 vehicles" following "gasoline service stations," and substituted "business district sidewalks, parking lots for taverns, shopping centers and grocery stores, and other parking lots if they have a capacity for more than 50 vehicles" for "and business district sidewalks."

Chapter 07. Village Safe Water Act.

Section	Section
10. Statement of purpose	60. Educational and informational program
20. Provision of facilities	70. Economy of administration
30. Nature and location of facilities	80. Definitions
40. Construction of facilities	
50. Operation of facilities	

Collateral references. — 39 Am. Jur. 2d, Health, § 22; 61A Am. Jur. 2d, Pollution Control, §§ 134, 135; 78 Am. Jur. 2d, Waterworks and Water Companies, §§ 31-46.

39A C.J.S., Health and Environment, § 46; 93 C.J.S., Waters, §§ 43-57.

Validity of statute prescribing standard of purity of water furnished for human consumption. 6 ALR 475.

Power of board of health to prescribe means or methods of keeping water supply free of impurities. 23 ALR 228.

Constitutionality and construction of statutes and ordinances for protection of municipal water supply. 72 ALR 673.

Wrongful pollution of stream by municipality as creating single cause of action or successive causes of action. 75 ALR 529.

When statute of limitations commences to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

Measure and elements of damages for pollution of well, cistern, or spring. 19 ALR2d 769.

Liability for pollution of stream by oil, water, or the like flowing from well. 19 ALR2d 1033.

Validity, construction, and effect of statute, ordinance, or other measure involving chemical treatment of public water supply. 43 ALR2d 453.

Measure and elements of damages for pollution of stream. 49 ALR2d 253.

Validity of prohibition or regulation of bathing, swimming, boating, fishing, or

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Council
Labor & Commerce
Committee
Special Committee
on Foreign Trade
Finance Sub-Committee
for Labor

Representative Virginia Collins

HOUSE BILL 532

SPONSOR STATEMENT

House Bill 532 would require a code on certain plastic bottles and containers. A person could not manufacture, sell, or offer to sell certain plastic bottles or containers without this code. The code would identify the type of resin used to produce the bottle or container.

The code would consist of a number placed within a specific triangle of arrows and a letter or letters placed below the triangle of arrows. There would be 7 different numbers and corresponding letters to identify the types of resins. The department would be required to maintain a list of the codes and to supply the list upon request.

A person found in violation of this act would be guilty of a violation. The effective date of this bill is July 1, 1991.

The model for this proposed legislation was drafted by the Society of the Plastic Industries, Inc. in response to legislators and environmentalists who asked the plastics industry for a code to expedite plastics recycling. Similar legislation has been passed in 19 states and 11 other states have legislation pending.

It is estimated that Americans currently discard over 158 million tons of municipal solid waste each year. We have entered into an era in which landfilling will no longer be the primary method of garbage disposal. Recycling in the U.S. has steadily increased since the mid-1960's.

The sorting of plastics by resin provides for more expeditious recycling. Aside from those 19 states which have passed plastic coding legislation, a total of 32 states are currently involved in the plastic recycling industry. Their involvement consists of negotiating to buy from collectors, recycling the plastic, producing the recycled plastic product, or manufacturing equipment for the recycling process.

In addition to establishing a more efficient plastic recycling system, this legislation would enable recyclers to obtain a higher level of "pure" material for resale markets. Public awareness is a prime ingredient to a successful recycling program and the coding system would help to increase the public's awareness of the recycling potential for plastics.



Andersen dairy

**2% MILKFAT
LOWFAT
MILK**

11 FEB 11

HALF GALLON





THE COUNCIL
FOR SOLID WASTE
SOLUTIONS
1275 K Street, NW, Suite 400
Washington, DC 20005
202 371 5319
FAX 202 371 5679

Plastic Codes Help Recyclers.

Plastics recyclers are finding it easier to sort containers, thanks to the plastics industry's new voluntary coding system. The system, developed by The Society of the Plastics Industry, Inc., helps recyclers to identify the types of plastic used in making individual bottles and other containers.

Already, more than 20% of all polyethylene terephthalate (PET) 2-liter soft drink bottles are being recycled in the U.S., in part because the containers are so easily identifiable. Milk and juice jugs made from high density polyethylene (HDPE) are also relatively easy for recyclers to identify. The coding system, though, makes it easier to separate other, less easily identified, types of plastic containers as well as vinyl, low density polyethylene, polypropylene and polystyrene. As new recycling technologies emerge, recyclers will be able to sort the various plastics to earn the highest price for their reclaimed materials.

The coding system is based on responses to a survey of recycling industry workers and officials. The codes are easy to read and easy to distinguish from other marks placed on plastic containers by manufacturers for use in processing and identification.

The code on each container consists of a triangle formed by three arrows, with a number in the center and distinguishing letters under the triangle. In size, the codes range from approximately 1/2 to 1 inch in diameter. They can be applied by molding or imprinting the bottom of the container.



Plastics Coding System

- 1: PETE (polyethylene terephthalate)
- 2: HDPE (high density polyethylene)
- 3: V (vinyl)
- 4: LDPE (low density polyethylene)
- 5: PP (polypropylene)
- 6: PS (polystyrene)
- 7: Other

The coding system is being phased in over a three-year period, and many bottles and other plastic containers on store shelves are already carrying them. In at least ~~19~~ 19 states, laws have been passed which will require coding of plastic containers.

The plastics industry recognizes that future sorting systems will be more mechanized than they are today. The coding system is an interim solution until technology is developed that allows for the automatic identification and sorting of different types of plastics.

For more information about plastics recycling, contact *The Council for Solid Waste Solutions*.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



Andersen dairy

ANDY GANDY

2% MILKFAT LOWFAT MILK

11 FEB 11

HALF GALLON

0 11111 11111



HDPE

NET 64 FL. OZ.
(HALF GAL.) (1.88 L)



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SOLUTIONS

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For more information about plastics recycling, contact *The Council for Solid Waste Solutions*.

STATES REQUIRING PLASTIC CONTAINER CODING

Prepared by the Council For Solid Waste Solutions January 7, 1990

The following states require the coding of plastics bottles of 16 ounces or more and other rigid plastic containers of 8 ounces or more following the Society of the Plastics Industry voluntary coding program.

DEADLINE FOR CODING

January 1, 1990	Connecticut
July 1, 1990	Florida
January 1, 1991	Wisconsin - regulations pending Illinois Minnesota - proposed regulations Missouri Louisiana Ohio New Jersey
July 1, 1991	Texas Massachusetts Maine North Carolina
December 31, 1991	North Dakota
January 1, 1992	Michigan California Indiana
July 1, 1992	Iowa Colorado

Note: New Hampshire has enacted legislation to establish a state recycling emblem program which recognizes and protects the SPI voluntary coding program as a distinct material identification system.

1990 Proposed Legislation: Alaska, Arizona, Georgia, Kentucky, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia

Table

POTENTIAL MARKETS FOR RECYCLED PET AND HDPE PLASTICS SCRAP

PET (PETE)

- Strapping
- Scouring Pads
- Fence Posts
- Industrial Points
- Paint Brushes

FIBERFILL

- Pillows
- Ski Jackets
- Cushions
- Sleeping Bags

FIBER

- Twine
- Filter Material
- Apparel
- Rope
- Carpet Backing

TEXTILES

- Belts
- Webbing
- Sails
- Woven Bags
- Tire Cord

POLYOL

- Laminated board stocks for both wall and roof housing insulation
- Refrigeration truck paneling
- Home and commercial freezer insulation
- Storage tank insulation
- Automobile bumpers
- Furniture
- Sporting Goods, e.g., skis and surfboards.

UNSATURATED POLYESTER

- Bath Tubs
- Sinks
- Boat Hulls
- Shower Stalls
- Corrugated Awnings
- Marbleized Material
- Automobile Exterior Panels

ENGINEERING PLASTICS

- Appliance Handles, Housings & Cases
- Automotive Applications

THERMOFORMED SHEET

- Six-pack Carriers
- Nonfood Containers
- Audio & Video Cassette Cases

CHEMICAL CONVERSION Back to Original PET Building Blocks

- DMT (dimethylterephthalate)
- TPA (terephthalic acid)
- Ethylene glycol

HDPE

- Boat Piers
- Calf and Pig Stalls
- Garden Furniture
- Pipe
- Base Cups
- 1-Qt. Oil Containers

FUEL SOURCE

- Coal Replacement

Source: SPI

Unsaturated Polyester

There is a significant market for unsaturated polyester, estimated in excess of 250 million-pounds-per-year. A whole host of applications fit this category of fabricated fiberglass products. PET bottles have been recycled into bath tubs, shower stalls and corrugated awnings. AMF Corporation has even experimentally produced Sunfish sailboat hulls from used PET.

Rigid Urethane and High Temperature Foams

Another market opportunity receiving considerable attention at the present time is rigid urethane foam and polyester foams. Predicasts* forecasts that in the next ten years there will be a 77 percent increase in the demand for foam products with applications in construction, transportation and protective material in packaging. The method for making urethane foam is generally polyol technology and is not affected by color of input feed stock; but like fiberfill, inexpensive, low IV scrap is very competitive with bottle scrap. However, this application could be a good one for the more contaminated green bottle-grade PET scrap. This is approximately a 50 million-pound-per-year market.

High temperature resistance foams can be converted from PET scrap. This product is ideally suited for such applications as aerospace, electrical wiring insulation and automotive applications. It is also useful in the packaging and construction industries. There is at least one manufacturer currently producing foam from recycled PET bottles.

*Predicasts, Inc. is a market research firm located at Cleveland, Oh.

Polyol

The lowest value end-use application is polyols for unsaturated polyesters. Some contaminants are acceptable in the PET scrap since they are removed by the manufacturer in the process. A number of processes have been developed, such as methanolysis or depolymerization (hydrolysis and glycolysis). This technology reverses the PET formation process and reverts PET resin back into some of the original building block chemicals (i.e., ethylene glycol, terephthalic acid (TPA) and dimethyl terephthalate (DMT)). Hoechst has a process that will reduce PET to TPA and ethylene glycol, but it is not cost-effective at the present time. Eastman Chemicals has a particle methanolysis process which permits conversion into unsaturated polyesters for reinforced plastics and polyols for rigid foam.

The one big advantage of polyol technology is that some green recycled PET is acceptable. The main deterrent is that the technology is not high IV-dependent. The IV value for bottle-grade PET is much higher than other grades of PET available but this application can use the inexpensive, low IV scrap instead. In view of this competitive environment, polyols do not appear to be a long-term market opportunity for recycled PET bottle scrap. The companies operating in this market include Ruco Polymer, Ciba-Geigy, Inolex, Reichhold, Witco and Polyurethane Specialties Company. This is considered to be a 100 million pounds-per-year market.

Thermoformed Sheet Scrap

PET thermoformable sheet can be processed into a variety of products for non-food use - for example, appliances (interior and exterior liners), transportation (cars, trucks, recreation vehicles, mobil homes, buses, trains, planes), building products (bathtubs, spas, liners for whirlpools and swimming pools), taking advantage of the high IV of PET bottle grade polymer and its excellent temperature and electrical properties. This application represents over 225 million pounds per year.

Engineering Plastics

Compounding

One of the most attractive applications for the higher IV PET from bottle grade recycle is the compounding market. Some have estimated that "it costs five to ten billion dollars to make a new resin, while it only costs a fraction of that to come up with an alloy or blend." PET scrap compounded in this manner is generally used for extruded and molded plastics. Compounders can utilize either colorless or green scrap, and mix it with additional flow additives, impact modifiers, etc., before being used in extrusion and injection molding. Several companies have learned how to do this and other companies have learned how to blend recycled PET with other engineering plastics. For example, Wellman recently announced the introduction of six new polyester molding compounds processed from recycled soft-drink bottles. Some of these "engineering" resins are 20-30 percent glass-filled, flame-retardant, low-modulus, general purpose resins. General Electric is very much interested in this technology.

Successive use of the same plastic used for packaging that has a life of only a few months could come about by reprocessing and blending into engineering thermoplastics for the automotive industry where the life is extended to several years. When discarded after their usefulness in the automobile, they could be finally compounded into products used for construction where they would last for a life-time, thus virtually eliminating it from solid waste. The field of blending and alloying is a rapidly expanding area of research in the engineering resin development.

We estimate that reprocessed PET soft drink bottles could be compounded into as many as 20 to 30 new engineering polymers during the next five years. As these new resins are developed they will compete with PBT (Polybutylene Terephthalate) and nylon, and the demand for

recycled PET could increase. Recycled PET compounds are usable for automotive under-the-hood applications such as distributor caps, electrical fittings, and fuse boxes that need high-temperature resistance. In the electronics industry, they can be used for internal parts of TV sets, and connectors, plugs, and sockets used in integrated computer circuit chips. This market could exceed 550 million-pounds-per-year.

Strapping

Plastic strapping for carton and pallet binding presently utilizes over 20 million-pounds-per-year of recycled PET, and has a potential of over 100 million pounds per year. In contrast to those applications mentioned above, strapping requires the high IV inherent with bottle-grade PET scrap. Color is not a problem, so this is an ideal application for recycled PET.

Coextrusion

Another potential area is in coextruded plastics packaging. Coextrusion multi-layer technology has advanced to the state-of-the-art where recycled PET bottle scrap can be incorporated as the core or external layer for a whole host of food and beverage containers of the future. We estimate that the total market potential for coextruded packaging (bottles and flexible films) exceeds 400 million pounds per year.

Textiles and Geotextiles

A relatively new area for fiber use in the U.S. is geotextiles for erosion control and roadbed stabilization where the long term stability of plastics is a distinct advantage. This market is an attractive growing industry that could utilize carbon-black pigmented fiber, an application that could use green bottle PET resin.

Textima, a German textile machinery manufacturer, has developed a process for utilizing existing "underlay" technology to manufacture film and fabric from recycled PET bottle scrap.

Both clear and green bottles can be used to convert a monoaxially oriented film which in turn can be split and used as yarn in stitch-bonding technology. Applications could also be found within the traditional textile industry, industrial fabrics, and carpet backings. The size of these markets are not too well-defined and would require development, but we estimate at least 100 million pounds per year.

Fuel Source

A special process has been developed by Montville Plastics & Rubber, Inc. (Parkman, Ohio) for converting PET soft drink bottles into fuel products for the steel industry, local power-generating facilities, and for in-plant process heating. MP&R calculates that one pound of bottles nets about one pound of fuel (7 two-liter PET soft drink bottles weighs one pound). Shipping costs for the PET bottles from the States of Connecticut and New York averages about 2¢ per pound or \$40 per ton. By comparison, coal costs range from \$40 to \$50 per ton. However, PET fuel has twice as many BTU's per pound as compared to coal. MP&R has the capacity to process an estimated 4 million pounds per year and has sold several million pounds as a fuel enhancer to regional steel mills for use in oxygen furnaces. Other areas MP&R is exploring include fireplace logs and large-volume producers of PET products, particularly films, where the MP&R system could help a converter use the internally generated scrap as fuel pellets to heat their own plants, since on-site conversion would be more cost-effective. Quantifying the size of this market would be very difficult at this time, but published data on coal consumed by electric generating utilities indicate that over 664 million short tons were used in 1986, and in the process creating 4 - 10 pounds of ash that must be landfilled, for each ton of coal burned. On an equivalent BTU basis this market potential for used plastics amounts to over 414 million tons per year with a negligible amount of ash residue remaining after combustion.

Kay Brown

Alaska State Legislature House of Representatives

Memorandum

To: Rep. Dave Dooley
From: Rep. Kay Brown
Subject: House Bill 532
Date: February 21, 1990

Rep. Virginia Collins has introduced a bill requiring the placement of certain coding on certain plastic bottles and containers. It is a bill which will eventually lead to greater public knowledge and consciousness of plastics, and I am co-sponsoring this bill.

It has been referred to the House Labor and Commerce Committee. I would appreciate it if you could schedule a hearing on House Bill 532.

I appreciate your consideration of this legislation.

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Member
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Labor & Commerce
Committee
Special Committee
on Foreign Trade
Finance Sub-Committee
for Labor

Representative Virginia Collins

MEMORANDUM

TO: Representative Dave Donley, Chair
House Labor & Commerce Committee

FROM: Representative Virginia Collins *VC*

DATE: February 13, 1990

RE: Hearing Request for House Bill 532, "An Act requiring the placement of certain coding on certain plastic bottles and containers; and providing for an effective date"

I respectfully ask that you schedule House Bill 532 for hearing in your House Labor and Commerce Committee as soon as possible.

HB 532 would require a code on certain plastic bottles or containers. This would identify the type of resin used to produce the bottle or container and would enable the container to be recycled more efficiently. A person found in violation of this would be guilty of a violation.

The model for this bill was drafted by the Society of the Plastic Industries, Inc. Similar legislation has been passed in 19 states.

If you have any questions, please contact Marveen in my office at 465-2828.